

# Law Services News



AUGUST, 2013

## INSIDE THIS ISSUE

New Foreclosure Law Will Mean Fewer Delays	3
Class Action: SNAP Back Benefits to be Awarded	4
Welfare Unit Keeps Child Care Fees Affordable	5
Volunteer Lawyer Safeguards Housing	5
NSLS Disaster Relief Project to the Rescue	8
Defending Eviction From Reservation	9

## What's Special About a Special-Needs Trust?

In creating a trust to manage a disabled person's income and to shelter his or her assets, the funder can make it a Special-Needs or Supplemental-Needs Trust (SNT) by specifying that the trustee must not use the money in any way that would disqualify the beneficiary for public benefits available to the poor. Among such public benefits are SSI and Medicaid. Whether a trust is an SNT or not, it usually grants the trustee extensive discretion, but New York courts impose a Prudent Investor Standard on trustees and a strict duty to protect the best interests of their beneficiaries.

In a recent case **Jane Reinhardt**, the Senior Staff Attorney in the Nassau **Mental Health Law Project**, (MHLP) received a decision which resulted in prohibiting the bank/trustee from selling her client's co-op to recover a debt. With the invaluable pro bono help of **Beth Polner Abrahams Esq.**, who also serves as Secretary on Law Services' Advisory Council, the legal team litigated the case in Nassau County Supreme Court.

Ms. S. is a mentally ill recipient of SSI and Medicaid who was about to lose her home, a co-op which had been bought by an SNT created by her father. The trustee bank had loaned the trust money and wanted reimbursement from the proceeds of selling the co-op. After buying the co-op in 2002, the trust had remaining cash, which the trustee bank used up by 2010 by paying Ms. S.'s housing costs and meeting, without question, all her requests for expenditures on

*(Continued on page 2)*

## Adult Home Project Fights for Client's Mobility

In a recent decision, Nassau Suffolk Law Services **Adult Home Project** got a long-awaited win for a client who desperately needed a power wheelchair. He had been denied coverage by the county's contracted Medicaid provider, despite a previous fair hearing decision that noted the client's need for a chair.

Attorney **Carolyn McQuade** first took on the appeal when the county was managing its own Medicaid program. The client suffers from multiple sclerosis, depression, hypertension and lower back injury and resided in an licensed adult home. He had been utilizing an old wheelchair since 2004 which was disintegrating and he had spent over \$2000 in getting it repaired. There were no longer parts available for repair, making it a health and safety issue for him. The Decision After Fair Hearing described the client's existing wheelchair as "decrepit" and said it was "apparent the client could establish medical necessity for a power wheelchair." The decision allowed the client to submit additional information required by the Department of Health (DOH).

After the fair hearing, but before the DOH could review any new information from the client, the Medicaid case was transferred to a managed care provider. Due to the new managed care mandate, the client got caught up in

*(Continued on page 8)*



*Please support the work we do by becoming a sponsor at our annual Wine Tasting Fund-raiser. See page 7 for more information!*

## SPECIAL POINTS OF INTEREST:

- *Litigation Report*
- *NSLS Commitment to Justice Wine Tasting Reception*
- *Sponsorships Available*
- *PBP Attys of the Month*
- *NSLS in the Community*
- *NSLS Fall Training Schedule*
- *Message from the Executive Director*



(Continued from page 1)

luxuries and necessities. After the cash was gone, the bank continued to pay Ms. S.'s housing costs and credit-card bills by lending money to the trust. The bank then decided to sell the co-op to pay itself back, reasoning that Ms. S. could readily find an affordable rental in Nassau County.

Over the eight years from the purchase of the co-op, Ms. S.'s housing costs could have been paid from Ms. S.'s SSI and SSI-guarantees-for-utilities, had the bank not depleted the trust to pay them. The bank did not act on its knowledge that Ms. S. could not responsibly manage her SSI nor make reasonable requests of the trustee for expenditures by the trust. It could have pursued appointment of a representative payee for the SSI and prudently limited the trust expenditures so as to preserve the trust assets for many more years. Certainly,



*"This decision is especially critical as it keeps the roof over her head for the foreseeable future."*

the bank should have explored Ms. S.'s actual choices for other housing, before deciding to sell her co-op which had an affordable monthly maintenance fee of \$527.

By the time Ms. S.'s FEGS case manager learned of the proposed sale, the bank was claiming it had loaned the trust about \$20,000! In its complaint to the court, Ms. Reinhardt alleged that the bank had violated its fiduciary duties and the SNT purposes of the trust deed by making a loan to the trust that could not be repaid without putting Ms. S. at risk of homelessness, and by depleting the liquid assets of the trust without considering Ms. S.'s long-term needs when public benefits could have supported her.

