

NEW YORK STATE BAR ASSOCIATION

Pro Bono News

2017 Empire State Counsel® Spotlight Edition





Michael Miller
President-elect
Co-chair, President's Committee on Access to Justice

Thank You, Empire State Counsel®

The Empire State Counsel® program is one of the clearest examples of why ours is called a noble profession. Participants in the program devote at least 50 hours a year to providing pro bono counsel to those who would otherwise not be able to afford counsel.

There are so many contributions that lawyers make to improve the community, support the justice system and enhance access to justice. We serve our fellow citizens as problem-solvers – sometimes during the most difficult moments in their lives. And there is no more valuable and meaningful work that we do than the pro bono efforts in which we devote our time and knowledge – what Abraham Lincoln referred to as our stock in trade – using the law to empower the powerless.

I attend a lot of bar association events throughout our state at which lawyers are honored for all sorts of important, selfless work. Many people do charitable work but the commitment to helping the less fortunate in our community is so deeply engrained in our profession's very DNA that we have a special term for it - a term that has come down through the ages: pro bono publico. What makes our profession so special is that it offers the opportunity to try to make our community and our world a little bit better. I believe that there is no other profession anywhere on the face of the earth that gives more back to the community in more ways than the American legal profession. And our Empire State Counsel®

exemplify this special quality of giving in deeply meaningful ways.

It is inspiring to be reminded that we do so much more than just represent clients. We lawyers share common principles of service to the community that, taken together, transcend generations of lawyers and distinguish us as a profession. There are so many rich examples of pro bono contributions which demonstrate how important we lawyers are to the fabric of our communities:

- The participants in the Onondaga County Bar's lawyer of the day eviction defense program helps save homes.
- Family Court and consumer debt projects impact people in very significant ways.
- The lawyers who volunteer in various Western New York Law Center programs make valuable contributions to the quality of the lives of those in great need. They staff the volunteer helpdesk at Erie County Supreme Court and provide assistance to pro se litigants in consumer debt matters through their CLARO consumer debt program.
- The volunteer attorneys at Shearman & Sterling participate in a limited scope representation project in the New York City Family Court in Kings and New York counties impact families in crisis.
- Participants assist the Volunteer Lawyers Projects sponsored by the Queens, Brooklyn, Bronx, Richmond, Nassau and Suffolk County Bar Associations.
- They provide assistance through the

New York County Lawyers Association's uncontested divorce project, its consumer bankruptcy clinic, its legal counseling clinic and its U.S. Tax Court Calendar Call Project.

- And, they serve the City Bar's Consumer Bankruptcy Project, its Federal Pro Se Legal Assistance Project, and its legal clinic for the homeless.

Whether serving as a volunteer attorney of the day in the Volunteer Lawyers Project of Onondaga County Homeless Advocacy and Prevention Program or participating in a domestic violence clinic in St. Lawrence County or New York County, Empire State Counsel® play an important role in helping those in greatest need.

One of my goals during my term as president of the New York State Bar Association is to remind people about the good things that lawyers do and the important role we play in peoples' lives each and every day. There are a lot of lawyer jokes, but when people are in trouble and need help, they don't call comedians – they call us. I shall take every opportunity to remind lawyers, and the public as well, that we lawyers play a vital role in our communities and that we lawyers, especially Empire State Counsel®, are indispensable to the public good, for we give life and meaning to the terms "access to justice" and "the rule of law."

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2017 Empire State Counsel® Outstanding Pro Bono Volunteers and Law Firm Honorees

Outstanding Pro Bono Volunteers

Caroline Heller

Counsel & Chair of the Pro Bono Program
Greenberg Traurig LLP

Ben Ostrer

Ostrer Associates PC

Law Firm Honorees

Skadden, Arps, Slate, Meagher & Flom LLP

Proskauer Rose LLP

Willkie Farr & Gallagher LLP

Phillips Lytle LLP

Barclay Damon LLP

Nixon Peabody LLP

NEW YORK STATE BAR ASSOCIATION

“Pro Bono in Your PJs”

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and sign up to be a
volunteer today!**

Questions?

Contact Kristen Wagner
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Sharon Stern Gerstman
President, New York State Bar Association

I spent the majority of my career working in Supreme Court in Erie and Niagara Counties. When I began to work for the court, there was an absolute prohibition on doing any outside practice, including pro bono. In the 1990's, that rule changed to permit employees of the Unified Court System to render legal services through a pro bono provider, so long as the employee used annual leave time and so long as there was no conflict with the employee's legal position within the courts. As a judicial law clerk in Supreme Court, almost everything presented a conflict, since most matters could find their way to Supreme Court. One exception was the Attorney of the Morning program, run by the Volunteer Lawyers Project of Erie County, in Buffalo City Court. There, I could represent tenants facing eviction, and if any matter was appealed, it would go to County Court and then the Fourth Department, avoiding any conflict.

