Overview of Achievements, 2018-2019

The Center for Elder Law & Justice is a regional civil legal services provider operating in 11 Western New York Counties. IOLA funding has enabled us to grow every aspect of our firm—adding new programs, increasing our efficiency through technology, partnering with the court system to increase access to justice, increasing our pro bono activities, and providing outreach to rural, LGBTQ, and immigrant communities. During this reporting period, we closed 2,726 cases, benefitting 4,839 persons. In addition, our Senior Legal Advice helpline handled 230 calls and 15,063 persons benefitted from our community presentations. The primary target of our services are older low-income persons and persons with disabilities, however, several of our programs are available to the general low-income population (MedLaw, our Medical Legal Partnership, is opened to low income persons of any age).

One new program this year is the Elder Abuse Court Navigator Program being piloted in Chautauqua County. Navigating the court system can be daunting for most people, especially those who are unfamiliar or inexperienced with the judicial system. For an older victim of abuse, the prospect of facing the perpetrator of the abuse in court can be traumatic. The Navigator Program is a collaboration between our agency and the Eighth Judicial district whereby we provide legal and social work supportive services throughout the court procedure to ensure that victims of maltreatment are not subject to unnecessary delays, left uninformed, or denied the opportunity to exercise their rights. By incorporating trauma-informed advocacy and supportive services throughout and after the court process, elder abuse victims will experience better outcomes.

This past year we piloted the first Senior Legal Advice Helpline in New York State. The initial phase included four Western New York counties and we plan to expand to all of the counties outside of New York City. The Senior Legal Advice Helpline at the Center for Elder Law and Justice (CELJ) provides free brief legal services and referrals to legal service providers for callers aged 60 and over in Allegany, Livingston, Monroe, and Steuben.

Population Served: The Elderly, Disabled or Disadvantaged

Area Served: 8-County Area of Western New York

Total Funding: $4,558,457

Total IOLA Grant: $240,000

Staffing - Full Time Equivalents:
- Total Staff: 52.00
- Lawyers: 22.00
- Paralegals: 15.00
- Other: 15.00
We played an important role in representing a 79 year old man in an eviction proceeding from his subsidized apartment. John was being evicted due to the use of medical marijuana in his apartment, which was deemed to be a violation of HUD regulations and grounds for eviction. John relied on the use of prescribed medical marijuana to deal with the pain from a severe back injury suffered years ago. The pain confined him to a wheelchair. Rather than taking more intense medications, John opted for the use of medical marijuana, as this was the least invasive treatment he could find.

A routine inspection of his apartment led management to find the presence of the marijuana which brought about an eviction proceeding in accordance with HUD regulations. CELJ represented John at the eviction proceeding. A trial was conducted where a court ultimately ruled that he was in violation of the HUD regulations. A warrant of eviction was granted and John was eventually evicted. CELJ’s representation of John did not end at the court proceeding, however. Our housing unit continued to advocate and we pursued an appeal of the court’s decision. This case garnered national attention, highlighting a disparity between state and federal law which temporarily left our client homeless. This story was covered extensively by local media, the Associated Press, the Washington Post, the Boston Globe and Politico.

After lengthy negotiations with ownership for the housing project, Supervising Attorney Kevin M. Quinn was able to successfully reach a resolution that brought John back to his apartment for good. In addition to returning home, a policy was enacted that would allow him to continue using his medical marijuana to control the pain related to his injury. John continues to comfortably reside in his apartment today, knowing that he cannot face further eviction for using his medication.

We represented an 80 year old woman who was abused and neglected by her son who was also her guardian. She was removed from his home by APS. She was sent to Emerald North for rehab. She contacted us from there. We convinced the court to remove the guardianship and discovered that, in addition, he had stolen money from her while she was in the nursing facility and before. She was then sued by Emerald north for an unpaid balance; which we fought and got the suit dismissed against her. Finally, we obtained an order of protection to keep her son away from her and she is now happy and safe.
Other Services...

Number of People Benefitted by Services Other Than Direct Legal Representation

<table>
<thead>
<tr>
<th>Service</th>
<th>People</th>
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<tbody>
<tr>
<td>Total</td>
<td>31,616</td>
</tr>
<tr>
<td>Community legal Education</td>
<td>22,628</td>
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<tr>
<td>Pro Se Assistance</td>
<td>758</td>
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<tr>
<td>Online Assistance</td>
<td>53</td>
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Overview of Legal Related Services

The goal of our Community Legal Education & Pro Se Assistance program is to empower low income people to advocate for themselves, without the need to call our office. Since we are unable to fully meet the demand for our services, giving people the tools they need for self-advocacy is critically important. An additional goal is to create opportunities for volunteer attorneys to handle limited scope cases that we would normally turn away, thereby increasing both our service areas and priorities.