The bank's argument was that it should not be required to continue advancing funds with no expectation of payment. Ms. Reinhardt's response was that the bank had failed to provide liquidity so that Ms. S.'s needs could be met going forward, (exploring the need for a representative payee or pressing the beneficiary for payment) or in the alternative, resigning as trustee.

The Judge granted a preliminary injunction which temporarily restrains the defendant/trustee from selling the plaintiff's co-operative apartment owned by the trust in which the plaintiff is the beneficiary. The

court agreed that the bank was negligent in its fiduciary duties as trustee by extending loans to the trust that could not be repaid "without liquidation of the plaintiff's affordable home, in opposition to the purposes and terms of the trust deed and in disregard of the plaintiff's needs reasonably known to the defendant."

In granting the preliminary injunction, the Court found that there was a likelihood of success on the merits; that there would be irreparable harm to the plaintiff if the preliminary injunction was not granted and the equities balanced in the plaintiff's favor.

Ms. Reinhardt comments, "With no available residences in Nassau County that cost as little as \$570 a month, nor readily available rental subsidies, this decision is especially critical as it keeps the roof over her head for the foreseeable future." Great news for Ms. S. and great work by Jane Reinhardt!

## Social Security Announces: DOMA Impacts Applications

On June 26, 2013, the United States Supreme Court ruled that **Defense of Marriage Act (DOMA)**, section 3, which defined "marriage" and "spouse" to exclude same-sex partners, is unconstitutional. (*United States v. Windsor et. al*, 570 US (2013) U.S. LEXIS 4921.) While the decision will certainly have implications for the eligibility for Social Security benefits of dependents and survivors of a same-sex couple, its precise interpretation and implementation is as yet unknown.

On June 27, 2013 the Social Security Administration issued an Emergency Message providing instruction for processing Social Security claims involving same-sex married couples and children with same-sex married parents. The Emergency Messages states that the Administration is currently interpreting the Supreme Court's decision to ensure that the Administration implements the decision "swiftly and smoothly." As of this date, no policy or final guidelines have been issued by the Administration.

However, in the meantime, the Emergency Messages authorizes Social Security staff to "take and hold all claims by individuals who are filing benefits that are dependent upon the existence of a same sex marriage." These claims could include those of a spouse, survivor and/or child. The Administration's representatives have also been instructed to take appeals for "previously denied claims based on non-recognition of a same-sex marriage" and hold them pending until further instruction.

*by Irene Brothers, Senior Staff Attorney, Disability Advocacy Project*

## New Foreclosure Law Will Mean Fewer Delays

**A new law stands to help thousands of New York homeowners in foreclosure to avoid additional fees and interest racked up while waiting in limbo, sometimes for years, for their foreclosures to proceed. It will also streamline the courts by ensuring that only those foreclosures that have the proper paperwork and plaintiff can move forward and will help stabilize communities by moving the foreclosure process along for vacant and abandoned properties.**

Beginning with foreclosure actions started on or after August 30, 2013, plaintiffs in a foreclosure action will be required to attach another document to the summons and complaint that generally commences the action. This document is a **Certificate of Merit**, signed by the plaintiff's attorney "certifying that the attorney has reviewed the facts of the case and that, based on consultation with representatives of the plaintiff identified in the certificate and the attorney's review of pertinent documents, including the mortgage, security agreement and not or bond underlying the mortgage executed by defendant and all instruments of assignment, if any, and any other instrument of indebtedness including any modification, extension, and consolidation, to the best of such attorney's knowledge, information and belief there is a reasonable basis for the commencement of such action and that the plaintiff is currently the creditor entitled to enforce rights under such documents." A-5582 adding Section 3012-b to the Civil Practice Law and Rules ("CPLR").

The law will require the plaintiff to attach the note and mortgage, **with evidence of the transfers leading from the originator of the loan to the plaintiff** (seldom the same party) to either the complaint or to the certificate. If the plaintiff does not comply with this required additional documentation, **the Court will have the authority to dismiss the foreclosure proceeding** or to deny the accrual of interest and other charges that increase the amount of the mortgage debt throughout the lengthy foreclosure process.

*"Pursuant to the legislation, the Courts will have the specific authority to grant relief that will make it very difficult for plaintiffs to continue the dance they have practiced over the last two and one-half years"*

The legislation is a response to the fact that many plaintiffs have simply failed to file the necessary papers with the Court clerks that would trigger the scheduling of the mandatory settlement conferences by the Court. Instead, many cases linger indefinitely. While this also delays completion of the foreclosure action against the homeowner, it also prevents many homeowners from using the settlement conference process to produce an affordable loan modification that would enable them to remain in their home without the threat of a hanging foreclosure action hovering over

their heads. Since mortgage loans are written to allow interest to accrue while the loan is in default, this delay causes a significant increase in the unpaid principal balance, *e.g.*, negating the benefit a homeowner would receive in a loan modification that lowers the interest rate or extends the term in which to repay the debt.

