

LAWV Achieving Supreme Accomplishments for West Virginians

Written by: Jennifer Jordan & Mark Wolfe



In 2009, Legal Aid of West Virginia “sought justice and changed lives” in the greatest sense of the words, and in the highest court of the State. Last year, Legal Aid of West Virginia succeeded in four cases appealed to the West Virginia Supreme Court of Appeals. Impressive accomplishments for clients. Case law changed for West Virginia’s citizens. Broad impact for vulnerable people. Seeking Justice. Changing Lives. It’s what we do:



Thomas v. Morris, 687 S.E.2d 760 (W.Va. 2009) Mark A. Toor, Legal Aid of West Virginia, Counsel for Appellant

“Wendy” is a professional woman who holds a responsible position with a state agency. “Frank” is a successful, small-county businessman and sometimes candidate for political office. Wendy ended their 12 year relationship during the primary-election season of 2007 when Frank was running for an office of high authority. Frank was on his best behavior until losing the primary race. Following that loss, however, Frank refocused his attentions on Wendy in a desperate effort to win her

back. His efforts included unsolicited gifts, promises of marriage and scores of unwanted and unreturned phone calls. Wendy made it clear she had no interest in continuing the relationship and made arrangements to move out of the county to escape Frank’s unwanted attention.

One evening when Wendy and her now-husband were moving her belongings out of her former home that sits on Frank’s land, Frank appeared out of nowhere and saw Wendy run into the house. Once inside, she locked the door behind her and “turned to jelly” out of fear. For a period of nearly two hours, Frank was outside the residence, sometimes banging on the door with a metal pipe, sometimes yelling that he would stay there all night until she came out, and, on one occasion, moving his car so as to block Wendy’s car from leaving the driveway. Wendy’s fear was compounded by her knowledge of the fact that Frank—due to his operation of cash businesses—has a concealed weapons permit and multiple firearms. Finally, Wendy and her new husband sprinted out the front door while Frank was busy banging on the back door. They ran several hundred yards and eventually reached a safe haven where they were picked up by a friend.

Like many victims of domestic violence, Wendy believed the threat had passed once they were away from the home and she elected not to seek a domestic violence protective order until weeks later after Frank’s pattern of phone harassment had increased in frequency. With the assistance of a Resolve Family Abuse Program (RFAP) advocate, Wendy obtained an emergency order from a magistrate and RFAP referred her case to a Legal Aid of West Virginia lawyer for handling at the family court. Wendy’s delay in seeking the order was one of the primary reasons the family court initially denied the protective order, despite making a finding Frank had been outside of the home for a period of nearly two hours, directly contradicting Frank’s testimony that he had been there for only 15-20 minutes.

Wendy and her lawyer appealed the family court’s order and won a new hearing on grounds the family court had applied the wrong test for whether she was entitled to the order. At the second family court hearing, the family court still refused to grant the order and a second appeal to the circuit court resulted in an order finding that Wendy had not been the victim of domestic violence within

a strict interpretation of the law. The circuit court’s decision turned on the fact Wendy had not been physically confined or detained within her home for the two hour period and Frank had made no overt, threatening acts; rather, the court determined domestic violence could not be found when the two-hour confinement was based exclusively on Wendy’s fear of what would happen were she to try to leave her home.

With no order in effect but still in fear, Wendy appealed the circuit court order to the Supreme Court of Appeals of West Virginia. The Supreme Court accepted the discretionary appeal and used it as an opportunity to explain and to expand two of the law’s underused definitions of “domestic violence.”

The significance of this decision to West Virginia’s victims of domestic violence has proven to be substantial. It is now settled law that a victim’s confinement or detention arising exclusively out of that individual’s fear of leaving a safe location will be sufficient cause to issue a domestic violence order. In addition, the law now recognizes that “threatening acts” sufficient to justify a protective order need not be overt or explicit in nature. These recently-expanded definitions of “domestic violence” help to put more of the focus in these cases on the reasonable perceptions of the victim as opposed to looking only at the actions of the abuser. Since much of what experts understand to be domestic violence is nothing more than subtle or tacit signals picked up on by victims who have learned through years of abuse to read those signals from an abuser, this decision moves West Virginia much closer to the mainstream in protecting victims of abuse and its ramifications are already helping other victims obtain necessary protection.

Legal Aid of West Virginia’s partnership with the Resolve Family Abuse Program in this case has had one more positive effect for other victims of domestic violence around the state: Wendy is now volunteering with Resolve to help other survivors of domestic abuse.



Wysong ex rel. Ramsey v. Walker, 224 W.Va. 437, 686 S.E. 2d 219 (W.Va. 2009) Bruce G. Perrone, Legal Aid of West Virginia, Counsel for Appellant

Matthew was born with cerebral palsy, and that was just the start of his difficulties. He began having epileptic seizures when he was only eight months old. By the time he was 17 years old he was experiencing as many as sixty seizures a day, despite all medications and therapies the doctors tried. A year later he tried to commit suicide. At the age of 20 Matthew was diagnosed with “Pervasive Developmental Disorder,” something similar to Autism.

At age 21 he had not one but two frontal brain lobe removal surgeries, as a last step to control the epileptic seizures.

But Matthew has a mother who loves him, who believes in him, and will fight with her entire strength to get him services to live a better, more functional life. In 2006 his mother applied for the Medicaid “Mental Retardation/Developmental Disability Waiver Program.” The MRDD Waiver Program, through the WV Department of Health & Human Resources, provides training and therapy services to developmentally disabled individuals in their homes with their family members. Otherwise they would have to be institutionalized, and lose the daily support and love of their family members. Matt’s mother had him evaluated for eligibility by a psychologist who has assessed hundreds (if not thousands) of applicants for the “MRDD Waiver” program. The psychologist certified that Matthew was qualified and eligible for the State’s MRDD Waiver program. Matt’s mom thought that finally, something good was going to happen for Matthew.

But DHHR denied the application. The DHHR psychologist, who never met Matthew, reviewed “the documentation” and said the Matt was not eligible. Matt’s mom asked for an administrative hearing, and came to Legal Aid for help. The hearing was held in 2007, but was unsuccessful. The Hearing Officer upheld the decision to deny Matt admission to the MRDD Waiver Program.