CELJ is unique in that we are the only civil legal services provider in New York State engaged in systems advocacy specifically on behalf of older adults. We believe in advocating, not only for our clients, but for the rights of all New Yorkers who are impacted by outdated or unfair policies. As a result, our staff works closely with legislators and policy makers to provide unbiased testimony and analysis on relevant laws that impact older adults. This is done through white papers, testimony and comments on proposed legislation. Increased IOLA support has enabled us to increase our advocacy efforts, particularly around safe staffing in nursing homes and advocacy with the New York Department of Health to be more aggressive in improving quality of care in facilities.

Other Legal Related Services Examples

After the death of a resident at the Emerald South nursing home this year, we wrote a lengthy white paper laying out how the Department of Health failed to protect residents at the facility, which directly resulted in the closing of that facility after it was picked up by our County Executive and became the focus of a press conference he had demanding the closure of the facility. In addition, due to that effort, our New York State Assembly delegation is discussing proposed legislation increasing the fines that the Department of Health may issue for violations.

An example of a successful community education event we did this year is our wills clinic. Done within a low income community on the East Side of Buffalo, and using staff from our office and volunteers we obtained through the Minority Bar Association, we had a two day event (12/15/18 and 1/26/19). We wrote 46 wills for low-income individuals who otherwise would not have had access to this type of peace of mind. Another partner on this event was the Western New York Law Center, another IOLA grantee who wrote additional wills.

Finally, our annual Elder Law Day had 430 attendees this year and we presented on topics such as Medicaid, Planning for LGBTQ couples, Nursing home Evictions and Kinship Legal Services. At the event, we run free 15 minute consultations and we spoke with 134 people utilizing 28 volunteers and staff.
Our Health Care Unit continues to spearhead systems and policy advocacy in partnership with Region 15 Long Term Care Ombudsman program to improve the quality of care and quality of life for residents in long term care settings such as nursing home and adult care facilities. We also Authored “Emerald South: Profile of a Nursing Home” and distributed to elected officials, the media, NYS Department of Health, NYS Attorney General, and other governmental entities. In part due to the report and resulting media coverage, Emerald South and its sister facility Emerald North entered into receivership. Emerald South was later closed. In addition we met with elected officials and representatives at the state and federal levels to highlight the care challenges in WNY nursing homes and offered legislative solutions. This included creating nursing home district profiles to show the disparities of quality of care between nursing homes within the district. Publicly supported various pieces of legislation that would improve quality of care and life in nursing home and adult care facilities including:

- **A.4938/S.112**
  Would place a 2 year moratorium on a failing nursing home operator form purchasing new facilities in NY

- **A.4939/S.113**
  Would require DOH conduct 40% of its inspections outside of standard business hours

- **A.4416/S.3460**
  Would strengthen enforcement of Adult Care Facility regulations.

Support of Safe Staffing for Quality Care Act

- Letter of Support to Governor Cuomo in his investigations/support to requiring specific staffing levels in nursing homes and hospitals.

- Participated in meetings hosted by CWA union

  We also successfully argued a notice issue on appeal that could have statewide implications. The issue involved a client's right to a fair hearing was infringed upon because she did not receive proper notice of her Medicaid determination. Proper notice includes a notice that is sent to both the applicant and the applicant's relevant representatives. The notice was sent to her POA but not herself, which regularly happens to older adults. Case was dismissed at Fair Hearing level but we successfully argued in an Article 78 in State court that the deadline to request the hearing was tolled because she was not given proper notice.
Significant Collaborations

We collaborate with Empire Justice Center, The Legal Project, Pro Bono Net and several others on the Crime Victims Legal Network. The goal is to develop both on-line resources and a portal for crime victims to easily access free civil legal services in New York. Advisory Group members meet regularly to develop and review the content, develop and implement a survey of crime victims and encourage participation by crime victims in the focus groups that have occurred statewide.

