

Pro Bono News

Spring 2021 Edition

A Message from President Scott M. Karson



As the President of the New York State Bar Association, I am proud to acquaint you with some of the access to justice initiatives currently being undertaken by our Association.

First, the COVID-19 Pro Bono Network is coordinated by the Association in partnership with the New York State Unified Court System. The COVID-19 Recovery Task Force oversees the Network and is chaired by New York's former Chief Judge Jonathan Lippman, currently of counsel at Latham & Watkins.

The mission of the Task Force is to facilitate the delivery of effective, comprehensive, and efficient pro bono legal services, in urgent civil and criminal matters, to all New Yorkers in need during and in the wake of the COVID-19 pandemic and beyond.

To facilitate this delivery of needed legal services in this time of crisis, several working groups and active pro bono programs have been established within the Network, including the areas of unemployment insurance, small estates administration, housing / landlord-tenant and life planning.

The unemployment insurance initiative, which was announced by Governor Andrew M. Cuomo on April 11, 2020, connects volunteer

attorneys with New Yorkers who are trying to better navigate the unemployment insurance system and the application process, and to specifically help with unemployment insurance denials and with administrative hearings and appeals. Over 2,130 clients have been assisted through the unemployment insurance initiative since late April 2020, in addition to countless more who have visited the NYSBA informational website or otherwise contacted staff or the network for guidance. 570 of these clients were referred to nine legal service organizations (Legal Aid Society of Northeastern NY, Legal Services of the Hudson Valley, Mobilization for Justice, Erie County Bar Association, Frank Hiscock Legal Aid Society, Services of Central New York, Volunteers of Legal Service (VOLS), Volunteer Legal Services Project of Monroe County, and Brooklyn Law School); the remaining 1,600 clients were assisted by volunteer attorneys through the coordination of the New York State Bar Association using an innovative client intake and referral system created by Clio and Paladin.

The small estates administration initiative connects the families of New Yorkers who passed away due to COVID-related causes with volunteer attorneys who will provide free legal representation on probate and estate proceedings in New York's Surrogate's Courts for those who cannot afford a lawyer in these cases. Over

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130 New Yorkers have been helped by this initiative.

Over 500 individual attorneys have volunteered through NYSBA on these two endeavors.

Additionally, the Network has produced CLE training for attorney vol-

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Call to Action: Transactional Pro Bono Lawyers Critical to Small Business Recovery

By Mai Toyohara, Microenterprise Project AmeriCorps VISTA & Arthur Kats, Microenterprise Project Director

When disasters strike, New Yorkers have time and time again stepped up to the challenges facing our community. For NYC's small businesses, the impacts of COVID-19 were immediate and tangible. Public safety measures abruptly shuttered non-essential businesses, leaving many New Yorkers, their employees, and their families without a source of income. Even small businesses that were permitted to operate have struggled to stay afloat amidst massive economic and public health uncertainty while their accumulating financial obligations like commercial rent swelled. In June of 2020, a VOLS Microenterprise small business client warned: "We're not in the clear. This is just the beginning."

As we approach the first anniversary of the pandemic's grip on New York, the challenges facing small business owners are as great as at any point during the crisis. According to a recent survey by the NYC Comptroller's office, 85% of minority- and women-owned small businesses fear imminent closure absent intervention. A Partnership for NYC [report in July 2020](#) estimated that up to a third of NYC's small businesses will close permanently as a result of the crisis because most carry less than three months in cash reserves – the length of the government's emergency closures of most small business operations.

The VOLS Microenterprise Project levels the economic playing field for NYC's small business owners, especially as the economic crisis has disproportionately impacted small business communities historically marginalized from pro bono legal services such as communities of color in outer boroughs. All of our clients are low- to moderate-income, over 75% of are people of color, two-thirds are women, and many are immigrant business owners. From providing crit-

ical legal information and resources to increasing capacity for direct legal pro bono advice and representation, the VOLS Microenterprise Project team has mounted an ongoing response to the pandemic's potentially disastrous effects on New York's smallest businesses.

As the COVID-19 pandemic unfolded and business closures began in March 2020, the VOLS Microenterprise Project Team became a vital resource for small business owners to stay up to date on fast-changing rules, laws, and programs that affect their business. To better assess these needs, we surveyed 51 of our participating small business clients during March and April 2020. At that time, only three of these businesses reported as "fully operational," and over half reported as "fully closed." Many requested legal information and assistance on how to meet their financial obligations, application assistance for governmental benefits, a guide for negotiating a rent reduction or deferment, or guidance on other critical business issues. Although many reported that their businesses had some of their best revenues in late 2019 and early 2020, by April a majority of these business owners already forecasted an inability to meet financial obligations. Nearly all respondents reported some level of confusion and frustration regarding closure rules and regulations, stimulus program eligibility details, and how to best safeguard their business and personal assets in the face of an unprecedented crisis.

In response, the Microenterprise Project called upon our partner law firms and corporations to help save NYC's small businesses by compiling small business guides covering topics including legal and government resources, bankruptcy, financial aid, and insurance; and conducting legal

research on critical topics like avenues for supporting low-income and immigrant entrepreneurs excluded from

federal CARES Act stimulus support, including assessing the viability of claims and defenses for small business tenants facing contractual default of rental obligations under commercial leases, such as theories under *force majeure* and frustration of purpose. We collaborated with a law firm and the VOLS Unemployed Workers Project to create an unemployment insurance guide bridging the knowledge gap for sole proprietors, gig workers, and freelancers eligible for newly expanded benefits under the CARES Act. In addition to legal research and guides, we have collaborated with community partners to present on topics such as federal stimulus programs, commercial tenant rights, and other small business issues. We continue to update our informational guides and workshops to ensure awareness among our clients as conditions change so that small business owners feel empowered to make informed decisions about their businesses.