Although an appeal was going to be difficult, slow, and possibly unsuccessful, Legal Aid appealed to the Circuit Court of Kanawha County. Matthew’s mom came to the Circuit Court to watch the legal arguments, because she believed in her son and the services he needed. In 2008 the Circuit Court reversed the denial and said that “without the services and training and supervision which [the psychologist]

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Mission Statement: Legal Aid of West Virginia advocates for low-income, vulnerable West Virginians, seeks equal access to justice, and creates system change in order to improve client safety, health, housing, income and access to resources.



Letter from the LAWV Executive Director

Dear Friends,

“Seeking Justice. Changing Lives.” It sounds and looks good. We wrote this phrase when we became a statewide law firm and advocacy organization in 2002, in an effort to “brand” our organization. I wonder though, is it only an empty “tag line” or does it have real meaning?

The answer is a resounding “yes,” it does have real meaning! Our 2009 annual report to the community will tell you about the impact of Legal Aid’s work on our clients’ lives. In the ten cases and stories we have highlighted here, and in the thousands more West Virginians represented in our annual case numbers, you will see the powerful effects of the pursuit of justice. Some highlights include:

- A young man with profound neurological disabilities began receiving daily supportive services that enriched his life and bolstered his abilities.
- A domestic abuse victim was freed from daily fear, brutality, and manipulation.
- A home was saved.
- A student with a mental health disorder began to succeed at school.

As national access to justice advocate David Udell, formerly of NYU School of Law’s Brennan Center for Justice, said, client stories show “the creative and persistent efforts of their legal services champions to cut through injustice and establish compliance with the rule of law.”

“I am...inspired by the incredible work of our staff, and the accomplishments for our clients.”

Seeking Justice ... It’s what we do in our everyday work. LAWV’s staff numbered more than 120 in 2009 including 50 lawyers, 26 paralegals, and 15 support staff; 13 behavioral health advocates; 10 long-term care regional ombudsmen; and 11 program administrative support staff. Our staff have both technical expertise AND a passion for their clients and they take the daily work of seeking justice very seriously.

Changing Lives ... Our clients are most often poor and marginalized. Too often their lives have taught them that bad outcomes in the courts, or with government agencies, are a virtual inevitability. Still they come to Legal Aid, often with no place else to turn, in the hope of finding justice. And they come with deep, fundamental problems - escaping violence, seeking an education denied, trying to block the financial exploitation of a vulnerable elder.

Many of us reading this report are optimistic, we believe that life’s travails, big and small, will ultimately work out for us. However, most of our clients, because of income, education, race or geography, cannot assume good things will happen for them. That’s why their experience at Legal Aid, with a lawyer or advocate on their side, can be transformative. Merely finding the will to fight back, and then being treated with dignity and respect in the process by judges and agencies, may build their sense of self and their road to better outcomes. Actually prevailing in their cases may bring a whole new recognition that they also are equal participants in our nation’s life.

In my 13th year as a Legal Aid Executive Director, I constantly face the frustration of the increasing need for our services because of difficult economic and societal pressures on individuals and families in every West Virginia community. I see the “justice gap” expand as our resources have not matched the burgeoning need. But I am also inspired by the incredible work of our staff, and the accomplishments for our clients. The daily motivator for me and all of the Legal Aid staff continues to be those who need our help and the optimism that we can positively change lives!



The Numbers in 2009 Gauging The Impact of Legal Aid of West Virginia

4 • Number of LAWV cases successfully appealed to the WV Supreme Court of Appeals in 2009.

8,539 • Cases closed by the LAWV Legal Unit Staff statewide; 2,959 remained open at year’s end.

3,980 • People helped through the Pro Bono Referral Project. Private attorneys who represented clients free of charge or on a contract basis for a reduced fee handled 1,549 cases and contributed over 2,480 hours of service.

349 • People helped by John Lukens, the volunteer attorney who contributed the greatest number of pro bono hours in 2009. John logged more than 200 pro bono hours and handled 142 pro bono cases.

6,000 • Number of hours the ATLAS unit spent directly assisting clients.

390 • Number of hours donated by Steptoe & Johnson, in service to low-income West Virginians. In 2009, Steptoe & Johnson was awarded the Firm of the Year award in recognition of its contributions to the Pro Bono Referral Project for the 3rd year in a row.

21,500 • Number of people served by the Long-Term Care Ombudsman Program in 2009.

1,101 • Number of monitoring visits conducted by staff of the Long-Term Care Ombudsman Program, totaling 2,417 hours.

1,700 • Individual instances of advocacy provided by staff of the Behavioral Health Advocacy Program in 2009.

5,165 • Number of client intakes performed by ATLAS staff in 2009.



Bruce Perrone, Leslie Anderson, Jim Martin • Legal Services to Victims of Domestic Violence Fundraiser, Terra Salis Garden Center



LAWV’s Catherine Eckley and Jackson Kelly Attorney Gale Rubrecht • Kanawha County Bar and LAWV CLE hosted by Huddleston Bolen, LLP



The Honorable Congressman Alan Mollohan • 2009 Law Day Celebration, Wheeling, WV

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testified Matthew needs, he certainly will not 'learn new skills' or 'increase independence in activities of daily living.' "

Under the favorable Circuit Court decision Matthew soon was placed into the MRDD Waiver program, and began receiving in-home treatment and training and services. His mother says that Matt's behavior has improved tremendously and he is much happier than he's ever been.

But that wasn't the end of the story: the State appealed Matthew's case to the Supreme Court, for yet another year of legal wrangling and briefs and oral argument. Matthew's mother and his older sister came to the Supreme Court chambers in 2009 to listen to the arguments in the Supreme Court. A few weeks later, the Supreme Court upheld the decision of the circuit judge, and affirmed that Matthew should be getting the MRDD Waiver Program services.

After the Supreme Court decision, Matt's mom wrote Legal Aid a short note. "I wish you would have had the chance to meet Matt, he is a wonderful person. This [MRDD Waiver] program is working out great for him. I am sending you a picture of him, I just thought you should know who you worked so hard for. He was on his way to his first dance and it took us all day but we dressed him all up. He was so excited."



Howell v. Goode, 232 W.VA. 387, 674 S.E. 2d 248, (W.Va. 2009)
Jodie K. R. Gardill, Legal Aid of West Virginia Behavioral Health Advocacy Program, Counsel for Appellant

Ulissa Howell contacted the Family, Advocacy, Support and Training Project (FAST) of Legal Aid of West Virginia in the summer of 2006. She had filed a pro-se motion to modify child support for her son R.J. R.J. had a variety of physical and mental disabilities that enabled him to receive special education services and further allowed him to remain in high school for an extended period of time. She was asking that the Family Court award her child support for R.J. while he remained in high school. She was nervous because her ex-husband had retained counsel. It was at this time that Ulissa contacted LAWV for help.

