

*They fought for us. Now we fight for them.*



THE VETERANS CONSORTIUM  
**PRO BONO PROGRAM**  
2010 ANNUAL REPORT

# *our* **Mission**

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The Veterans Consortium Pro Bono Program has established as its mission that no veteran or survivor who has taken an appeal to the U.S. Court of Appeals for Veterans Claims, who has a legally credible claim, and who wishes to be represented by counsel, will be without competent representation; and to accomplish this mission by:

Recruiting and training volunteer lawyers in veterans law and the procedures of the Court;

Referring to those lawyers, to handle without cost to the appellants, evaluated cases where there is an issue that should be fully presented to the Court and where the appellants are unable to afford counsel; and by

Providing advice and support to the lawyers to whom cases have been referred.

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# By the Numbers

**IN 18 YEARS** the Pro Bono Program has contacted more than **26,000** veterans who have filed a pro se appeal at the U.S. Court of Appeals for Veterans Claims. **MORE THAN 10,100** of those contacted **SOUGHT ASSISTANCE** and *more than 3,600 have been assigned a Program attorney* to assist them with their appeal, including 205 in 2010.

- The Program fully evaluated **666** cases in 2010, and 31 PERCENT of the evaluated cases were found to have one or more legal issues warranting placement with a lawyer through the Program.
- In 2010 volunteer attorneys contributed their services to the tune of **\$4,627,300**, bringing the *18-year total* of donated legal services to **more than \$50 million**, which is probably a conservative computation. Add to that the donated services of Consortium members, which totaled **\$440,394** in the past year and almost **\$5 million** over the history of the Program, the Pro Bono Program has generated approximately **\$55 million** of services for the men and women who have served their country.
- The Court's workload eased a bit in 2010 as the number of cases filed slipped from 4,725 to **4,340**, but the numbers appear to be a distinction without much of a difference. Of those cases, **WELL OVER HALF (57 PERCENT)** were filed by veterans who were acting **PRO SE** at the time.
- As throughout the history of the Program, every appellant meeting Program eligibility requirements (and some who did not) received **SOME FORM OF LEGAL ASSISTANCE** or advice **at no cost**. In 2010, almost **500 veterans** who were *not* provided with counsel still received some form of legal advice and counsel. This brought the Program total of veterans who had been assisted by the Program, even though they were not assigned an attorney, **to more than 6,400**.
- The Program trained **183 LAWYERS** in 2010, bringing the 18-year total to **approximately 2,800** volunteer attorneys who have stepped forward for this nation's veterans. During 2010, **57 law firms** provided **218** lawyers dealing with new or continuing active cases, and **176** private practitioners also stepped up or continued their representation. These lawyers came from 34 states, Puerto Rico, and, of course, the District of Columbia. Of those completing a case, **MORE THAN 95 PERCENT** have volunteered to take a second case.

**In the year since I became chairman** of the Veterans Consortium Pro Bono Program's Executive Board, I have been impressed and moved by the commitment of the Program's staff and volunteer attorneys to our clients—U.S. military veterans who have served our country in times of peace and war, and who now need our help to have their voices heard before the U.S. Court of Appeals for Veterans Claims.



The Veterans Consortium Pro Bono Program was established with a threefold mission: to recruit and train volunteer lawyers in veterans law and Court procedures; to refer appellants in evaluated cases to those volunteer attorneys for legal counsel at no cost; and to provide advice and support to the lawyers to whom cases have been referred. All those who support that mission—the members of Congress, the members of our supporting service organizations, and the tireless staff of our Outreach, Education, Case Evaluation and Placement, and Direct Representation components—can be justifiably proud of their contributions to the achievement of those goals.

Pro Bono Program clients in 2010 included veterans of World War II, Korea, Vietnam, both Iraqi conflicts, Afghanistan, and the Cold War. Irrespective of how much time had lapsed since their military experiences, each required the Program's expert legal counsel, available at no cost. Each appellant chose to pursue an appeal against an adverse decision of the Board of Veterans' Appeals.

Dedicated volunteer attorneys from large and small private bar practices provided this counsel. A number of these attorneys have offered their services for two or more Program cases. Indeed, even by a conservative estimate, the Pro Bono Program's volunteer attorneys have donated more than \$5 million in legal services during the past year, bringing the 18-year total of donated legal services to more than \$50 million.

Add to that figure the more than \$440,000 contributed in 2010 by Consortium members, which with previous donations, amounts to more than \$5 million over the course of the Program, and we see that the Pro Bono Program since its founding has generated more than \$55 million in legal services for the men and women who have given so much in the service of their country.

Clearly the need for our services is great. Continuing as in 2009, the Pro Bono Program evaluated 847 cases for the U.S. Court of Appeals for Veterans Claims and referred 265 cases to our volunteer attorneys. In 2010, the Program staff evaluated more than 650 cases and found 205 to have one or more legal issues justifying their referral to volunteer counsel.

That is why this 2010 Annual Report offers not just numbers, impressive as they are, but also the stories of just a few veterans and their families who have been helped significantly by Program attorneys. Because our clients are never "just numbers," their individual causes become our cause, and their successes are the measure of our Program's success.

The year 2010 also marked a transition for the Pro Bono Program, as we again saw departures and arrivals on our Executive Board and moved closer to becoming a stand-alone organization.

Sincerely,

A handwritten signature in cursive script, reading "Mary Ann Gillece". The signature is written in dark ink on a white background.

Mary Ann Gillece, Esq.  
Chairman

# Legal History *in the* Making:

## HENDERSON v. SHINSEKI



The highlight of the Program's appellate efforts in 2010 was the quest in the case of *Henderson v. Shinseki* to preserve the rule of equitable tolling for veterans who as a result of disabilities or circumstances beyond their control fail to file a Notice of Appeal (NOA) within the 120-day limit. The case, ultimately argued before the U.S. Supreme Court, involved the appeal of Korean War veteran David Henderson, who suffered from severe mental illness and who filed his NOA 15 days late.

Stepping up to represent Mr. Henderson (and later his widow) at the request of the Pro Bono Program were Thomas W. Stoeber, Esq., of the Denver offices of Arnold & Porter, at the U.S. Court of Appeals for Veterans Claims (CAVC) and the U.S. Court of Appeals for the Federal Circuit, and Lisa S. Blatt, of the firm's Supreme Court practice group. (Arnold & Porter's contributions totaled more than \$1.4 million.)

Through the determined efforts of Mr. Stoeber and Ms. Blatt, justice was achieved when, in early 2011, the Supreme Court ruled, 8-0, in favor of Mrs. Henderson, holding that under the Veterans' Judicial Review Act (VJRA), the 120-day deadline

was not a "jurisdictional" rule that would make equitable tolling unavailable to veterans who were prevented from filing a timely appeal due to health issues or unfortunate circumstances. This meant that the failure to file an NOA within 120 days was not an absolute bar to an appeal going forward, and a reviewing court would have to consider the circumstances that led to the late filing.

The Court further found that the VJRA was intended by Congress to create a pro-veteran administrative scheme and that "harsh consequences" for disabled veterans would have resulted from a contrary decision in the case. In applying the rule to Mrs. Henderson's case, the Court stated that a determination of whether the facts of the case merited application of the tolling rule was an issue for the Federal Circuit to consider on remand.

The CAVC had already dismissed Mr. Henderson's appeal, finding that he had not shown that his illness directly affected a timely filing, when Carol Scott, a Program deputy director, noted the circumstances leading to the Court's decision. She brought the case to the attention of Component Director Brian Robertson and a decision to offer assistance was made. The Program then contacted Mr. Stoeber, known for his success in other equitable tolling cases.

After the Program and Mr. Stoever took action to preserve the appeal, the case went into a judicial holding pattern as the CAVC waited for the Supreme Court to reach a decision in an unrelated case, *Bowles v. Russell*. The *Bowles* case involved a criminal defense attorney's request of an extension to file a writ of habeas corpus. The judge gave the attorney 17 days to file the writ, which exceeded the statutory limit of 14. The writ was filed on the 16th day. The government argued that the failure to file the writ within 14 days ended the issue—without exception. The defense attorney argued that equitable tolling applied because the judge had granted an extension. At the end of the appeal process, the Supreme Court said the rule was jurisdictional and therefore could not be extended by a judge. Language in the decision suggested that equitable tolling no longer existed within the federal system.

Very shortly after the *Bowles* decision was handed down, the CAVC dismissed Mr. Henderson's appeal based on that opinion. Pro Bono Program attorneys did not accept the decision and sought reconsideration of Mr. Henderson's case at the CAVC. When the CAVC declined to reinstate the appeal, the case appealed to the Federal Circuit, which affirmed the CAVC *en banc* in a split decision. Following that opinion, a petition for a writ of certiorari was filed by the Arnold & Porter team with the U.S. Supreme Court.

Sadly, on October 26, 2010, David Henderson, veteran and appellant, passed away. While the veteran's death might have ended the case in prior years, a recently enacted statutory change preserved his widow's right to continue the appeal. Accordingly, the Arnold & Porter team filed a motion for substitution, noting that the focus of the appeal was



Thomas Stoever



Lisa Blatt

a claim for "aid and attendance" to cover the costs of caring for her husband. Since Doretha Henderson had been her husband's caregiver, the motion was granted and the case went forward.