The so-called "shadow docket" came about when mortgage lenders and servicers were found to have doctored the documents needed to establish how the party suing in foreclosure, often not the originator of the loan, came to claim the right to sue under the note and mortgage. In October 2010, New York's Chief Judge Lippman enacted a court rule intended to have plaintiff's attorneys file an affirmation attesting to the authority of his/her client to maintain the foreclosure action. This attorney affirmation was required to be filed with the Request for Judicial Intervention that would alert the Court that this is a foreclosure action for which a settlement conference need be scheduled.

While the motives of the plaintiffs' attorneys are left to our educated guesses and musings, the fact is that in many cases the attorney affirmation and Request for Judicial Information were not filed and thus, the trigger for scheduling the settlement conferences was not touched in many foreclosure actions. One possible explanation is that the plaintiffs were not able to provide their legal counsel with sufficient information to support their right to sue under the note and mortgage, leaving these attorneys hesitant to attest in an affirmation to something they could not confirm with any degree of confidence.

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Pursuant to the legislation, the Courts will have the specific authority to grant relief that will make it very difficult for plaintiffs to continue the dance they have practiced over the last two and one-half years. This new law may even increase the number of settlement conferences in the coming months.

Thanks to this legislation, New York homeowners will no longer be at risk of being left in legal limbo and will have quicker access to the judicial process put in place to help those in foreclosure save their homes. It will also enable homeowners to work towards an affordable loan modification so they can stay in their homes.

**By Michael Wigutow, Senior Staff Attorney  
Foreclosure Prevention Project**

*Note: If you know of and/or work with homeowners who have settlement conferences scheduled and whose goal is to modify their loans, it is essential that they bring the necessary documentation to the conference. This includes proof of their current income and assets, as well as any correspondence and communication they have had with their mortgage servicer of their efforts to obtain a modification.*



## **Class Action—SNAP Back Benefits to be Awarded**

A recent settlement in the class action, Richard C. v. Proud, will mean that tens of thousands of low income households in New York will receive retro-



active food stamps benefits. This is to correct a policy by the NYS Office of Temporary and Disability Assistance (OTDA) which failed to advise SNAP (food stamps) recipients whose benefits were suspended for employment violations, that they could prevent the sanction by rescheduling missed appointments. The lawsuit also addressed OTDA's failure to hold SNAP fair hearings on a timely basis. SNAP involves federal funds which are issued to New York State to be spent in the local economies.

Over 200,000 employment sanctions will be cancelled and back benefits paid to affected recipients within the next few months. The class includes those who were improperly terminated due to alleged employment violations between August 2009 and December 2012. Also OTDA will be monitored to insure that SNAP-only fair hearing decisions are issued within 60 days of the hearing request.

As this proceeds, no new employment sanctions will be issued while OTDA comes up with a new procedure which will include a "second chance notice" giving the recipients the opportunity to correct the violation thus preventing the sanction. These notices will inform recipients how the sanction can be prevented by giving them an opportunity to correct the infraction.

Class counsel included the National Center for Law and Economic Justice, the Legal Aid Society and Empire Justice Center and Cooley LLP pro bono counsel. Adriene Holder, Attorney in Charge of the Civil Practice at Legal Aid first brought the lawsuit on behalf of an unemployed father and his two minor children. "Punishing a family by literally taking food off their table is a very harsh measure and one that is too often imposed erroneously. Federal law has long provided that food deprivation only be used as a sanction after allowing an individual a second chance to comply."

## LITIGATION REPORT

By Douglas Ruff, Director of Litigation

### Welfare Unit Keeps Child Care Fees Affordable

In this compelling case, Ms. D. was receiving child day care services subsidized by the Department of Social Services (DSS) for her two-year old child. Based on an averaging of her earned income, DSS determined that her weekly child care fee should be increased from \$35 to \$86.00. Ms. D appealed this decision and called our Welfare Unit for assistance.

**Yolanda Neems**, paralegal, represented the client at the hearing and contended that DSS used the incorrect income in its parent fee calculations. DSS averaged 12 weeks of income as the client reported in the Confidential Inquiry on Employment. Ms. Neems' argument was that upon review of the form, the client's last four weeks of income reflected a decrease in salary due to the fact that her position at work permanently changed. Ms. D had reported this income change to DSS orally and in writing and submitted two months of current pay stubs and a letter from her employer stating the permanent change of her position, all reflecting her new salary of \$360.00 per week. Neems contended her parental contribution should be recalculated to reflect this decrease in income.

However, DSS insisted on averaging her income to calculate her child care expense. DSS also insisted that there was no indication that the client had informed them of any change and they did not possess any documentation.

The Administrative Law Judge found Ms. D's testimony credible and persuasive and ordered DSS to re-compute her weekly child care fee. DSS was also ordered to reimburse the Ms. D any weekly child care fees paid by her, retroactive to the date of the notice at issue. A great and meaningful victory for the client.