At the Family Court hearing, despite testimony from R.J.'s special education instructor that he met the requirements of the relevant WV code sections in that he was still in high school and working towards a diploma, the Family Court Judge held that progress towards the goals of an IEP was not progress towards a diploma and denied the petition for modification of support. As R.J. was 18 at the time of the hearing, this meant that the child support was discontinued immediately.

LAWV filed an appeal to the Circuit Court which was denied. Feeling that the Family Court was in clear violation of the state statute and federal education

law the FAST program appealed the case to the Supreme Court of Appeals. In September 2008 briefs were filed in the case and it was scheduled for argument in January of 2009. On February 6, 2009 in a 5-0 per curiam opinion the Supreme Court of Appeals overturned the Family Court's decision and determined that Ms. Howell was entitled to child support for R.J. while he completed the goals of his IEP.

Both Ms. Howell and R.J. were very excited to have the Court recognize his right to complete the goals of his IEP and to not be penalized because he chose to do so. Ms. Howell's current husband told her many times that he was happy to continue to support R.J. and requested that she dismiss the court case to save herself the stress. However, Ms. Howell persevered and in this case, justice delayed was not justice denied, as is so often the case. Ms. Howell and R.J. began receiving child support payments in May 2009. They chose to use the money to pay for courses for R.J. at a local community college.



Galloway v. Galloway, 224 W.Va. 645, 687 S.E.2d 583 (W.Va. 2009)
Catherine Adams, Legal Aid of West Virginia, Counsel for Appellant

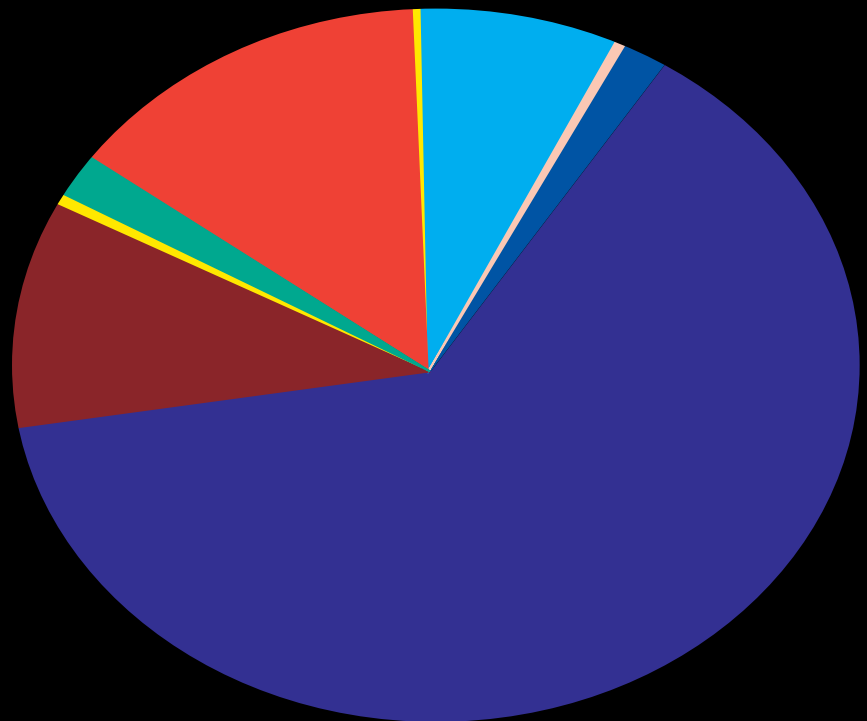
Galloway interpreted our Supreme Court's prior holding in Michael K.T. v. Tina L.T, 182 W.Va. 399, 387 S.E.2d 866 (1989). Ironically, both cases came from Wood County and both involved Legal Aid clients. Michael K.T. allowed a child's paternity to be disestablished in certain cases, provided a guardian ad litem is appointed to represent the child's interests, and eight factors are weighed before blood test evidence is admitted to disprove paternity.

In Galloway, the legal father was not allowed to have a blood test ruling him out as the child's biological father considered because: 1) he lived with the mother and child, and held himself out to be the child's father, for fourteen months after he received confirmation he was not the father; 2) he did not file the divorce case until the child was four; and, most importantly, 3) the child believed he was her father until she was four years old. She discovered he was not, while she was visiting her grandmother. Ivy's father told her, "Stop calling me Daddy!"

The Court upheld the family and circuit court's findings that leaving eight-year-old Ivy without a legal father and without support, including financial support, would harm her. This case has impact on Legal Aid clients in two areas, economic justice and children's rights. Many of our abused clients have partners who promise to love them and be a father to their children, then refuse to continue support when the relationship sours. Our Supreme Court clearly stated that the child's right to continued support and to legitimacy can outweigh either or both parents' wishes to discontinue their relationship. The family court judge in Galloway put it well when she said, "There is no Father of the Month Club." □

Cases Closed by Subject in 2009

	Consumer	7%
	Education	1%
	Employment	2%
	Family	61%
	Income Maintenance	10%
	Individual Rights	1%
	Health	2%
	Housing	15%
	Juvenile	1%



Nan Brown, LAWV Attorney presents Star Award to Ohio County Bar Members • 2009 Law Day Celebration, Wheeling, WV



The Honorable Patrick Flatley • 2009 Law Day Celebration, Wheeling WV



The Honorable Fred Stamp • 2009 Law Day Celebration, Wheeling, WV



CAMPAIGN for Legal Aid

Equal Access to Justice for All

Chairmen John Cooper and Tyler Dinsmore Lead the Campaign for Legal Aid to Great Success



John Cooper
Co-Chair, Campaign for
Legal Aid, 2009-2010
Cooper & Preston Attorneys at Law



J. Tyler Dinsmore
Co-Chair, Campaign for
Legal Aid, 2009-2010
Flaherty, Sensabaugh & Bonasso, PLLC

Although usually at odds in the courtroom, the plaintiff's attorney and the defense attorney often see eye-to-eye about one thing: supporting legal services in West Virginia.

In 2009, and under the leadership of John Cooper and Tyler Dinsmore, the Campaign for Legal Aid raised nearly \$230,000 in direct support of the programs and services of Legal Aid of West Virginia.