In December 2010, Ms. Blatt stood before the nation's highest tribunal and spoke to the distinctions between a criminal case and a claim for benefits created by a grateful nation, noting especially that it was the intent of Congress, and the United States, to create a system that favored those who had served their country. The six men and two women heard the arguments and concurred with her—unanimously.

The Pro Bono Program was honored to provide counsel to represent David and Doretha Henderson, and is very happy with the outcome, which will benefit not only Mrs. Henderson, but also other veterans whose disabilities and problems occasionally prevent a timely filing. The Program is therefore very pleased to thank the many attorneys who assisted the process either through moot court preparation or filed briefs as amici. Most important, it is with a very deep gratitude that we offer our thanks to Tom Stoever, Lisa Blatt, and the firm of Arnold & Porter for their Herculean efforts. Well done!

# Meeting *the* Challenge

**Our** country's military men and women take a solemn oath when they enter the service. Standing before an American flag, they swear to support and defend the Constitution of the United States against all enemies. They pledge their faith and allegiance to that constitution and their country. They promise to obey the orders of the President of the United States and of the officers under which they serve, according to the laws and regulations of their services and the Uniform Code of Military Justice.

Powerful as that oath is, it puts into words only part of their commitment: that from America's earliest days, the members of our military have been expected to fight in defense of our country and others' freedom, even if that fight results in injury or death.

As an anonymous writer once put it, a veteran is someone who, at one point in his/her life, wrote a blank check made payable to "The United States of America," for an amount of "up to and including my life." And all too often they have paid the price as they willingly faced the worst because we asked them to. Those who were honorably discharged from their service deserve not only our gratitude and respect, but every benefit that our country promised them at enlistment. Their sacrifices have been great. Their justifiable expectation is that the country that asked so much of them will make good on its contract to assist them.

Yet all too often they run into roadblocks when they seek to collect the benefits they are entitled

to—payments to cover care for them and their dependents when they are sick and injured because of service-related injuries, or to care for survivors after their deaths.

What is worse, our veterans find themselves rejected by the Department of Veterans Affairs, the very agency that they had every right to assume would be there to support them in their need.

Those VA denials have profound, life-altering consequences. Benefit payments can make the difference between a veteran being able to afford necessary medical care and going without, or sinking further into disability, distress, even homelessness. Without their benefits, many will lose the struggle to feed, clothe, and provide medical care for a family. When that happens, their spouses, children, and grandchildren suffer as much as the veteran.

Ensuring that our military men and women get all the benefits they deserve is at the heart of the Pro Bono Program's mission. Our volunteer attorneys are committed to taking veterans' appeals to the highest judicial level possible in order to see that justice is done.

Our organization began in response to a great need that was put into sharp relief when the U.S. Court of Veterans Appeals was established in 1989. Until the Court's creation, any judicial review of the government's decisions on veterans' benefits claims had been barred by statute. In addition, anyone who charged an applicant for benefits more than \$10 was

In many cases, VA Board denials had been strung out over decades. As one veteran put it, voicing the feeling of many, “I think they just hoped if they stalled long enough, I’d go away or die.”

liable to criminal prosecution, a rule that greatly reduced the ranks of lawyers interested in representing veterans.

As a result of these restrictions, in the Court’s early years more than 75 percent of the appeals filed by veterans were submitted pro se. As retired Chief Judge Frank Nebeker, first Chief Judge for the Court, recalls, these filings were in a sorry state. Many were handwritten in pencil or even in crayon, filed by veterans who had patiently pursued their claims through all lower levels of appeal. In many cases, VA Board denials had been strung out over decades. As one veteran put it, voicing the feeling of many, “I think they just hoped if they stalled long enough, I’d go away or die.”

This aspect of the judicial review created inefficiency, even chaos, for the appellant, the Department of Veterans Affairs, and the Court itself. Realizing that the process would always be stacked against veterans unless they had access to legal counsel, Chief Judge Nebeker and his colleagues on the Court asked Congress to create a program that would provide attorneys knowledgeable in veterans law, at no cost, to veterans whose cases qualified.

Fortunately, once informed of the situation, Congress acted quickly to provide funding through the Court’s budget for a pro bono program.<sup>1</sup> Four organizations—Disabled American Veterans, National Veterans Legal Services Program, Paralyzed Veterans of America, and The American Legion—came together to form the Veterans Consortium,

and proposed a pro bono plan. The Consortium’s program was chosen as the model and adopted in 1992. From then until now, it has remained the sole recipient of the Congressional grant.

During those 18 years, volunteer attorneys have won cases for veterans that awarded a range of benefits, including medical care, disability compensation, pension benefits, and compensation for widows and orphans of veterans who die of causes related to military service.

To date, the Pro Bono Program has contacted more than 26,000 self-represented veterans who filed an appeal at the U.S. Court of Appeals for Veterans Claims. More than 10,000 of these appellants asked for our assistance, and more than 3,600 were assigned to a Program attorney.

In addition, since 1992 and in accordance with our mission, more than 6,400 appellants who met the Program eligibility requirements—and some who did not—received some form of legal assistance or advice related to their claims and appeals at no cost. ■

<sup>1</sup> The authorizing legislation for the Pro Bono Program is Pub. L. No. 102-229, 105 Stat. 1710 (1991). Pub. L. No. 102-229 states in relevant part: “...for the purpose of providing financial assistance (through grant or contract...) to facilitate the furnishing of legal or other assistance, without charge, to veterans and other persons who are unable to afford the cost of legal representation in connection with decisions to which section 7252(a) of title 38, United States Code, may apply, or with other proceedings in the Court, through a Program that furnishes case screening and referral, training and education for attorney and related personnel, and encouragement and facilitation of pro bono representation by members of the bar and law school clinical and other appropriate Programs, such as veterans service organizations, and through defraying expenses incurred in providing representation to such persons...”



CASE #00-0669: CHUCK JONES

# A Father's Fight for his Daughter

**Sometimes** a veteran's hardest fight comes after leaving the service, when trying to obtain the benefits that have been earned.

Navy veteran Chuck Jones, 63, received three Purple Heart medals for his 1965–1971 service in Vietnam. But as far as he is concerned, the toughest battle he ever fought involved getting benefits for his daughter Michelle, born in 1986 with occipital encephalocele (OE), a form of spina bifida.

The Agent Orange Benefits Act, passed by Congress in 1996, authorized benefits for children born with “all forms and manifestations” of spina bifida to any veteran parent who served in Vietnam. Her parents, Chuck and Mary, applied to VA for benefits in January 1998, but were turned down by the VA regional office. “I vowed that if I had to go to Washington, D.C., I would fight for her before the Congress to make sure she was taken care of,” Mr. Jones said.

He appealed, offering the opinions of five neurosurgeons that Michelle's OE was a form of spina bifida and thus covered under the law; VA's own chief of public health concurred. Still, the

“Next thing I know, Mike calls,” Mr. Jones said. “He told me they had reviewed Michelle's case and wanted to take it on. Those guys picked it up and they fought it and fought it and finally after about three to four years, the thing went through.”

Mr. Horan successfully argued that the VA General Counsel had ignored the statutory language that covered all forms of spina bifida. He made the additional, telling point that the Supreme Court previously had ruled that, where doubt exists in interpreting legislation, VA must rule in favor of veterans.

In 2002, the BVA's decision was vacated by the U.S. Court of Appeals for Veterans Claims, which sent it back to VA for further consideration. Finally, in 2009, Michelle, now 24, was found to be 100 percent disabled. She is in the Denver VA spina bifida program, with all medical expenses covered by the government. In addition, she will receive benefit checks every month for life.

“I thought the VA would prolong things until I dropped dead and wouldn't pursue this anymore,” Mr. Jones said. “I gave my life for the country, and

“I gave my life for the country, and if another vet is out there and has a kid in the same condition, I want them to know that help exists.”

Board of Veterans' Appeals ignored the medical evidence and rejected the claim, based on a VA General Counsel ruling.

By chance, Mr. Jones, now back in civilian life, was telling one of the radiologists at work about Michelle's case. Her husband, an attorney, had been a law school roommate of Michael Horan, a Pro Bono Program attorney, and knew of his work on behalf of veterans.

if another vet is out there and has a kid in the same condition, I want them to know that help exists.” In fact, he added, “I pray every day that I hit the lottery, so I can send half of it to the Pro Bono Program for what they did. I know that thanks to them, no matter what, my daughter is taken care of for life.” ■

# Our Case Evaluation and Placement Component

The Case Evaluation and Placement Component (CEPC) receives requests for assistance from unrepresented appellants, confirms each appellant's financial eligibility for Program services, and evaluates each appellant's case for merit and possible referral to a lawyer participating in the Pro Bono Program.

If CEPC can identify one or more issues in the evaluation process that warrants placement, that appellant is matched with a volunteer lawyer. The evaluation process examines such factors as the issue(s) involved in the appeal, the complexity of the case, the experience of the lawyer, potential language issues, and, when possible, the geographic proximity of the appealing veteran and the lawyer.

In 2010, the Case Evaluation and Placement Component reviewed 666 cases with appeals pending at the Court of Veterans Appeals; 205 cases meeting Program eligibility requirements were placed with a volunteer or Direct Representation Component (DRC) lawyer at no cost to the appellant. These brought the 18-year total for the Program to more than 3,600 placed cases.