**And congratulations to Yolanda Neems for receiving the Empire Justice Center's Fair Hearing of the Month recognition for this case!**



### Volunteer Lawyer Safeguards Housing

**Rudi deWinter**, pro bono attorney in our Hempstead Office's Volunteer Lawyers Project, recently received an winning decision from the First District Court in Hempstead, dismissing a petition brought to evict the homeowner's sister-in-law as a "licensee."

In March 2008, the landlord's brother traveled to India where he met his arranged bride-to-be, for the first time. In November 2008, she moved from India to the United States and into the family home with her husband, his sister (the owner), and her husband's parents. The couple was married in December 2008 and resided in the master bedroom of the family home, as husband and wife, until sometime in late 2012 when her husband filed for divorce and moved out of the master bedroom.

Soon afterwards, her husband's sister served our client, her sister-in-law, with a 10-day notice to quit. In January 2013, she served her with a notice of petition and petition, seeking to evict her on the grounds that she was a mere "licensee" whose license to occupy the premises had been revoked. (A licensee is not a tenant but one who comes on the premises for his own purpose but with the owner's consent).

Mr. deWinter successfully represented the client in the eviction proceeding. In dismissing the petition after trial, the Court found that the landlord's family brought our client to this country just a month before the wedding and provided her with a marital residence, the only home she has known since her arrival in this country and her marriage to the landlord's brother more than four years ago. They have lived together as a true family with all the indicia of a common home, financial support and emotional interdependence. Her right to reside in the instant premises arises not merely from the petitioner's consent, but from her marriage into the family thus she was not a mere licensee and the District Court did not have jurisdiction in the eviction matter. However, the Court noted that the owner was not without a remedy. She may bring an action in ejectment in Supreme Court. **Congratulations Rudi for a great job!**

*More Cases on Page 8..*



## NASSAU SUFFOLK LAW SERVICES

*cordially invites you to*

# COMMITMENT TO JUSTICE

## FALL WINE TASTING RECEPTION

on

Thursday, September 19, 2013

6:00 p.m. to 9:00 p.m

at

### THE CARLTUN

Eisenhower Park ❖ East Meadow, NY 11554



*Join us in the elegant Grand Ballroom for a fun-filled evening with fine wine, dinner buffet, music, raffles and silent auction.*

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2. Mail your check payable to: **Nassau Suffolk Law Services**,  
1 Helen Keller Way, 5th Floor, Hempstead, NY 11550, Att: Maureen.
3. E-mail: [sjohnson@wnylc.com](mailto:sjohnson@wnylc.com)
4. Call (631) 232-2400, Ext 3322

Sponsorships are available See page 7

For information contact Sheila Johnson at (631) 232-2400 , ext 3322  
[sjohnson@wnylc.com](mailto:sjohnson@wnylc.com)



## Nassau/Suffolk Law Services Commitment to Justice Wine Tasting Reception

**September 19, 2013**  
**The Carltun, Eisenhower Park**  
**East Meadow, N.Y.**

Dear Friend:

**E**stablished in 1966, Nassau/Suffolk Law Services provides vital civil legal representation and advocacy for low income and disabled residents of Long Island. During 2012, 14,000 individuals benefited from our direct legal representation —preserving Social Security and public benefits for seniors, low income families, and individuals; preventing foreclosure, legal assistance for people with cancer and HIV/AIDs. Please join us and sponsor our 2013 Fall Wine Tasting Reception featuring a dinner buffet and raffles. With your support, we will continue to provide free, quality civil legal representation to Long Island’s neediest residents.

- **CHAMPAGNE SPONSOR\*** **\$5,000**  
Includes 12 tickets and prominently featured acknowledgement on invitation and program.
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Please mail your pledge to Nassau/Suffolk Law Services, One Helen Keller Way, 5th Floor, Hempstead, N.Y. 11550.  
Attn: Maureen, or visit our website ([www.nslawservices.org](http://www.nslawservices.org)) to purchase sponsorships and/or tickets.  
Questions? E-mail [sjohnson@wnylc.com](mailto:sjohnson@wnylc.com) or call Sheila Johnson at 631 232-2400 Ext. 3322.

## Law Services' Sandy Disaster Relief Project to the Rescue

There are usually no quick fixes for most Sandy-related problems. Complicated insurance questions, multiple legal issues, and frustrating administrative delays make the work especially demanding. Our staff gets directly involved on behalf of our clients which requires thorough document review, investigation, negotiation and advocacy, and sometimes litigation.

When Superstorm Sandy hit, Ms. D was not only reeling from the damage that the flood waters caused to her home, but also from the recent death of a loved one, a layoff from her job, and the loss of a tenant, all contributing to arrears on her mortgage. Facing imminent termination of FEMA transitional shelter assistance and flabbergasted by the fact that her insurance company had awarded her only a fraction of what multiple licensed contractors insisted was required to return her home to a habitable condition by FEMA standards, Ms. D approached Nassau/Suffolk Law Services desperate for help.