John Cooper: "Providing legal services to those lacking the financial means to retain counsel is a vital and necessary aspect of our judicial system. Unless we have the dedicated services of underpaid Legal Aid lawyers and their staffs, a major segment of our society will be denied access to our courts. (Nearly 300,000 West Virginia citizens qualify for Legal Aid.) We must assure the continuity of adequate funding for Legal Aid. I started my legal career as a lawyer for Legal Aid in 1970. That service provided me with great self-satisfaction despite the minimal compensation. The honor of having served as Co-Chair of the fundraising efforts for Legal Aid has been just as satisfying. The legal community of West Virginia has provided generous financial support to this worthwhile cause in the past and I am confident that it will continue to respond with generosity."

Tyler Dinsmore: "I was recently asked to present on the subject of "Using Your Legal Power for Good." I was forced to articulate why and for whom I will use my "legal power". In my practice as an asbestos defense lawyer, I strive to provide legal advice and representation to clients in a professional yet dispassionate manner; however, the notion of "societal good" is rarely part of the consideration. But, I grew up knowing that lawyers had an obligation, because of our privileged places in our communities, to serve others in crisis. I was fortunate to have my father as an example of how a lawyer should act in the community. I admittedly didn't know much about my father's practice, but I knew that we were "privileged," that he was always attending a "board meeting" or "serving" in the Legislature, and that those of his clients that called our house at night were in "crisis." As a "young lawyer," I looked for ways to "use my legal power for good". In 2002, I was asked to serve on the original "Campaign for Legal Aid" by my partner, Tom Flaherty, and original co-chairs, Scott Segal and Al Emch. What a gift that opportunity became for me. While I had heard about Legal Aid, I really had no idea about all the "good" that the dedicated, professional and passionate staff of Legal Aid provide."

While the Campaign has raised approximately \$1.2 million to directly support Legal Aid programming since 2002, Legal Aid needs your continued support!

The Campaign for Legal Aid Leadership Committee is a statewide group of attorney volunteers who commit to securing donations from their firms and local communities. Thank you, for your dedication to legal services in West Virginia!

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Past Chairpersons of the Campaign for Legal Aid include:

- | | | | |
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The Campaign for Legal Aid Wishes to Recognize These Top Donors of 2009



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Legal Aid of West Virginia Distributes Record Amount of Tax Credits

Since 2008, Legal Aid of West Virginia has distributed over \$100,000 of NIP Tax Credits to donors who have generously donated to the Campaign for Legal Aid!

Donors across the state are taking advantage of this amazing opportunity to access Tax Credits that can be applied to their WV State Tax Return. The Tax Credits are made available through the WV Development Office Neighborhood Investment Program.

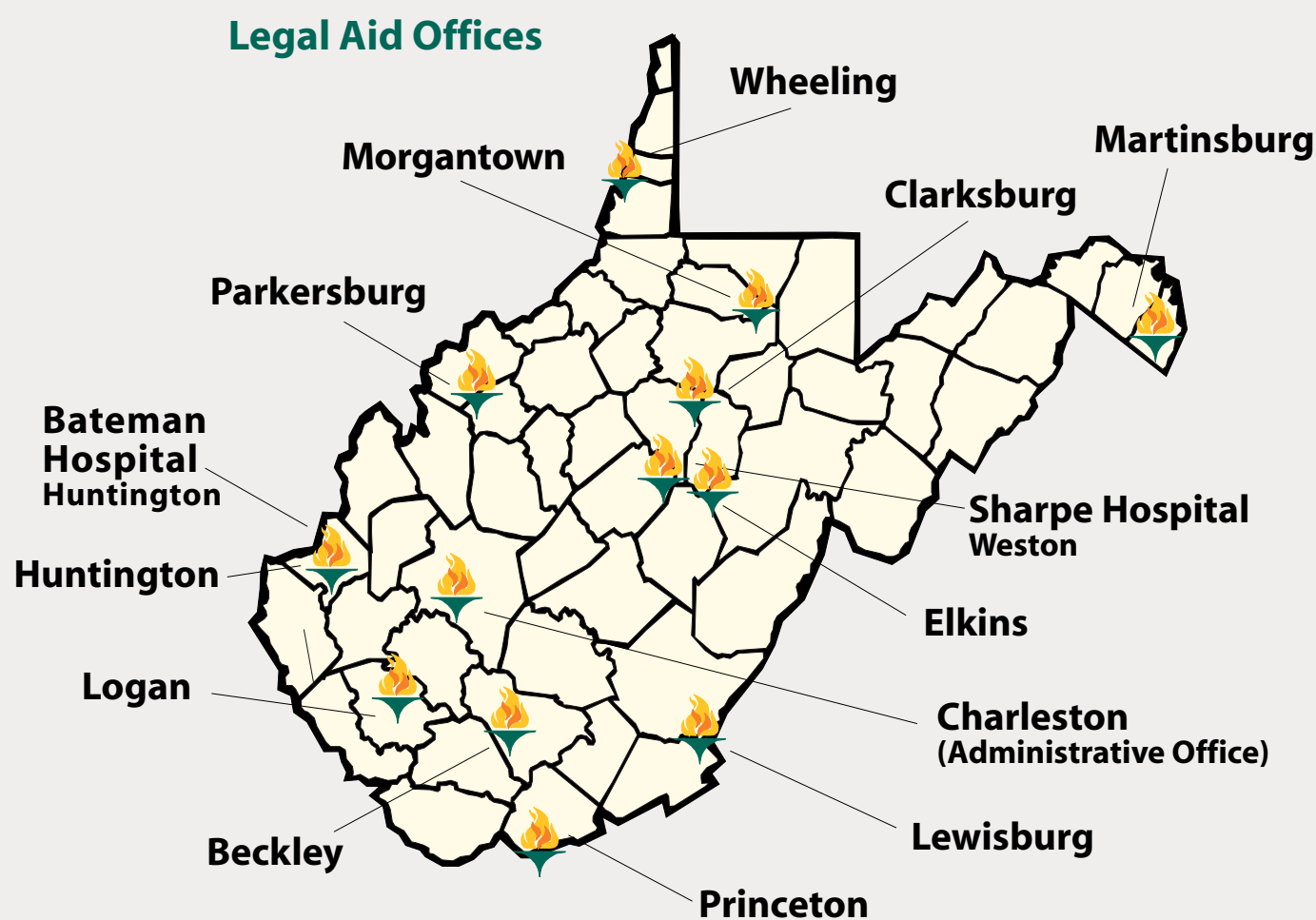
How can you take advantage of this opportunity to access NIP tax credits?

