

Court-Based Clinic Manual

A Product of The Volunteer Lawyers Project

2021

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Creating a Lawyer-for-the-Day Clinic

In creating our clinics, we began with court observation. It is important to note the following during observation:

1. How often sessions are held
2. Average list size
3. What kinds of cases are most common (pro se v. pro se, subrogation, debt collection, etc.)
4. How do clerks interact w/ pro se defendants
5. How does PL's counsel interact w/ defendants,

Once a list of potential courts was created, VLP began to approach the First Justices and Head Clerks of each court to explain our organizational model and what we could do to bolster justice at these sessions. It was particularly important to get the court to consolidate their small claims lists to certain days. We asked courts to begin separating Payment Review hearings from Magistrate hearings, and if possible, to schedule individual v. individual cases on a different day than the more common debt collection suits. Although it is certainly possible to assist clients during a payment review hearing, we have found that the most impactful use of our time occurs at the magistrate hearings.

VLP has been able to establish a highly successful partnership with the Attorney General's Office (AGO) to reduce default rates in these collections proceedings. Once a collection suit is filed in sessions that VLP is committed to attending, the AGO sends a letter to the last known address of the defendant stating the risks of not attending and that free legal services may be present at the hearing. While this letter does not specify VLP by name, we have found that clients are more likely to attend the hearings knowing that help may be available. This letter is attached in the appendix.

After the consolidation of the dockets to certain days, we began the process of volunteer recruitment. In courts that may have up to 60 cases in a single session, it is important to cultivate a group of volunteers who can commit to attending these clinics and take on 1-2 client cases each time. VLP is committed to doing quarterly substantive law training sessions for our volunteers, as well as regular volunteer recruitment events. We have partnered with Massachusetts Continuing Legal Education (MCLE) so that we can offer our volunteers reduced prices on in-person programs as an incentive for their service.

In-Person Clinics

On clinic days, we arrive at the courthouse an hour in advance of the hearing and set up a table for our organization. Our presence and signage alert defendants to the availability of pro bono legal services. Defendants in collection cases complete an eligibility screening and are then paired with a pro bono attorney who can offer legal advice and representation at the hearing. All clients are served on a limited assistance basis- meaning they sign a contract with VLP that explicitly states that the volunteer attorney will only represent them for the day. These attorneys also submit a Notice of Limited Appearance and subsequent Withdrawal to the court.

This limited appearance representation is an attractive means of getting attorneys to work on these cases. Often small claims matters can be resolved the day of the hearing and require little to no additional follow-up. VLP asks volunteers to be willing to represent clients in magistrate hearings or to negotiate settlements on behalf of clients. This allows attorneys to make a substantial positive impact on a client's life for only a few hours of work.

During these legal clinics, we track which clients are served using our case management software. We also track which cases pro bono attorneys work on, time spent on each case, results of the hearing, how many clients were *ineligible* for our services, which clerk magistrate was conducting the session, and how many total clients were served. Keeping track of these numbers allows us to refine our program so we know which sessions are busiest and what clerks are most responsive to our legal arguments.

Prior to the pandemic, we had successfully established six clinics:

Previous In-Person Clinic Schedule	
Quincy District Court Small Claims	1 st Tuesdays, 12:30pm-2:30pm
BMC Central Civil Session	Every Wednesday, 8:30am-11:30am
Cambridge District Court Small Claims	1 st and 3 rd Thursdays, 8:30am-11:00am
BMC Central Small Claims	1 st and 3 rd Thursdays, 1:30pm-3:30pm
BMC Dorchester Small Claims	2 nd and 4 th Thursdays, 10:30am-2:00pm
Malden District Court Small Claims	1 st Fridays, 9:00-11:30am

However, due to the state of emergency and Covid-19, VLP created remote clinics to continue to safely assist defendants.

Transitioning to Online Clinics

During the COVID-19 pandemic, VLP worked quickly to pivot to conducting our clinics online and to develop a protocol to meet client needs.

VLP's involvement with previous clinics varied based on how particular courts adapted to the COVID-19 pandemic. We focused on courts that had transitioned to an online model using video meeting services such as Zoom. Some courts that we previously operated in used a staggered teleconference format to accommodate remote hearings. Hearings are scheduled individually at staggered times. Unfortunately, this format is not conducive to running a clinic since it makes it much more difficult to communicate with different clients and would require too many staff resources and time to implement and maintain.