**Michael DeTrano** from our NSLS' **Sandy Disaster Relief Project** spent many hours on this complicated case and was able to intervene, preventing FEMA from discontinuing the client's Transitional Shelter Assistance without an inspection of her still uninhabitable home. Mr. DeTrano also corrected a mistake by the bank that would have accelerated her mortgage and started foreclosure proceedings due to her inability to live in the home while she rebuilds. Finally after connecting her with social workers, disaster case managers and other short term relief agencies, Ms. D is getting back on her feet while she waits for an answer from her insurance company. Currently, NSLS continues to assist Ms. D to address the gross inadequacies of the flood insurer's initial offer and to help her get back into her home and on track with payments in order to avoid foreclosure.

For more information about our Sandy Disaster Relief Project, call Michael DeTrano 516 292-8100  
<http://nslawservices.org/wp/?p=3153>



## Adult Home Unit Fights for Wheelchair

(continued from page 1)

the transition and had to reapply to the managed care provider for approval on the wheelchair. UHC denied the claim for a power wheelchair because the client failed to provide sufficient medical documentation to establish that a "Group 3" power wheelchair was medically necessary, thereby necessitating another round of appeals.

At the second fair hearing, the managed care provider contended that a "Group 2" power wheelchair was sufficient under its manual and policies and there was only a negligible difference between the "Group 2" and "3" chairs. The Administrative Law Judge disagreed and found the managed care provider's claim that there was no difference between the two chairs to be "uncorroborated and unpersuasive." The decision held that the provider had received sufficient medical documentation and there was credible and persuasive testimony that a "Group 3" chair was needed.

Unfortunately the improper denial of coverage by managed care providers has become a recurring issue for clients needing wheelchairs and the advocates trying to help them. McQuade noted that the HMOs seem to be "very uneducated about their obligations under Medicaid law." She stated the most important point to remember in these cases is that Medicaid regulations apply in determining coverage, not the regulations that the HMOs may use with other private insureds. McQuade also offered a few more tips in handling wheelchair cases:

- Work with a company specialized in providing wheelchairs. The company should also be familiar with the information required by insurance companies and government programs. McQuade's client had started the process with a surgical supply company that did not provide wheelchairs as a primary part of its business. As a result the client suffered delays because the company did not provide all the necessary information required to get approval.
- HMOs should be providing specifics on the basis for their denials. "In the fair hearing summary, HMOs should basically give you their case and not be vague about why they are denying coverage," McQuade states. The provider made arguments at the fair hearing that had not been mentioned in their summary, making preparation much more burdensome.

Congratulations to Carolyn McQuade for getting her client a long overdue wheelchair and for making sure HMOs meet their obligations under the Medicaid laws.

by Edie Reinhardt, Volunteer Attorney

## Pro Bono Attorney of the Month—Nassau



Nassau Suffolk Law Services and The Volunteer Lawyers Project (VLP) were proud to recently acknowledge Lewis C. Edelstein as Pro Bono Attorney of the Month. This is not a “first” for Mr. Edelstein. He has been recognized previously for his generous contribution of time on many levels. His involvement in pro bono extends throughout Long

Island, and in addition to previous honors bestowed in Nassau County by VLP, including Pro Bono Attorney of the Year, he has also been honored as Pro Bono Attorney of the Month by the Suffolk County Pro Bono Project. But the well deserved honors do not stop there. His pro bono participation is so noteworthy that in 2007, five organizations joined together to support Edelstein’s nomination for the New York State Bar Association Pro Bono Attorney of the Year for the Tenth Judicial District.

Lewis Edelstein’s pro bono service primarily extends to divorces where the need for pro bono attorneys is the greatest. Despite VLP’s careful screening of matrimonial cases to determine which are appropriate for pro bono representation, these matters can be demanding. Edelstein has had his share of challenging cases. Accounting for his extraordinary commitment to serving the indigent, Edelstein commented, “The area of most intense conflict is custodial arrangements and visitation. Attending to children’s needs is always paramount. Distressed children become distressed adults, who may require more intensive judicial attention later on.”

Following graduation from the State University of New York at Stony Brook, Edelstein entered St. John’s University School of Law, receiving his law degree in 1973. He was admitted to the New York State Bar in 1974 and subsequently to the United States District Court for the Eastern and Southern Districts of New York. Lewis Edelstein is a sole practitioner with offices in Garden City. He started practicing in 1975 in his father’s law firm, Edelstein & Coleman. Under the tutelage of his father and Charles Coleman, the elder Edelstein’s partner, Edelstein learned early on how to handle every variety of litigation involving family issues, both in the Family Court and Supreme Court. He is a member of the Nassau County Bar Association and the Suffolk County Bar Association and is on the Matrimonial and Family Law Committee, the Family Court Sub-committee, and the Child Custody Sub-Committee. He is also a member of the New York State Bar Association, Family Law Section, and the Legislative Sub-Committee.