The minimum eligible donation to receive NIP tax credits is \$500.00. Donors may use NIP tax credits on: • Personal Income Tax • Corporate Net Income Tax • Business Franchise Tax. In return, LAWV will send you a Tax Credit voucher equal to 50% of your donation. For example, if you send The Campaign for Legal Aid \$1,000, we'll send you back \$500 in the form of a WV State Tax Credit – it's that easy!

For more information, contact: Jennifer Jordan at 304.343.3013, Ext. 2154, or jjordan@lawv.net.



LAWV Provides Free Advocacy Services Five Ways:



Our Legal Assistance Unit handles civil legal problems including domestic violence, housing stability and public benefit issues throughout the state.

Our Long Term Care Ombudsman Program assists residents (and their family members) who live in nursing homes, personal care homes, and other long term care facilities.

Our Behavioral Health Advocacy Unit serves individuals who live with behavioral health challenges while in state operated psychiatric hospitals, and in communities throughout West Virginia.

Our Access to Legal Aid Services (ATLAS) is a toll-free client access hotline. Via this hotline anyone, anywhere can contact this specialized intake unit of Legal Aid of West Virginia.

Our Pro Bono Referral Project offers a variety of opportunities for private attorneys to assist indigent West Virginians with civil legal issues. We work hard to match the right volunteer opportunity with attorney interests, expertise, and available time, and by providing support throughout the involvement.

Impact in 2009 Access to Legal Aid Services Program



The Access to Legal Aid Services Program (ATLAS) is Legal Aid's centralized legal assistance intake and advice/brief services helpline. All persons seeking assistance from Legal Aid of West Virginia first make contact with intake paralegals through this helpline, by calling 1-866-255-4370. As a statewide program, spanning across a large geographic area of 55 counties, the use of technology such as a centralized hotline for client intake is a critical part of leveling the playing field of access to services for clients. A centralized unit of professionals working with this technology increases the quality and quantity of services to clients across the state and ensures some level of service to all West Virginians who qualify for assistance.

- In 2009, ATLAS became fully staffed through the hiring of 7 people and the addition of 2 AmeriCorps Volunteers
- In 2009, the ATLAS program realized its goal of being a state-wide program, and began performing client intake for all 55 of West Virginia's counties.
- ATLAS staff performed over 5,165 client interviews.
- ATLAS staff provided other community resources to over 500 clients.
- The number of clients served by LAWV statewide increased by 13% in 2009, over the previous year.
- The ATLAS unit spent over 6,000 hours directly assisting clients.
- The ATLAS unit provided advice and brief services to over 2,800 clients. Prior to the implementation of the ATLAS program, these clients may have gone without services from Legal Aid, due to insufficient staff resources.
- The ATLAS Managing and Supervising Attorneys completed an ATLAS manual with codified policies and procedures dealing with client intake state-wide.
- The ATLAS unit produced 16 never-before written protocols, giving direction to regional offices on the types of cases attorneys and advocates can accept. This ultimately ensures that some level of service is available to all West Virginians who qualify for assistance.
- ATLAS and LAWV task forces completed over 30 form advice letters used to further assist clients.
- ATLAS and LAWV task forces formed intake questions for 5 major areas of the law.
- ATLAS staff provided over 28 trainings statewide to staff and partner organizations.
- ATLAS served as a mentor to two other legal services programs from other states.
- ATLAS staff presented at three national conferences, training others on effective and efficient centralized client intake systems.

SSI AND HOUSING SECURITY "Mary" contacted ATLAS needing assistance with her Social Security disability claim and the looming possibility of losing her marital home, after her husband passed away. Mary had been turned down twice on her Social Security claim. Mary suffers from depression, kidney disease, diabetes, bleeding disorder, suicidal attempts and back problems. At the time she was waiting on her disability decision. With house payments 15-months past due, the landlord filed suit to void the rent-to-own contract and evict Mary. When she did not file an answer, he then filed for default judgment. The ATLAS Attorney helped Mary prepare an answer to prevent a default judgment asserting significant performance and equity. The involvement of the ATLAS Attorney ensured that Mary kept her home until she began receiving Social Security Income and Widow's benefits. The ATLAS Attorney also mediated an agreement with the landlord, who agreed to again work with Mary on the purchase of her marital home. "Without your help I would have no income, and would have lost my home. I would have lost everything without the help of Legal Aid," Mary told the ATLAS attorney.

Impact in 2009 Behavioral Health Advocacy Program

The Behavioral Health Advocacy Program (BHA) provides advocacy services to West Virginians who live with behavioral health challenges. The Behavioral Health Advocacy Program provides advocacy services for adults at Bateman and Sharpe Hospitals as well as for consumers of community based behavioral health facilities across the state. Within the BHA Program is the Family, Advocacy, Support and Training Project (FAST). The FAST Project provides much the same behavioral health services, but for qualifying children and their families. In both programs the ultimate goal of the attorneys and advocates is client satisfaction and education that will enable clients to engage in future self-advocacy, and live lives that are satisfying and empowered.

- In 2009, BHA Program advocates provided over 1,700 individual instances of advocacy, which included closely monitoring Sharpe and Bateman Hospitals. Instances of advocacy include but are not limited to: investigating abuse and neglect, monitoring, treatment and discharge planning, collaborating within Legal Aid and with other agencies, linkage and referral, and working with clients on numerous rights' issues.
- In 2009, the BHA Program staff provided approximately 45 patient rights trainings serving 172 individuals.
- In 2009, BHA Program staff investigated 115 abuse and neglect allegations within Sharpe and Bateman Hospitals, substantiating 24 allegations.
- Educated over 380 people on mental health related issues through outreach.
- In 2009, the FAST Project provided nearly 350 parents and youth with individual

UNJUST EXPULSION *A student with AD/HD was suspended from school, and the school administration subsequently pursued expulsion, for an incident that occurred at school. It turns out that the student has been diagnosed with Oppositional Defiant Disorder, but the school was never given this information. The FAST Project Attorney represented the student at a manifestation meeting, and the incident was determined to be a manifestation of the student's disability. The school withdrew the recommendation for expulsion, and the student returned to school and was provided a more structured schedule. The child's mom recently reported to the Attorney that the student has been successful and is now enjoying school more.*

advocacy services. Areas where services were provided include domestic issues, landlord-tenant problems, and education and social security issues.