I must admit I was skeptical at first. I knew next to nothing about the RPAPL and I wondered if I could really be helpful to the tenants I would be representing. But, the VLP promised training, which qualified for MCLE credit, and so I signed up — free CLE for a commitment to be Attorney of the Morning twice. The training was given by an expert in poverty law, who walked us through the applicable provisions and provided a user-friendly "cheat sheet" of likely issues and the applicable law. And so, armed with this training and the cheat sheet, I went to Buffalo City Court. I was assigned 6 cli-

ents, who had cleared the eligibility and conflicts tests given by a VLP paralegal. For some of the clients, I found irregularities in the summary proceeding petition or procedure, for others I negotiated to buy some time before they left voluntarily. By the end, I had done something helpful for each of the 6 clients — either by settlement or by successful motion to dismiss the petition. I was no longer skeptical — I was now an Attorney of the Morning junkie. Over the years, I volunteered as much as I could — often as a standby, in case another volunteer had to cancel.

The point of sharing my pro bono story with you is to convince you that EVERYONE can do pro bono. In my case, it was for a few hours of limited scope representation, when I had the time. Even though I knew nothing about the law or practice area, the training provided me all that I needed to be a good advocate. Even though I was neither encouraged nor supported by my employer to take the matters on, it was well worth it to me to take annual leave for those few hours. It gave me an opportunity to stand before the court and argue a case (something missing in my day job), it allowed my interaction with other lawyers and judges as an advocate, and it gave me tremendous satisfaction to actually make a difference in the lives of my clients. You will find all of that as a continuing theme in the stories of the Empire State Counsel — lawyers inspired to provide at least 50 hours of service per year.

For many of you, you may find that

your firm encourages and supports your efforts to take matters on. Or you might be able to find a client who needs services in your area of law. For younger lawyers, taking a pro bono matter may give you experience in court and with more seasoned colleagues from whom you will learn a lot. For all of you, you will find your service fulfilling, educational and enjoyable. So, do the public good.

There are unlimited opportunities in types of programs and types of cases and clients. Start by contacting your firm's pro bono coordinator or your local volunteer lawyers project. If you are a member of a NYSBA section, you may also find a clinic at which you can volunteer — knowing that the matters will fall within your expertise. But don't be afraid to learn something new. The trainings are incredibly helpful — and who knows — you might be drawn to a new area of law.

Many of you are deeply concerned about the treatment of immigrants or proceedings involving undocumented children. You can provide pro bono assistance — take the training on immigration law, or provide assistance to these individuals for their other legal problems. Use the NYSBA pro bono portal to match you with programs providing such assistance or contact your local VLP directly to volunteer.

Thanks to all of you for all the pro bono you do, especially those who have Empire State Counsel status. For those of you still sitting on the dock, what are you waiting for? Jump in, I promise you'll enjoy the swim.

Outstanding Pro Bono Volunteers



Caroline Heller

**Counsel and Chair of the Global Pro Bono Program
Greenberg Traurig LLP**

Caroline Heller is a shareholder in the Litigation Practice of Greenberg Traurig's New York office. Caroline focuses her practice on complex commercial litigation and business disputes on a nationwide basis in the fields of professional liability, partnership disputes, securities litigation and entertainment disputes. She is also Chair of the firm's Global Pro Bono program and the Pro Bono Coordinator for the New York office. Since joining the firm in 2004, she has dedicated over 4,100 hours of her time to the pro bono representation of low-income families and non-profit organizations. Among others, Caroline has represented the parents of children with disabilities seeking appropriate educational programs, unaccompanied minors in immigration proceedings, and victims of domestic violence in family court proceedings.

In 2017, Caroline represented four families with children with disabilities, filing complaints alleging that for the 2017-2018 school year, the DOE failed to provide the students with a free appropriate public education in violation of the Individuals with Disabilities Education Act ("IDEA") and New York Education Law, seeking payment for the tuition of specialized private schools for these students.

This year, Caroline also took on the representation of the parents of four medically fragile New York City school students who either had not attended school for 2-3 years, or were at risk of not being able to attend school, because the DOE failed to provide these students with medically necessary nurses to accompany the children to, from, and in school; nurses that DOE had promised to provide.

Caroline also received a favorable decision from the Second Circuit this year in another special education case involving a student with dyslexia who, at 12 years old, still had not been taught how to read by the public school programs in which the DOE had placed him.

Caroline has been a trailblazer in Greenberg Traurig's Pro Bono practice. Under her leadership, in 2017, GT joined the American Bar Association's Homeless Youth Legal Network Pro Bono Initiative, "adopting" homeless youth shelters across the country in order to provide free legal services to youth and young adults. Caroline was also instrumental in a firm wide training program, with more than 200 attorneys and clients participating, led by International Refugee Assistance Project (IRAP). IRAP is an organization committed to helping attorneys and law students develop and enforce a set of legal and human rights for refugees and displaced persons.

