

## PRO BONO MATTERS

## Acceptance of the Janet R. Spragens Pro Bono Award

By T. Keith Fogg\*

**Introductory Note:** This year, the Section has the honor of bestowing the Janet R. Spragens Pro Bono Award on an individual who has had a profound impact on the pro bono community, as well as on his own pro bono clients. Professor T. Keith Fogg is the Director of the Federal Tax Clinic at Villanova University School of Law. In this role, he “touches” every case that comes into the clinic, giving assistance to pro se petitioners and training and mentoring future generations of pro bono attorneys. In the words of three of his nominators, “it would be easy for him to remain in the shelter of his academic post, but he does not. Rather, he spots injustices in tax policy and procedure and advocates for systemic change.”

Keith is active in the Tax Section and the LITC community and serves as Editor-in-Chief of the Section’s two-volume *Effectively Representing Your Client Before the IRS*, which many low-income taxpayer clinics and private practitioners rely on to help resolve their clients’ tax disputes. In addition, Keith finds time to write and publish articles and regularly contribute to the blog, *Procedurally Taxing*, which he co-founded. Keith currently serves on the Tax Section Council and is a past chair of the Section’s Pro Bono and Tax Clinics Committee.

For those of us who attended the Section’s 2015 Midyear Meeting in Houston, Keith’s remarks upon receiving the Pro Bono Award inspired and challenged us to think differently about serving low-income taxpayers. He has graciously allowed us to publish his remarks in this issue of the *NewsQuarterly*. —Katherine E. David, Chair, Pro Bono Award Committee

Thank you very much for this honor. I am humbled to follow in the footsteps of so many outstanding prior recipients of this award. I want to spend a few moments thanking some of the people who helped me get to a place where I could provide effective pro bono service to others, and then I want to ask two things of you so we as members of the tax bar can better serve the needs of the unrepresented.

I was very fortunate to have a mom who was deeply involved in volunteering in the less well-to-do neighborhoods of Richmond, Virginia. Throughout my childhood she dragged me along as she pursued her volunteer work. From her I learned both the value of volunteering to assist others and how very privileged I was to live in a comfortable suburb with wonderful, supporting parents.

I was very fortunate to get hired by the Service’s Office of Chief Counsel when I graduated from law school. Working there, I had the good fortune to work in an environment in which my office and my client sought to do the right thing and to find the right answer. Doing the right thing and finding the right answer is not always easy and becomes especially

challenging in an adversarial system in which the other party is unrepresented.

I was very fortunate in 1992 when I was the District Counsel in Richmond, Virginia, to receive a cold call one day from a new law graduate who had an idea about starting a tax clinic in Richmond. She had worked as a tax professional for a number of years before going to law school. Upon graduation she found it difficult to find opportunities for pro bono service to taxpayers. Her idea was to start a nonacademic tax clinic, something which had never been done up to that point, through which tax professionals could use their expertise to assist taxpayers who would otherwise be unable to pay for representation. We spoke for about an hour, and her passion for the project was unmistakable. I encouraged her to pursue the idea, not knowing how much I would learn as Nina Olson founded and developed the Community Tax Law Project to serve the same taxpayers with whom my office worked.

I was very fortunate in 2007 to get hired by Villanova Law School to direct the tax clinic there. Villanova hired me despite the fact I had never seen or set

foot in an academic clinic or written a scholarly paper.

I was very fortunate at Villanova to follow Les Book, another Janet Spragens Award recipient, who mentored me. He helped me to learn how to teach a clinic, how to produce scholarly research, and how to get involved helping low-income taxpayers in the greater community.

I was very fortunate as a faculty member at Villanova to become a member of the ABA through their group membership. Although I had attended Tax Section meetings several times as a speaker during my career with Chief Counsel’s office, I had not joined the ABA because of financial reasons. Villanova not only provided the membership but also the support to attend meetings and become involved.

I was very fortunate at a Section meeting shortly after I joined the Villanova faculty to meet Joe Schimmel. Joe, another Janet Spragens Award recipient and then the chair of the Low Income Taxpayers Committee, got me involved in the work of the committee literally within minutes of my asking and soon brought me into committee leadership.

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Section Chair Armando Gomez (left) and Pro Bono Award Recipient Keith Fogg (right)

I was very fortunate to work on the committee with other great leaders in the low-income taxpayer community—Kathryn Sedo, George Willis, and Susan Morgenstern—who taught me and assisted me in my work with the Tax Section and with other clinicians and taxpayers.

Those I have named and many others assisted me in my journey and helped me to live a very privileged life. They helped me to help others, and I wish to thank every one of them for their assistance over the years.

Since joining the low-income taxpayer community, I have observed how difficult it is for many of the clinicians in that community to effectively serve their clients. They are hindered by many impediments. (I wrote about this in some detail in an article published in the management journal for legal services, Keith Fogg, *Tax Issues Facing Clients of Legal Services*, Volume XXVIII, No. 1, at 17 (2014).) One of the biggest impediments is that most nonacademic clinicians are the only tax person in their office. They have no one in the office to mentor them as they try to learn the

complexities of tax law. Frequently, tax clinicians do not have a significant background in tax law before being handed the job of running the clinic. In some instances they get assigned to the task because someone else leaves. Previously, tax clinicians may have practiced consumer law, housing law, or immigration law. Suddenly, they are called on to be tax lawyers, too, with no one in the office to guide their development.

