



# VOLUNTEER LAWYERS FOR APPALACHIAN KENTUCKY



207 West Court Street, Suite 201, Prestonsburg, KY 41653

January 1, 2007 to April 30, 2007

**PRO BONO CASES  
ACCEPTED BY PRIVATE BAR  
January 1, 2007 to April 30, 2007  
(as reported)**

**BANNER:** Tony Boyd 1;  
**BARBOURVILLE:** Barbara Elliott Yeager 1; **BEATTYVILLE:** Thomas Hollon 1;  
**BOONEVILLE:** Wade Rasner 2; Kendall Robinson 2; **BURKESVILLE:** Stephen Poindexter 1; **BURNSIDE:** Ralph Gibson 1;  
**COLUMBIA:** Michael Harris 2; **HAZARD:** Heidi Hopfensperger 5; Darlene Johnson 4; Frank Medaris Jr. 2; Danny Rose 1;  
**HINDMAN:** Stacy Conley 1; Dinah Hall 2;  
**HYDEN:** Marcus Fannon 1; **JACKSON:** Hershel Branson 3; Melissa Howard 1; Tammy Howard 2; **LANCASTER:** James Sanders 1; **LONDON:** J. Warren Keller 1;  
**LOUISA:** Kimberly Compton 1;  
**MANCHESTER:** Kenneth Stepp 1;  
**MIDDLESBORO:** Michael Taylor 2; **MT. VERNON:** Cynthia Crider 2; William Gregory 1; **PAINTSVILLE:** Wesley Duke 1; Michael Endicott 1; **PIKEVILLE:** Timothy Belcher 1; **PRESTONSBURG:** John Callis III 4; Larry York 13;  
**RICHMOND:** Timothy Despotos 1; Earl-Ray Neal 13; **RUSSELL SPRING:** David Smith 4; **SALYERSVILLE:** John Collins 3;  
**SOMERSET:** Melinda Gillum Dalton 1;  
**WHITESBURG:** Jeanne Kincer Channell 2;  
**WHITLEY CITY:** Tim Lavender 2;  
**WINCHESTER:** Dodd Dixon 4; Michael Rowady II 1.

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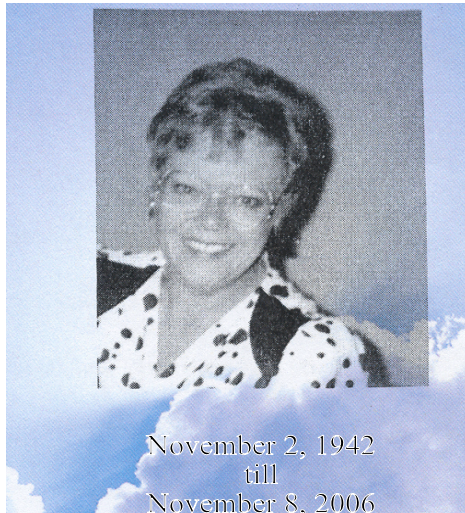
**Dedicated In Memory of  
Beverly Sue Carroll  
VLAK Director  
1995 to 2004**

Beverly Carroll, I can't begin to find the words needed to describe this wonderful woman. The "bag lady" as she was so lovingly called, was one of the finest people you would ever hope to meet.

Beverly first came to Kentucky in the early nineties from Leavenworth, Kansas with her husband Alex Carroll, who is originally from Eastern Kentucky. He had just retired from the military and wanted to move back to his "beloved hills." So, Beverly being the type of person she was, she left behind all her friends and family and came to Kentucky to be by her husband's side.

After getting settled into her new surroundings, it didn't take Beverly long to find a job that matched her abilities and desire to help people in any way she could. In 1993 Beverly first started out as a benefits counselor for AppalRed, then she assisted Frank Carlton who was "VLAK's" Pro Bono coordinator. In 1995 Beverly was appointed as the new Pro Bono coordinator/director for Volunteer Lawyers.

