

New Committee Addressing Unmet Legal Needs of Military Servicemembers, Reservists and Veterans

by Linton Johnson

Recently, the *Atlanta Journal-Constitution* published the story of a young Marine corporal who suffered a traumatic brain injury in an October 2006 roadside bomb explosion in Iraq.

Two years down the road to recovery, his external scars are minimal, but the internal trauma remains: significant memory loss, breathing problems, bronchitis, and discomfort from glass and shrapnel still in his arms. According to the article, the corporal takes medication for seizures, insomnia and depression.

Now 23 years old, he has retired from the Marines at 40 percent disability. He is one of thousands of injured U.S. veterans of Iraq and Afghanistan who returned home as heroes but are a far cry from being made whole again. Sometimes they don't know where to turn for help; sometimes help is not available.

It has come to the attention of the State Bar of Georgia that a growing problem throughout the U.S. military involves active servicemembers, reservists and veterans who need legal services outside what is available to

them from the government. At the Annual Meeting in June, the Board of Governors voted to establish a special committee, charged with the task of identifying and addressing unmet legal needs of the state's military servicemembers, reservists, veterans and their families.

The panel—chaired by Charles L. Ruffin and comprised largely of lawyers with military experience and/or an abiding interest in military and veterans' law—went to work immediately, assigning tasks to various members and meeting on a biweekly basis.

“The Pro Bono for Military Veterans & Servicemembers Committee is working hard on the design of a comprehensive program that encourages Georgia lawyers to stand in the gap between legal services available to on-duty military personnel and unmet needs,” State Bar President Jeffrey O. Bramlett said. “Georgia lawyers are grateful for the military service of our troops and returning veterans. This committee is looking for ways lawyers can personally and voluntarily give of themselves where servicemembers and veterans are not getting the legal help they need.”

Military lawyers at a number of Georgia installations strongly agree the need for such a program exists.



Photo by Jennifer R. Mason

(Left to right) Committee members Bryan Cavan, president-elect; Linton Johnson, State Bar communications consultant; Antony B. Kolenc, Major, USAF; and Charles L. "Buck" Ruffin, chair, review the State Bar of Georgia Veterans and Servicemembers Law Survey.

Maj. Antony B. Kolenc, staff judge advocate at Dobbins Air Reserve Base in Marietta, related the following scenario: an active duty service member comes in with divorce paperwork recently served on him by his estranged wife. He has three children and the wife wants custody of them. His wife's attorney has drawn up a settlement, with a detailed breakdown of how child support will be paid, for him to sign.

The service member wants to know how he can fight for custody and whether the child support plan is a "good deal" for him. He also wants to know what he will need to file with the court so that he does not lose any of his rights.

"That would be beyond the scope of what can be competently handled in military legal assistance," Kolenc said. "After giving him general advice on the divorce process in Georgia and identifying potential issues in the proposed settlement agreement, I would have to refer him to the local bar association so he can find a good family law attorney, if he can afford it."

This is but one example of soldiers' and veterans' needs for legal

assistance exceeding what is available to them at their installations. In addition to family law issues, servicemembers are increasingly finding themselves in legal limbo on matters ranging from disability claims to employment problems to landlord/tenant disputes.

"These are the types of cases where an individual might not hire an outside lawyer but will simply surrender the issue or go it alone," Kolenc said. "But our attorneys will do everything within our power to ensure the member receives the help they need."

"We frequently see soldiers who have a good consumer law case, involving predatory automobile sales or unauthorized/overpriced repairs, for example, but we cannot represent them in court due to our resource constraints," said Col. Tracy A. Barnes, staff judge advocate at Fort Benning in Columbus. "The State Bar could assist by providing pro bono representation in court in appropriate cases. Another possible way to help us advise clients would be a list of Georgia attorneys willing to lend their subject matter expertise and

guidance to our legal assistance attorneys on a particular case."

Anthony Tempesta, chief of the legal assistance staff at Fort Benning, said there is also a "significant" volume of active duty personnel who could benefit from a pro bono program. "We have four Bar members on staff, and our office is overwhelmed, mostly with family law cases," Tempesta said. "We are presently not accepting any new in-court representation cases, and when we do so again it will be limited to adoption and legitimation cases. Any assistance from the Bar on divorce, child custody and child support matters would be a tremendous help."

