

**FIFTH DISTRICT
PRO BONO
COMMITTEE PROPOSAL
ACTION NOW PROGRAM**

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Committee Members

Hon. James C. Tormey, III, J.S.C. - CO-CHAIR (Onondaga County)

Judge Tormey received his B.A. from the State University of New York at Cortland in 1972, and his J.D. from Syracuse University College of Law in 1976. After his admission to the New York State Appellate Division, Fourth Department in 1979, Judge Tormey worked at the Robert A. Schuh Law Office from 1979 to 1980. He also worked as an attorney and partner for the firm of Williams, McHale, & Wells from 1980 to 1987. Judge Tormey served the public as an Onondaga County Legislator from 1977 to 1987, where he was the Chairman of the Health Committee for seven years. In 1987, he was elected as a Syracuse City Court Judge, a position he remained in until 1995. Governor George E. Pataki appointed Judge Tormey to the position of Supreme Court Justice, and later that year he was elected to serve on the Supreme Court's 5th Judicial District. Since the year 2000, Judge Tormey has further served the 5th Judicial District in the role of Administrative Judge. In 2004, Judge Tormey was a Continuing Legal Education Presenter. He remains actively involved in the community.

Robert J. Smith, Esq. - CO-CHAIR (Onondaga County)

Mr. Smith graduated cum laude from the State University of New York at Brockport in 1979, and received his law degree with honors from South Texas College of Law of Texas A & M University in 1982. Mr. Smith is admitted to practice before all New York State Courts, the Federal Court for the Northern and Western Districts of New York, and the United States Second Circuit Court of Appeals. He is a member of the Onondaga County, New York, Texas, and American Bar Associations. Mr. Smith is also a member of the Defense Research Institute, and was inducted as a Fellow in the American College of Trial Lawyers. Prior to joining the firm of Costello, Cooney & Fearon, PLLC in 1983, Mr. Smith was a full time professor of law at South Texas College of Law of Texas A & M University in Houston, Texas. He has been a partner at Costello, Cooney & Fearon, LLP since 1988, and has been the chairperson of the firm's litigation department since 1991. He frequently lectures various audiences, including presentations before the American Bar Association's annual convention. He has written extensively on civil trial law issues. The New York State Office of Court Administration retains Mr. Smith to teach trial evidence to newly elected local judges. Mr. Smith is actively involved in the Central New York Community, and has served on several Boards of Directors.

Mary Reagan Dailey, Esq. (Onondaga County)

Ms. Reagan Dailey graduated on the Dean's List from LeMoyne College in 1987. She received her J.D. from Syracuse University in 1989, where she was a National Trial Team Member, and an intern/ law clerk for the U.S. Attorney's Office from 1988 to 1990. Ms. Reagan Dailey was admitted to the New York State Bar in 1991, and is a member of the New York State, the United States District Court, Northern District of New York, the Onondaga County, Onondaga County Magistrate's, and Women's Bar Associations. Ms. Reagan Dailey served on

both the Town of Marcellus Assessment Board of Review and the Onondaga County Pro Bono Coalition in 1995. She currently is serving her third term as a Marcellus Town Justice, a position she has held since 1996. Ms. Reagan Daily serves as volunteer counsel for various local charitable and not-for-profit organizations, and is actively involved in the Marcellus community.

Hon. Charles C. Merrell, Surrogate (Lewis County)

Judge Merrell graduated from St. Lawrence University in 1981, and received his J.D. from the Syracuse University College of Law in 1984. He was admitted to the Commonwealth of Massachusetts Bar in 1985, and to the Federal Court, District of Massachusetts, in 1986. Judge Merrell obtained admission to the New York State Appellate Division, Fourth Department, in 1989. He worked at Carragher, Fox and Lampert, P.C., as an Associate from 1985 to 1989. Judge Merrell moved on to a partnership position with Merrell and Merrell from 1989 to 2003. He was then appointed to the position of Acting Village Justice in the Village of Lowville Court, and was also elected to the position of Town of Lowville Justice during the period between 1999 and 2003. In 2003, he was elected to serve as a Surrogate in Lewis County, a Family Court Judge in Lewis County, and County Judge for Lewis County, positions he still holds presently. Judge Merrell is active in Lewis County activities and local alumni associations.

Hon. Michael E. Daley, J.S.C. (Herkimer County)

Judge Daley graduated from the University of Connecticut with a B.A., and received his J.D. from the Syracuse University School of Law. He was admitted to the New York State Appellate Division, Fourth Department, in 1978. Judge Daley served as an Assistant Attorney General for New York State from 1981 to 1983. He went on to take a position with the Onieda County District Attorney's Office as an Assistant District Attorney from 1978 to 1981, and then again from 1983 to 1992. Since 2002, Judge Daley has served as the Supreme Court Justice in the Herkimer County Supreme Court.

