

The Metropolitan Corporate Counsel®

www.metrocorpcounsel.com

Volume 13, No. 8

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August 2005

Pro Bono – Organizations

Boston Bar Association's Attorney-For-The-Day Program At The Housing Court

Jairo G. Cano, Intern and law student at Seton Hall University School of Law, interviews Samuel "Sandy" B. Moskowitz, Shareholder, Davis Malm & D'Agostine P.C., and Andrew H. Cohn, Partner, Wilmer Cutler Pickering Hale and Orr LLP. Sandy and Andrew are Co-Chairs of the Boston Bar Association's Real Estate Pro Bono Committee.

Editor: Would you tell our readers about your participation in the Boston Bar Association?

Moskowitz: I went to law school in Boston and came back after working in legal services in Birmingham, Alabama. I began a solo practice and became active in the Boston Bar Association (BBA) because it provided an opportunity to interact with older experienced attorneys. I developed my legal skills through my involvement in the BBA's various activities. I eventually became chair of the Condominium Committee of the Real Estate Section. I subsequently became chair of the Real Estate Section for a two year term, and have stayed involved in the Section ever since, serving as a member of its Steering Committee since 1991. Several years later, I was asked to assist in starting the Attorney-for-the-Day Program through the Pro Bono Committee of the Real Estate Section and have been serving as its co-chair since 1998.

Cohn: I got involved with the Boston Bar Association many years ago. I worked on various committees within the Real Estate Section and was eventually made chair of the Real Estate Section for two years. I then continued on the Section's Steering Committee and Legislative Committee. I am now co-chair of the Pro Bono Committee together with Sandy.

Editor: Please tell our readers about the Boston Bar Association's Attorney-for-the-Day Project at Boston's Housing Court.

Moskowitz: The program began in 1999 as we were looking for ways for real estate transactional attorneys to engage in pro bono work. Both tenants and landlords need advice when appearing before the housing court because



Samuel "Sandy" B. Moskowitz

many of them do not know what relief they are entitled to. This was a great opportunity for real estate lawyers to provide pro bono legal services without having to take on a prolonged case. We structured the program so that each Thursday morning an average of 30 to 40 landlords and tenants are guided through summary process with the advice of an attorney-volunteer. The volunteers are trained to answer questions and to help the parties at the two desks we set up outside the courtroom. From time to time we also assist people in mediation at the housing court.

Cohn: The program is a collaboration with Greater Boston Legal Services (GBLS) and the Volunteer Lawyers Project (VLP) who train our volunteers and provide advisory counsel for the Housing Court program. GBLS and VLP provide materials on Massachusetts landlord/tenant law for volunteers. Our volunteers are always under the supervision of experienced housing attorneys from GBLS or VLP who provide guidance whenever complex issues are raised. We leverage their experience so we can take the expertise of one VLP or GBLS attorney and turn it into the expertise of our attorneys.



Andrew H. Cohn

Editor: What training is required for volunteers to participate?

Moskowitz: The training sessions take about two to three hours to complete. VLP often sends housing law experts to the law firms to train the lawyers. Our goal is to make it as easy as possible for the volunteer attorneys so we offer training at their offices and provide, in advance, a list of the cases docketed to be tried on the day the lawyer or firm will be volunteering, allowing the volunteer to do a conflict check before going to court.

Editor: How do volunteers sign up for the Program?

Cohn: We usually reach out to law firms. Many of the firms have representatives on the Steering Committee of the Real Estate Section, so we have regular opportunities to share information with them.

Moskowitz: In most of the large or medium sized firms, we work with the pro bono coordinator. The firm makes a commitment to provide volunteers for a block of Thursdays, and we fill in extra time slots with solo practition-

The Boston Bar Association would like to thank the following participants in the Attorney-for-the-Day Program at the Boston Housing Court

Black, Cetkovic & Whitestone
 Brown Rudnick Berlack Israels LLP
 Burns & Levinson LLP
 Davis, Malm & D'Agostine, P.C.
 Foley Hoag LLP
 Goodwin Procter LLP
 Goulston & Storrs, A Professional Corporation
 Holland & Knight LLP
 Kirkpatrick & Lockhart Nicholson Graham LLP
 Liberty Mutual Insurance Company
 Nutter McClennen & Fish LLP
 Posternack Blankstein & Lund LLP
 Rackemann, Sawyer, & Brewster
 Ropes & Gray LLP
 Sherin and Lodgen LLP
 Sullivan & Worcester LLP
 Wilmer Cutler Pickering Hale and Dorr LLP

ers and small firm attorneys. When the program began, we asked the firms to make a commitment to cover one block of Thursdays per year. Many volunteers enjoyed the program so much that they decided to make a commitment each quarter. This makes it easier for us because we do not have to conduct training sessions as frequently.