The Legal Assistance Division at Fort McPherson served 7,015 members of the military community in 2007, according to staff attorney Marcia Parker, who attended the Bar committee's July 22 meeting. Parker and her colleagues consulted with 4,640 clients and prepared 1,094 wills. The front office staff prepared 1,839 powers of attorney and notarized approximately 5,344 documents. In addition, the division prepared 2,044 federal tax returns and 1,773 state tax returns.

“Georgia lawyers are grateful for the military service of our troops and returning veterans. This committee is looking for ways lawyers can personally and voluntarily give of themselves where servicemembers and veterans are not getting the legal help they need.”

— President Jeffrey O. Bramlett

Parker said her office is mandated to write wills and powers of attorney and handle Servicemember’s Group Life Insurance claims on behalf of soldiers stationed at Fort McPherson. In addition, the division handles a significant number of family law issues and provides limited assistance on real property and landlord/tenant issues, consumer protection, civilian and military administrative matters. The office is restricted from handling criminal matters, employment issues (including but not limited to those under the jurisdiction of Department of Justice) or income-generating cases. Servicemembers’ eligibility for assistance is dictated under Army Regulation 27-3.

For matters beyond the scope of the division, Parker said, “Our office maintains an attorney referral list. If we are unable to provide a service, we can make initial contacts to local attorneys who specialize in that subject area for a free consultation.”

Soldiers who return from war often have special needs resulting from physical injuries as well as the effects of Post Traumatic Stress Disorder (PTSD).

“When they come home, they are often not the same person,” Parker said, “which can lead to deterioration of the family and other problems.”

Committee members have been in contact with other state bars where similar programs have been launched. Donna G. Barwick spoke with the coordinator of the Operation Legal Eagle project of the North Carolina Bar Association, which has produced mixed results and is undergoing a revamping.

“The program hasn’t been used very much,” Barwick reported. “Many of the servicemembers with unmet needs reside in rural areas, while many of the volunteers reside and work in urban centers. Therefore, it was sometimes difficult to match volunteers with potential clients.”

Also, the Department of Defense was already taking care of wills, powers of attorney and similar needs for which volunteers were easier to find, she said. For family law, consumer law and criminal matters, the rural/urban disconnect made things more difficult.

“Their key words of advice include making sure we have an open line of communications with the Judge Advocate General (JAG) officers at the military installations in order to keep up with frequent personnel changes in that position,” Barwick said, “and to make sure volunteers are familiar with the unique nature of military benefits claims.”

Eric A. Ballinger, reporting on his research on behalf of the committee, said the Oregon project is operating with 120 lawyer volunteers on its Military Assistance Panel (MAP).

In Oregon, the JAG officers pre-qualify soldiers in need of assistance based on program criteria and guidelines. Once qualified, the soldier makes contact with the Oregon State Bar’s Lawyer Referral Service. The bar’s call center then refers the case to a MAP lawyer, who provides the first hour with the client on a pro bono basis. Any following services are provided under a fee arrangement, but most of the cases are handled pro bono to the conclusion of the matter.

There are no major military installations in Oregon, but the program serves National Guard members mobilized and deployed overseas. In 2009, the number of Oregon Guard members deployed to the Middle East is expected to increase to 3,500. By comparison, Ballinger pointed out, Fort Benning has more than 10,000 active duty soldiers at that post alone.

The committee is continuing to proactively solicit input from key personnel at Georgia military installations on the legal services that are and are not already available to servicemembers.

Committee member E. Marcus Davis is also board chair of the Brain Injury Association of Georgia. He said approximately 300,000 veterans of the Iraq and Afghanistan wars suffer from either Traumatic Brain Injury (TBI) from exposure primarily to improvised explosive devices or PTSD from exposure to the constant life-threatening stresses of combat. The effects of TBI and PTSD include cognitive disabilities, attention and concentration difficulties, emotional disability, memory and word search problems, the effects of which may include chronic anxiety, panic attacks, relationship problems, problems holding a job, substance abuse and, sadly, even domestic violence.