Hon. Cindy Intschert (Jefferson County)

Ms. Intschert graduated with honors from Jefferson Community College, and received her B.A. in Criminal Justice from the State University of New York College of Technology at Utica-Rome in 1981. In 1984, she received her J.D. from the State University of New York at Buffalo Law School. Ms. Intschert was admitted to the New York State Appellate Division, Fourth Department, in 1985. Ms. Intschert practiced law with the firm of Conboy, McKay, Bachman, and Kendall from 1984 to 1985. From 1985 to 1992 she served as a Jefferson County Assistant District Attorney. Since 1992, Ms. Intschert has served as Jefferson County's District Attorney, a position she was initially appointed to by Governor George E. Pataki, and later elected to by her constituents. Ms. Intschert has served on numerous task forces in her capacity as District Attorney, and is actively involved in the Sackett's Harbor Community. In 2003, she was selected as a New York "Woman of Distinction."

Hon. Norman W. Seiter, J.S.C. (Oswego County)

Judge Seiter graduated from Syracuse University in 1969, and he received his J.D. from the Syracuse University College of Law in 1973. He was admitted to the New York State Appellate Division, Fourth Department, in 1974, the United States Supreme Court in 1978, and the United States District Court, Northern District of New York, in 1979. After graduating from law school, Judge Seiter worked as an Associate with Mowry & Mowry, where he went on to hold a position as a partner from 1976 to 1982. From 1983 to 1992, he was a partner at the firm of Seiter and Genant. Eventually, he became the owner of the Seiter Law Firm from 1993 to 2003. Judge Seiter currently serves as a Supreme Court Justice for the 5th Judicial District, an office he was elected to in 2004.

Dennis Kaufman, Esq. (Central New York)

Mr. Kaufman received his B.A. from Union College in 1970, and his J.D. from Albany Law School. He was admitted to the New York Bar in 1974, and is also admitted to practice in Illinois state courts, several federal district courts, the Court of Appeals for the Second Circuit, and the United States Supreme Court. He has served as an attorney in private practice and on behalf of public interest organizations. Mr. Kaufman was the Executive Director of Western Kentucky Legal Services, and the Director of the American Bar Association Center for Pro Bono. Currently, Mr. Kaufman teaches Poverty Law at the Syracuse University College of Law, and he is the Executive Director of Legal Services of Central New York, a non-profit law firm representing low income clients in civil matters. Mr. Kaufman is a member of the American Bar Association, the New York State and Onondaga County Bar Associations, and the National Legal Aid and Defender Association.

Renee Captor, Esq. (Onondaga County)

Ms. Captor graduated in 1980 from Syracuse University with a degree in Policy Studies, and in 1982 from the Syracuse University College of Law. Ms Captor was admitted to the New York State Bar in 1983. She worked locally as a Defense Attorney from 1983 to 2002. Ms. Captor is currently the Executive Director of the Onondaga County Bar Association's Assigned Counsel Program, Inc., a position she has held since 2001.

Michael Getnick, Esq. (Onieda County)

Mr. Getnick received his undergraduate degree from Pennsylvania State University in 1966, and his law degree from Cornell University in 1970. He is the Vice President of the New York State Bar Association 5th Judicial District, where he takes part in overseeing the management and administration of the state bar. Mr. Getnick is a partner of the firm Getnick, Livingston, Atkinson, Giliotti & Priore, LLP, and is of counsel to Getnick and Getnick. As an active participant in the New York State Bar Association, Mr. Getnick is a member of the House of Delegates and a Fellow of The New York Bar Association. He chairs the Committee on Court Operations, and serves on both the Membership Committee and the Special Committee to Review

the Annual Meeting. Previously, he served on the Nominating Committee. He received the New York State Bar Association's President's Pro Bono Service Award for the 5th Judicial District. Mr. Getnick was the initial counsel and attorney incorporating the Mohawk Valley Committee Against Child Abuse, Inc.. He is a member and past president of the Onieda County Bar Association, and chaired the Domestic Relations and Private Attorney Involvement Committees. Mr. Getnick is also the past president and current member of the board of directors of the Legal Aid Society of Mid-New York.