Once the initial eligibility screening determines that a case meets Program requirements, a veterans law specialist prepares a comprehensive case evaluation memorandum. This is both a guide to assist in placing the case with the appropriate volunteer attorney and a suggested roadmap for its litigation by the volunteer or DRC lawyer.

To ensure quality control, the Case Evaluation and Placement Component staff also monitor the



*David Myers, Esq., deputy director; Brian Robertson, Esq., director; Carol Scott, Esq., deputy director*

progress of every evaluated case, whether or not it is referred to a Program lawyer.

It's important to note that our efforts to provide assistance aren't restricted to the appeals we undertake. Every day, our staff and attorneys talk on the phone with people whom we do not represent, but who need advice and direction. We do this because we are former members of the military or spouses or children of veterans. We strongly believe it's incumbent upon us to help however and wherever we can because we understand the toll the appeals process takes. We know from experience what these veterans are going through.

The Case Evaluation and Placement Component also maintains the Pro Bono Program's Web site, [www.vetsprobono.org](http://www.vetsprobono.org). ■

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# Restoring Lost Benefits

CASE #05-0767: NED MAESTAS

## “When the Pro Bono people get into the picture, they do all the work for you...”

**Veterans** earn their benefits. The last thing they expect is to have them taken away once awarded. But that is what the Department of Veterans Affairs did to Persian Gulf War veteran Ned Maestas.

“You get awarded 40 percent [disability evaluation] and you begin to eat and feel good, and then they take it away, and you fight to get it back for another 10 years,” Mr. Maestas says, characterizing his experience with the Board of Veterans’ Appeals 2000 decision to take away his service-related disability ratings.

Mr. Maestas first served in the U.S. Air Force from 1955 to 1959, and then in the U.S. Army National Guard, when he was activated from 1991 to 1992 for service in the Persian Gulf War. He served as a motor transport operator in Saudi Arabia from June to October 1991.

In 1992, he filed multiple service-connection claims, followed by additional claims in 1994, which were evaluated at 30 and 10 percent for headaches and an undiagnosed illness, respectively. But in 2000, the VA regional office determined that his disability ratings should be severed or reduced to noncompensable.

Representing himself, Mr. Maestas immediately started a series of appeals that culminated at the U.S. Court of Appeals for Veterans Claims in 2005. At that point, the Pro Bono Program reviewed the merits of Maestas’s case, determining that he more than qualified for free legal representation.

“When the Pro Bono people get into the picture, they do all the work for you,” he recalls. “The Pro Bono attorney Martin Martinez worked out of California, but he really knew the case and talked to me, then took it away.”

The result: The VA settled Mr. Maestas’s claim rather than proceed to oral argument at the Court. He now is rated 100 percent service connected—which he attributes to his Pro Bono Program representation. “I’d developed lots of other problems...memory loss, heart disease. They worked to get everything included for the 100 percent.” Mr. Maestas was also credited with retirement for service in the Air Force, Army, and Army National Guard.

“The award makes a difference,” he says. “You pay your bills on time, there’s a little more chicken, it’s a little bit more comfortable—especially with 10 grandkids just down the road.” ■

# Our Direct Representation Component

**Thanks** to the Direct Representation Component, the Pro Bono Program enjoys the flexibility necessary to provide adequate and timely representation in unique or complicated cases or in cases that require immediate intervention by a lawyer to adequately protect an appellant's interests.

In 2010, the Direct Representation Component contract was awarded to Paralyzed Veterans of America. Under the contract's terms, Paralyzed Veterans of America agreed to accept up to 20 cases from the Program; in 2010, it accepted 21 cases, to exceed its required case commitment. ■

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**HONOR** to the soldier and sailor  
**everywhere**, who bravely  
bears his **COUNTRY'S** cause.

**HONOR** also to the *citizen who cares*  
for his brother **IN THE FIELD...**

—Abraham Lincoln

*Letter to George Opdyke and Others, December 2, 1863*

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# Individual Attorneys

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# Protecting Survivors

JEANINE WINFREY

**Attorneys** are drawn to the Pro Bono Program in many ways, but all are motivated by a desire to do right by our veterans. Jeanine Winfrey, a former Air Force attorney and veteran, first learned about the Veterans Consortium Pro Bono Program through a training seminar presented by the D.C. Bar.

“Being a veteran helps me to understand what other veterans are going through. I understand how the bureaucracy works and can sift through the evidence.”

Her first Pro Bono Program case was the appeal of Mattie Starks, widow of Army veteran Charles Starks, who had sought service connection in 2003 for a leg condition related to an accident with a ship’s crane during his Army service in the 1960s. Although he maintained that he had been treated by an Army physician at the time of the accident, the VA regional office denied his claim. Starks then filed a Notice of Disagreement, reiterating that he had been treated at the local medical unit. He also pointed out that he

no evidence that the sepsis that had killed her husband had begun while he was in the Army, or was related to a service-related injury.

At this point, in June 2008, Mrs. Starks’ case was accepted by the Pro Bono Program for evaluation, and the case was assigned to Ms. Winfrey. She presented evidence indicating a potential link between the injury and the disease that led the U.S. Court of Appeals for Veterans Claims to vacate the Board’s decision and remand the case for further evidence and argument. “When you get the case, the Pro Bono Program sends you everything else—the case, regulations, and even the digital media to go on Lexis-Nexis,” Winfrey remembers. “You have the complete resources—you don’t need to have your own library.”

Since her client lived in South Carolina, Virginia-based Winfrey communicated by letter and phone, discussing her case—and her life. “I lent her a lot of

“I think for me the satisfaction is...knowing that someone is there to shepherd the veteran along.”

“was not the custodian” of his medical records, which is where evidence of the injury should have been recorded and maintained.

Starks perfected his appeal in January 2004; in November 2004, the regional office again denied the case—at which time his widow, Mattie Starks, informed VA that her husband had passed away from sepsis on October 16, 2004.

With the help of a family friend, Mrs. Starks filed a claim that same November for dependency and indemnity compensation (DIC), death pension, and accrued benefits. VA turned her down in February 2005. A few months later, Mrs. Starks, again appealed to reopen her DIC claim. Turned down once more, she filed another appeal in early 2006, which again was denied—with the Board claiming that there was

pictures with my husband in them,” Mrs. Starks has said of her relationship with Winfrey. “She made me feel like I was human, right off the bat. I could call any time, and she would explain things to me that I did not understand. I felt like I was part of the process.”

In 2009, Winfrey succeeded in getting Mrs. Starks’ case remanded, and her representation ended. “I think for me the satisfaction isn’t so much about winning the case but knowing that someone is there to shepherd the veteran along. The military embraces you when you are in, but when you’re out, you have nobody,” Winfrey says. “You [veterans] get shown the door and you hear nothing; you fill out all this paperwork and you hear nothing. It’s important for them to feel someone is working for them who can explain what is going on and make them feel less rejected by their government.” ■

# Our Education Component

**Few** opportunities exist for attorneys interested in veterans law to learn about its nuances, or about the way cases are reviewed at the U.S. Court of Appeals for Veterans Claims, the nation's court dedicated to veterans' appeals. Our Education Component focuses on giving volunteer attorneys and paralegals access to insights and information about veterans law and procedures through training, providing critical education materials, and mentoring each volunteer who accepts a Program referral.

In addition to receiving training and subscriptions to a veterans law journal, volunteers are provided with the current year's edition of *The Veterans Benefits Manual*, a compendium of veterans law issues that includes a copy of current federal veterans law statutes, rules, and regulations. This material is provided in both paperback and CD-ROM format and augmented by an online veterans law research capability made available through the publisher, LexisNexis.

In 2010, through onsite sessions and training DVDs, the Pro Bono Program Education Component trained 183 attorneys throughout the country in the ways of this extremely specialized practice area, bringing to almost 3,200 the number of lawyers and paralegal representatives who have participated in the Program's training since our inception.

Our veterans law workshops typically involve a team from the National Veterans Legal Services Program, supported by the Case Evaluation and Placement component—and a judge from the Court.

In 2010, we expanded the number of regional training sessions that began in the previous year. In 2009, we took the Pro Bono Program on a

western swing through Portland, Oregon; Salt Lake City, Utah; and Phoenix, Arizona. In 2010, we followed an easterly route. Training classes were held for the D.C. Bar Pro Bono Program in Washington, D.C., and in Wilmington, Delaware, at the law firm of Young, Conaway, Stargatt & Taylor. In fall 2010, the Program presented sessions in New York, New York; Newark, New Jersey; and Boston, Massachusetts. All sessions were extremely well attended, not just by attorneys at the host firms, but by lawyers from other firms, too.

The willingness of individual attorneys and law firms around the country to participate in and even host our training sessions is one reason the Education Component has achieved such successful outcomes. In particular, we would like to recognize the following volunteer attorneys and organizations:

**John Shaw**, a partner at Young Conaway, made significant contributions to the Wilmington training. **Lucinda McConathy**, a partner in the Washington, D.C., office of Richards, Kibbe & Orbe, was instrumental in organizing the New York City training held at the firm's New York office. **John Corbett**, of counsel in the Newark office of Patton Boggs, did tremendous work publicizing and organizing the Newark training. The law firm of Holland & Knight and the Rappaport Center for Law and Public Service at Suffolk University Law School in Boston provided invaluable assistance in organizing the Boston session.

