

Free appeals services coming to WNY

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Pro bono services in the Fourth Department are being extended to appeals cases under a new pilot program of the New York State Bar Association.



David M. Schraver

"It's for people who have been involved in certain kinds of civil actions and cannot afford to hire a lawyer for the appeal," said David M. Schraver, president-elect of the state bar association and a partner in the Rochester office of Nixon Peabody LLP.

"We're very pleased that our committee is in a position to expand the program to the Fourth Department and we look forward to working with the legal services providers and appellate lawyers to provide this service to people in need," he said.

Schraver met Tuesday in Rochester with Presiding Justice Henry J. Scudder; Cynthia F. Feathers, co-chair of the Committee on the Courts of Appellate Jurisdiction; Frances E. Cafarell, clerk of the Appellate Division, Fourth Department; and local providers.

Schraver said the committee will administer the program, as it has in the Third Department where it was initiated in 2009 and launched the following year. One change is that Justice Scudder wants attorneys handling the appeals in Western New York to be from the Fourth Department, as opposed to from anywhere in the state.

He stated in a release that they all practice in the Fourth Department and will be familiar with the Appellate Division's decisions, judges and procedures.

"This initiative should be a great success, given the talent and generosity of our attorneys and our public service programs," Justice Scudder said.

Feathers said the idea for the program arose from a 2005 American Bar Association "Report on Appellate Pro Bono Programs."

She said the committee she now co-chairs was interested in the fact that there were a handful of states offering free civil legal services at the appeals level and thought the same thing could be done in New York state. Her co-chair is Albany attorney Denise A. Hartman, of the state attorney general's office.

Feathers said applicants can be unhappy with a trial court ruling or facing an appeal from the opposing side. Among the criteria to be eligible, their income must not exceed 250 percent of federal poverty guidelines. The focus will also be on cases dealing with essentials of life such as family stability, unemployment insurance,

education, housing and health.

Feathers said the Third Department found its greatest need was in the family law area. Since being launched in 2010, the Third Department has processed 75 applications and placed 25 appeals, 10 of which have been decided. She said the Fourth Department has already received its first application, but could not elaborate on the matter since case participation in the program will be confidential.

In its quest to go statewide, the committee next reached out to Justice Scudder whose department already has an award-winning pro bono program, encouraging its staff to provide pro bono legal and volunteer services throughout the community.

Feathers said the plan was to expand to the First Department next year, but the committee has already been contacted by First Department Presiding Justice Luis A. Gonzalez, as well as the New York City Bar Association, and hopes to roll the program out there sooner.

The pro bono appeals programs will be run by the Committee on the Courts of Appellate Jurisdiction, tailored to meet the needs of the individual departments. Feathers and Albany attorney George Hoffman have 25 and 17 years, respectively, of appellate experience. Feathers also was NYSBA's Pro Bono Affairs director for five years.

She said the number of programs around the country has grown from six to 18 with a preference for the bar association committee-run model being used in New York, which the committee discovered was not as innovative and unique as initially thought.

Feathers said the state bar association also has a tremendous amount of resources, including a paralegal and funding from private donations and grants from the New York Bar Foundation, the Office of Court Administration and the Interest on Lawyer Accounts Fund.

Feathers added that it is a more efficient use of resources to draw upon the time of willing pro bono-minded appellate division attorneys than have each program run separately.

The committee has also published about 300 copies of a pro se manual that will be used as a guide for one specifically geared to the Fourth Department and its rules and forms.

"Our hope is that we would have a similar level of success in the Fourth Department that we've had in the Third Department," Feathers said.

Litigants may find more information and apply for legal assistance through www.nysba.org/probonoappeals. Information for Fourth Department appellate attorneys is available at info@probonoappealsny.org.

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