Caroline received her J.D., cum laude, from Northwestern Pritzker School of Law and her B.A., cum laude, in Political Science from Bryn Mawr College.

Outstanding Pro Bono Volunteers



Benjamin Ostrer
Ostrer Associates PC

Benjamin Ostrer was admitted to practice in New York in 1977 and is also admitted before the U.S. Court of Appeals for the Second Circuit and in the District Courts of the Southern, Eastern and Northern Districts. He is a graduate of Alfred University and New York Law School. He has tried numerous cases to favorable verdicts and has successfully litigated appeals before the New York State Court of Appeals and Appellate Divisions. He regularly accepts pro bono matters on behalf of individuals accused of serious crimes, including *People v. Maragh*, 94 N.Y.2d 569 (2000), which resulted in the adoption of a new jury charge with respect to juror expertise and the reversal of a homicide conviction; *People v. Pitkin*, (2008) in which he obtained not guilty verdicts of all counts, including Murder 2nd, in an alleged shaken baby diagnosis case. His pro bono efforts also include serving as co-counsel on behalf of Katherine Seeber, in Saratoga County, with Vernon Broderick and Corey Chivers of Weil, Gotshal & Manges, which resulted in vacating a homicide conviction which relied upon falsified evidence at the New York State Police Lab, ending 12 years of incarceration for a young woman; *People v. Seeber*, 94 A.D.3d 1335 (2012). He is currently pro bono counsel in *People v. Carlson*, defending a man in connection with the shooting death of an admitted rapist who had been eluding capture by law enforcement.

Ben currently serves on the Board of the Criminal Justice Section of the NYSBA and was the recipient of the section's Charles F. Crimi Award in 2016. He is a board member of the Legal Aid Society of Orange County and past president of the N.Y. State Association of Criminal Defense Lawyers. His firm, Ostrer Associates, P.C., is located in Chester, Orange County, New York.

NEW YORK STATE BAR ASSOCIATION

Immigration Pro Bono Portal



Register as a volunteer attorney at
NYSBAProBono.org today!

Law Firm Honorees

The logo for Skadden, featuring the word "Skadden" in a white serif font on a red rectangular background.

Skadden, Arps, Slate, Meagher & Flom LLP

Skadden, Arps, Slate, Meagher & Flom LLP and affiliates strongly encourages its lawyers, summer associates, and legal assistants to work on pro bono legal matters and projects for individuals and groups unable to afford legal services. The firm is a charter signatory to the Law Firm Pro Bono Challenge, pledging to commit lawyer and summer associate pro bono time in its United States offices equivalent to at least 3% of its annual billable hours. In the first 11 months of 2017, New York office lawyers and summer associates' pro bono work equaled 6.8% of billable hours and totaled 73,035 hours. After adding in legal assistant pro bono work, the 11 month total hours were 86,240. Firmwide, Skadden attorneys, summer associates, and legal assistants recorded 218,880 hours of pro bono legal work for the first 11 months of 2017. The lawyer plus summer associate pro bono percentage of billable time in Skadden's domestic offices was 8.0% for the first 11 months of 2017.

Deeply ingrained in the firm's culture, pro bono legal work provides vital assistance to a wide variety of individuals and organizations in need of legal assistance. Skadden attorneys regularly assist those seeking asylum in the United States and elsewhere in their attempts to escape persecution due to religious or political beliefs or sexual orientation. Attorneys also handle many cases for death row inmates; take on numerous matters involving wrongful imprisonment and prosecution, housing disputes, and family law; and frequently provide legal assistance to legal services organizations and other nonprofits, as well as micro-entrepreneurs and veterans.

Skadden hosted 15 immigration related clinics in 2017, including naturalization application, naturalization screening, DACA, U-Visa, and unaccompanied minor immigrant clinics. More than 210 Skadden attorneys met with more than 285 people at these clinics.

The logo for Proskauer, featuring the word "Proskauer" in a grey sans-serif font followed by a blue and grey chevron symbol pointing to the right.

Proskauer Rose LLP

With 725+ lawyers, 50 areas of practice, and offices in major financial business centers across Asia, Europe, and North and South America, Proskauer is a leading international law firm with the capabilities, experience and creativity to guide our clients through their most important legal and business challenges. At Proskauer, the commitment to pro bono and public service has been a key part of our culture for more than 140 years. We encourage our lawyers to make pro bono a vital part of their practice from the beginning of their careers, and pursue pro bono matters with the same vigor they devote to billable work. Our extensive pro bono docket ranges from civil rights litigation cases and complex corporate transactions for nonprofit organizations to direct-services matters for individual clients. We help a wide range of pro bono clients, including community groups, refugees, domestic violence and human trafficking victims, low-income tenants and artists, veterans, Holocaust survivors, people with disabilities, and lesbian, gay, bisexual and transgender individuals. Our lawyers have played a crucial role in shaping issues such as gender equality, voting rights and religious freedom.