Towards the beginning of the pandemic, consumer debt cases were not being scheduled at all, however, eventually, courts began to schedule a small number of cases. During this period, VLP attempted to translate our in-person practices directly into the new online format. VLP staff and volunteers would log onto the online sessions, introduce ourselves, and then request to be sent to breakout rooms with potential clients. We continued to function using the "Lawyer for the Day" model, working with clients during a particular session, working to resolve their case that day, and then parting ways. However, online this process proved to be exceptionally inefficient. Meeting clients in individual breakout rooms proved to be exceptionally time-consuming and disturbed the flow of the docket. After discussions with clerks' offices, it was clear that we would need to find a more sustainable process.

To address this issue, VLP worked to adjust our model, changing our approach to virtual clinics. Rather than adhering to our traditional "Lawyer for the Day" model, we began to approach clinics with an information and referral model. Consumer debt cases remain consolidated to the days that VLP can attend sessions. At the beginning of these sessions, a VLP staff member takes a moment to explain our organization's purpose, and that we may be able to offer free legal services to defendants with consumer debt cases. We announce that if defendants are interested in our services, that they should let the clerk

magistrate know when their case is called. At this point, we provide VLP's contact information, both verbally and in the Zoom chat (if applicable). Here is a basic script for how we introduce ourselves and our services during sessions:

"Hello, we here are with the Volunteer Lawyers Project and may be able to provide pro bono legal assistance in your consumer debt case. If you are interested in our services, please contact us using the following information. Our phone number is [PHONE NUMBER]. You can also contact us via email using the following address: [EMAIL]. Please contact us as soon as possible so that we have ample time to review your case. If we are not able to answer the phone at the time that you call, please leave a voice message stating your name, and a number to call you back at. If you are interested in reaching out about our services, please let the Clerk Magistrate know when your case is called. I have also listed our contact information in the Zoom chat."

After introducing ourselves, VLP staff remains on the call, providing contact information if requested by defendants, and re-explaining our services to defendants who were not present at the beginning of the session. There is a general understanding between VLP and the magistrate that if a client is requesting VLP's information for the first time, that their hearing date will be postponed so that they can contact our organization. When we give our contact information to defendants, we let them know that they should contact us as soon as possible prior to their next hearing date to have the best chance of receiving services. A script for this introduction is included below. At the end of each session, using our case management software, we continue to log the outreach, but with adjusted information. For each clinic, we record the number of clients served (the number of clients actively represented at that hearing), the number of clients who indicated they were interested in contacting us, and the pro bono attorneys that were present at the clinic.

After the session, VLP takes calls from the clients who collected our contact information during the session. When defendants call, VLP conducts an intake with the client, collecting the information that we would have previously collected at the LFD clinic. Once the client has been screened, the Consumer Unit at VLP determines whether the case is suited for legal advice, referral to our pro bono panel, or staff representation. At this point in the process, we send the Limited Assistance Representation Form (LAR), detailing the service that we plan to provide. Often, the service VLP provides is referral to our pro bono panel. This form is sent virtually through our case management system.

If the case is suitable for referral, the case is sent to the pro bono panel, and VLP staff drafts a referral memo to send to the potential pro bono attorney. The pro bono panel is comprised of many of the attorneys who previously attended and participated in our LFD clinics. The referral memo includes the client's contact information, opposing party information, the date and location of the next hearing, and information about the client's consumer debt case. We have attached an example of one of these referral memos.

Once the case is referred, VLP provides support to the pro bono attorney as needed and continues to monitor the case. When the case is resolved (whether through trial or negotiation), VLP asks the pro bono attorney to complete a brief form indicating the number of hours they spent on the case, and the outcome of the case.

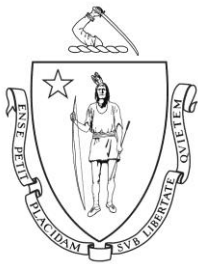
It should be noted that some of the other clinics that we previously hosted did not continue in online formats. We have only been able to operate in courts where the sessions are live and hosted on Zoom.

Other courts have used different remote formats that do not make it possible for our clinics to remain operational at this time. The chart below represents our current clinic schedule:

Current Clinic Schedule	
BMC Central Civil Session	1 st and 3 rd Wednesdays, 9:00am
BMC Central Small Claims	1 st and 3 rd Thursdays, 11am & 2:00pm
BMC Dorchester Small Claims	2 nd and 4 th Thursdays, 11:00am & 2:00pm

Since the pandemic, we have not been operating in Quincy District Court, Malden District Court, or Cambridge District Court.