Additionally, most nonacademic low-income taxpayer clinics do not have good research resources. They do not have access to Lexis, Westlaw, or Checkpoint. Rather, they must perform their research using Google and Cornell Law and other similar free sites. This makes a difficult situation worse. Because of this, the book published by the Tax Section, *Effectively Representing Your Client Before the IRS*, and provided at no cost to every tax clinic, becomes an even more valuable resource than might be imagined. I have worked to edit and write in this publication because of its importance in guiding the clinicians who greatly need this assistance. The

focus of my pro bono efforts has been on assisting clinicians so that they can more effectively assist their clients. I was fortunate to come to the tax clinic world with decades of tax experience that most of them lack.

With this background in mind, I make two requests of you. First, I ask that you get to know the clinicians in your community. Take them to lunch. Even though you may not know low-income tax issues, you know tax and how the tax system works. Your guidance and assistance to the clinicians could greatly assist them in learning and becoming more effective. You can also assist in integrating them into the tax practice community in your area. (Look to Publication 4134 if you do not know your local clinic. If your community does not have a tax clinic, you might work to create one.)

Second, I request that you join with me in seeking to create a support center for tax clinics. In the 1960s and 1970s when the Legal Services Corporation was created and being developed, the need for support centers in each of the areas of poverty law was identified. Over the decades these support centers have grown into significant repositories of knowledge and assistance to the lawyers engaged in representing individuals on the issues facing the poor in America. The support centers not only assist on individual cases but build information for broader advocacy on issues facing their constituencies. Because taxes came late to the table of low-income representation, no support center developed in the tax area at the same time.

In 1998 when Congress passed section 7526 and created the grant for low-income tax clinics, the Senate bill recognized the need for a support center and authorized use of grant funds to create and sustain a support center. The House version of the bill did not contain the provision, and ultimately the House version prevailed, meaning that all of the grant money authorized goes

directly to operating clinics. While that is not a bad result, it has meant that tax clinics have operated without the kind of overall support available in other areas of poverty law. The Tax Section, with all of the work it does, has stepped into this breach, particularly in the area of comments on proposed rule-making and also in the area of training. The National Taxpayer Advocate has also stepped into this breach, particularly in the area of research on issues impacting low-income taxpayers and also in the area of training.

Still, there exists a gap between the needs of the low-income tax clinic community and the ability of the Tax Section or the NTA to provide assistance. As my second request, I ask that members of the Tax Section join with me in seeking to create a support center that directly serves the tax clinics and provides a voice in the greater community for issues impacting low-income taxpayers. A support center focused on the issues that impact this specific community would allow for greater advocacy and research into these

issues and a consistent voice to speak for the community before Congress and the Service. This is an opportunity to significantly increase the effectiveness of the representation of these clients both through greater training and also through a more unified and focused voice on important issues.

I thank the Tax Section again for choosing me for this important award and for all of the work it does to assist those who would otherwise go without representation in a complex and bewildering tax system. ■

## Uncle Sam: “We Need a Few Good Tax Lawyers”—Military VITA Training Opportunities Through the “Adopt-A-Base” Program

By C. Wells Hall, III\*

The Section of Taxation has partnered with the U.S. Armed Forces (the “Armed Forces”) and the Internal Revenue Service (the “Service”) to train Armed Forces personnel to become return preparers for other military personnel and their families as part of the Military Volunteer Income Tax Assistance Program (VITA).

Budget constraints have made it difficult for the Service to provide in-person training for Military VITA volunteers. This is where you come in as a member of the Section of Taxation! By volunteering as a Military VITA instructor, you will help provide military personnel and their families with access to free tax preparation services that address their unique military tax issues.

**Volunteers will not be preparing returns themselves**, but will instead train the VITA volunteers at military installations on substantive tax issues relevant to returns prepared for Armed

Forces personnel. **Prior individual tax return experience is not required** (although it makes the certification process easier). The Service will provide all the necessary training to participate in the program through an on-line training course, available to suit your own schedule. This is a valuable opportunity for meaningful pro bono work while fostering relationships with your local military installation and the Service.

For the 2014 filing season, Section of Taxation members provided Military VITA instruction at 24 training sites for 31 Armed Forces installations in 14 states and the District of Columbia. This is a significant expansion of the Program from 8 training sites and 9 Armed Forces installations for the 2013 filing season, and 4 Armed Forces installations for the 2012 filing season.

### Program Participants Share Experiences

**George Howell**, Chair-Elect of the Section of Taxation, led a team of tax lawyers with Hunton & Williams providing Military VITA instruction at Fort Lee in Richmond: *“I had a wonderful day providing VITA instruction to the military and civilian volunteers at Fort Lee. It made me feel good to help the men and women of our Armed Forces who sacrifice so much to protect our country.”*

**Kevin May**, of Graves and May in Wilmington, North Carolina, and Chair of the North Carolina Bar Association Section of Taxation Pro Bono Committee: *“I had the honor to work with the Military VITA program covering Camp Lejeune, Marine Corps Air Station New River and Cherry Point (Jacksonville, North Carolina). The men and women who serve our country face dangers that civilians cannot understand but still have*

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