

In Memoriam: David A. Pels

The CBA Pro Bono Committee Says Goodbye to Its Longest-Serving Member

By CECIL J. THOMAS

It is hard to say farewell, especially in these difficult and uncertain times, when our traditional forms of gathering, of saying goodbye to those who have left us, are so changed. And yet, the essence of farewell remains the same. We keep those we have lost alive in our memories, in purposeful tributes, in the (virtual) gathering of community, in the spoken and written word, in the actions we take in furtherance of lessons taught, and examples set. On behalf of the CBA Pro Bono Committee, I share a few words of remembrance and gratitude in honor of our longest-serving member, Attorney David A. Pels.

David A. Pels, who spent his 45-year career representing tenants facing eviction at various Connecticut legal aid programs, passed away this July. David was the model legal aid lawyer—tenacious and creative in his work, deeply committed to his clients, willing to raise and pursue issues to whatever end was necessary to obtain justice. During his long and inspiring career, David represented tens of thousands of tenants facing eviction, as one of a small handful of legal aid attorneys that constitute the only eviction defense bar in Connecticut. He helped define landlord-tenant law, starting in the earliest days of Connecticut's Housing Courts, and obtained countless precedent-setting victories for low-income tenants over his many decades of work.

David was also the longest-serving member of the CBA Pro Bono Committee. The Pro Bono Committee, in its current form, was established in 1989. He became a member at its formation that year, and

remained an active member for 31 years. David regularly conducted eviction defense trainings through the CBA's Pro Bono Committee and other groups, to provide support to attorneys in private practice who had agreed to provide pro bono legal representation. Despite his retirement in July of 2019, and his struggles with a serious illness, David volunteered for the CBA's Annual Pro Bono Legal Clinics in October of 2019, attended committee meetings throughout the year, and was appointed by the CBA to the Board of Directors of Statewide Legal Services in May of 2020. David was invested in committee efforts to expand access to justice to low-income tenants facing eviction in Connecticut, and was planning to volunteer his time in furtherance of those efforts.

David was not one to seek the limelight, and I can almost see and hear his likely reaction to this tribute: an eyebrow raised in skepticism, his signature scoff showing that he placed little stock in pomp and circumstance. David, of course, received many honors for his exemplary career—from the Public Housing Residents Network in 2015, the CBA Charles J. Parker Legal Services Award in 2016, and posthumously, the Connecticut Bar Foundation Legal Services Leadership Award in 2020. On behalf of the CBA Pro Bono Committee, it is my honor to be able to share this remembrance of one of our most dedicated and respected members.

I had the privilege and honor of working closely with David. He was a zealous advocate, deeply beloved by his clients, and



feared by his opponents. His uncompromising commitment to his clients, and his encyclopedic knowledge of the law, were awe-inspiring. He was a great teacher and moot participant, especially if you enjoyed his penchant for the Socratic method, and his love of blistering questioning. David took the hard cases, and represented tenants who had difficult issues, because he understood the complexities of poverty, and never sought to judge anyone for the manner in which they navigated those difficulties.

David and I were different in many ways, but our differences never seemed material to our work together. He never failed to treat me as an equal, to show me that he respected my perspectives and opinion, and that he trusted my judgment as a colleague. As a young, first-generation lawyer seeking to find my way in this pro-

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He is an attorney at Greater Hartford Legal Aid, where he has represented thousands of low-income clients, predominantly in housing matters, since 2006, and has obtained significant appellate and class action victories on behalf of low-income Connecticut residents. Attorney Thomas also co-chairs the legal aid subcommittee of the Covid-19 taskforce, which led the development and launch of Pro Bono Connect in April and May of 2020.

District Court for the District of Connecticut⁵ have ruled that the CFEPA should be interpreted consistent with its federal counterpart. Yet, some other states with antidiscrimination statutes which do not identify an age limit have found so-called “reverse age discrimination claims” (i.e. lawsuits by younger employees claiming discrimination because an older employee was preferred solely due to age) to be cognizable claims.⁶

When speaking on employment law topics, I am often asked which types of employment-related lawsuits I anticipate given current circumstances and societal trends. When I have been asked this question throughout the pandemic, I have quickly responded that we might expect a rise in age discrimination claims, disability discrimination claims, and family and medical leave claims given that legitimate COVID-related employment decisions may nevertheless disproportionately impact older workers, some of whom are at a higher risk given underlying medical

conditions, or workers with family members with underlying medical conditions. However, as I expressed in my previous article, the pandemic presents challenges to attorneys of all ages, including younger lawyers. Indeed, younger lawyers are not immune from harassment and discrimination simply by virtue of not yet having attained age 40. Therefore, the pressures of the pandemic and the historic social justice movement of this year may very well also impact the types of age discrimination complaints that may be asserted, and our state’s high courts might have an opportunity to provide a more definitive answer regarding whether the CFEPA protects employees under 40 years old sooner rather than later. ■