Being VLAK'S director wasn't the extent to Beverly's duties, for many years she wrote articles for the Floyd County Times called "Sunshine Lines," where she would address issues that would benefit the elderly people of our area, she was also the "FIT" facilitator (Families in Transition) for Pike County. Bev, had her hands in a lot of things. She was never



November 2, 1942  
till  
November 8, 2006

idle.

Over the years Beverly's health began to decline. In 2002 her health began to spiral out of control, one medical problem after the other, eventually forcing her to retire from the job that she loved so much. Beverly reluctantly retired on March 31, 2004 opening the door for William Snyder to become the newest director of Volunteer Lawyers.

On November 8, 2006, we lost Beverly. Beverly left her heart prints on everything and everyone she came in contact with. From everyone at Volunteer Lawyers and AppalRed, Bev, "you ole' bag lady" we love and miss you greatly.

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**FREE MEDIATION SERVICES  
AVAILABLE FOR PRO BONO  
PANEL PARTICIPANTS**

Since January 1, 2007, VLAK has been providing free civil and family law mediation services to attorneys who are participating in its pro bono panel. The mediation services are provided by William Snyder, Director of VLAK. Will is an AOC certified civil and family law mediator and listed on the AOC mediator website. The free mediation services are available in all 37 counties. To date, Will has completed 55 meditations in both civil and family law matters.

Attorneys are generally proponents of mediation. Unfortunately, for many clients, the additional costs of mediation are prohibitive and clients are not able to avail themselves to this valuable alternative. However, if the attorney is willing to accept one pro bono referral, the mediation services are free. The benefits are tremendous in that an existing client is helped and an indigent applicant waiting for placement will be referred to an attorney. A truly WIN-WIN scenario.

Mediation has become so successful that some circuits are referring cases to mediation before they are set for final hearing. Many experienced attorneys are voluntarily participating in mediation as soon as all discovery has been completed.

The reasons for this tremendous increase in both court ordered and voluntary mediation are many but include:

- *The outcome is determined by the people who have the problem.*
- *There is no need to go to court.*
- *People can talk about what is important to them.*
- *There is no pressure to accept solutions that are not acceptable to any of the people.*
- *Discussions are private, confidential and informal.*
- *Techniques for solving future problems can be learned.*
- *Solutions are not limited.*
- *The mediator does not make any decisions; the people with the problem make all the decisions.*
- *Personal and family relationships can be preserved.*

Although many articles have been written on the subject, here are a few "helpful hints" that may help your mediator settle your case:

1. Let the mediator know you need some help with your client. Call your mediator ahead of time to discuss the nuances of your client and your case, and how they will affect the mediation session. You can be candid about what is needed to settle your case, because of the confidentiality rules of the mediation.
2. Allow the mediator to develop as strong a personal relationship with your client as possible, and permit him to ask probing questions that will gently reveal the problems with the case.
3. Let the mediator be the "fall guy," taking the "hit" for delivering the bad news.
4. Be willing to emotionally break away from the attorney-client dynamics during the caucuses with the mediator so that course-change is possible.
5. Let the mediator know that your client is going to need more time to digest bad news ... if your mediator doesn't offer, ask him to arrange for the offer/demand to remain on the table for a pre-determined amount of time and ask him to follow up with both parties during that period of time.

**REMEMBER: THERE IS NO SUCH THING AS IMPASSE, ONLY A RECESS IN THE SETTLEMENT DISCUSSIONS.**

If you would like to schedule a VLAK mediation, telephone 800-678-8525 ext. 202.

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**PRO BONO AT A GLANCE**  
by  
**Shelly Newhouse, VLAK Assistant**

Volunteer Lawyers for Appalachian Kentucky (VLAK) covers a thirty-seven (37) county area, consisting of: Adair, Bell, Breathitt, Casey, Clark, Clay, Clinton, Cumberland, Estill, Floyd, Garrard, Harlan, Jackson, Johnson, Knott, Knox, Laurel, Lawrence, Lee, Leslie, Letcher, Lincoln, Madison, Magoffin, Martin, McCreary, Monroe, Owsley, Perry, Pike, Powell, Pulaski, Rockcastle, Russell, Wayne, Whitley and Wolfe Counties.

