

Syracuse University College of Law Receives Support from Prominent Military Law Firm

Tully Rinckey PLLC's "Jeans and Sneakers" initiative funds Veterans Legal Clinic

April 28, 2016 – Syracuse, N.Y. – Tully Rinckey PLLC is giving back to veterans in need of legal aid, while also supporting the education of law students by providing funds to the Syracuse University College of Law Veterans Legal Clinic. A check was presented to the Veterans Legal Clinic on behalf of Tully Rinckey PLLC by Syracuse Managing Partner Donald Kelly. The donated funds will support the mission of the organization, which provides resources to veterans and their families by assisting with Veterans Administration (VA) claims, representing clients in VA claim appeals, and helping veterans in upgrading discharges that occurred under negative circumstances. The funds were accepted by Yelena Duterte, director of the Veterans Legal Clinic. Tully Rinckey PLLC has a long-standing record of service with the military. Throughout its seven offices, the firm employs 70 attorneys, a large group of which are veterans. The firm's founding partner, Mathew B. Tully, is a recently-retired New York Army National Guard lieutenant colonel who received the Purple Heart and Bronze Star for his service in Afghanistan. As a civilian attorney, he has won numerous landmark decisions protecting veterans' rights, especially those pertaining to the Uniformed Services Employment and Reemployment Rights Act (USERRA). Founding Partner Greg T. Rinckey is a former Army JAG attorney who currently represents service members worldwide in a variety of military law issues. "The mission of the Veterans Legal Clinic is one Tully Rinckey PLLC fully supports," said Tully Rinckey PLLC Managing Partner Donald Kelly. "Not only does this program help veterans in need navigate the legal system, but it is an immersive opportunity for students to gain experience with government agencies, advocacy work and case management. As a Syracuse University alumnus, I welcome the opportunity to help this program succeed." The Syracuse University College of Law Veterans Legal Clinic was established in January 2015 to support local veterans and military personnel as the area boasts one of the nation's largest military bases, Ft. Drum. Students who participate for college credit represent real clients, and gain an understanding of military culture. Since its inception in February 2010, Tully Rinckey PLLC's Jeans and Sneakers initiative has donated about \$18,000 to more than 50 nonprofit organizations. Under this initiative, employees who wear jeans and sneakers to the office on Fridays make a \$1 donation for each casual clothing item worn. At the end of the month, the firm makes a dollar-for-dollar matching contribution. Recent recipients of Jeans and Sneakers donations include the Binghamton Crime Victims Assistance Center, Veteran's Outreach Center in Rochester, the Centers at Saint Camillus in Syracuse, WNYHeroes in Buffalo and the Albany County Family Court Children's Center. For more information, please contact Marcy Velte at (315) 492-4700 or via email at mvelte@1888law4life.com.

VA Targeting Financial Means of Disabled Veteran

Wife deemed unqualified to handle husband's financial benefits in retaliation for tort claim

April 21, 2016 – Syracuse, N.Y. – The financial means of a local disabled veteran and his wife has been stripped away by Veterans Affairs in retaliation of a tort claim filed against the department for his care. In 2007, Rose Marie Diana filed a tort claim against the VA on behalf of her husband, James, after a drug prescribed by a VA doctor resulted in a diabetes diagnosis. James Diana is a veteran of the Vietnam War and clinically diagnosed with a serious mental health disorder. He was deemed incompetent in 2001, and agreed to have his wife appointed as his fiduciary responsible for handling his finances. In addition, Rose Marie has been working for nearly a decade to correct her father's military records pertaining to a previously classified mission during World War II, which was declassified in 2008. Due to recent medical necessities concerning Rose Marie's well-being, James offered to be placed in respite care in order for his wife to get needed medical attention and have time to recover, as she would not be able to care for him physically during that time. In January, Rose Marie was contacted by an inspector from the VA asking to see financial statements and accounting information regarding the benefits for her husband's care. The initial information was rejected, and so were detailed spreadsheets provided the second time. In February, the VA deemed Rose Marie no longer qualified to act as his fiduciary. This responsibility has since been stripped from Rose Marie, and instead given to the Rescue Mission of Utica. "It is sad that the wife of a disabled veteran, who spent decades overseeing his care, is now being told she no longer knows what is best for her husband or how to handle the family's finances," said Tully Rinckey PLLC Founding Partner Greg Rinckey. "The financial stability of the Diana family is being threatened." According to federal regulation 38 CFR Part 13, and the VA Fiduciary Program Manual, "Accounting periods are generally scheduled at regular intervals, usually every year. VA will let (fiduciary) know in writing about the accounting period, which is usually the anniversary date of (the) appointment as fiduciary for the beneficiary." Out of the 15 years Rose Marie acted as her husband's fiduciary, this February was the first time she had been contacted about an upcoming accounting period, and without the proper written notification. Tully Rinckey PLLC filed a Notice of Disagreement on behalf of Rose Marie in March, which was denied. A second Notice of Disagreement has since been filed on behalf of James Diana to have fiduciary responsibility transferred back to his wife. "For more than 30 years Mrs. Diana has diligently cared for her husband, and in return he was able to ensure her financial well-being as his dependent," said Rinckey. "It is unfortunate the VA has opted to deem a loving wife unqualified to oversee her husband's finances, when they made no similar attempts since that responsibility was placed upon her." For more information, please contact Marcy Velte at (315) 492-4700 or via email at mvelte@1888law4life.com.