In addition to community legal education, VOLS has worked tirelessly to deliver direct representation support through on-staff and pro bono attorneys to meet the tremendous, urgent need for small business owners. Fortunately, funders like corporate and non-profit foundations are committing to equitable economic recovery. A grant from the New York Community Trust, for example, has allowed the VOLS Microenterprise Project to expand both our attorney staff and volunteer management capacity.

As a legal service provider under the NYC Commercial Lease Assistance ("CLA") Program, VOLS staff attorneys and pro bono volunteers have directly represented small business

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tenants in negotiating rent payment reductions, deferments, and lease terminations with their commercial landlords since 2017. CLA is an eviction prevention program during the most challenging commercial rent crisis in the city in a century. Alongside our partner legal service providers Brooklyn Legal Services Corporation A and TakeRoot Justice as well as pro bono volunteers throughout the City, VOLS has directly served over 278 small business tenants with transactional dispute resolution to obtain critical relief and avoid eviction litigation. The traditional model of full representation pro bono services is sorely needed in the small business community as NYC struggles out of crisis and into recovery.

Of course, novel crises also require novel solutions. At a time when VOLS saw a sustained surge of urgent requests for assistance, at times reaching ten times pre-pandemic volumes, creating capacity was critical. That is why VOLS co-founded a new pro bono network entirely dedicated to rapid response consultations for small business owners in crisis. In conjunction with our partners Stroock & Stroock & Lavan LLP, TakeRoot Justice, IMPACCT Brooklyn, Brooklyn Legal Services Corporation A, New York Lawyers for the Public Interest, and over 20 other law firms, companies, and nonprofits — the Microenterprise Project launched the Small Business Legal Relief Alliance (“SBLRA”) rapid-response initiative. Volunteer lawyers working within the Alliance advise small business owners facing crisis situations related to accessing and navigating financial stimulus aid, assessing tax liability, weighing options in commercial lease disputes, pandemic-related contracts and employment issues, and maximizing business insurance benefits.

Together with our pro bono partners, the free, high-quality transactional pro bono legal assistance made possible by the Project will continue to

be a source of empowerment for low-income business owners when they need it most.

Message from Mai Toyohara: My AmeriCorps VISTA service term with the Microenterprise Project began in June of 2020, when the economic consequences of the COVID-19 pandemic began rippling through the City. The AmeriCorps VISTA program is a national service program which places members at nonprofit organizations across the country, with the mission to eradicate poverty by building volunteer and organizational capacity. In this role as a VISTA member, my objective is to address economic inequity through pro bono volunteer and community partner engagement. In the beginning, our response was frenzied, motivated by an immediate desire to mitigate each and every emergency situation. Our staff attorneys and pro bono volunteers worked tirelessly balancing a rapidly growing and unrelenting docket of urgent requests for legal assistance while facing uncertainty in a rapidly changing legal, economic, and public health environment. Now almost one year into the pandemic, the path forward is clear: pro bono engagement not only works, but it is decisive in the recovery of individual businesses and the collective New York Community alike.

Message from Arthur Kats: Despite the all-in commitment and recommitment of our staff, pro bono partners, and community partners, there remains vast unmet and shifting need for the small business community. NYC’s underserved small business owners are in the throes of an economic and public health crisis that threatens economics stability and has the potential to entrench systemic poverty in minority communities. As we think about the shuttered storefronts in our streets and neighborhoods, please consider applying your expertise by engaging in pro bono work in support of small business owners to ensure that they survive

and thrive beyond this incredibly difficult year. Now more than ever, the corporate, contract, real estate, employment, and other transactional skills that you may have as a pro bono volunteer are mission-critical to the small business owners who cannot afford an attorney. We must continue to come together as one community and do our part to ensure the recovery and resiliency of the New York we know and love.

If you would like more information about the VOLS Microenterprise Project or how to get involved in pro bono to support NYC’s small business owners, please contact us at: (347) 521-5729 or microenterprise@volsprobono.org.

Expanded Pro Bono Appeals Program Provides Needed Representation Entering Its Second Decade

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other civil matters. If you are interested in joining the volunteer list for the Pro Bono Appeals Program or have questions about how you can become involved with the Pro Bono Appeals Program, please email law-pbap@buffalo.edu. While this is a volunteer pro bono program, through the generous donation of The New York State Bar Foundation, we are able to offer financial assistance/reimbursement for some costs incurred when taking on these cases, including transcript or filing fees, copying/ mailing fees because we know how expensive representation is at this level. Scan the code for more information about the program!



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PRO BONO DEPARTMENT

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ADDRESS SERVICE REQUESTED

Do You Have a Story to Share...

- **Have you worked on or do you know of a special pro bono project?**
- **Has a pro bono case made a difference in the lives of others?**
- **Has an individual attorney or firm gone above and beyond to provide pro bono assistance?**

We invite you to submit articles showcasing excellence in pro bono service for upcoming editions of the Pro Bono Newsletter. For more information, go to www.nysba.org/probono.