We collaborate with Lifespan in Rochester to support and expand our Enhanced-Multidisciplinary Teams for Elder Abuse Prevention. Multidisciplinary teams bring together groups to solve difficult and complex cases of elder abuse that can benefit from a team of professionals from a variety of disciplines. By working together, partners such as legal services, law enforcement and adult protective services can avoid gaps in service and identify the best ways to assist victims of abuse. The approach is person-centered, and often yields better case outcomes as well as ensuring holistic services to victims. We provide these services in Erie, Niagara, Chautauqua & Cattaraugus counties. Project partners also include the local District Attorney in each county, Adult Protection Services & Senior Services. The team includes a forensic accountant (to follow the money trail in financial crimes) and a geriatric psychiatrist (to assess capacity of victims both at the time of the crime and at the time of trial). No other partners provide civil legal services. In the first few months of operation, we have flagged 47 cases for work up for possible prosecution to the District Attorneys in the respective counties.

We partner with the Legal Aid Bureau of Buffalo and the Western New York Law Center on our Foreclosure Prevention Project covering the counties of Erie, Orleans and Niagara. As a result of this partnership, every homeowner in foreclosure receives access to a lawyer at his/her settlement conference. We also developed the orientation the court uses for first time litigants and conduct numerous trainings both alone and with our project partners.

We are partnering with the New York State Court System on both our Legal Help Desk at Erie County Surrogate’s Court and the Elder Abuse Navigator Program in Chautauqua County. We also partnering with the Region 15 Long Term Care Ombudsman Program (LTCOP), CELJ provides Ombudsmen volunteers with the training and tools needed to successfully advocate for residents in long term care settings on a variety of topics. For example, we trained Ombudsman volunteers and nursing home therapists on multiple occasions on a clear misinterpretation of the Medicare law that was commonly being made at area nursing homes. In addition to providing training, we routinely work with the Ombudsmen volunteers to identify potential legal issues and coordinates a referral to the appropriate CELJ Unit or litigation.
Technology and Other Innovations

This year we continued to update and tweak Legal Server and added a new module designed for medical-Legal Partnerships. We also designed a new program to handle our supplemental Pooled Trust cases, after looking at commercially available options and not finding satisfaction. We go each year to the LSC Tech Conference and New York State Permanent Commission on Access to Justice, Statewide Civil Legal Aid Technology Conference, to be held on Monday, June 10, 2019 at Cornell Tech in New York City.

Trainings

We have a very detailed on-boarding system for new employees and a 23 page performance Standards and Supervision of Legal Work Manual. All supervisors have access to a personal coach for a set number of hours per month and he does trainings with them on leadership, personnel and performance measures 4-6 times per year. We have an annual staff retreat and an annual board retreat. We have in-house training on diversity, cultural competency, LGBTQ cultural competency, intake, outreach, Legal Server, our Legal Risk Detector and, as required, harassment and other trainings.

In addition to sending our staff throughout the country to national conferences (23 separate conferences during this reporting period), we sent a significant portion of staff to the Partnership Conference (and had presenters at the event and employees on the Steering Committee). We also do in-house CLE on topics of interest to our advocates. This year that included: How to represent a client with Diminished Capacity, How to advocate for your Client to Leave a Nursing Home, Representing a Citizen Applicant at USCIS, attorney’s fees avenues, Medicaid updates and how to supervise your paralegals.
Pro Bono Volunteer Involvement

Broadly speaking, following orientation to the program, and training as needed, our volunteers and pro bono attorneys typically assist in one of the following programs:

- **Full Scope Matters:** Private attorneys handle full-scope representation cases from inception to completion in issues such as bankruptcy, divorce, estate administration, property transfers, and more. This service expands CELJ’s capacity to provide legal services in areas of law that exceed the agency’s practice areas and legal expertise. In 2018, CELJ had eight (8) open active cases in this full scope program.

- **Limited Scope Matters:** Private attorneys and volunteers also choose from a number of limited scope representation opportunities offered by our agency. Some examples include: (1) Elder Law Day; (2) Senior Legal Advice Helpline; (3) Surrogate’s Court Help Center; and (4) Foreclosure Clinic.

- **In-House support:** Retired and Emeritus attorneys, law students, and volunteers assist our staff attorneys by providing case support, research, writing, and provision of legal services to clients.

In 2018, our 70 volunteer attorneys and students provided a total of 5,211.49 hours of pro bono legal services and support to CELJ.

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Pro Bono Statistics

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Sources Of Funding

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