VLAK applicants must meet the income guidelines established by the Legal Services Corporation (LSC). Currently, the income guideline is 125% of the poverty guideline.

For example, for a household of three, the income ceiling is only \$1,788. Applicants whose household income exceeds the LSC income guideline are referred to an attorney participant on our pro bono panel as a fee client. This is our way of showing our appreciation to the dedicated attorneys that accept cases on a pro bono basis.

VLAK staff try to contact every one of the approximately 1200 private attorneys in our service area to place pro bono cases. Unfortunately, for 2006, only 71 attorneys have accepted our referrals. Even more disturbing is that these dedicated attorneys have accepted 201 cases. This means that some of our panel participants have opened their hearts and accepted multiple cases. For example, Earl-Ray Neal accepted 13 cases, Larry York accepted 13 cases, Heidi Hopfensperger accepted 5 cases, John Callis III, accepted 4 cases, Darlene Johnson accepted 4 cases, and Dodd Dixon accepted 4 cases.

VLAK has a variety of cases waiting for an attorney. These cases include: divorces; custody disputes; visitation modification and enforcement; child support modification; consumer problems regarding mobile homes, automobiles, personal property, loans, and mortgages; wills and probate, adoptions, power of attorney, guardianship, landlord - tenant problems, and real property disputes.

Because the gap between applicants we have been able to place, and applicants waiting to be placed is growing wider every year, VLAK has developed additional services such as blank pro se packets for uncontested divorces, blank responses to divorce or child support petitions, and blank post-decree motions for modification or enforcement of prior orders. It is an unfortunate truism that the pro se forms are problematic because some clients have limited reading and comprehension skills. Nevertheless, it is generally better to provide forms and instructions to applicants rather than have them obtain forms from one of the many internet providers.

If you would like more information about VLAK's program, would like to participate as a pro bono attorney, or if you are currently a pro bono attorney and would like to extend your services to a contiguous county, please contact the VLAK staff at 1-800-678-8525 or email at [vlakprobono@bellsouth.net](mailto:vlakprobono@bellsouth.net)

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### **TRIALS AND TRIBULATIONS OF PRO BONO PLACEMENTS**

By  
**Joetta Adkins, VLAK Secretary**

Volunteer Lawyers for Appalachian Kentucky, (VLAK) was created in 1989 with help from the Interest on Lawyers Trust Accounts (IOLTA). Appalachian Research and Defense Fund of Kentucky, Inc. (AppalRed), established this pro bono program in an effort to meet the needs for legal representation of indigent residents throughout eastern and south-central Kentucky.

The staff of VLAK works vigorously on a daily basis trying to help the low income people of our 37 county service area by attempting to find private attorneys willing to take cases on a pro bono basis.

This sometimes requires a great deal of patience on staff and the applicants, because in some instances the more difficult the cases the longer it can take to "place" it with a private attorney. For instance, John Smith (not his real

name), called our office recently needing help with a divorce and custody. But, his case had a lot of extenuating circumstances.

Although the father had custody of the child, during a visitation, the mother took the child and fled to Canada. Arguably this may have been a case of parental kidnaping, because she took the child out of the country without the permission of the custodial father or the court. Since the father didn't have the financial ability to hire an attorney to help him, he began trying to get his son back on his own. Realizing what a great undertaking it was going to be he called on us for help.

We talked with him and explained to him that it may be impossible for us to help him due to the complexities of his case. Mr. Smith met the poverty guidelines required by LSC and was told that if, and when, we found an attorney we would call.