In summer 2010, for the third year in a row, the Program also trained outgoing law clerks from the U.S. Court of Appeals for the Federal Circuit and the U.S. Court of Appeals for Veterans Claims. ■

# *Our* Outreach Component

**Responsible** for publicizing the Pro Bono Program and for recruiting volunteer lawyers to represent appellants before the Court, the Outreach Component recruited and trained 183 attorneys in 2010 in a successful effort to meet the Case Evaluation and Placement Component's increased need for volunteer counsel.

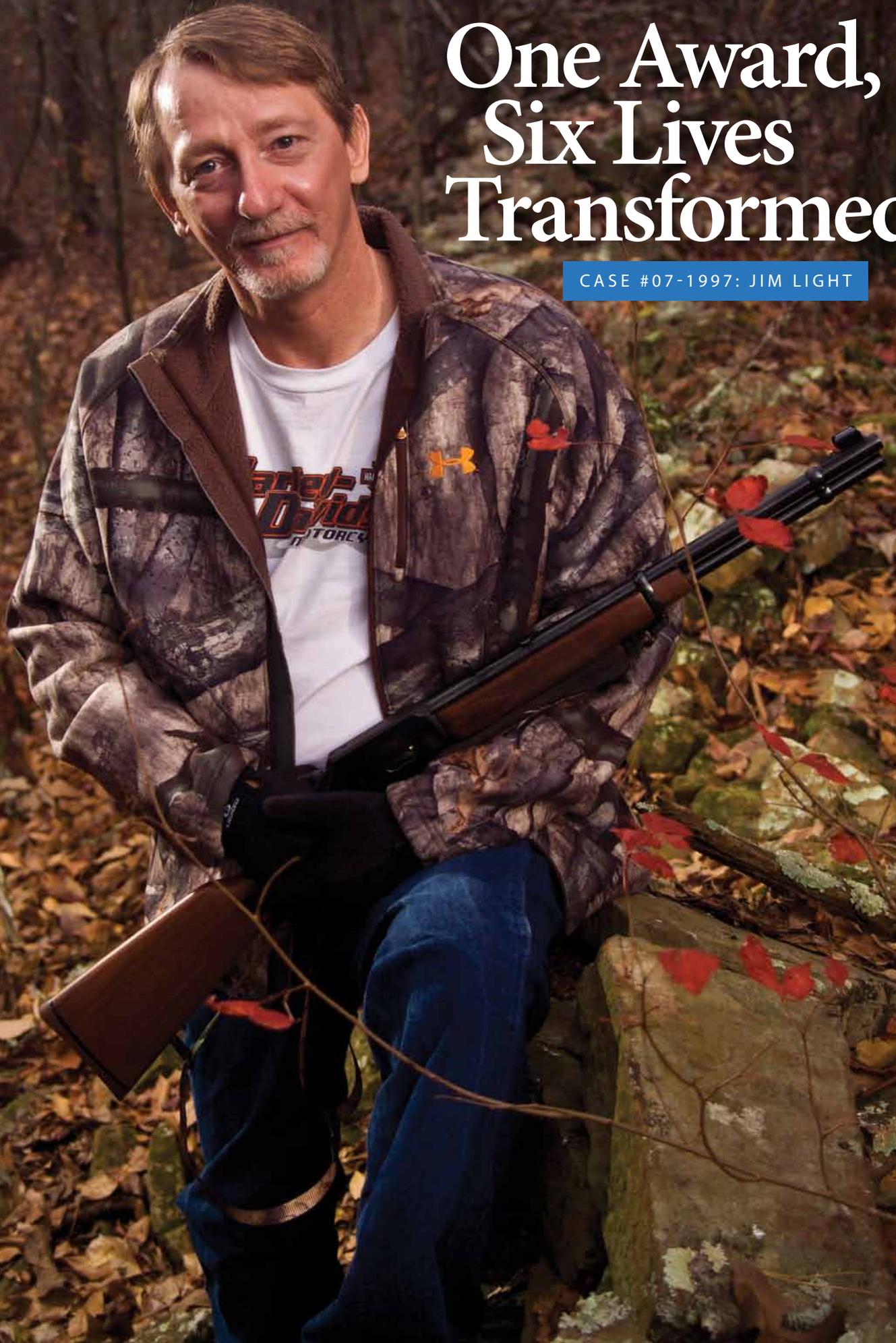
Most of the lawyers recruited by the Program practice in the greater Washington, D.C., metropolitan area. However, efforts in 2009 to revive an initiative from years past were continued in 2010, as the Outreach Component vigorously sought the participation of lawyers outside the Washington metropolitan area. Lawyers who represented veterans through the Program were drawn from 33 states, the District of Columbia, and Puerto Rico. ■



*Meg Bartley, Esq., director*

# One Award, Six Lives Transformed

CASE #07-1997: JIM LIGHT



As far as Jim Light is concerned, his 2010 award of benefits, thanks to his Pro Bono attorney's efforts, was about more than just the money. It was a vindication of his efforts—and his honesty—in the face of eight years of rejection by the Department of Veterans Affairs.

From 1977 to 1981, Mr. Light served in the Army, making sergeant by the end of his enlistment. During a three-day fire mission on M101 howitzers while stationed in Alabama, his unit was firing too rapidly for the load man to keep up.

At the time, Mr. Light was assistant gunner. Because the ammo was close to his position, he went to work helping to move it. "The rounds weighed 90 pounds each and the bending, twisting, and lifting wore me out after about 20 rounds," he remembers. As he passed the last round, he felt a sharp pain in his back. Once things settled down, he called for the medic.

"He gave me Tylenol® and said to stick it out because we were far from any facilities," Mr. Light says. "I got about the same treatment each time I asked for help."

His back problem and pain persisted; he also experienced some hearing loss. Finally, in 2002, Mr. Light applied for service connection and received a 10 percent rating with no argument for his hearing

on board, things sped up and I got more judicious treatment," Mr. Light remembers. "It also was much more comforting knowing I had someone on my side, fighting for me."

Thanks to Mr. Attig's efforts, the case was remanded to the VA regional office in 2006, and in August 2010 Mr. Light received his first positive benefit decision. "This award has changed all our lives greatly for the better. Thank God!" he says. He was approved for service connection on his back, with a total rating of 70 percent and an effective date of 2002. As a result, Mr. Light will receive \$100,000 in past-due benefits.

"I felt a great sigh of relief knowing finally the truth was accepted," he says. "To me, getting denied was like being called a liar." He also felt great joy knowing that his family—wife, son, and three adopted grandchildren—now could rise from poverty.

"Finally we could buy groceries without a calculator in hand. Finally, after eight years, my kids can do what other kids can do. Like go out to eat and go bowling for the first time in their lives—oh, and get a new pair of shoes!"

With his service rating of 70 percent, Mr. Light has filed for and should qualify to receive Total Disability based on Individual Unemployability (TDIU) going

**"I felt a great sigh of relief knowing finally the truth was accepted. To me, getting denied was like being called a liar."**

impairment. However, his request for benefits for his back injury was denied. For the next five years, he kept his claim alive through continuous appeals, until at last it reached the Court of Appeals for Veterans Claims. That was when Pro Bono Program attorney Chris Attig was assigned the case. "When Chris came

back to 2001. "They tell me my TDIU will be decided quickly," he notes. "I have yet to know what is their definition of 'quickly' is, and my only indicator is the eight years it took to win the service connection. Lord willing, this time it will only be weeks." ■

# Our Executive Board

Six voting members responsible for establishing and monitoring the activities of the Pro Bono Program's operational component make up the Veterans Consortium Executive Board. One representative is drawn from each of the four veterans service organizations—Disabled American Veterans, National Veterans Legal Services Program, Paralyzed Veterans of America, and The American Legion—that comprise the consortium. The fifth and sixth voting members, including our current chairman and vice chairman of the board, represent the private bar.

The Executive Board oversees the Program's component directors, who are responsible for implementing established policies, complying with the terms of the Program's federal grant, and efficiently operating their respective components within a budget approved by the Executive Board and the Legal Services Corporation.

The Executive Board met seven times during 2010, rotating among the offices of the Consortium's constituent organizations. All personnel and other expenses connected with the Executive Board's activities were donated by the organizations with which the board members are affiliated. ■



# 2010 Veterans Consortium Executive Board Voting Members



## CHAIRMAN

*Mary Ann Gilleece, Esq.*, became chairman of the Executive Board in December 2009. In private practice since 1985, in 2005 she became a partner in Holland & Knight, LLP, based in the firm's

Washington, D.C., office. Ms. Gilleece serves as counsel to a wide spectrum of domestic and foreign corporations on a broad range of issues related to legislative, government contract, and business matters. Her clients include manufacturers of military systems and component parts, and providers of technical services.

Ms. Gilleece's legal career began with her appointment as an assistant attorney general for the Commonwealth of Massachusetts, followed by a period in private practice as a trial lawyer. She then served as counsel to the U.S. House of Representatives Committee on Armed Services before moving to the Department of Defense in the position of Deputy Undersecretary of Defense for Research and Engineering (Acquisition Management). In that position she was involved in all aspects of federal procurement and manufacturing.

She is a graduate of the University of Connecticut and Suffolk University Law School. She received her LLM in government procurement law from The George Washington University. Besides serving as chairman of the Veterans Consortium, Ms. Gilleece has served in leadership positions for the American Defense Preparedness Association, the American Bar Association, the Federal Bar Association, the Suffolk University Alumni Association, and the

USO of Metropolitan Washington. She is on the board of directors of the University of Connecticut Foundation and serves on the Dean's Advisory Committee, Suffolk University Law School.