When asked why attorneys should do pro bono work, in addition to the human factors he mentions above, Edelstein

*(Continued on page 10)*

## Pro Bono Attorney of the Month—Suffolk



Nassau Suffolk Law Services and the Suffolk Pro Bono Project are proud to honor Anneris M. Peña, as Pro Bono Attorney of the Month. Mrs. Peña has been a valuable asset to the Project, volunteering many hours in bankruptcy and matrimonial cases where the greatest demand for pro bono services exists.

Mrs. Peña grew up in the South Bronx and since her high school days, worked in law firms gathering valuable information and learning about the practice and procedural aspects of the law. This learning experience continued throughout her college days at L.I.U. CW Post majoring in Finance, while she worked nights and weekends at several law firms in New York City. So, even before she started her formal legal education at St. Johns Law School, Mrs. Peña was well on her way to developing her legal skills. After receiving her law degree in 1997, she joined a firm in Syosset where she practiced foreclosure and bankruptcy law and made good use of her background in finance. It was a perfect fit and she was soon promoted to manager of the bankruptcy division.

After marrying and starting a family, she found that balancing family life and work was a challenge. So eventually she preferred to be self-employed and worked on her caseload at her own pace making her own hours. She worked on cases involving Litigation, Real Estate, Wills and Estates but her strong point was always her bankruptcy practice.

During this time, Mrs. Peña went through her own challenges, especially after a divorce that took a financial and emotional toll. But ironically, this experience is also what piqued her interest in family law. She started sitting in on family court hearings and learning about the practice by observing the proceedings. After several months, she decided to branch out further into this area of the law. She joined the Suffolk Bar Association, learned about the Pro Bono Project and decided to take a couple of matrimonial cases with the assistance of a mentor. She attended CLEs at the Bar Association and thoroughly did her homework in preparation for the representation. “I don’t take my legal education nor my representation of clients lightly, especially since your family is the most important part of your life, along with your finances.”

Her motivation to do pro bono work has always been about giving back. After doing an internship in the Bronx Criminal Court and working in various law firms in the City, she witnessed crime, poverty and many broken homes. Mrs. Peña comments, “After all I’ve seen, there was a

*(Continued on page 10)*

## Litigation Report Continued from p. 5

### Defending Eviction From Reservation

In a recent eviction case, **Hannah Abrams**, attorney in our Riverhead office, won an interesting and favorable decision. But this was not your run-of-the-mill holdover proceeding. The case, brought in the Sixth District Court of Suffolk County, involved premises on the reservation lands of the Unkechaug Indian Nation (also known as the Poospatuck Indian Nation).

The petitioner claimed that he was the sole owner of the property and that the respondents were mere licensees. The respondent, who was represented by Ms. Abrams, claimed in a motion to dismiss the petition, that she in fact was the true owner of the property and that she was never a licensee. In support of her motion, Ms. Abrams submitted a copy of the Tribal Rules Customs and Regulations as well as two letters verifying that in April, 2013 her client had gone before the Tribal Council in which the Land Trustees staked off the subject property and issued an ownership document giving the property to our client.

In granting our client's motion to dismiss, the Court did not have to interpret the Tribal Rules, Customs and Regulations. Instead, the Court determined that the petition was defective in that it did not set forth a sufficient statement of facts or information as to how the respondents came to be licensees of the property, nor did it mention the fact that the subject property was on reservation lands of the Poospatucks. Finally, the Court noted that if it were to rule on the ownership of the property, it would have relied upon the Land Trustees decision of April 2013 in which it allotted the property to our client. Thanks to Hannah, the client was able to remain in her home. Congratulations!

*By Douglas Ruff, Director of Litigation*



### (Continued from page 9) **Pro Bono Attorney of the Month: Edelstein**

observes, "When there are *pro se* litigants in matrimonial cases they're more time-consuming and burdensome for the matrimonial calendar and last for a disproportionate amount of time. In essence, it helps everyone in the matrimonial bar for volunteer attorneys to take up these cases." Susan Biller, Law Services' VLP staff attorney, enthusiastically compliments Edelstein's participation. "He can always be counted on to help out when we need him. We are so fortunate to have an attorney with his experience and generosity participating in the pro bono effort."

Nassau Suffolk Law Services and The Volunteer Lawyers Project are grateful for Lewis C. Edelstein's consistent and dedicated participation and are delighted to honor him as Pro Bono Attorney of the Month.