Kimberly A Seager, Esq. (Oswego County)

Ms. Seager received her undergraduate degree from the State University of Oneonta, and her J.D. from the Syracuse University College of Law. She was admitted to the New York State Appellate Division, Fourth Department, in 1997. Ms. Seager is the past-president of the Greater Phoenix Chamber of Commerce. She maintains a private practice in the Village of Phoenix, and also currently serves as an Oswego County Legislator, representing district 10 since 1997. Ms. Seager chairs the Economic Development and Planning Committee, and is a member of the Human Resources, Social Services, and Health Committees. She also currently serves on the board of directors for several local organizations, and received the Rape Crisis' Volunteer of the Year, and Volunteer Center's Volunteer of the Year Honors Awards.

Timothy J. Fennell, Esq. (Oswego County)

Mr. Fennell graduated cum laude from LeMoyne College in 1980, and received his J.D. from Albany Law School of Union University in 1983. He was admitted to the New York State Bar in 1984. Mr. Fennell is a member of the American and New York State Bar Associations, and is also a present member and past president of the Oswego County Bar Association. He served on the New York State Bar Association's House of Delegates. He currently serves on the Executive Committee, and chairs the Lawyer Referral Services of the State Bar, representing the 5th District of the Torts, Insurance and Compensation Law Section. Mr. Fennell is a member of the New York State Trial Lawyers Association, and he is Counsel to the Port of Oswego Authority, as well as many health care providers.

Hon. George Lowe (Northern District of New York)

Judge Lowe graduated from Williams College, and received his J.D. from the Columbia University School of Law. Following his service in the United States Army, he joined the firm of Thacher, Proffitt & Wood in New York City as a Litigation Associate. He subsequently moved to Syracuse, New York, and was an Assistant United States Attorney for the Northern District for the next five years. He was then appointed to serve as the District's United States Attorney, a position he held for four years. Judge Lowe went on to join the firm of Bond, Schoeneck, & King as a partner, remaining there for twenty-one years, until he was appointed to his current position as a United States Magistrate Judge for the Northern District of New York in February of 2004. Judge Lowe actively participates in local Bar activities, serving as the President of the Onondaga County Bar Association, chair of the 5th Judicial District's Committee on Character and Fitness,

an Officer and Director of Legal Services of Central New York, and a Director of the Onondaga County Bar Foundation. Judge Lowe served two terms as a Director of the National Association of Former United States Attorneys, and was elected as the Association's President-Elect in 2003. In 2002, he was honored with the New York State Bar Association President's Pro Bono Services Award, and in 2003, he received the American Bar Association Senior Lawyers Division's Pro Bob Award.

Therese Wiley Dancks, Esq. (Onondaga County)

Ms. Wiley Dancks graduated magna cum laude from LeMoyne College in 1985, and received her J.D. from the Syracuse University College of Law in 1991 cum laude. She was admitted to the New York State Appellate Division, Fourth Department and the United States District Court, Northern District of New York in 1992. She and her partner formed the firm Gale & Dancks, LLC in 1997. Her practice focuses on medical malpractice defense, personal injury, labor law and litigation on all court levels. Ms. Wiley Dancks was recently appointed to serve on the statewide Commission to Examine Solo and Small Firm Practice. She was the past president of the Central New York Women's Bar Association, and is currently the vice-president of the Board of Directors of the Hiscock Legal Aide Society. She is an active member of the Onondaga County, Madison County, New York State, and Central New York Women's Bar Associations.

Peter D. Carmen, Esq. (Onondaga County)

Mr. Carmen received his B.A. with honors from Brandeis University in 1988, and his J.D. magna cum laude from the Syracuse University College of Law in 1991. He was admitted in Massachusetts in 1991, and in 1992 he was admitted in New York, the District of Columbia, United States District Court, Northern and Western Districts of New York, the United States Court of Appeals, Second Circuit, and the United States Supreme Court. He serves on the Board of Directors to the Onondaga County Bar Association, and is a member of the New York and American Bar Associations. After law school, he clerked for the Hon. Neal P. McCurn, Chief Judge of the United States District Court for the Northern District of New York. Currently, Mr. Carmen is a partner at the firm of Mackenzie Hughes, which he joined in 1993. He is also the president of Syracuse University's National Law Association, Secretary for the Board of Trustees of the Northern District of New York Federal Court Bar Association, and served as president of Literacy Volunteers of Greater Syracuse.

COMMITTEE GOAL

To increase pro bono activity in the entire Fifth Judicial District through the cooperative efforts of the judges, lawyers, bar associations, and entities already engaged in improving poor people's access to justice in the District.