To learn more about the inspiring stories and impactful work being done by Proskauer's lawyers and staff, please read "For Good," our pro bono and corporate social responsibility blog, at www.proskauerforgood.com.

WILLKIE FARR & GALLAGHER LLP

Willkie Farr & Gallagher LLP

Willkie Farr & Gallagher LLP is an elite international law firm of approximately 700 lawyers located in nine offices in six countries. For more than 125 years, we have represented companies worldwide across a wide spectrum of businesses and industries, most notably financial services. We take great pride in our pro bono program, which each year earns us numerous awards. We strongly encourage our attorneys to meet their pro bono responsibilities by providing essential legal services for the indigent and disadvantaged. Willkie maintains two pro bono externship programs in New York, one at Her Justice and one at Mobilization for Justice and another externship in DC with the Washington Lawyers' Committee DC Prisoners' Project, where Willkie associates serve on a rotating basis as full-time attorneys. In 2017, Willkie attorneys worked on over 350 pro bono matters, ranging from immigration matters to clemency petitions to amicus briefs.



Nixon Peabody LLP

At Nixon Peabody, we're devoted to ensuring equal access to justice for all. Our attorneys and staff have a rich history of supporting our local communities through pro bono work. We see the law as a tool to shape our clients' futures and understand that we have the power to make a difference by giving our time and skills to those who lack access to quality legal assistance.

Our 600+ attorneys across 17 offices have broad cross-industry experience, giving us the ability to help on a wide variety of pro bono matters. For example, over the past year, we've aided battered women's shelters, advocated on behalf of the homeless and victims of domestic violence, helped countless not-for-profit organizations incorporate and secure tax-exempt status, won asylum in the U.S. on behalf of refugees fleeing persecution in their home countries, helped other immigrants secure Special Immigrant Juvenile Status, U Visas and VAWA, worked with veterans to get the benefits they deserve, achieved precedent setting results on behalf of the LGBT community, and much more.

We ask every Nixon Peabody lawyer to render at least 60 pro bono hours annually; and for the past several years, we've devoted more than 3% of our billable time to pro bono matters.

JUSTICE FOR ALL LUNCHEON



JUSTICE FOR ALL LUNCHEON



BARCLAY DAMON^{LLP}

Barclay Damon LLP

Barclay Damon has a proud history of giving back to the communities the firm serves, with an emphasis on using its skills to help the most needy among us achieve access to justice through an award-winning and innovative pro bono program. Because volunteer service is such an important part of the Barclay Damon culture, the firm encourages its attorneys to participate in meaningful legal work through a one-of-its-kind program that offers direct economic incentives to associates for their participation. At Barclay Damon, all associates are given billable hour credit toward their year-end performance reviews for pro bono work handled—in the same manner as if the work was performed for a top client of the firm. In 2010, this innovative program earned Barclay Damon the President’s Pro Bono Service Award from the New York State Bar Association in the “Large Firm” category.

The firm’s commitment to pro bono work runs deep and is part of the firm’s core culture. More than three quarters of the firm’s attorneys are currently providing pro bono assistance in their communities. Barclay Damon is especially proud of the full-time associates in each of the firm’s 11 offices in 2016 they led the way with 100 percent participation in the pro bono program.

As a firm that has been in existence since 1855, a strong commitment to pro bono service has been a priority for Barclay Damon at every stage of the firm’s development. Now the largest law firm in the Northeast based outside a major market area, the firm has more reason than ever to give generously of its time, talents, and passion for pro bono service.



Phillips Lytle^{LLP}

Phillips Lytle LLP

Pro bono work has been an important commitment for Phillips Lytle throughout its 180+ history. Across all of our eight offices (six of which are in New York State), our more than 190 attorneys are dedicated to providing legal services to the poor, the disadvantaged and those in need. The legal services the firm provides also benefit organizations and institutions that assist the indigent and contribute to the quality of life in our communities. This work includes civil and criminal matters, and non-litigation legal assistance, ranging from matters that broadly impact communities, to representation of those in need in high-volume court settings, to complex individual case representations. As the firm plans for the future, pro bono services remains one of its core values.



EMPIRE STATE COUNSEL®

2017 HONOREES

Pro Bono changes lives. The Empire State Counsel® Program recognizes our members' pro bono contributions. By donating their time and expertise our members help low-income and vulnerable persons, who otherwise could not afford an attorney, gain access to the civil justice system. Since the program launched in 2006, our members have donated almost 1.6 million pro bono hours. The program also recognizes the law firms who support and encourage pro bono. Congratulations to the 2017 Empire State Counsel® honorees and their law firms.

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