- In 2009, the FAST Project provided 443 parents and youth with advocacy training on topics such as family-centered practice, cultural competence and special education law.
- In 2009, the FAST Project Advisory Committee grew to include 51% parent representation. Currently, 6 of 10 members of the Advisory Committee are parents of children with challenges associated with mental or behavioral health concerns.
- In 2009, The FAST Project staff started and maintained 3 parent support groups. A FAST Project advocate successfully represented a family in a Social Security Disability claim winning a back payment award of over \$25,000! In 2009 alone, staff helped youth win disability claims totaling over \$45,000 in awards.

DETECTING FRAUD *A BHA Program Advocate intervened to help a MRDD Waiver client, whose father and primary caretaker passed away suddenly. The client's mother was struggling to leave him long enough to plan for her husband's funeral when she contacted our advocate. Staff spoke with the MRDD Waiver provider to ensure that they were providing the services for which they were contracted. Our advocate then helped the mother find her son an emergency bed so that she could bury her husband and address some health problems of her own. As the case continued, BHA Program staff investigated the waiver provider and in coordination with Adult Protective Services determined that fraud had occurred with this client's waiver services and the client's case manager was disciplined appropriately.*



Impact in 2009 Long-Term Care Ombudsman Program

The Long-Term Care Ombudsman Program helps the residents of long-term care facilities, including nursing homes, long-term care units of hospitals, assisted living homes, residential care communities, legally unlicensed homes, and adult family care homes. • These residents are often among West Virginia's most isolated and vulnerable citizens.

The Long-Term Care Ombudsman Program served over 21,500 individuals in 2009.

- Program staff investigated 1,096 complaints. 764 of these complaints were verified. 702 of these verified complaints were resolved, or partially resolved, to the resident's satisfaction.
- Program staff spent 4,767 hours conducting these investigations.
- Program staff conducted 1,101 monitoring visits to long-term care facilities totaling 2,417 hours. This was an increase of 173 visits and 305 hours from 2008.
- Program staff provided 831 consultations to facility staff. Most frequently discussed topics included resident rights, dealing with difficult behaviors, family problems and payment source. This was an increase of 96 consultations from 2008.
- The program received 695 inquiries from individuals asking for information or guidance related to residential long-term care issues. Most frequently discussed issues included Medicaid and public benefits, selecting a long-term-care facility and admission, transfer or discharge issues. Many of the callers used information provided to advocate for a family member in a facility.
- Program staff presented 64 in-service training sessions to staff of nursing and assisted living homes. Resident rights, abuse and abuse reporting were the main topics for the trainings.

• Program staff either conducted or participated in 27 community education sessions. This included distributing information at health fairs and other conferences mainly attended by senior citizens or individuals with a disability.

- The program received 53 requests from residents who expressed interest in moving back to the community from nursing homes or into a lower level of care, such as an assisted living home. Of those who were appropriate candidates to transfer, more than two thirds of them were able to move back to their own home, move in with a family member or relocate to an assisted living home. Staff of the Olmstead Navigator's Program and the Aging and Disability Resource Centers were major partners in helping to successfully bring about such transfers.

PROTECTING RESIDENT DIGNITY *During a routine monitoring visit at a nursing home, an ombudsman observed three female residents standing in a line in the main hallway. One of the women had visibly wet herself. The ombudsman gently whispered to the woman that she might want to go back to her room and request to be changed. The resident told her she was waiting in the hall with the other women because they all needed to be changed. The ombudsman spoke to the administrator and explained that lining the residents up in the hallway where they could be observed by other residents and visitors was embarrassing and violated their dignity. The nursing home staff had not thought about the public line-up as a dignity issue and quickly changed their practices, permitting the residents to wait in the privacy of their own rooms.*



LAWV Executive Director Adrienne Worthy presents a prize to Danita Nelhaus • LAV Fundraiser, Terra Salis, Malden, WV



LAWV Lewisburg Supervising Attorney Leah Sills and PAI Assistant Ana Lusk • 2009 Statewide Staff Meeting, Pipestem, WV



Rhonda McCormick, Robin Hughes and Bill Albert • 2009 Statewide Staff Meeting, Pipestem, WV

Impact in 2009 The Pro Bono Referral Project

The Pro Bono Referral Project is a joint venture between Legal Aid of West Virginia, the West Virginia State Bar and West Virginia Senior Legal Aid and gives volunteers the opportunity to provide free legal assistance to low-income West Virginians.

The Pro Bono Referral Project offers a variety of ways in which volunteers can offer their time, including providing direct representation, teaching a class or clinic, developing written materials to assist clients and other attorneys, mentoring other volunteer attorneys and more.

The Pro Bono Referral Project increases available services for clients while involving private attorneys in ensuring access to legal justice for low-income citizens of the state. Under new leadership, and with the continued support of staff and private attorneys, the Project enters 2010 committed to ensuring vulnerable West Virginians receive the services they need and deserve. To donate your time and talents to the Pro Bono Referral Project, simply contact Catherine Eckley at 304.343.3013, Extension 2167.

- In total, the Pro Bono Referral Project helped 3,980 people in 2009.

- Private attorneys who represented clients free of charge or on a contract basis for a reduced-fee handled 1,549 cases and contributed over 2,480 hours of service.



- John Lukens, the attorney who contributed the greatest number of pro bono hours in 2009, logged more than 200 pro bono hours, handled 142 pro bono cases and helped 349 people. John was awarded the Kaufman Award in recognition for his pro bono service. The Kaufman Award is a joint award given by the Pro Bono Referral Project and the West Virginia State Bar.

- With the help of ten private attorney volunteers, LAWV provided pro bono assistance to 72 clients in one day at the Parkersburg Law Day event.

- The Pro Bono Referral Project hired a new Private Attorney Involvement Supervising Attorney, Catherine Eckley, in November 2009. Catherine started her Legal Aid career as a volunteer attorney with LAWV's Charleston office.

- Across the state, the Pro Bono Referral Project served over 160 clients through its various legal clinics in 2009, and conducted a total of 26 divorce clinics, 1 wills clinic, and 11 bankruptcy clinics.

- Kumaraswamy Sivakumaran and Susan Phillips contributed the second and third greatest number of pro bono hours with 190 and 138 hours, respectively.