Cohn: We try to accommodate volunteers whenever possible. For instance, we had one firm concerned about potential conflicts of interest because they regularly represent the Rental Housing Association. We made arrangements for them to sit at the landlord table so that there are no conflicts.

Editor: Can in-house legal departments make similar arrangements?

Cohn: Yes. We are currently working with Liberty Mutual's legal department. Although the critical bedrock of the program is that volunteers will not handle court appearances and the case will not follow them home, Liberty Mutual wanted its attorneys to engage in active court cases. They are regularly involved in the program, and a number of their attorneys have taken on active matters. We have greatly enjoyed working with Liberty Mutual and are looking for ways to increase in-house counsel participation.

I should also note that these arrangements provide volunteers with a tremendous amount of experience. Along with Liberty's arrangement, I know that another firm is experimenting with having its summer associates participate in the program. It provides a great "think on your feet" experience. This is very real and the people want an answer immediately. It quickens the blood and is very exciting

and you will never forget the experience.

Editor: Are there other benefits for volunteers and their clients?

Moskowitz: The volunteers benefit from having the experience. Andrew and I have been volunteers, and it is a tremendously rewarding experience. When you sit at the table and are face-to-face with people who are confronting homelessness, you realize that you are the last line of defense for these people who cannot afford a lawyer. We have been effective in ensuring that agreements that are reached before trial, especially when a party is not represented by counsel, are fairer. Our involvement helps to ensure that a person without an attorney has basic protections. I will always remember a particular case where I advised a woman who was facing eviction for non-payment of rent. She was receiving a rent subsidy, but there was a problem in obtaining the subsidy checks. For some reason the landlord decided he wanted to evict her, and his attorney was threatening to do things I knew he could not. When I got involved, the attorney backed down, and they eventually entered into a new agreement. Had it not been for the program, the woman would have been forced into the streets by this unscrupulous conduct.

Cohn: The program has been successful because it reminds lawyers why they initially went into law school. Often through procedural techniques we can bargain for time which allows tenants to stay in their current apartment while they find another place to live or work out an arrangement with the landlord. For example, I represented a family with two children that was facing an eviction. The husband had lost his job. Even though he had got-

ten the job back, they were behind with three to four months rent. I helped them file some procedural discovery. We talked about the condition of the apartment. As a result of filing those discovery papers, a discussion started with the landlord representative. We negotiated a payback agreement and kept the family in the apartment. They were extremely happy and worked out a forgiveness of some rent and a long-term payback schedule.

Editor: Do volunteers also engage in mediation?

Moskowitz: The court has a mediation service where both landlords and tenants have an opportunity to mediate before there is a trial. Both sides have to agree to mediate, and mediators help to strike agreements between the parties.

Cohn: Often our volunteers deal with an unrepresented party who does not have a sense of what they can ask for, how much time they can get, or the type of stretch out of overdue rent they can receive. Mediation allows those facing eviction to negotiate a reasonable pay period. The other thing to point out is that some of the landlords are small owners and the problem of an unpaying tenant can be extremely difficult for them. While there are housing court mediators, often our volunteers end up helping to craft a settlement that is signed before the mediator hears the mediation.

Editor: Are there plans to expand the program beyond Boston?

Moskowitz: The Massachusetts Housing Court is working to extend it beyond Boston. We have been working with the court to assist them in those efforts. The state has various types of legal communities, so we are assisting in their efforts to fine-tune a program for each area. We have discussed some of the issues we have faced with them, which allows them to work from our model and apply the lessons we have learned.

Cohn: From the beginning, the Pro Bono Committee has worked closely with the judges and chief clerks of the Housing Court. Every month we meet with two clerks and judges to discuss how the program is working and how to handle particular issues that are raised. Representatives from GBLS and VLP are also present. This is part of the model we have helped other areas implement.

Editor: How can those interested in participating in the Program learn more and sign up to volunteer?

Cohn: If you have questions about the Attorney-for-the-Day Program or are interested in making a commitment to the Program on behalf of your firm or legal department, please contact Joanna Allison of the Volunteer Lawyers Project at (617) 423-0648 or jallison@vlpnet.org.