COMMITTEE TIMELINE

The Committee was formed in January of 2005 from a cross-section of the bench and bar of the six counties which comprise the Fifth Judicial District. The Committee has formally met in full session on two occasions since the Statewide Pro Bono Initiative ordered its establishment, and requested the Committee be formed to develop an Action Now Plan to improve the quality and access to pro bono services in the 5th Judicial District. It has also met in smaller executive sessions regarding district planning issues.

(committee timeline cont'd)

The first meeting, held May 9, 2005 was attended by the initial Committee Members, and by Assistant Deputy Counsel to the Deputy Chief Administrative Judge for Justice Initiative John Ritchie. The meeting served as a brainstorming session where the needs of the community were discussed, and goals for the long term and more immediate Action Now plans were developed. The Committee then held a conference on June 17, 2005, at Savannah Dhu in Savannah, New York to solidify the Action Now Plan logistics and to discuss the administrative logistics of undertaking the Action Now proposal, as well as the basic funding requirements. Justice Eugene F. Pigott, Jr., Presiding Justice of the Appellate Division, Fourth Department, and Assistant Deputy Counsel John Ritchie also attended this conference.

COMMITTEE PROPOSAL

To achieve an immediate and significant increase in representation provided to poor people, the Committee has developed an administrative plan to maximize the services that pro bono counsel provides throughout the 5th Judicial District.

The Committee anticipates that its activities will result in substantial increases in the number of volunteers available to provide legal services to poor people in the 5th Judicial District. During the first year of committee activities (commencing in September 2005), it is reasonable to expect that in the minimal range of 300 to 500 attorneys will commit to providing pro bono services during the year. *

(committee proposal cont'd)

The first of the Committee's activities will be to develop and present during the next year to continuing legal education best practice seminars in each of the six counties in the District. The presenters at those programs will include a resident SCJ in each county along with other judges, court personnel, and lawyers. It is anticipated that there will be an ethics component, which is often highly sought after by practitioners, at each program. There will be no charge to attendees. The attendees will, however, in exchange for CLE credit agree to accept one pro bono case or program or provide other pro bono services, (e.g. staff will or pro se clinics).

In addition, the Committee will refine methods to recruit, retain, and increase Fifth Judicial District pro bono activities through additional Action Now programming, together with judicial public acknowledgment of participants who provide exemplary pro bono service.

* There have been discussions with Syracuse University College of Law regarding a proposal to require the incoming class to commit to a minimal amount of pro bono service hours as part of a new graduation requirement, which, if accomplished will further expand the number of participants and the need for administrative oversight.

ADMINISTRATIVE NEEDS

The services required for the success of the Committee's plan are:

- an increased level of client screening, intake procedures, and case assignment activities.
- organization and training of volunteer attorneys in procedural and substantive aspects of specific types of legal matters for which poor people in this District need counsel.
- general mentoring and advising of volunteers as matters progress.

- responding to specific needs and questions.
- sharing experiences and models relevant to different types of matters.
- provide activities as associate or co-counsel on specific matters as needed.

ADMINISTRATIVE OVERSIGHT

The Committee believes the volunteers' activities should be channeled through an existing legal service provider, the Justice Alliance of Central New York (the Agency) for the following reasons:

- the Agency has contacts throughout the District with potential clients, and is known to individuals and entities throughout the District as a resource to make referrals to for pro bono services.
- the Agency is experienced in working with volunteers to provide legal services to the poor (i.e. someone has to “teach” the volunteers).
- the Agency is experienced in performing intake procedures, applying appropriate criteria, and in assigning matters to volunteers.
- the Agency provides malpractice insurance to volunteers working with the Agency.

The Agency has the necessary expertise to provide services required to successfully work with volunteer attorneys, however, the Agency presently lacks sufficient staff to provide these services due to the anticipated large number of volunteers.

PROJECTED COSTS

To provide these services, the Agency needs the equivalent of three staff members, one of which should be an in-house attorney with appropriate experience, plus support staff, at an anticipated cost of \$150,000 per year.

This funding is essential to the success of the pro bono initiative in this District. The District cannot increase the number of volunteers and legal services available to the poor without the coordination, mentoring, supervision, and general assistance of the proposed added staff members.

The committee recognizes that the Office of Court Administration/Office of Justice Initiatives is only able to provide \$55,000 out of its current budget toward the projected costs of the program. The Committee greatly appreciates this funding commitment and will proceed with its plan to the extent possible in light of the available resources. The committee, however, does not believe that the goals set forth in the plan can be reached without additional financial resources.

RECOMMENDATION

The Committee strongly recommends the funding for this Fifth Judicial District Pro Bono Initiative be approved.