Letter from the Attorney General's Office



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL
ONE ASHBURTON PLACE
BOSTON, MASSACHUSETTS 02108

MAURA HEALEY
ATTORNEY GENERAL

(617) 727-2200
(617) 727-4765 TTY
www.mass.gov/ago

«Name»
«Address_1»
«Address_2»

Dear «Name»,

This is the Office of the Massachusetts Attorney General writing. Don't worry, you're not in trouble. We'd like to help you!

We're writing because you've been sued by a company to collect a debt. This company has told the court you owe the company money. They're asking a court to force you to pay them. But they haven't had to prove it yet. Maybe you do owe this money, maybe you don't. Maybe you owe something, but not what they're asking for. Maybe you owe someone, but you're not sure if this is the company that you owe.

But you cannot ask these questions or present your side of the story unless you go to court. If you show up, a judge will listen to your side of the story and make a decision based on all the information. If you don't show up, the judge will only hear from the company and could rule against you, without hearing a word from you. After that, a judge could order that money be taken from your paychecks, or force you to pay. The judge should hear your side of the story. But to share your side, you have to go to court.

In short: we're asking you to go to your court date on [INSERT DATE] at 1pm in the Boston Municipal Court, Courtroom D, 5th Floor. The courthouse is located at 24 New Chardon Street, Boston, MA 02114.

When you get to the court, there will be **free attorneys to help you** from the Volunteer Lawyers Project just outside the courtroom. Just look for the sign that says "VOLUNTEER LAWYERS PROJECT".

If debt collectors are calling or writing you about any other debts, the Attorney General's Office may be able to help you. Please visit our table while you're at court, **[INSERT DATE]**, to speak with a staff member from our office.

If you have any questions about this, please call Timothy Depin in our office at 617-963-2313 and we'll be happy to talk with you.

Sincerely,
Timothy Depin
Community Engagement Division
Massachusetts Attorney General's Office

Sample Referral Memo

REFERRAL MEMORANDUM FOR CONSUMER CASE

To: Volunteer Attorney

From: Colin Harnsgate

Date: [REDACTED]

VLP Case No.: [REDACTED]

Client Name: [REDACTED]

Client Phone: [REDACTED]

Client Address: [REDACTED]

Opposing Party: Velocity Investments LLC, assignee of Prosper Funding LLC, assignee of original creditor WebBank

Opposing Counsel: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Court: BMC Central (Zoom)

Docket No.: [REDACTED]

Issue: Our client is a [REDACTED] whose sole income is monthly SSDI [REDACTED]. He is being sued by a debt collector case in BMC Central Small Claims Court in the amount of \$6,086.81 plus \$150 in court costs. The next court date [REDACTED]

There are three parties involved with our client's alleged account: WebBank ("original creditor"), Prosper Funding LLC ("original debt buyer"), and current plaintiff Velocity Bank ("secondary debt buyer"). The plaintiff must produce either a bill of sale or some other document evidencing they are the proper owners of our client's specific debt. *See Kimhow v. Rawii*, 2012 Mass. App. Div. 48 (2012); *Norfolk Financial v. Mazard*, 2009 Mass. App. Div. 255 (2009); *Portfolio Recovery Associates v. Metcalf*, 2015 Mass. App. Div. 190 (2015).

In their statement of small claim, the secondary debt buyer produced only our client's account number and date of last payment. This is insufficient to show the secondary debt buyer's ownership, and any volunteer taking this case should request further evidence of the assignment.

The volunteer taking this case may be able to negotiate a hardship dismissal of the case based on the client's income. Our client's income of Social Security is exempt from collection and cannot be used to pay this alleged debt.

Next Court Date:

[REDACTED]

Next Steps:

Please refer to the *Pro Bono Remote Representation Instructions* attached to this memorandum.

VLP Contacts:

Karla Mojica Perez (Paralegal – Consumer & Bankruptcy)
(857) 320-6463 · kmojicaperez@vlpnet.org

Colin Harnsgate (Staff Attorney – Consumer & Bankruptcy)
(857) 320-6458 · charnsgate@vlpnet.org

PRO BONO REMOTE REPRESENTATION INSTRUCTIONS

Welcome, and thank you for your interest in the VLP Consumer Unit's "remote" Lawyer-for-the-Day program! After you take a case with us, please follow these instructions:

