

NEW YORK STATE BAR ASSOCIATION

Pro Bono News

Fall 2020 Edition

VOLS Provides Relief to Unemployed Workers During the Pandemic

By Victoria (Tori) Roseman, Staff Attorney at Volunteers of Legal Service (VOLS)

When the COVID-19 pandemic crisis hit New York, Volunteers of Legal Service (VOLS), like so many other legal service organizations, acted swiftly to help New Yorkers through this confusing and difficult time. As the city closed down, so did restaurants, stores and other businesses, costing many New Yorkers their employment and in turn, their income. In March and early April, claims for unemployment insurance skyrocketed to unprecedented numbers.

For VOLS, the answer became clear: we re-launched a 10-year old project and hotline that served New Yorkers during the Great Recession in order to field questions for New Yorkers attempting to claim state unemployment insurance or Pandemic Unemployment Assistance (PUA). Olga Medyukh, who directed the prior project, began the Unemployed Workers Project and became its Directing Legal Advisor to assist New Yorkers with these claims. Olga jumped into the work, utilizing VOLS' broad network of pro bono attorneys at law firms and companies to field questions and give brief legal advice. In addition to this network, VOLS collaborated with the COVID-19 Task Force of the New York State Bar Association in an effort to provide much needed relief for New Yorkers seeking guidance on unemployment insurance. This gave way to the NYSBA Pro Bono Initiative, in which VOLS participated, to assist struggling unemployed New Yorkers. This network of pro bono attorneys became an irreplaceable tool to reach as many claimants as possible – VOLS fielded hundreds of calls in the months after the shutdown of the city.

At the end of May 2020, the project faced a new challenge of how to represent claimants remotely. Unemployment insurance hearings, where claimants are able to plead their case for benefits, were to resume over the

phone. In addition to the challenge of remote hearings, New Yorkers continued to face layoffs as a result of COVID-19. By late May, many were struggling to find new work and make rent for June.

Representation in phone hearings ramped up the work of the project. In addition to the brief advice offered by VOLS staff and participating pro bono attorneys, claimants needed advocates to walk them through the process of a hearing. In June, VOLS brought on Staff Attorney Victoria Roseman to assist with the workload, given her experience in unemployment insurance hearings over the previous three years in law school.

Unemployed workers face issues that are unique to this moment. PUA is part the Coronavirus Aid, Relief and Economic Security (CARES) Act passed on March 27, 2020. Starting mid-summer, hearings about PUA eligibility and claims began. All of these legal issues are novel – there are no appeal board hearings to refer to, no case law, nothing to use as the basis of the argument. We encounter claimants who are in positions never seen before – claimants who are trapped abroad, forced to move because they could not afford rent, not receiving timely or any notices from the Department of Labor, and those who are afraid to go to work in light of COVID-19. The favorable decisions we have received are the first of their kind. The unfavorable decisions offer opportunities to strengthen a new argument. At VOLS, we continue to receive calls every day about unique factual situations. We are representing claimants who have unique issues related to the CARES Act and state unemployment. We continue to receive calls from those facing new COVID-19 related layoffs.

Based on the novel issues we are seeing, VOLS is compelled to advocate on behalf of unemployed New Yorkers. We work alongside the Unemployment Insurance Coalition,

a group of attorneys and advocates who engage in unemployment work, to uncover administrative and legal issues and discuss how to resolve such issues. This advocacy can be seen on both a small and large scale. Coalition members frequently discuss issues that emerge and seek to remedy the problem. One example of this collaboration is when claimants were only receiving notices of impending hearings about ten days out from the hearing itself. Oftentimes, this leaves claimants with little time to prepare and secure legal representation. After discussing the issue and noting its effect on claimants' due process rights, we advocated to the NYS Unemployment Insurance Appeals Board to remedy the problem. Fruitful discourse led to longer notice times – now, hearing notices are mailed fourteen days before the hearing, allowing for extra time to prepare and find representation.

Another distinctive element of the pandemic work is how past misgivings impact COVID-19 relief. If a claimant defaulted in some way on their unemployment insurance in 2019, 2018, 2017 – it may affect their entitlement to benefits during this pandemic. Some claimants were not even aware of their mistakes or misrepresentations to the DOL until they attempted to claim again in 2020, desperate for economic relief. At times, these past errors have prevented claimants from collecting current benefits. One example of this is forfeiture – when a claimant makes a misrepresentation to the Department of Labor, they may “forfeit” or be ineligible for the first few weeks of their next claim. In the pandemic six weeks of forfeiture could be as much as \$6,624. It has been imperative for VOLS and other advocates for unemployment insurance to push back on these old penalties to ensure those who need benefits are able to receive the compensation they are entitled to.

continued on page 5

VOLS

continued from page 5

The variation and newness of the work is what makes it so very exciting. We are consistently presenting issues in court for the first time. We are helping claimants receive thousands of dollars in COVID-19 relief. We are answering questions New Yorkers have about unemployment, collaborating with NYSBA, the COVID-19 task force and various other organizations, and advocating for a better system for New Yorkers to obtain benefits. In a time of great uncertainty, we have provided real human connection and assistance for those who felt hopeless and desperate.

We are incredibly proud of the work and look forward to continuing to help New Yorkers who need it most.

"After several lawyers declined my case due to conflicts of interest with my ex-Employer, I was referred to VOLS. This organization was a godsend. They used their network to locate representation for me, despite the challenges of the shutdown, the massive pile-up of unemployment cases, and a suspension of Dept. of Labor hearings. After several months' delay, a truly wonderful team of lawyers signed on, and with minimal preparation time, they

devised a remarkably effective legal strategy, helped shape my testimony and prepped me with patience and skill. Thanks to their guidance, insights and expertise, the Judge's decision on August 18th was a full victory for us on all the issues and I am entitled to receive the full Unemployment Benefits due to me."

VOLS client, M.P. 8/2020

If you would like more information about this project, please contact the VOLS Unemployed Workers Project hotline: 347-521-5720



The New York State Bar Association thanks the 200 Attorney Volunteers who have taken a Client through the Unemployment Insurance and Surrogate's Court Pro Bono programs. Your extraordinary service exemplifies the best of the legal profession to do the public good.

Visit nysba.org/covidvolunteer to view the list of Attorney Volunteers and for more information on the COVID-19 Pro Bono Network.





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- **Has a pro bono case made a difference in the lives of others?**
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