### **Pro Bono Attorney of the Month: Pena**

time I thought the last thing I would ever want would be to work on cases involving family related turmoil. Now that's exactly what I want!" When asked what motivates her to do pro bono work she says, "I went through my own divorce which was financially and emotionally costly. I don't understand how people of little or no means can manage it. I am now very happily remarried, have been very blessed in my life and I just want to make a difference." She goes on to comment, "As attorneys, we are very privileged in this profession. Many people are not. Doing pro bono can make such a difference in someone else's life. In the whole scheme of life, how hard is it to take some hours out of your week and give a little back?"

In her personal life, Mrs. Pena takes her parenting role very seriously. She commented on how mothers who are attorneys have to find that balance between their work and parenthood. As an involved mother, she is a Girls Scout volunteer and finds this gives her more time with her daughter and has helped her to find that balance.

Mrs. Pena's contribution to the Pro Bono Project has been very valuable, especially as she is able to help out with the Spanish speaking clients. "She is a true model of a conscientious and dedicated attorney, giving her best to all her clients, without regard to whether they are pro bono or paying clients," says Maria Dosso, Director of Communications and Volunteer Services. **Anneris M. Peña**, is an inspiration and an example of what it means to give generously in the true spirit of *pro bono*. We are proud to count her on the panel and to bestow her with the honor of Pro Bono Attorney of the Month.



## LAW SERVICES IN OUR COMMUNITY



Law Services continues its strong ties within the community in an effort to collaborate with various agencies and ensure that low income Long Islanders receive the services they so desperately need. If you happen to see any of our Law Services' staff at a community event, please stop by to introduce yourself and say hello. We'd love to meet you, and as always we thank you for your support!

**Mike DeTrano**, Law Graduate in our Sandy Disaster Relief Project, has been very busy attending various clinics that have been set up throughout the Island to assist those affected by Superstorm Sandy.

Mike continues to participate in the free Sandy Recovery Clinics sponsored by the **Nassau County Bar Association** where he meets with a number of individuals and provides brief counsel and advice, and also conducts intakes for those in need of representation. On April 30, 2013 he participated in a similar clinic sponsored by "Green Shirts."

Mike also attended the Superstorm Sandy Recovery Expo held on May 18, 2013 sponsored by the **Urban League of Long Island** where he answered many legal questions for those affected by Sandy.

**Sheila Johnson**, Director of Development and Government Affairs, attended **Senator Fuschillo's Job Resource Expo** held on May 3, 2013. She spoke to many people who stopped by our table to pick up Law Services informational/educational brochures and to discuss the types of legal services that are available.

Sheila also attended Suffolk County's Annual **Stand Up for The Homeless** event held on June 21, 2013 at St. Josephs. College. This special event provides homeless families and individuals with access to many services from federal, state, county and private agencies. Sheila handed out Law Services brochures which details the many different legal services we offer to approximately 200 homeless families and individuals who attended.

On July 25, 2013, Law Services was proud to host the **NY State Bar Association President's Committee on Access to Justice** meeting in our Hempstead office. Members from around the state attended to hear from legal services agencies about the advocacy services available to the indigent on Long Island.



On August 1, 2013 Law Services staff enjoyed a brief respite from the day-to-day stresses of a busy legal services office. Our **Annual Getaway Day** was held at Sunken Meadow Park.



Despite a few raindrops, the "Getaway" was a great day at the beach to picnic, relax, and socialize with colleagues.



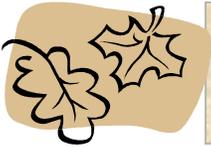
**Carolyn McQuade** Staff Attorney Adult Home Advocacy Project and **Patrick Mitchell** paralegal volunteer for the Legal Support Center for Advocates.

Nassau Suffolk Law Services was asked to provide legal information as a community service at the **Third Annual Veterans Stand Down** on May 10, 2013 at the Northport VA Medical Center.

The Northport VAMC sponsored this annual event to help veterans in need of assistance, especially the homeless, and those at risk of homelessness. Fifty three Federal, State, County and local human services agencies were present to assist Veterans in need of health, employment, financial, housing, educational, and VA Benefits. In addition, a meal and hair cut station were available as well as two local food pantries (Island Harvest & Long Island Cares) and a clothing closet to all Veterans in attendance. **Please be advised that the Northport VMAC has another Stand Down scheduled for September of 2013.**

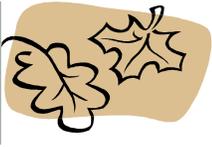
If interested in more information regarding the Veterans Stand Down please contact Nicholas Lombardi at 261-4400 x5652 or Amanda Sokolowski 261-4400 x7012.