1. VLP will email you all case documents that we have and the client's contact information. Review these documents and the client's case details.
2. Fill out a Notice of Limited Appearance (NLA) and Withdrawal of Limited Appearance (WNLA).
 - a. The forms are available for download [here](#).
 - b. List the date of the next hearing on the NLA and write in "*negotiation with opposing party before hearing*".
3. Call your client and tell them you are a volunteer with VLP and will be representing them in their case by Limited Assistance Representation.
4. Your client needs to sign the NLA or give you permission to sign it for them.
 - a. Email your client a copy of the completed NLA and ask that your client review it and respond, "I have reviewed the Notice of Limited Appearance and authorize you to sign it for me."
 - b. Type in the date and the client's e-signature as:
"/s/ Client's Name (signed w/ approval, LFD)"
5. Ask your client to email you a picture of their benefits letter (if applicable).
6. Email a copy of the completed NLA to VLP. VLP will file it with the court.
7. Email the creditor's attorney asking for documents they intend to introduce at the hearing. Attach a copy of your completed NLA and your client's benefit statement.
8. Negotiations:
 - a. If your client is on public benefits, ask the creditor's attorney to dismiss the case without prejudice.
 - b. If your client wants to settle the debt, ask the creditor to reduce the claim amount in exchange for your client to make affordable monthly payments.
 - c. If no settlement is possible, prepare for the small claims "trial" and consult with VLP staff attorneys.
9. After you have completed what you agreed to do in the NLA, email opposing counsel a copy of your WNLA and email a copy to VLP. VLP will file it with the court.

Sample Limited Assistance Representation Form

Notice and Terms of Limited Assistance Representation (LAR)
FOR REMOTE CLINIC ONLY

Client's Name: [REDACTED]

VLP Case Number [REDACTED]

How VLP Will Help

If you qualify for free legal aid, a volunteer or staff attorney from the Volunteer Lawyers Project (VLP) or a law student or paralegal under the supervision of a VLP attorney will provide, free of charge, the assistance described in the Scope of Limited Assistance below.

Scope of Limited Assistance:

**Virtual Clinic LAR
Scope**

VLP will provide representation at [REDACTED] small claims hearing on 10/14/2021 at 2PM in BMC-Dorchester Small Claims Session for the case with docket no. [REDACTED] and negotiation with opposing party prior to the hearing.

Terms of Representation:

- The Lawyer will enter a Notice of Limited Appearance on your behalf in the above case. After the court event listed above, our representation of you will be finished and the lawyer will file a Notice of Withdrawal of Limited Appearance. The lawyer is NOT agreeing to represent you for the whole case, at more than one court event, or in any post-judgment proceeding or appeal.
- Any form the lawyer helps you fill out will be stamped PREPARED WITH THE ASSISTANCE OF COUNSEL. If the lawyer puts their name on a court form, the lawyer will also write "Attorney of [party] for the limited purpose of [court event or issue]" in bold print.
- **Your conversation with the lawyer is confidential.** The lawyer who helps you will not give any information about your case to any person or agency without your permission.
- The help the lawyer gives you is based on the information you give the lawyer. The lawyer has not investigated the information, claims, or facts of your case and is relying on you to make your best effort to give truthful, accurate and complete information..
- If while helping you the lawyer learns that you do not qualify for free legal aid or if you do not cooperate with the lawyer, the lawyer may decide to stop helping you.

all 3 results

Created date	Attestation Name	Attestation	Type	Name Entered	Signature	IP Address
08/06/2021	Citizenship Atte tation	I am a citizen of the United State .	Citizenship Atte tation			
08/06/2021	Permission to Share Intake Information	<p>I give permission to the Volunteer Lawyers Project (VLP) to share information from my intake with parties outside VLP such as the agency that provides funding for our work and auditors or monitors who review the work VLP does with this funding.</p> <p>I also give VLP permission to share information from my intake with volunteer attorneys outside VLP who may be able to assist me if I qualify for VLP services. VLP will not share this information with anyone else without my permission.</p>	Permission to Share Information			

[REDACTED]

ACCESS LOG

all 3 results

Load Date/Time	IP Address
08/09/2021 at 9 58 AM	[REDACTED]
08/06/2021 at 4:51 PM	[REDACTED]
08/06/2021 at 4:50 PM	[REDACTED]

Remote VLP Clinic Roadmap

A. MEETING CLIENTS

1. VLP staff meet potential clients at one of our clinics.
2. VLP provides our contact information in a live court Zoom session.
3. Any time a potential client wishes to speak with us, the court postpones their hearing to a date roughly one month into the future.