“I hope through our military assistance project, lawyers will help steer veterans toward existing programs that can help,” Davis said. “For example, the Brain and Spinal Cord Injury Trust Fund established by the state of Georgia exists to provide


financial assistance to those who are injured. The Brain Injury Association of Georgia and the Brain Injury Resource Foundation provide information, resource listings, support groups and peer visitor programs for traumatic brain injury survivors. The Shepherd Center, through a grant by the Bernard Marcus Foundation, administers a brain injury rehabilitation program for returning veterans. Raising awareness of resources like this could be an important function of our program.”

The committee is addressing a host of issues during the program’s developmental stages, including how cases will be prioritized and assigned. Under discussion is a plan to develop two lists of attorneys, those who would provide fee-based services and those who would offer pro bono representation. Cases would first be directed to the fee list, based on the lawyer’s geographic location and area of expertise. Servicemembers who are unable to pay any legal fees would be referred to the pro bono list.

Regarding case priority, committee members are considering a system of handling deployed servicemembers’ needs first, followed in order by pre- and post-deployment issues, general active duty, veterans with pending disability benefit claims, reservists and retirees.

The committee is also investigating ways to support referral and volunteer attorneys with training and resources, to help make any pro bono or referral relationship cost effective and attractive for Bar members, especially so for rural and small-firm lawyers.

“We are informing ourselves about the complexities of working across the lines of the various branches of the military service and the differing needs of National Guard, reservists, and active duty personnel,” says Bramlett. “We are focused on making the Georgia lawyers who decide to participate in this effort the best-trained and best-prepared attorneys in the United States to meet these needs. The committee is mindful that we have before us an opportunity for Georgia lawyers to say thanks to our servicemembers and veterans for all they do, often at significant personal sacrifice, to protect our country.”

Accompanying this article is a survey form for all Bar members to complete in an effort for the committee to determine interest and willingness among Georgia lawyers to participate in helping meet the legal needs of our servicemembers, reservists and veterans, either on a pro bono or fee basis. Please complete the survey found on page 34 and return it no later than Oct. 31. You may also complete the survey online at www.gabar.org. 



Linton Johnson is a media consultant to the State Bar of Georgia.

GROW
YOUR 401(k)
WISELY



LEARN HOW
YOU CAN
GROW YOUR
401(k) WISELY

Call an ABA Retirement
Funds Consultant at
1-877-947-2272
www.abaretirement.com

 ABA
Retirement
Funds™

Six things you won’t hear from other 401(k) providers...

1. We were created as a not-for-profit entity, and we exist to provide a benefit
2. We leverage the buying power of the ABA to eliminate firm expenses and minimize participant expenses
3. Our fiduciary tools help you manage your liabilities and save valuable time
4. Our investment menu has three tiers to provide options for any type of investor, and our average expense is well below the industry average for mutual funds
5. We eliminated commissions, which erode your savings, by eliminating brokers
6. We have benefit relationships with 29 state bar and 2 national legal associations.* No other provider has more than one.

* Alabama State Bar
State Bar of Arizona
Arkansas Bar Association
Colorado Bar Association
Connecticut Bar Association
The District of Columbia Bar
State Bar of Georgia
Hawaii State Bar Association
Illinois State Bar Association
Indiana State Bar Association
Iowa State Bar Association
Kansas Bar Association
Louisiana State Bar Association
Maine State Bar Association
Minnesota State Bar Association
The Mississippi Bar
State Bar of Nevada
New Hampshire Bar Association
State Bar of New Mexico
New York State Bar Association
North Carolina Bar Association
State Bar Association of North Dakota
Ohio State Bar Association
Oklahoma Bar Association
Rhode Island Bar Association
State Bar of Texas
Vermont Bar Association
Washington State Bar Association
State Bar of Wisconsin
American Immigration Lawyers Association (AILA)
Association of Legal Administrators (ALA)



For a copy of the Prospectus with more complete information, including charges and expenses associated with the Program, or to speak to a Program consultant, call 1-877-947-2272, or visit www.abaretirement.com or write ABA Retirement Funds P.O. Box 5142 • Boston, MA 02206-5142 • abaretirement@us.ing.com. Be sure to read the Prospectus carefully before you invest or send money. The Program is available through the State Bar of Georgia as a member benefit. However, this does not constitute, and is in no way a recommendation with respect to any security that is available through the Program. 11/2007