## VICE CHAIRMAN

*Gary M. Butter, Esq.*, the first vice chairman of the Executive Board, is a partner specializing in intellectual property law with the firm of Baker Botts, LLP in New York. Mr. Butter is

a 1982 graduate of the United States Naval Academy (BSEE with merit) and earned his JD in 1990 from the New York University School of Law.

Mr. Butter's practice focuses on high-tech patent preparation, prosecution, and litigation. He also counsels high-tech companies and individual inventors on a wide range of issues in the field, including intellectual property protection, procurement, licensing, risk analysis, and dispute resolution. His expertise focuses on legal matters related to software, telecommunications, and mechanical technologies. He is also an assistant adjunct professor at the Brooklyn Law School.

Recently retired as a captain in the United States Naval Reserve, he served for three years onboard the *USS Billfish* (SSN 676), a nuclear-powered attack submarine. This service, along with the 18 months of technical training he received before reporting to the *Billfish*, provided special insight into a variety of engineering disciplines.



## PARALYZED VETERANS OF AMERICA

*William Mailander, Esq.*, became general counsel of Paralyzed Veterans of America in 2005. He has been with Paralyzed Veterans since 1992, when

he was first hired to represent claimants before the U.S. Court of Appeals for Veterans Claims in cases assigned to Paralyzed Veterans under the Direct Representation Component.

Mr. Mailander served in the U.S. Marine Corps from 1976 to 1979, receiving meritorious promotions through the rank of corporal; he was awarded the Navy Achievement Medal. Following his service, he received a BA from New York University in 1984 and JD from Temple University School of Law in 1988. He also received an MBA from Johns Hopkins University in 2001.

After graduating from law school and before coming to Paralyzed Veterans, Mr. Mailander held positions with the Board of Veterans' Appeals, the Coast Guard Chief Counsel's Office, and the Department of Veterans Affairs Office of the General Counsel.



## THE AMERICAN LEGION

*Barry A. Searle* has served as the director of the National Veterans Affairs and Rehabilitation Commission, American Legion, since June 2009. In this position Mr. Searle is

responsible for guiding and overseeing all American Legion activities affecting the entitlement programs for veterans and their families.

A retired Active Duty and Reserve Component veteran with more than 37 years' service, his most recent posting was in 2007–2008, as Commander Regional Coalition Assistance Command East,

Gardez, Afghanistan, for which he was awarded the Bronze Star. Before that deployment, he was the team chief for Medical Evacuation to CONUS Hospitals (MECH) Operations, Andrews Air Force Base. He and his team assisted more than 10,000 returning wounded and injured warriors and their families in negotiating the complex evacuation system.

Mr. Searle's other awards include Combat Infantryman's Badge, The Legion of Merit, Meritorious Service Medal, Afghan Campaign Medal, and Armed Forces Expeditionary Medal (Bosnia). Mr. Searle holds a master's in strategic studies from the U.S. Army War College and a bachelor's of arts in communications from the University of Scranton, Scranton, Pennsylvania. He is a member of American Legion Post # 524 Forest City, Pennsylvania, and a resident of Crofton, Maryland. Mr. Searle stepped down from his position as a member of the Board in November 2010.



*Verna Jones*, who assumed a seat on the Board in November of 2010, has been a member of the American Legion's national VA&R staff since July 2009, initially serving as an appeals representative in the Appeals and Special Claims unit

located at the Board of Veterans' Appeals (BVA) in Washington, D.C. She has since held the positions of BVA manager and deputy director of claims and currently the director of National Veterans Affairs and Rehabilitation Commission.

Before joining the national staff, Ms. Jones was the Department of North Carolina's department service officer from 2004 to 2009; she remains a member of American Legion Post #55 in Winston-Salem, North Carolina. She currently is president of the National Association of Department Service Officers. Ms. Jones was a personnel sergeant in the U.S. Army from 1987 to 1995.



## DISABLED AMERICAN VETERANS

*Roy E. Spicer*, a native of Clarksville, Tennessee, heads the Disabled American Veterans (DAV) National Appeals Office in Washington, D.C., where he

supervises 14 national appeals officers and staff who represent appellants before the Board of Veterans Appeals. Mr. Spicer has served in positions with DAV in Louisville, Kentucky; Pittsburgh, Pennsylvania; Roanoke, Virginia; St. Petersburg, Florida; and Washington. From December 1994 to August 1997 he was executive assistant to the Secretary of the Department of Veterans Affairs before returning to DAV and the National Appeals Office.

A Vietnam veteran, Mr. Spicer joined the Army in 1968 and saw combat as a recon team leader until serious combat wounds led to a disability retirement. He has received the Combat Infantryman Badge, two Purple Hearts, the Bronze Star with V device, the Army Commendation Medal with V device, the Vietnamese Cross of Gallantry with Silver Star, and other personal and unit awards.

Mr. Spicer is admitted to the Bar of the United States Court of Appeals for Veterans Claims as a nonattorney practitioner. His accomplishments have been recognized by DAV at the chapter, department, and national levels, and he has been recognized with honors from local, state, and federal governments.



## NATIONAL VETERANS LEGAL SERVICES PROGRAM

*Ronald B. Abrams, Esq.*, is the joint executive director and director of training for the National Veterans Legal Services Program (NVLSP).

He began his career in 1975 in the Philadelphia Regional Office of the Veterans Administration and

then transferred to the VA Central Office in 1977, where he assumed duties as legal consultant to the Compensation and Pension Service.

Recognized as an expert in due process issues, Mr. Abrams helped draft the VA *Adjudication Procedures Manual, M21-1*. He also wrote and interpreted regulations and directives, and both drafted and commented on legislation on VA's behalf. As part of his work for the VA Central Office, he conducted national training sessions in adjudication and due process for VA staff.

Since joining NVLSP, Mr. Abrams has conducted more than 150 training sessions for veterans service organizations, state and county departments of veterans affairs, and a wide range of veterans advocate groups. He has spoken to meetings of the American Bar Association, the Federal Bar Association, and the National Association for the Advancement of Colored People and regularly testifies before Congress on veterans issues. He is also the editor of *The Veterans Advocate*, author of *Basic Training Course in Veterans Benefits*, and coauthor of the 2010 edition of *The Veterans Benefit Manual*.

## David Isbell Summer Legal Intern: *Jonathan M. Gaffney*

Every year, the Pro Bono Program, in honor of the Program's first chairman and founding father, awards a summer internship to a law student who has shown a strong interest in, and true commitment to, the field of veterans law. In 2010, Jonathan M. Gaffney, a Thurgood Marshall Scholar at the George Washington School of Law in Washington, D.C., was named the David Isbell Summer Legal Intern. During his internship, Mr. Gaffney worked on legislative policy with staff from Disabled American Veterans, and prepared veterans law training and advocacy materials for Pro Bono Program use. His working understanding of veterans law and the U.S. Court of Appeals for Veterans Claims was developed during his stint as an intern law clerk in the Chambers of The Honorable Alan G. Lance, Sr., from January to May 2010, immediately preceding his taking up the Program internship. We wish him the very best of luck as he pursues his interest in veterans law during his third year of law school, and beyond.

## INVITED GUESTS



### Legal Services Corporation

#### *Dr. Bristow Hardin*

is a program analyst with the Legal Services Corporation (LSC) and is its administrator for the Pro Bono Program's grant funds. Before joining the LSC, he

was director of the Union Institute's Center for Public Policy, project coordinator at the National Legal Aid and Defender Association, and policy analyst and advocate at the Food Research and Action Center and the Virginia Poverty Law Center Food Law Project. He has been a lecturer and adjunct professor at the University of California, Santa Cruz, and American University, Washington, D.C. As a private consultant, he provides legal services organizations and other groups with assistance in the areas of evaluation, strategic research, and policy analysis. He received an MA and a PhD in political and economic sociology from the University of California, Santa Cruz.



### U.S. Court of Appeals for Veterans Claims

*Cary P. Sklar, Esq.*, serves as counsel to the Court, having joined the Court in 2005. In that capacity, Mr. Sklar acts as a court liaison to the Pro Bono Program.

He also handles a wide range

of legal matters arising from court administration, including compliance with the codes of conduct and other judicial ethics questions; attorney discipline; interpreting and applying court rules; and advising on public office operations, appropriations, and personnel matters.

Before joining the Court, Mr. Sklar served as senior advisor to the special counsel at the U.S. Office of Special Counsel (OSC), where he provided advice on administrative and policy matters, including agency program initiatives, personnel, budget, procurement, and intergovernmental relations. He later served as associate special counsel for investigation and prosecution, supervising a team of investigators and attorneys in resolving federal employee complaints of whistle-blower retaliation and violations of the Uniformed Services Employment and Reemployment Rights Act. He also established and directed the OSC's Mediation Program and served as director of OSC's Equal Employment Opportunity Program.

Mr. Sklar, a graduate of Cornell University, earned his JD from Georgetown University. His past public service includes teaching for many years as an adjunct instructor for alternative dispute resolution, labor relations, and business law at Bowie State University and serving as a pro bono mediator in D.C. Superior Court.

