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LAWYER OF THE YEAR

An Old Soldier Fills the Gap in Legal Services for Veterans

By Charles Toutant

About a year ago, an Army reservist just back from Iraq came to McCarter & English in Newark carrying \$10,000 in cash. He had lost much of his hearing in combat, the Army had decided to pay him a small, one-time disability benefit, and he had heard from fellow soldiers about a retired officer who could help.

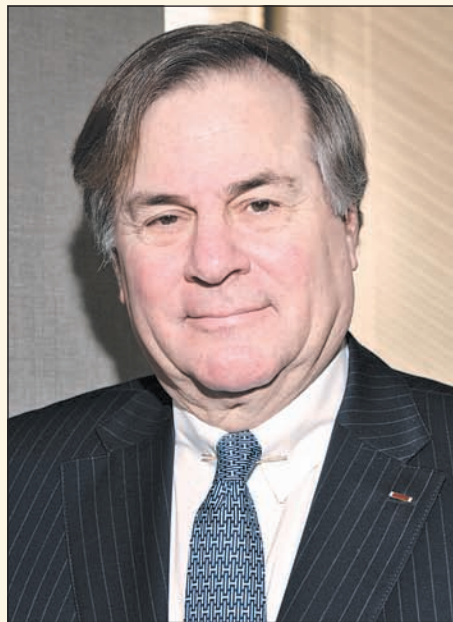
William Greenberg took the case, and the reservist was relieved to hear it wouldn't cost him a dime. Representing him pro bono, Greenberg won him the maximum benefit allowed — a pension equal to 75 percent of his military pay.

Greenberg has been the catalyst for New Jersey lawyers' pro bono efforts in behalf of reservists and other war veterans with unique needs for legal services. He initiated the State Bar Association's Military Legal Assistance Program, now in its third year of operation, which deals with not only benefits claims but also landlord-tenant, debtor-creditor, employment and family law issues facing soldiers during and after deployment.

Most recently, Greenberg has taken on a new post as chairman of the Reserve Forces Policy Board, the principal policy adviser to Secretary of Defense Robert Gates on matters relating to the reserve components of the Armed Forces.

For all of his work on behalf of reservists and veterans, Bill Greenberg is the *Law Journal's* Lawyer of the Year.

Greenberg, 66, a McCarter & English



WILLIAM GREENBERG

partner, served 27 years in the Army National Guard, retiring in 1994 at the rank of brigadier general. Since 2001, he has served as special assistant to the Adjutant General of the New Jersey National Guard for homeland security and military legal assistance.

In the years following 9/11, as reservists played a growing role in the nation's overseas war efforts, he became more sensitive to the impact on their private lives. Some reservists, despite 17 or 18 years of service, were unprepared to leave their jobs, spouses and families.

He discussed with reserve officers and with State Bar colleagues the need for a structured program to assist reserve per-

sonnel called to active duty and deployed to Iraq and Afghanistan with legal matters related to their service.

"Just looking at the demographics of the reserve components, it was clear to me there was going to be a need for lawyers that could help out on the home front," he says. "It's not that I was the only guy with this idea but I acted on it and asked the Bar Association trustees to approve this program."

Getting it going required a lot of explaining the problem to civilian lawyers, a task Greenberg excelled at, says Daniel Giaquinto, an army reservist and former Mercer County prosecutor, who worked with Greenberg at the outset.

"It was his vision and his effort and his clout as a former general and as a very respected member of the New Jersey legal community which got this going," Giaquinto says.

The Military Legal Assistance Program started in September 2006, with the State Bar's director of judicial administration, D. Todd Sidor, acting as liaison between volunteer attorneys and soldiers who request assistance.

Volunteer lawyers assist soldiers with problems ranging from matrimonial disputes to repossession of a car to an employer that does not honor its legal obligation to rehire a returning reservist. Because reserve pay is generally lower than soldiers receive at their regular jobs, debtor-creditor problems are common.

Giaquinto, as Command Judge Advocate of the 50th Infantry Brigade during a yearlong deployment to Iraq that ended in June, found the program vital. "A child custody issue or an employment law issue really has a devastating effect on someone when they're 6,000 miles away in a combat zone. There's almost a feel-

ing of helplessness," he says. Being able to e-mail the State Bar Association and promptly match the soldier with a lawyer back home was "a great relief."