- The Pro Bono Referral Project was responsible for handling approximately 20% of all LAWV matters in 2009.



- Steptoe and Johnson was awarded the Firm of the Year award in recognition of its contributions to the Project for the 3rd year in the row. The firm's attorneys and staff donated over 390 hours of service to low-income West Virginians in 2009.

- Volunteer attorneys working with LAWV's centralized intake system, Access to Legal Aid Services ("ATLAS") handled 215 cases, contributed 314 hours of service and helped more than 530 people.

- The Pro Bono Referral Project collaborated with West Virginia University College of Law in an ongoing project aimed at providing law students the opportunity to work on pro bono cases with private attorneys.

- The majority of Ohio County Bar members volunteered their time at least once during the year to provide advice to clients needing assistance. The generosity of Ohio County Bar members, as well as the commitment of regular volunteers Masoon Rahbar and Sam Kasley, provided Wheeling with in-office pro bono attorneys almost every week in 2009.



BANKRUPTCY "Frank" left West Virginia as a young man and moved to a larger city. He worked in a factory all his life, and accumulated a little money. After he retired, his wife became ill with cancer, and by the time she passed away, their life savings were depleted. Frank was left with a mountain of doctor bills, his small pension and Social Security. Before she died, Frank's wife had told him to go back to the rural county where they had been raised, and he did. Soon after moving home he started singing in the choir at a local church and met a childhood sweetheart. They were both now widowed. A beautiful, late-in-life romance developed. They were together for just a short while until she, too, became ill with cancer. Once again Frank took care of the woman he loved until she died. Still trying to pay off his wife's hospital bills and now ill himself, Frank needed help. A local volunteer attorney, recruited by the Pro Bono Referral Project, took care of his bankruptcy. After the bankruptcy was complete, Frank wrote both the pro bono attorney and the local Legal Aid office touching thank you notes, explaining what it meant to him to be freed from harassing collection agencies and finally be debt-free. Less than a year later, Frank passed away. It was very gratifying to the local Legal Aid staff, and to the volunteer attorney and his staff, who had fallen in love with this gracious, gentle man, to be able to make his last days easier.

DOMESTIC VIOLENCE "Natalie" was referred to LAWV from the Women's Resource Center, a local domestic violence program in Beckley, WV. Natalie had been successful at securing a Domestic Violence Protective Order, after her husband had brutally beaten her. Natalie was now ready to take the next step towards freedom and file for divorce. As the LAWV paralegal reviewed Natalie's in-take information, she realized there was much more to the case than domestic violence. Natalie had a multitude of financial issues. Her husband owned a company and had her on the payroll as the Secretary, although she officially never received a paycheck. There was a lien on her house, along with a long list of outstanding bills. The LAWV Paralegal enrolled Natalie in a Bankruptcy Clinic, conducted by local attorneys through the LAWV Pro Bono Referral Program. Due to the complexity of the case, a local pro bono attorney was recruited to handle both Natalie's divorce and bankruptcy. The pro bono attorney worked closely with Natalie for several months, ensuring that the issues were successfully resolved to Natalie's satisfaction.



LAWV Pro Bono Attorney Andrea Roberts, from Elkins, WV and PAI Staff Diane Young • National Pro Bono Week



Legal Services to Victims of Domestic Violence Fundraiser • Terra Salis Garden Center, Malden, WV



LAWV Pro Bono Attorney Rob Kuenzel, from Logan, WV and PAI Staff Diane Calandros and Barb Smith • National Pro Bono Week

Fellows A Focus on Diversifying Legal Aid Services in 2009

Fellowships for new attorneys have been part of the legal services world since the 1960's, when Reginald Heber Smith Fellowships (or "Reggies") placed thousands of highly qualified new attorneys into programs. Legal Aid of West Virginia has capitalized on fellowships as an opportunity to pull in new attorneys with passion and energy, to take on new work, in substantive areas that had previously been unexplored. Through our fellowship efforts, we are tackling new and under-served populations and geographic areas and have launched the following, exciting, three new client-service programs with the generous support of The Skadden Fellowship Foundation and The West Virginia Fund for Law in Public Interest.

The West Virginia Fund for Law in Public Interest is a non-profit organization that works to fund fellowships for WVU law students to work in public interest organizations throughout West Virginia. Founded in 1987, the fund seeks to help students gain a deeper understanding of the grave importance of public interest work. These students provide legal services to help West Virginians, including the elderly, the poor, children, and victims of domestic violence.

JED NOLAN – WEST VIRGINIA FUND FOR LAW IN THE PUBLIC INTEREST POSTGRADUATE FELLOW – MEDICAL DEBT RELIEF

Hospital debt is a problem that can quickly and unexpectedly ruin a person's life. Injury or illness can strike anyone at any time, and the resulting medical bills can be overwhelming, especially for the uninsured.



Hospitals do not negotiate discounts for uninsured patients like is often done for insurance providers. Many hospitals only provide patients with a summary bill, which oftentimes contains billing errors, and refuse to provide a patient with an application for charity care or reduced rate care unless specifically requested by the patient. Many hospitals often will utilize aggressive debt collection practices, including the filing of lawsuits, which can lead to wage garnishments and liens on property.

Jed Nolan, Attorney for the Hospital Debt Relief Project, will defend people who are being sued by hospitals by making the hospital prove that all services provided for the patient were necessary, that the patient was properly billed, and that the hospital's charges were reasonable. As a litigation plan is developed, emphasis will be put on integrating the WVU Clinical Law Program and/or developing the student externship program to review cases and represent debtors. The Program does not purport to shut down hospitals or bankrupt them with charity care requirements; the goal is to make sure that people do not lose everything – their house, their credit, their dignity – because they committed the crime of getting sick without insurance.

STEVEN J. CONIFER – WEST VIRGINIA FUND FOR LAW IN THE PUBLIC INTEREST POSTGRADUATE FELLOW – HOMELESSNESS PREVENTION

In February 2009, President Obama signed into law the American Recovery and Reinvestment Act, which included as a major component the Home-



lessness Prevention and Rapid Re-Housing Program (HPRP). Under HPRP, the federal government, via HUD, allocated several hundred million dollars in funding for homeless shelters and agencies which assist low-income tenants all across the United States. Most of the grant money is being used to provide financial assistance to indigent persons either experiencing homelessness or at imminent risk of becoming homeless. A few legal aid societies, however, including Legal Aid of West Virginia, also received a portion of the grant money as an additional means of providing services to the

targeted client base. The state of WV received \$19.6 million in HPRP grant monies, of which LAWV was awarded \$580,000. This money pays the salaries of two LAWV attorneys for three years, and covers administrative costs associated with HPRP-related services. Steve Conifer, Attorney for the for the HPR Program, covers the Charleston LAWV service area including Kanawha, Putnam, Clay, Boone, Lincoln, Braxton, and Webster Counties. He spends most of his time each day representing low-income tenants facing eviction or the potential loss of their homes, as well as those who have already lost their homes and are now struggling to find affordable replacement housing.