*by Patrick Mitchell, Volunteer Paralegal*



# LAW SERVICES

## Fall 2013 TRAINING SCHEDULE



**Mental Health Awareness Week October 7-11 2013** In celebration of Mental Health Awareness Week, Nassau Suffolk Law Services is holding a **free** community training for mental health advocates, consumers and other interested community members. In collaboration with **Touro Law School** the seminar will cover two important topics:

- **Social Security Work Rules:** How does work activity and related earnings affect your benefits? Presentation by **Maria Dosso**, Esq. Nassau Suffolk Law Services
- **Discrimination and the Americans with Disabilities Act (ADA):** What are the most common forms of discrimination against mentally ill persons and what can be done about it? Presentation by **Bill Brooks**, Esq. and Professor at Touro Law School.

The **free** two-part seminar will take place on Wednesday, **October 9, 2013** from 10:00-12:00 at the Islandia offices of Nassau Suffolk Law Services.\*

**General Advocacy Skills:** This is a very helpful training for advocates who are still learning the ropes. The presentation will include topics such as problem solving and case strategy, how to research and prepare your advocacy case, informal appeals, confidentiality, dealing with emergencies such as illegal evictions, tips for advocating with bureaucracies such as DSS or SSA, and much more. **Wednesday, October 23, 2013 9:30-12:30. Islandia office \$35 per person.**

*Registration by phone (631 232-2400 Ext. 3357), mail or fax is required for **all** of the above trainings as space is limited.*

**Training Registration Form**

Name \_\_\_\_\_

Agency Affiliation \_\_\_\_\_

Phone Number \_\_\_\_\_

Email Address \_\_\_\_\_

Title of Training(s) \_\_\_\_\_

\_\_\_\_\_

Payment in the amount of \_\_\_\_\_ enclosed

Payment will be sent at a later date. *If paying on the date of the training please try to pay by check or by cash exact amount .*

*Fee, if applicable, should be made payable to Nassau Suffolk Law Services, mailed to the address below:*  
*Nassau/Suffolk Law Services, 1757 Veterans Highway, Suite 50, Islandia, N.Y. 11749*  
*Attn: Cathy Lucidi. This form may also be faxed to Cathy Lucidi at (631) 232-2489*

Nassau/Suffolk Law Services Committee, Inc.

1 Helen Keller Way, 5th Fl. Hempstead,  
N.Y. 11550  
(516) 292-8100

1757 Veterans Memorial Hwy., Suite 50,  
Islandia, N.Y. 11749  
(631) 232-2400

*New Address:* 400 W. Main St. Suite 301.,  
Riverhead, N.Y. 11901  
(631) 369-1112



**The Dennis Bligen Kidney Foundation** is honoring **Maria Dosso**, Law Services' Director of

Communications and Volunteer Services. She is receiving the *Gift of Life Award* on Sept. 26, 2013 at the Foundation's annual dinner being held at the Crest Hollow Country Club. The Foundation's mission is to educate the public about chronic kidney disease and increase awareness about the urgent need for organ donors. For more information visit:

<http://dennisbligen.wordpress.com/>

## Law Services Mourns

Law Services mourns the loss of **Susan Kemp**, Esq. a former colleague who worked in our Senior Citizen Project for many years. Susan was an energetic and caring advocate for her clients and will be greatly missed. Condolences go out to her family and friends.

Our East End office's new address is: **400 West Main Street, Suite 301, Riverhead, NY 11901**. Please make a note of it. We are now across the



street from our old office and next to the Riverhead Library. Phone number 631 369-1112 and fax 631 369-1612 has stayed the same.

Our **Islandia** and **Hempstead** locations remain the same after undergoing a recent facelift!

L.I. Coalition for the Homeless

**Keys for the Homeless 25th Annual Conference**

**October 25, 2013 8:30 a.m. – 2:30 P.M.**

*at Touro Law Center, Central Islip*

*Call 516-742-7770 for more information*



The **Nassau Women's Bar** is co-sponsoring an annual **Golf Outing and Dinner** on Sept. 23, 2013 to benefit breast cancer research and awareness. **Thomas Maligno** and **Ellen Kessler** will be honored as Courage Award recipients at this gala being held at the Harbor Links Golf Course in Port Washington. Mr. Maligno is the former Executive Director of Nassau Suffolk Law Services and an Advisory Council Member. For more information visit:

<http://annualgolfingouting.com>



### *Message From the Executive Director, Jeffrey A. Seigel*



We are looking forward to our Fifth Annual **Commitment to Justice Wine Tasting** on Thursday, September 19, 2013 at The Carlton in Eisenhower Park. The Reception always draws a good crowd of friends and supporters who share a fun evening of good food, fine wine, and great company. The casual atmosphere is also a perfect venue to get together with friends, colleagues and business associates while supporting the important work of Nassau Suffolk Law Services in the Long Island

community. We are grateful to our major sponsors, **Ruskin Moscou Faltishcek, P.C.** and **Travers O'keefe** as well as the **L.I. Wine Council**. We hope you will join us.

For more information, tickets, or sponsorships go to our website at [www.nslawservices.org](http://www.nslawservices.org). Thank you for your support. Hope to see you there!