Greenberg says there is a high volume of soldiers seeking representation before the military evaluation boards, which set benefits for those who return with combat injuries. He has taken about 50 such cases and has been to Washington, D.C., for hearings about 15 times in the past year and a half.

He says that soldiers who return with such problems as missing limbs or traumatic brain injuries or post-traumatic stress disorder are frequently offered a small benefit, like the 10 percent offered to Greenberg's hearing-impaired client.

To press for more benefits, they must appear before a three-member military evaluation board, which convenes at Walter Reed Army Medical Center in Washington, D.C. But waiting for a hearing can take months. In the meantime, the soldiers reside in a "Warrior Transition Unit" and spend their days on tasks like kitchen duty.

Evaluation boards used to decide some cases on the papers but are increasingly requiring parties and counsel to attend in person, in Washington, D.C. Hearings start at 7 a.m. and no adjournments are given. Because of the outlay of time and resources required, Greenberg and his McCarter & English colleagues have handled the bulk of the Walter Reed hearings themselves.

"Apart from getting them what they deserve financially, one of the things I'm grateful for, being able to do this, is to see the emotional weight lifted from these guys when you finally get them what they're owed and they can go home," Greenberg says.

Because indigency is not a prerequisite to qualify for the Military Legal Assistance Program, Greenberg says he considers serving "a matter of public service, not merely pro bono."

In the fall of 2008, state Chief Justice Stuart Rabner and Judge Garrett Brown

Jr. of the U.S. District Court each invited Greenberg to address gatherings of judges from their respective courts about the State Bar program.

Greenberg says he was met with "great good will" when he asked the judges to be tolerant of lawyers who sought adjournments in their regular cases because of competing commitments with the program.

In August, Greenberg was appointed chairman of the Reserve Forces Policy Board upon the recommendation of Sen. Robert Menendez, which gives Greenberg a chance to be a strong voice for reservists' interests. Among the issues he hopes to tackle is improving training and promotion opportunities.

"There's a long, long history of reserve components getting hand-me-downs and a place toward the end of the line in training and promotions," he says. "That is changing, but not fast enough for me."

He says he would like to see an overhaul of the system for awarding benefits to wounded reservists, though it may take an act of Congress. The system was created in World War II, when there were 12 million men in uniform, and is less well-suited to present conditions.

"The system creates this way of looking at things so that individuals at a fairly low level think they are saving the government money by haggling with a wounded soldier," he says. "To me that's not good. It's not what Congress intended. The law is clear [that] when in doubt, the benefit must go to the soldier. We are constantly making that argument."

But the soldier's plight has gotten less and less attention since the end of the draft in 1973. "We've lost a connection with the military that those of us in my generation had. That is a serious issue in a democratic republic — to have this kind of remoteness from day-to-day contact with a soldier," he says.

And he says reservists' need for legal services shows no sign of abating. "Even

though the [Iraq] war is winding down and even though the Afghanistan war will not go on forever, physical and mental injuries go on forever, and they are a responsibility of the government. That's my view," he says.

Since his Reserve Forces Policy Board appointment, Greenberg has stopped taking new military benefits cases and is wrapping up his current ones, since he feels appearing before a Department of Defense tribunal would create an appearance of impropriety.

Lawyers at Lowenstein Sandler of Roseland, who have made significant contributions of effort to the Military Legal Assistance Program, will take on some of the slack, Greenberg says.

This June, the State Bar Foundation awarded Greenberg its Medal of Honor, for his work in establishing the Military Legal Assistance Program and for his distinguished career and outstanding pro bono efforts on behalf of New Jersey's members of the military. In announcing the award, foundation president Mary Ellen Tully said of Greenberg, "With his more than 100 published opinions and other writings, teaching at Seton Hall and service to the state, he personifies the qualities a Medal of Honor recipient should possess."

Greenberg is an adjunct professor of military law at Seton Hall University School of Law and the author of *The Trial Handbook for New Jersey Lawyers*, published by Thomson/West.

He has served on the Supreme Court's Civil Practice Committee since 2005 and on the court's Committee on the Admission of Foreign Attorneys.

Greenberg has been in private practice as a litigator since his admission to the bar in 1967, with stints as deputy counsel to Gov. Richard Hughes and as a commissioner on the State Commission on Investigation. He was at Sills, Cummins & Gross from 1989 until 1993, when he joined McCarter & English. ■