



DEPARTMENT OF DEFENSE
WASHINGTON DC

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MAY 02 2008

Dear State Bar Presidents and Executives:

SUBJECT: MODEL RULE AUTHORIZING EXPANDED LEGAL ASSISTANCE
PROGRAMS

The Judge Advocates General of the military services and the Staff Judge Advocate to the Commandant of the Marine Corps are very appreciative of the American Bar Association's support for provisions authorizing military attorneys to practice in state courts. We wish to take this opportunity to add a few words about the tremendous importance of this initiative from our perspective. We strongly support the American Bar Association LAMP Committee's efforts to encourage the adoption of the ABA Model Rule for Expanded Legal Assistance Programs by those states that have not yet done so.

The most powerful option available to an attorney is the ability to defend or enforce a right in court. In jurisdictions where the local community knows that a judge advocate's practice cannot extend beyond simply writing letters and requesting negotiations, servicemembers often find themselves unable to achieve a fair resolution of even the most frivolous legal issues. On the other hand, when servicemembers have access to local courts it levels the playing field and helps ensure just outcomes.

Many military members get to court by hiring an attorney at considerable expense or using existing *pro bono* programs. However, servicemembers in the lowest ranks find that while their take-home pay is low, their benefits (e.g. subsidized housing) often make them ineligible for free legal services. Likewise, ready access to *pro bono* programs is uneven across states. The Expanded Legal Assistance Program (ELAP) permits the military to "take care of its own" by permitting judge advocates to represent servicemembers who have no other legal recourse.

In states where ELAP is authorized, we will carefully monitor which cases go to court. ELAP operates only in pre-approved locations, and only under the supervision of senior attorneys. Certain issues (for example, marital dissolutions) are ineligible for the program, and cases must involve junior personnel or have some

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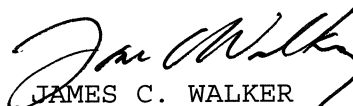
foreseeable impact beyond the individual (for example, a consumer scam targeting servicemembers). The judge advocates who litigate the cases are graduates of accredited law schools, members in good standing of a state bar, and are approved to participate in ELAP by their senior supervisory attorneys on a case-by-case basis.

We encourage you to support the American Bar Association's request by adopting the Model Rule in your state.

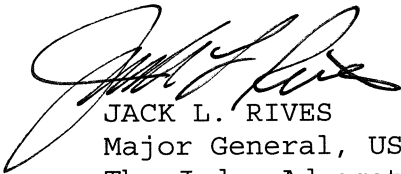
Sincerely,



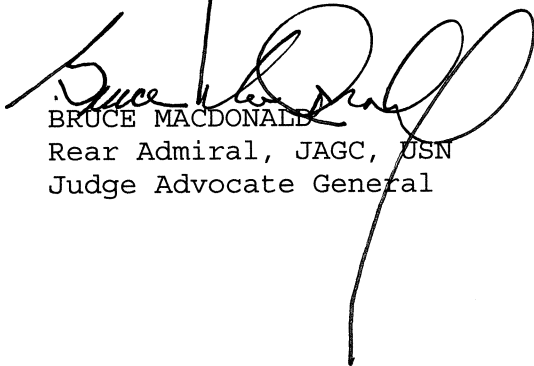
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