B. INTAKE

1. Potential clients contact VLP at the number provided during the previous court session.
2. A VLP staff member conducts an intake to determine client eligibility and case merit.
2. If the client is eligible, their case is discussed at unit case review the following week.



C. ASSIGNING CASES

1. At unit case review, a client's case is assigned to a VLP staff attorney and paralegal to oversee placement of the case.
2. The unit will decide to whether to refer the case to a volunteer for representation or to a staff attorney.



D. PREPARING FOR REFERRAL

1. VLP staff attorneys will direct interns or paralegals to obtain preliminary documents from clients and add court dates to a shared calendar.
2. If the case will be referred to a volunteer, a VLP intern will draft a referral memorandum with key information about the case.



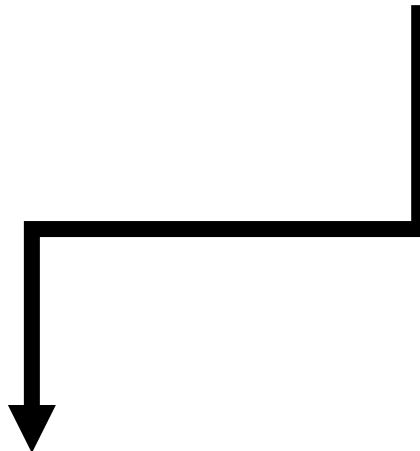
E. REFERRING CASES

1. Once all necessary documents are signed by and collected from the client and the referral memorandum has been reviewed by a staff attorney, the case will be referred to VLP's "consumer pro bono panel."
2. VLP staff write a short blurb describing the case, place the case in the appropriate status in our case management system (Legal Server), and inform VLP's Pro Bono Unit that the case is ready for referral.
3. VLP's Pro Bono Unit refers cases once a week via email with a description of each case.



F. ASSIGNING CASES TO VOLUNTEERS

1. When a volunteer wishes to take a case, they inform the Pro Bono Unit.
2. The Pro Bono Unit will assign the case to the volunteer in Legal Server and inform the staff attorney, client, and volunteer of the assignment.



G. VOLUNTEER ACTIONS (FIRST STEPS)

1. Volunteer contacts the client and discusses the case and next steps.
2. Volunteer confirms client's income to understand potential avenues for settlement.
3. Volunteer asks the client to sign or obtains the client's written permission to sign the Notice of Limited Appearance (NLA) on the client's behalf.
4. Volunteer files or asks VLP to file the NLA with the court.
5. Volunteer contacts opposing counsel to discuss settlement, dismissal, and obtain any documents needed for trial. Volunteer provides a copy of their signed NLA to opposing counsel.



H. VOLUNTEER ACTIONS (SECONDARY STEPS)

1. Volunteer reviews any credit card statements with the client to confirm purchases & payments.
2. Volunteer discusses settlement details, if applicable.
3. Volunteer continues to negotiate with opposing counsel to obtain a settlement or dismissal.
4. If the case cannot be settled, volunteer prepares for client's small claims trial.
5. Volunteer keeps VLP updated about case status and progress at least once every 30 days.



I. VOLUNTEER ACTIONS (CONTINGENT ON RESULT)

1. Trial:

Volunteer represents client at trial.

Volunteer keeps client updated with result of hearing.

After trial result is entered, volunteer explains the result to the client and any action needed on the client's part.

Volunteer sends client a closing email or letter summarizing assistance provided and any other necessary details.

2. Settlement:

Volunteer sends client details of settlement in writing to ensure client has all necessary information.

Volunteer sends client a closing email or letter summarizing assistance provided and any other necessary details.



J. VOLUNTEER ACTIONS (FINAL STEPS)

1. Volunteer informs VLP that the case has been resolved and sends VLP any documents from the case.
2. Volunteer fills out and files (or asks VLP to file) a copy of their WNLA (not necessary when case was dismissed with prejudice or a judgment for Defendant entered)
3. VLP will send the volunteer a closing survey, which the volunteer should promptly complete. The survey will automatically be sent to VLP.



K. CLOSING THE CASE

1. After VLP receives the closing survey from the volunteer, a VLP paralegal or intern will prepare the case for closing.
2. As part of the close prep, the paralegal or intern will ensure any dispositive documents are in the file, all staff and volunteer time is recorded, and that the case notes are clear about the result.
3. Sometimes, a VLP staff person will also ask the client to fill out a closing survey about their experience.
4. After the case is prepped for closing, a VLP staff attorney will review the case for completeness.
5. The case is then closed and the assistance for that client's case is concluded.