KATE ROBERTS WHITE – SKADDEN FELLOW – MEDICAL-LEGAL PARTNERSHIP

Low-income West Virginians are faced with a number of social and economic barriers to good health, including substandard housing, financial insecurity, and lack of health care. The LAWV Medical-Legal collaborative project, made possible by a Skadden Fellowship awarded to Kate Roberts White, integrates legal services into the health care setting to help low-income patients navigate the legal system to find solutions to social, economic, and environmental determinants of health. Specifically, the project places an LAWV attorney in FamilyCare ("FamilyCare") community health centers to 1) educate medical providers to recognize legal issues such as domestic violence and substandard housing, which affect low-income patients, 2) develop a screening process by which patients are referred for legal assistance, and 3) provide legal representation to patients.

Kate Roberts White, Attorney for the Medical-Legal Partnership, is working with FamilyCare medical providers on the west side of Charleston and in Madison in Boone County. Kate is on site in the health centers a few days a week to provide advice to patients. She is engaging in direct legal representation for low-income patients and provides education and training to medical providers, to better enable them to identify legal issues that may be impacting the health and safety of their patients.

The Skadden Fellowship Foundation, described as "a legal Peace Corps" by The Los Angeles Times, was established in 1988 to commemorate the firm's 40th anniversary, in recognition of the dire need for greater funding for graduating law students who wish to devote their professional lives to providing legal services to the poor (including the working poor), the elderly, the homeless and the disabled, as well as those deprived of their civil or human rights. The aim of the foundation is to give Fellows the freedom to pursue public interest work; thus, the Fellows create their own projects at public interest organizations with at least two lawyers on staff before they apply.



Charleston Attorneys enjoy a free CLE, provided by LAWV and the Kanawha County Bar • Hosted by Huddleston Bolen, LLP



Linda Bain, Diane Young, Brenda Lambert, La Verne Tignor, Jim Martin • 2009 Statewide Staff Meeting, Pipestem, WV



LAWV Board Member Robert Gaudio and The Honorable Congressman Alan Mollohan • 2009 Law Day Celebration, Wheeling, WV

2009 Legal Aid of West Virginia Board of Directors

The Legal Aid of West Virginia Board of Directors is a diverse group of nineteen volunteers from across the state who are committed to the pursuit of equal access to justice. In 2009, Andy Nason, of Pepper & Nason Attorneys at Law assumed the role of Board President. LAWV Board members include:

Anita Casey, Esq.	The West Virginia State Bar
Robert Gaudio, Esq.	Wheeling, WV
Bader Giggenbach, Esq.	Brewer & Giggenbach
Diane Eagle	Masontown, WV
Tina Faber	Kenna, WV
Shirley Harrah	Beckley, WV
Loren Howley, Esq.	Howley Law Office
Diane Jett	Hurricane, WV
David Lockwood, Esq.	Lockwood & Lockwood
Marjorie McDiarmid	WVU College of Law
Andy Nason, Esq.	Pepper & Nason Attorneys at Law
James Martin, Jr., Esq.	Siegrist & White, PLLC
Teresa McCune, Esq.	Public Defender Corporation
Brace Mullett, Esq.	Dinsmore & Shohl, LLP
Meshea Poore, Esq.	The Mountain State Bar
Helen Powell	Glen Jean, WV
Robert Richardson, Esq.	Richardson Law Firm
Kevin Robinson, Esq.	Pullin, Fowler, Flanagan, Brown & Poe, PLLC
Timothy Sirk, Esq.	Keyser, WV

LAWV is generously supported by the following funders:



- Legal Services Corporation
- The West Virginia State Bar
- United States Department of Justice, Office of Justice Programs through the WV Coalition Against Domestic Violence
- United Way of Central West Virginia
- United Way of Harrison County
- United Way of Monongalia and Preston Counties
- West Virginia Bar Foundation
- West Virginia Bureau of Senior Services
- West Virginia Department of Health and Human Resources
 - Office of Family Support
 - Bureau for Behavioral Health & Health Facilities
 - Family Protection Services Board
- West Virginia Fund for Law in the Public Interest

And law firms, businesses and private individuals.

Statement of Financial Position - December 31, 2009

Assets

Cash	\$1,145,608
Client Escrow Funds	\$6,421
Grants & Programs Receivables	\$434,731
Pledges & Other Receivables	\$100,938
Prepaid Expenses	\$7,173
Furniture & Equipment	\$44,809
Total Assets	\$1,739,680

Liabilities & Net Assets

Accounts Payable	\$172,063
Accrued Taxes & Withholdings	\$883
Client Trust Deposits	\$6,421
Accrued Payroll & Annual Leave	\$184,444
Grants & Other Funds Received in Advance	\$315,973
Total Liabilities	\$679,784

Net Assets

Unrestricted	\$858,413
Temporarily Restricted	\$201,483
Legal Services Corporation (grant)	\$118,797
Legal Services Corporation (property)	\$23,863
Unconditional promises to give	\$58,823
Total Net Assets	\$1,059,896
Total Liabilities & Net Assets	\$1,739,680

Statement of Activities For the Year Ended December 31, 2009

Revenues, Gains & Other Support

Grants & Contracts	\$7,730,635
Interest on Lawyers Trust Account	\$262,620
Fundraising	\$219,877
Other Income	\$250
Pro Bono Donated Services	\$333,398
Total Revenue & Other Support	\$8,546,780

Expenses

Program Services	\$7,466,837
Fundraising	\$165,435
Depreciation	\$20,369
Management & General	\$669,349
Total Expenses	\$8,321,990

Change in Net Assets	\$224,790
Net Assets, Beginning of Year	\$835,106
Net Assets, End of Year	\$1,059,896

LAWV 2009 Year in Pictures



*“If we are to keep our democracy,
there must be one commandment:
thou shall not ration justice.”*

-Judge Learned Hand

