

## **BigLaw Supports the Troops**

By Lynne Marek

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Law firms massing to help war vets

A 'staggering' need for representation.

Wilmer Cutler Pickering Hale and Dorr attorney John Harwood, who was a Marine Corps platoon leader in the Vietnam War, and Nicholas Henry, a third-year law student in Chicago and Iraq veteran, don't know each other, but they now have a common mission: providing legal services to wounded veterans.

They're not alone.

Law firms, corporate legal departments and law schools are setting out to help thousands of disabled soldiers returning from Iraq and Afghanistan receive fair and timely benefits from the U.S. Department of Veterans Affairs.

Pro bono legal clinics and training sessions for lawyers have been cropping up across the country this year, from Illinois to North Carolina to California, in recognition of veterans' legal needs and a desire to create models for more programs. One national program currently being crafted will focus some of the country's largest law firms — including WilmerHale and Sidley Austin — on the issue.

"We've all become much more acutely aware over the past six to nine months of what's happening to our Marines and soldiers and of the needs they are going to have when they return," said Harwood, who is on the board of the National Veterans Legal Services Program, an organization that helps veterans apply for benefits.

### **Dozens of firms**

The Pro Bono Institute is enlisting support from 38 corporate legal departments and law firms, including Morrison & Foerster and Morgan, Lewis & Bockius, to assist discharged military personnel — and those on the cusp of being discharged — in filing claims. The program would train lawyers in the arcane area of veterans law and screen cases to identify those who would benefit most from legal representation.

"With the rise in need, we are working to develop a firmwide initiative," said Morgan Lewis pro bono counsel Amanda Smith, noting that about 40 interested attorneys at her firm was an "exceptionally strong response."

News reports earlier this year about the shabby treatment some veterans were receiving at Walter Reed Army Medical Center and other reports about benefits being denied to some with post-traumatic stress disorder attracted attorneys to the cause, said Esther Lardent, president of the Pro Bono Institute. In July, a presidential commission recommended changes to address those

shortcomings.

"There's a sense generally that the sacrifices have fallen disproportionately on a small number of people in uniform," said Ron Flagg, a Sidley attorney who is also chairman of the National Veterans Legal Services Program.

While veterans have long received support in making claims from veterans' organizations, pro bono lawyers aim to help ease an overload of cases that could grow worse as more veterans return from Iraq and Afghanistan, according to attorneys working in the area. The U.S. Department of Defense reported 29,415 service members had been wounded in Iraq or Afghanistan as of Sept. 12.

### **A 'staggering need'**

Veterans Affairs did not respond to requests for comment about its processing of claims. It did provide data showing that the annual number of disability-related claims for compensation has risen 20% during the past six years, jumping to 806,382 last year from 674,219 in 2001.

"The need is staggering," said Gordon Erspamer, a Morrison & Foerster attorney in Walnut Creek, Calif., who has worked on veterans' cases since the 1970s.

The firm expects to participate in the institute's new program when it gets rolling. It is already involved in a Federal Circuit Bar Association pro bono program for vets that started in July, and an older Swords to Plowshares program in San Francisco, said Kathi Pugh, Morrison & Foerster's pro bono counsel.

A law passed by Congress last year may also encourage more attorneys to take cases for a fee. Under the old law, attorneys couldn't charge a fee until after a final decision by the Board of Veterans' Appeals. As of June, veterans can hire a lawyer as soon as they file a notice of disagreement in response to a department decision.

"Now lawyers can be hired earlier in the process and they can be much more proactive in shaping the case," said Ron Abrams, a joint executive director for the National Veterans Legal Services Program who trains attorneys.

Whether or not attorneys or law students support the war or the Veterans Affairs Department, they share a belief that their skills and experience in handling complex matters, researching cases and advocacy will aid veterans.

"For many of them, having a lawyer will be the difference between whether they succeed or not," said Sidley's Flagg.

### **Representation pays off**

Veterans who had some kind of representation got \$6,225 more annually, on average, than those who didn't, according to a 2005 Veterans Affairs Inspector General report. That principle held true in the first case resolved by the University of Detroit Mercy School of Law clinic begun this month. The clinic helped a Vietnam War veteran increase his monthly disability compensation to

\$2,600 from \$350 by helping him apply for a benefit related to his inability to work, said Professor Joon Sung.

North Carolina Central University School of Law started a veterans claims clinic in January and is working on 30 cases, said Craig Kabatchnick, a law professor overseeing the clinic.

Henry, who has served in the Basra and Anbar regions of Iraq, and two fellow students at The John Marshall Law School in Chicago initiated a veterans pro bono program that this month won a \$100,000 grant from the Illinois Department of Veterans' Affairs.

Students and pro bono attorneys working with the clinic will start training next month and begin helping veterans file for disability and education benefits in January.

Henry said he believes that the clinic's focus on initial filings will result in fewer rejections for incomplete information and fewer appeals.

"If we did this 10, 100, 10,000 times, we're going to know the ins and outs of it, whereas each individual veteran won't have faced the process before," Henry said. "You can get lost in it very easily because there is a great deal of proof that needs to happen."

The clinic will work with a network of lawyers being coordinated partly by the Illinois Supreme Court Commission on Professionalism and with the Veterans Rights Project created in July by the Legal Assistance Foundation of Metropolitan Chicago.

Abrams, who is conducting trainings in Chicago next month for the pro bono program, as well as for attorneys who want to work for a fee, also is giving courses this month at the University of Virginia Law School and an attorney group in Boston.

Katten Muchin Rosenman has two of its lawyers signed up for the training in Chicago, and they will, in turn, train other attorneys, said Jonathan Baum, that firm's director of pro bono work.

"We are very glad to be involved in this, but we are very sad that something like this is necessary," said Mike Summerhill, a former Marine and one of the Katten Muchin attorneys who will take the training.

Womble Carlyle Sandridge & Rice attorney Tim McClain, who joined the firm last year after leaving his post as senior legal officer for the U.S. Veterans Affairs Department, helped his firm build a veterans law training program that so far has educated about 70 attorneys, including some from other firms, and 35 law students in Raleigh, N.C., and Washington. A third session is planned for this month.

Each of the classes was followed by a session during which veterans were invited to meet with the lawyers and students about cases. There's a particular need in the North Carolina area, where the firm was founded, because of the many military bases there, said Craig Cannon, a senior associate in the firm's Winston-Salem, N.C., office.

"We hope other firms will try to replicate this throughout the country because it really helps veterans a lot," Cannon said.

Ultimately, the Pro Bono Institute program will also seek to address systemic problems through legislation or litigation if necessary, Lardent said.

Morrison & Foerster's Erspamer is already helping veterans take the more drastic step.

In July, Erspamer represented two veterans' organizations in their lawsuits against the Veterans Affairs Department, claiming that the department has a 600,000-claim backlog and sometimes takes more than 10 years to process a claim. *Veterans for Common Sense v. Nicholson*, No. 07-3758 (N.D. Calif.).

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