As the days turned into weeks and the weeks turned into months, hopes of finding an attorney for Mr. Smith seemed very bleak. But in February 2007, an attorney by the name of Hon. Michael Rowady II found it in his heart to assist Mr. Smith. This was nothing short of a miracle! The staff of VLAK, was totally stunned when we were able to help Mr. Smith. Many attorneys' were contacted before Hon. Rowady, and we were turned down by all. Volunteer Lawyers wants to send a personal THANK YOU, to Hon. Rowady for accepting this particular case.

The demand for legal assistance is far greater than the number of pro bono attorneys we have to fulfill the need. On an average we are able to assist around 300-400 people yearly leaving about 1,400 effectively locked out of our legal system.

There is no doubt that the pro bono attorneys are doing a wonderful job of assisting the poor residents of Eastern Kentucky. But, we feel as if we are asking the same attorneys' over and over again to accept another case. Although these attorneys are much appreciated for all the good work they do, we need more attorneys "to step up to the plate" to assist those attorneys that have already gone that extra mile to assist the low income people in our 37 county area.

On behalf of the indigent people which we strive to assist every day. PLEASE, PLEASE find it your hearts to become a pro bono panelist today. We need your expertise and time more than ever!

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### **AT MY DESK** by **Cindy Fitzpatrick** **VLAK Receptionist**

Hello! My name is Cindy Fitzpatrick VLAK's receptionist, and the newest member of the family. Although I am new to Volunteer Lawyers, I am slowly learning more and more that there is a great need for legal assistance in VLAK's 37 county service area.

I do about 90% of all applications that come through the office. It is my job to get as much information as I can from applicants to make it easier on staff in hopes they can place the cases with an attorney. I have learned that I have to ask

a wide variety of questions to get the information that is needed. My position requires a lot of patience and understanding with clients in order to get the "full" story. A lot of clients are nervous and very reluctant to share their story or provide the needed financial information for LSC qualification. Then on the other hand, some clients can't wait to tell you their life history. So, I have to dedicate time and understanding to listening to some client's needs, frustrations and fears.

My job requires me to converse with people from all walks of life. I have applicants that are very appreciative of the services our program offers, then I have applicants that think we "owe it to them" to find a volunteer attorney. Some applicants don't seem to understand that attorneys take cases voluntarily, even though we explain to them that our office will make every effort to find an attorney willing to speak with them about their case. At times I have had applicants that became rude and crude. I have had applicants that yell and curse because an attorney was not found. There have been moments when I have asked if any body would like to walk around the block just to settle my nerves.

Although part of my job is to qualify and be patient with applicants, I also do my best to "filter" the applicants. If I feel that a client is not being truthful and straight forward with information, or if they are being disrespectful towards me or staff, that applicant will not be considered for pro bono placement. We do our best to ensure that a pushy or disrespectful applicant is not placed with an attorney.

The VLAK office assists with a wide variety of civil legal matters. With different legal matters, it is my job to ask a variety of questions and request copies of documents and court orders. At times I refer a client to other agencies such as: Appalachian Research and Defense Fund (Appalred), the County Attorney office, Child Support Enforcement office, Courthouse, Social Services, and sometimes to private attorneys for those that don't qualify within our income guidelines.

On occasion an attorney will call our office and ask for a pro bono case. I find this wonderful and wish that we had more attorneys willing to devote their time to assist deserving applicants and my wish would be that our office could find an attorney for every applicant that turns to us for assistance.

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### **WHAT IS PBI?**

PBI stands for "Private Bar Involvement." A PBI case is a case that a private attorney accepts at reduced rates. Currently the rates are as follows:

**Uncontested Divorce:**  
Minimum \$162.50  
Maximum \$260.00

**Contested Divorce:**  
Maximum \$500.00

**Separate Custody Proceedings:**  
Maximum \$500.00

**Post-Judgment Motion:** \$140.00

If you would like to consider taking PBI cases, contact VLAK staff at 1-800-678-8525 or email at [vlakprobono@bellsouth.net](mailto:vlakprobono@bellsouth.net) to have a contract mailed to you.