NOTES

1. 29 U.S.C. § 631.
2. Conn. Gen. Stat. § 46a-60(b)(1).
3. *CHRO, ex rel. Stephen Warner v. NERAC, Inc.*, CHRO No. 0840031 (Ruling on Respondent’s Motion to Dismiss, August 2, 2012).
4. *Therault v. Renbrook Sch.*, No. CV 17-6076937-S, 2019 Conn. Super. LEXIS 199, at

*19 (Feb. 14, 2019) (“An age discrimination plaintiff over forty years old is in the protected class.”); *Donegan v. Town of Middlebury*, No. CV156026920S, 2018 Conn. Super. LEXIS 516, at *12 n.3 (Conn. Super. Ct. Mar. 9, 2018) (“CFEPA does not contain a specific age that identifies which individuals belong to the protected class. Nonetheless, courts have turned to the same age used by the ADEA, to wit, forty.”); *Benedetto v. Dietze & Assocs., LLC*, No. UWYCV126015898S, 2014 Conn. Super. LEXIS 810, at *9 (Apr. 10, 2014) (“The record shows that the person who replaced Ann Marie Benedetto was forty-seven years old, and, therefore was herself in the protected class.”).

5. *Soules v. Connecticut*, No. 3:14-CV-1045 (VLB), 2015 U.S. Dist. LEXIS 131985, at *26 (D. Conn. Sep. 30, 2015); *Smith v. Connecticut Packaging Materials*, No. 3:13-cv-00550 (JAM), 2015 U.S. Dist. LEXIS 5265, at *6 n.4 (D. Conn. Jan. 16, 2015); *Guglietta v. Meredith Corp.*, 301 F.Supp.2d 209, 212-13 (D. Conn. 2004); *Rogers v. First Union National Bank*, 259 F. Supp. 2d 200, 209 (D. Conn. 2003) (“As to the specific age the Connecticut Supreme Court would select, it appears that the Supreme Court would use the same age floor used in ADEA-age 40.”).
6. Tracey A. Cullen, *Reverse Age Discrimination Suits and the Age Discrimination in Employment Act*, 18 J. Civ. Rts. & Econ. Dev. 271, 304-08 (2003).

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fession, that camaraderie and bond was always deeply meaningful to me. I’ve devoted a fair amount of time in efforts to understand and address our profession’s diversity, equity, and inclusion challenges. When I think of moments of meaningful inclusion, in my own professional life, my work with David comes to mind immediately. I was proud to work alongside him, to share in so many hard-fought battles and challenges, and to face some of my own with his advice and guidance.

Although we e-mailed frequently afterwards, the last time I saw David was during a virtual Pro Bono Committee meeting at the end of the 2019-2020 bar year. As I begin my service as chair of the Pro Bono Committee, I miss David’s presence and wisdom. I miss his e-mails inquiring about projects, or offering (sometimes unsolicited) advice on new initiatives. I miss his dry sense of

humor and the opportunity to occasionally tease him (while privately maintaining a healthy sense of terror while doing so). I feel a deep sense of sadness that we will never share another one of his tightly-timed working lunches, and laugh when I think of my early efforts to expand his repertoire of lunch venues. I miss the ability to ask for his insight and perspectives on tough legal questions, especially as we face an unprecedented impending eviction crisis.

The Connecticut Bar Association, and particularly its Pro Bono Committee, will always be indebted to David Pels for his service and example. If you are interested in helping to further his legacy, here are a few ways that you can do so:

Volunteer through CBA Pro Bono Connect: As Connecticut faces an oncoming eviction crisis, tenants, who are self-represented in over 90 percent of evictions, will need your help. Volunteer at ctbar.org/probonoconnect and select

“Housing: Eviction Defense.” Take the Pro Bono Pledge, agreeing to take one eviction case in the coming year, and you’ll receive immediate access to on-demand training materials, which include an eviction defense training manual that Attorney Pels helped to prepare.

Donate to the David A. Pels Homelessness Prevention Fund at the Connecticut Bar Foundation: The David A. Pels Homelessness Prevention Fund was established at the Connecticut Bar Foundation in 2019, upon David’s retirement. The fund provides small financial grants to tenants facing the threat of eviction or housing subsidy termination, to allow them to remain in their housing. Visit ctbarfdn.org/donate to participate.

Thank you for allowing me to share these few words to honor the memory of my friend, mentor, and role model, Attorney David A. Pels. He will be sorely missed, but never forgotten. ■