## Federal Bar Association Honors Consortium Staff Attorney



*Carol Wild Scott*, deputy director for Case Evaluation and Placement Component (Placement), was honored in 2010 with the Federal Bar Association's President's Award, given each year to an individual who has made an outstanding contribution to the Federal

Bar Association. Ms. Scott, who chairs the FBA's Veterans Law Section, was cited for her significant efforts on behalf of veterans legislation, for her legislative efforts to ensure that Native American veterans were not overlooked, and for her tireless commitment to bettering the lives of the men and women who have served and sacrificed for our nation. At the Pro Bono Program, she is the person responsible for matching volunteer attorneys with cases. Her uncanny ability to bring together compatible clients and counsel is equaled only by her skill at finding the right attorney for a specific, tough issue. Congratulations to Ms. Scott on this well-deserved recognition!



#### Treasurer

**Hugh P. Quinn** assumed the duties of chief financial officer on December 1, 2009. Mr. Quinn is the principal at Quinn Forensics in Washington, D.C., and brings more than 25 years of business management,

litigation consulting, and accounting experience to this position. Mr. Quinn has assisted corporate officers; boards of directors, including special and audit committees; and counsel in a wide range of matters, including government contractors, international accounting issues, and insurance investigations.

Mr. Quinn earned his BA from the University of Notre Dame, MBA from the University of Denver, and JD from the Georgetown University Law Center.

### CODIRECTORS OF THE CONSORTIUM



#### Director, Outreach and Education Components

**Meg Bartley, Esq.**, a senior staff attorney at the National Veterans Legal Services Program (NVLSP), is the director of The Outreach and Education Component for the Veterans Consortium

Pro Bono Program. Ms. Bartley trains lawyers and non-lawyers in the area of veterans law. She is editor of the quarterly NVLSP publication *The Veterans Advocate: A Veterans Law and Advocacy Journal*, and she represents veterans and their dependents before the U.S. Court of Appeals for Veterans Claims. She previously served as judicial clerk for the Hon. Jonathan R. Steinberg of the United States Court of Veterans Appeals (now the United States Court of Appeals for Veterans Claims) from 1993–1994. She is the author or a coauthor of numerous monographs and publications on veterans law.

Ms. Bartley is a graduate of the Pennsylvania State University (BA 1981, cum laude) and the Washington College of Law at American University (JD 1993, cum laude).

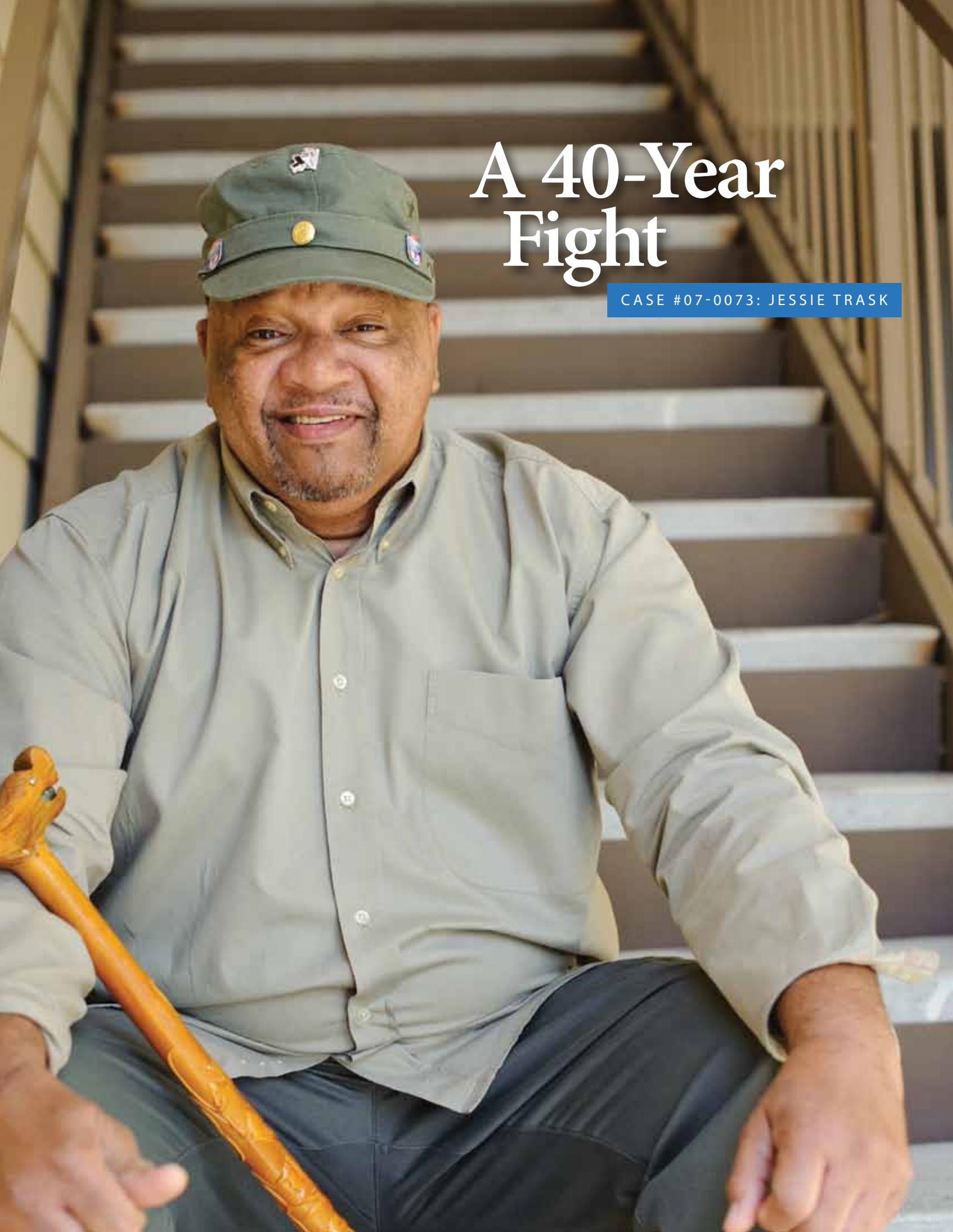


#### Director, Case Evaluation and Placement Component

**Brian D. Robertson, Esq.**, director, Case Evaluation and Placement, became the director of the Component in October 1994, after a brief

period as its deputy director. He was a career Naval officer, retiring after 23 years of service, including more than 18 years as a Navy judge advocate. He is past chair of the Veterans Law Section of the Federal Bar Association and served in a number of leadership positions with the U.S. Court of Appeals for Veterans Claims Bar Association.

Mr. Robertson is a 1971 graduate of the U.S. Naval Academy and a 1976 graduate of the University of Maryland School of Law. He also has an MA from the University of Southern California.

A man with a goatee, wearing a green military-style cap with a gold button and patches, and a light green button-down shirt, is sitting on a set of stairs. He is holding a wooden cane in his right hand. The background shows the wooden steps and railings of the stairs.

# A 40-Year Fight

CASE #07-0073: JESSIE TRASK

All too often, the physical and psychological pain suffered by veterans is exacerbated by years of having their benefit applications and appeals rejected when all the facts seem to call for a positive resolution.

Jessie Trask served in the Marine Corps from 1967 to 1970; in 1969 he was ordered to Vietnam. Before leaving, he injured his back in a freak staging accident in Hawaii that sent him to sickbay, where X-rays showed he had severe back problems.

En route to Vietnam, his company landed on Okinawa, and Mr. Trask was forced by pain to see another doctor, who diagnosed scoliosis, among other back conditions, and put him under medical care, never allowing him to return to full-time duty. After several hospital stays for physical therapy, he eventually ended up getting a humanitarian hardship discharge in order to support his ailing mother.

group would help me and would not pressure me for finances that I did not have. So that was the start.”

Attorney J. Andrew McColl of McLean, Virginia, was assigned the case. “Mr. McColl made my spirit revive,” Mr. Trask says. “He made the VA see what the VA had done—violated its own rules. He pointed out the facts they had to address. The way he stated things and presented them at the Court of Appeals was just what I hoped for.”

Mr. McColl was able to obtain a remand, convincing VA General Counsel representatives that VA had violated the Veterans Claims Assistance Act and successfully arguing that VA had failed to determine if Mr. Trask’s disability was related to in-service symptoms. Finally, he showed that VA had misstated facts by alleging that Mr. Trask had not received medical treatment in Okinawa and Hawaii, when he had.

## “Mr. McColl symbolized to me the protection for veterans out here like me...”

But his injury and post-traumatic stress disorder made holding jobs difficult. “I filed a claim in 1971 for my back and the mental thing,” Mr. Trask says, recalling the years during which his anger over losing his childhood best friend in Vietnam combat would sometimes overwhelm him.

The Board of Veterans’ Appeals denied his claim; Mr. Trask appealed the decision again and again: “I could see the mistakes in their decisions and would get discouraged, with them claiming I didn’t go to these places or do these things.”

Finally, in 2007, his case had moved to the Court of Appeals for Veterans Claims, when Mr. Trask was contacted by the Pro Bono Program regarding possible representation. After reviewing Mr. Trask’s case, the program offered him free representation. Until then, with his appeal going to the Court, Mr. Trask had been contracted by attorneys from around the country offering to represent him, but for a significant fee. “I felt that the Pro Bono Program

In June 2009, Mr. Trask was granted a 30 percent rating for PTSD; the remainder of his claim was remanded to the regional office for further evidence, where it is still pending. “At that point, Mr. McColl told me he’d brought it as far as he could,” Mr. Trask says. “And that was OK. Mr. McColl symbolized to me the protection for veterans out here like me—that I may talk to or meet and the vet may not know how to go through the process. I have been going through it for 40 years, and want to help them get a chance before they pass away or get into dire straits like I was.”

A volunteer for groups around the country, including the Marines, VISTA, and community services for seniors and youth, Mr. Trask now works with young people, helping them to understand their purpose in life. “I trust that my five little grandchildren will be able to say that ‘my granpa taught us some things and showed us some others,’” he laughs. “I just want to share with them the little life I have left. To me, they are the reason I strove so hard with this VA thing.” ■

# 2010 Private Bar Recruitment Committee

MARY ANN GILLEECE, ESQ.  
*(Chairman of the Executive Board)*  
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Morrison Foerster, LLP

DAVID T. CASE, ESQ.  
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MELANIE GERBER, ESQ.  
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LUCINDA MCCONATHY, ESQ.  
Richards Kibbe & Orbe, LLP

LEAH E. MEDWAY, ESQ.  
Perkins Coie, LLP

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Baker Daniel, LLP

ANNE PROCTOR, ESQ.  
Covington & Burling, LLP

CAROLYN ROSENTHAL, ESQ.  
Goodwin Procter, LLP

JOHN SHAW, ESQ.  
Young Conaway Stargatt & Taylor, LLP

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Fish & Richardson, PC

RACHEL L. STRONG, ESQ.  
Howrey, LLP

REBECCA K. TROTH, ESQ.  
Sidley Austin, LLP

MARSHA TUCKER, ESQ.  
Arnold & Porter, LLP

# FINANCIALS

**TABLE A: CONSOLIDATED STATEMENT OF INCOME & EXPENSES (UNAUDITED)**

2010 Grant Funds Authorized by Congress	\$1,820,000 <sup>a</sup>
2010 Funds Retained by Legal Services Corporation	(\$15,000)
2010 Funds Released to Program by LSC	\$1,805,000
Grant Funds Available from Prior Grant Years	\$481,300
Total Grant Funds Available	\$2,286,300
Interest Earned from 1/1/10 – 12/31/10	\$1,935
Total Funds Available in Grant Year 2010	\$2,288,235 <sup>b</sup>
Total Program Expenses in Grant Year 2010	(\$1,544,511)
Excess of Total Grant Funds over Expenses	\$743,724
Letter of Credit (CD) – Lease Agreement	(\$83,732)
Available Grant Funds as of 12/31/10	\$659,992

a. See Pub.L.No. 111-117, 123 Stat. 3285, 3309 Military Construction and Veterans Affairs and Related Agencies Appropriations Act, 2010, which provides in relevant part: “United States Court of Appeals for Veterans Claims—Salaries and Expenses: For necessary expenses for the operation of the United States Court of Appeals for Veterans Claims as authorized by sections 7251 through 7298 of title 38, United States Code, \$27, 115,000 of which \$1,820,000 shall be available for the purpose of providing financial assistance as described, and in accordance with the process and reporting procedures set forth, under this heading in Public Law 102-229.”

b. This amount does not include any monies that were donated to the Program by law firms, veterans, or from other sources. These donated funds are detailed in separate schedule (Table E) and are not commingled with grant funds received from the Legal Services Corporation.

**TABLE B: CONSOLIDATED STATEMENT OF DONATED FUNDS & SERVICES (UNAUDITED)**

<b>Reported/Estimated Organizational Contributions</b>	
The American Legion	\$1,200
Disabled American Veterans	\$3,707
National Veterans Legal Services Program	\$33,398
Paralyzed Veterans of America	\$193,777
Holland Knight	\$93,051
Baker Botts, LLP	\$76,861
Quinn Forensics, Inc. (Treasurer)	\$38,400
<b>Total Value of Organizational Contributions</b>	<b>\$440,394<sup>a</sup></b>
<b>Total Value of Nonorganizational Contributions</b>	<b>\$4,675,957</b>
<b>Total Program Donated Funds and Services</b>	<b>\$5,166,351<sup>b</sup></b>

a. Each of the constituent veterans service organizations, as well as the representative of the private bar chairing the Executive Board, makes various contributions to the Program during the course of the year.

b. This figure does not include the value of certain contributions made by the supporting organizations. In addition to the estimated contributions reflected above, all of these entities devoted substantial time to Executive Board activities throughout the year.

**TABLE C: STATEMENT OF GRANT INCOME & EXPENSES (UNAUDITED)**

<b>Revenue</b>	
Grant Funds Carried Forward (Prior Years)	\$481,300
2010 Grant Funds Made Available by LSC	\$1,805,000
Interest Earned from 1/1/10 – 12/31/10	\$1,935
<b>Total Funds Available in Grant Year 2010</b>	<b>\$2,288,235<sup>a</sup></b>
<b>Expenses</b>	
<i>Program Services</i>	
Executive Board	\$0 <sup>b</sup>
Case Evaluation and Placement Component	\$1,125,206
Outreach Component	\$43,415
Education Component	\$244,271
Direct Representation Component	\$101,134
<b>Total Program Services Expenses</b>	<b>\$1,514,026</b>
<b>General and Administrative</b>	
Executive Board	\$0 <sup>b</sup>
Case Evaluation and Placement Component	\$24,693
Outreach Component	\$1,211
Education Component	\$4,581
Direct Representation Component	\$0
<b>Total General and Administrative Expenses</b>	<b>\$30,485</b>
<b>Total 2010 Grant Expenses</b>	<b>\$1,544,511</b>
<b>Excess of Total Grant Funds over Expenses</b>	<b>\$743,724</b>
Letter of Credit (CD) – Lease Agreement	(\$83,732)
<b>Available Grant Funds as of 12/31/2010</b>	<b>\$659,992</b>

a. In addition to grant funds, all of the participating organizations in the Consortium donated services and/or goods to the Program. These donated goods and services are detailed in separate tables.

b. All Executive Board member personnel costs and other costs associated with activities of the Executive Board were donated. The Executive Board met seven times during the grant year (and several Executive Board members also attended additional meetings to prepare and review financial statements and annual budget submissions, as well as conduct a search for an executive director).

**TABLE D: CONTRIBUTIONS TO THE PROGRAM (UNAUDITED)**

<b>Organizational Contributions</b>	
<i>The American Legion</i>	
Unreimbursed Personnel Expenses	\$1,200 <sup>a</sup>
Other Services	\$0
<b>Total American Legion Contributions</b>	<b>\$1,200</b>
<i>Disabled American Veterans</i>	
Unreimbursed Personnel Expenses	\$3,358 <sup>b</sup>
Other Services	\$349
<b>Total DAV Contributions</b>	<b>\$3,707</b>
<i>National Veterans Legal Services Program</i>	
NVLSP Publications	\$24,000
Unreimbursed General Administrative Expenses	\$7,536
Unreimbursed Personnel Expenses	\$1,862 <sup>b</sup>
<b>Total NVLSP Contributions</b>	<b>\$33,398</b>
<i>Paralyzed Veterans of America</i>	
Value of Donated Mentoring Services	\$26,916
Cost of Production of <i>Annual Reports</i>	\$38,003
Assistance to CE&P Component	\$1,297
Unreimbursed Support for DRC	\$110,429
Unreimbursed Support for Executive Board	\$17,133 <sup>b</sup>
<b>Total Paralyzed Veterans Contributions</b>	<b>\$193,778</b>
<i>Holland &amp; Knight, LLP</i>	
Donated Services	\$93,051
<i>Baker Botts, LLP</i>	
Donated Services	\$76,861
<i>Quinn Forensics, Inc. (Treasurer)</i>	
Donated Services	\$38,400
<b>Total Organizational Contributions</b>	<b>\$440,394</b>

**TABLE D: CONTRIBUTIONS TO THE PROGRAM (CONTINUED)**

<b>Nonorganizational Contributions</b>	
<i>Donated Pro Bono Legal Services</i>	\$4,627,300 <sup>c</sup>
<i>Donated Mentor Services – Chisholm, Chisholm &amp; Kilpatrick</i>	\$31,620 <sup>d</sup>
<i>Donated Screening Services – Goodman, Allen &amp; Filetti</i>	\$3,150 <sup>e</sup>
<i>Donated Services – D.C. Bar Pro Bono Program</i>	\$3,000 <sup>f</sup>
<i>Donated Services – Young, Conaway, Stargatt &amp; Taylor (Wilmington, DE)</i>	\$1,600 <sup>g</sup>
<i>Donated Services – Richards, Kibbe &amp; Orbe (New York, NY)</i>	\$5,575 <sup>g</sup>
<i>Donated Services – Patton Boggs (Newark, NJ)</i>	\$2,112 <sup>g</sup>
<i>Donated Services – Holland &amp; Knight (Boston, MA)</i>	\$1,100 <sup>g</sup>
<i>Donated Services – Suffolk School of Law (Boston, MA)</i>	\$--- <sup>h</sup>
<b>Total Value of Nonorganizational Contributions</b>	<b>\$4,675,957</b>
<b>Total Donated Funds and Services</b>	<b>\$5,166,351</b>

a. Value of donated time of service organization representative performing Executive Board functions.

b. Value of cost of hosted Executive Board meetings and performing additional duties.

c. This figure was calculated by (1) taking the actual time and financial figures reported by participating attorneys, and (2) using the reported figures to arrive at an average number of hours for a nonreporting pro bono lawyer to complete a case, multiplying the average hours per case by number of (unreported) case and then multiplying those hours by the 2010 Laffey matrix hourly rate for a private lawyer with 4–7 years' experience (\$355), and then adding the two figures for total amount of donated funds.

d. Value determined by using hours donated times the EAJA billing rate of \$155 for mentoring services.

e. Value determined by using hours times an average of billing rates of attorneys contributing time to screening cases for assignment to Program counsel.

f. Training classes are conducted by the Education Component twice a year in Washington, D.C., through the auspices of the D.C. Bar Pro Bono Program. Incidental costs related to training (such as mailings, printing of announcements, the fair market value of classroom space, food and beverages, and personnel costs) are all donated by the D.C. Bar Pro Bono Program to the Veterans Consortium Pro Bono Program.

g. A one-day training class was conducted by the Education Component through the auspices of the listed firm. Incidental costs related to training (such as mailings, printing of announcements, the fair market value of classroom space, food and beverages, and personnel costs) are all donated by said firm to the Veterans Consortium Pro Bono Program.

h. Donation amount from Suffolk School of Law was not available at time of publication.

**TABLE E: 2010 PRIVATE CONTRIBUTIONS**

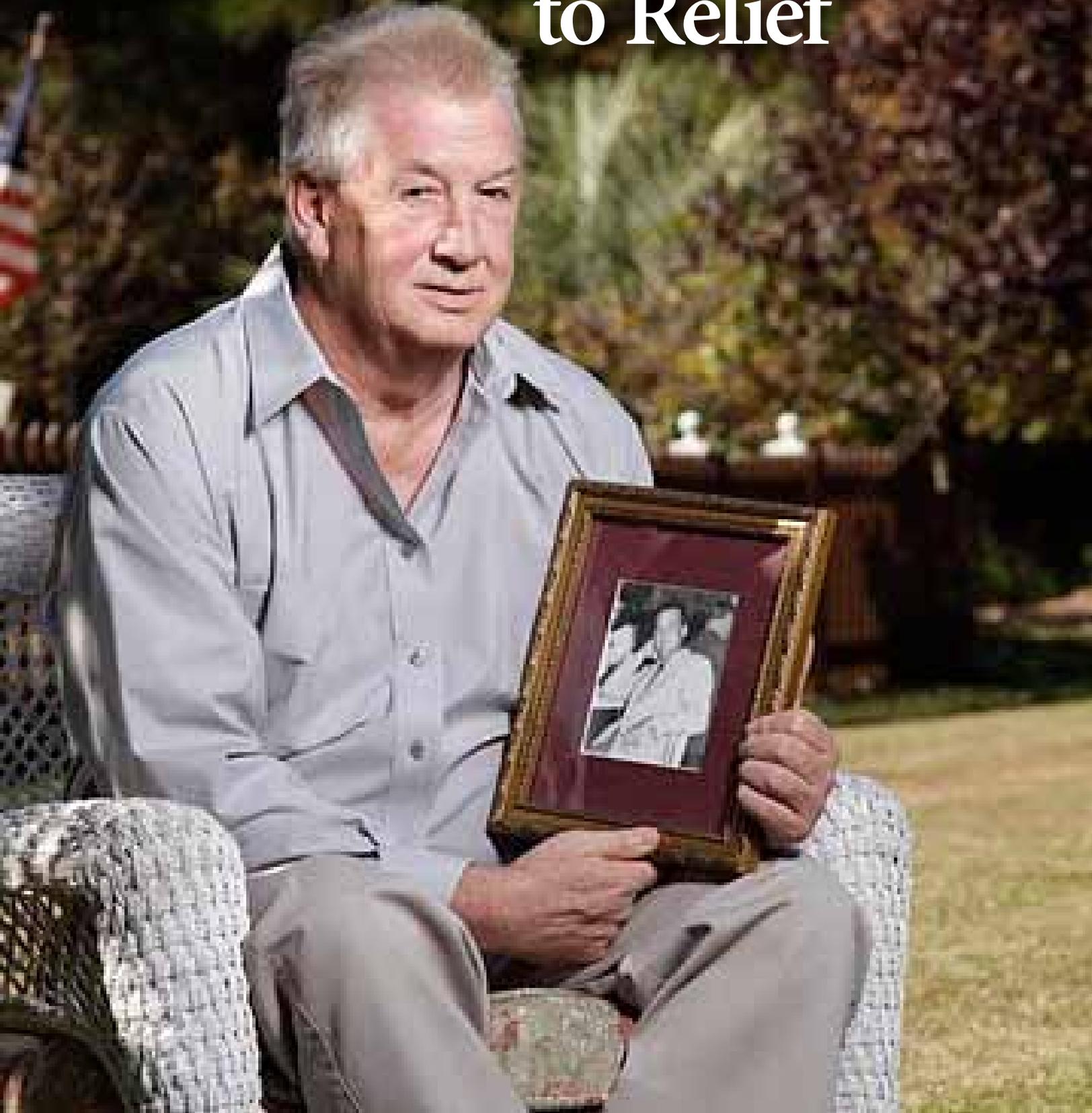
Local Independent Charities of America	\$16,163
Ken Cuccinelli for Attorney General	\$2,500
Patton Boggs, LLP	\$2,500
Bill and Rosalind Mailander	\$500
Young, Conaway, Stargatt & Taylor, LLP	\$483
Altruist Connected	\$70
<b>Total Private Contributions</b>	<b>\$22,216</b>

**TABLE F: 2010 SUMMARY OF PRIVATE CONTRIBUTIONS & EXPENSES (UNAUDITED)**

Contributions Available as of 1/1/10 (Unaudited)	\$96,290
Contributions Received as of 1/1/10 – 12/31/10	\$22,216
Interest Earned 1/1/10 – 12/31/10	<b>\$219</b>
Total Contributions/Interest	\$118,725
Expenses Paid from Contributions 1/1/10 – 12/31/10	(\$1,468)
Contributions Available as of 12/31/10	<b>\$117,257</b>

CASE #08-1840: MIKE MCMANUS

# From Discouragement to Relief



**Bobby** D. McManus, a career Air Force noncommissioned officer, had served in Vietnam from 1966 to 1967. In 1985, he filed a claim for benefits for diabetes and an award under the *Nehmer* decision. Sadly, he succumbed to complications from diabetes and heart disease in 1991, while the claim was still pending.

His son Mike, also a Vietnam veteran (he served there as an Army medic from 1970 to 1971), decided to pursue his father's claim himself. "I started by getting a computer and surfing the Web," he recalls. For five years, from 2004 to 2009, Mr. McManus filed all the briefs for his appeal pro se, again and again hearing that his father's diabetes was not a condition that was eligible for benefits. Again and again, he looked for counsel who might help him appeal the VA denials, without success. "No one got back to me, or they didn't do this kind of work."

For more than five years, he painstakingly filed his own claims, enduring rejection after rejection from VA until finally, in 2009, his case reached the U.S. Court of Appeals for Veterans Claims, which sent the case back to the VA Board of Veterans' Appeals and asked Mr. McManus for additional briefs.

Program responded to the Court's order, evaluated Mr. McManus's case, and Rick Spataro of the National Veterans Legal Services Program agreed to represent the veteran.

"When Rick Spataro got on board it was like a whole weight was lifted off me," McManus says of the moment his Pro Bono Program attorney took over his appeal for the accrued benefits and an Agent Orange award owed his late father. "The Pro Bono people organized things really well. They took my thoughts and made them go from regular TV to high-def."

After reviewing the case files, Mr. Spataro determined that the BVA had erred in finding that Bobby McManus did not have diabetes after its own regional office had determined that he did. The Board had also been wrong to contend that the Agent Orange award law did not apply, ruling that Bobby McManus had had no claim pending when he died. In fact, the late Mr. McManus had filed a timely claim.

In light of Mr. Spataro's arguments, substantiated by VA's own records, the Court reversed the Board—a rare occurrence (most cases are remanded).

**“We’re not quite through, but I was very pleased with how the Pro Bono people came in and took things to the next level.”**

What could have been another in a long list of discouraging events instead became a turning point: “That’s when the judge said it would be better if an attorney handled things for me at this point.” At this time the Court issued an order directing the Clerk of the Court to send a copy of the order to the Program so that the director of the Case Evaluation & Placement Component could investigate the possibility of representing Mr. McManus. The

“I could not have asked for a better ending,” says Mr. McManus, now 61—the age of his father when he entered the nursing home where he spent the last seven years of his life. “We’re not quite through, but I was very pleased with how the Pro Bono people came in and took things to the next level. Being a veteran, this mattered a lot to me—and I hope it will be a case that others will see and can use.” ■

# HOW IT WORKS



## CREDITS

Cover: (clockwise from top left) Jim Light. Photo by Bob Shaw. Jessie Trask. Photo by Ken Wilks. Chuck Jones. Photo by Sara Jorde. Ned Maestas. Photo by Michael Chansley.

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Page 10: David Myers, Brian Robertson, and Carol Wild Scott. Photo by Benjamin Myers.

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Page 30: Jessie Trask. Photo by Ken Wilks.

Page 38: Mike McManus. Photo by Matthew Scott.



THE VETERANS CONSORTIUM  
PRO BONO PROGRAM

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