New Helpdesk Manager Ensures Overall Security of Firm's IT Systems

Delaney Promoted to Helpdesk Manager at Tully Rinckey PLLC

April 14, 2016 – Albany, N.Y. – Tully Rinckey PLLC is pleased to announce the promotion of Brandon Delaney to Helpdesk Manager. For the past five years, Delaney has served as an IT Analyst for the firm. In his new role, Delaney is responsible for the management and oversight of the firm's IT helpdesk. In this role, he works with the firm's Chief Information Officer to help ensure the overall health and productivity of the firm's information technology (IT) systems, supporting all branch offices throughout the country. Delaney reviews, tracks, and resolves

systems issues at both the datacenter and end-user device levels. Additionally, Delaney consults with users about increasing efficiency, along with recommending and deploying hardware and software solutions to enhance or add functionality to the firm's IT systems. He is also responsible for the firm's high-definition video teleconferencing system, which enables attorneys and support staff to have video conferencing within the firm, and with outside agencies. Before joining the firm in May 2011, Delaney worked as a Senior Computer Technician for an IT company in Albany, N.Y. There, he helped end users as well as small and medium businesses achieve their technological needs. For more information, please contact Marcy Velte at (518) 218-7100 or at mvelte@1888law4life.com.

"He took on this case with vigor and ZERO FEAR of the government!"

"LITERALLY THE BEST MONEY I EVER SPENT!!!! The USAF charged my son with Article 92, Violate General Order and Article 128, Simple Assault. I spoke to many attorneys who said to me, "Your son will be convicted of the Simple Assault because putting lotion on someone's face is considered an assault as it is an unwanted touch." They all wanted me to work on a plea deal with the government that ended with my son being discharged, spending time in the brig and having a federal conviction for the rest of his life. Knowing that this just didn't warrant a federal conviction, bad conduct discharge and time in the brig, I was on a search to find an attorney who would look at this case for what it was: a couple of 19-21 year-old immature young men horse playing. I was looking for someone who would say something different; someone who would be able to look at the case from more than one view. When I spoke to Mr. Rinckey, I thought I was going to get the same ole speech, but to my surprise, I IMMEDIATELY felt at ease and I knew right then that he was going to be my attorney (not sure if he knew it at this time). He took on this case with vigor and ZERO FEAR of the government! He wanted them to know that this was NOT going to go away with any plea deal! And he went to work! Then, LITERALLY 2 DAYS BEFORE trail the government added an additional charge, which was Article 134, Unlawful Entry. Mr. Rinckey stayed focused, developed a plan, and off to trail we went. He was so prepared, calm and at ease. I remember him saying to me, "I am ready to try this case." And yesterday – 14 APR 2016 – my son was found NOT GUILTY on ALL CHARGES AND SPECIFICATIONS!!! Yesss!!! You know, it's always hard to find money for an attorney, but I learned one thing with this case. Although I thought we couldn't afford an attorney, the truth of the matter was that we couldn't afford NOT TO HAVE an attorney. I only wish I had found Mr. Rinckey sooner, but that's okay. I have found my ATTORNEY for life," Y.W. on Founding Partner on Greg Rinckey, Esq.

Prior results do not guarantee similar outcomes.

Bizarre Stories: "Cost thousands of dollars" to Sue Mother for Changing last Name

Can I sue my mother for changing my last name?

Dear Moneyologist,

My family has been fragmented for at least the last three generations, creating an elaborate blend of step-everything and relationships that were seldom defined by blood. My deceased

grandfather — whom I loved dearly — is not my relative by blood, nor is the so-called father whose name I carry. Suffice it to say our family traditions are fragmented or non-existent. When my mother divorced and remarried, she and my step-father changed my name and my younger brother's to match his, creating this collection of five kids where the oldest two had one last name and the younger three had another (my parents had the youngest son together). Over the years, the older two and one of my younger brothers were excluded from our family by my parents — they were literally thrown away. I dropped out of high school and joined the army at 17, where I remained for the next 25 years. My wife and I have been married 38 years and have done pretty well for ourselves and four kids, residing in a home larger than any in the history of our extended families. I genuinely wanted to help bring things together among my fragmented family and came up with the idea several years ago to invite everyone to our house for Christmas — my parents, my younger (step) brother, his third wife, their children, and another lovely girl from his first marriage. I envisioned board games, talking in the kitchen, and touch football in the yard. Instead we got isolation, indifference to our home, and an absolute reluctance to follow any team-building suggestions I promoted. My wife watched me try to play the encouraging, happy host to our indifferent guests and became visibly livid. Everyone left a day early, and the period of cold shoulders began — no birthday cards, no calls. I continued to telephone after some six months and, over time, a regular pattern of communication resumed. I thought we had navigated the storm. Three years pass, and I was at my step-father's bedside as he slipped away. It was traumatic, but the next day it took another turn: My mother informed me that, in their will some two years prior, they had decided to leave my brother the house and that he and I could split "whatever other inheritance was left over." She added, "That's OK, right? Your wife said she would never live here," she insisted. My youngest (step) brother, their natural son would inherit their estate for his family. After 48 years pretending I was a son as well the truth was clear: I was not a son, and neither I, my wife, nor my children would enjoy a peaceful legacy or inheritance with this family. I know from reading your column that there is nothing I can do about people's decisions with their money and, honestly, could not accept a dime if it were offered. But the notion that they took a little boy of 12 and tattooed some stranger's name on his forehead — watching him pass that name on to his children (even naming his firstborn after the stepfather) — and later tossing him out with his other siblings makes me sad and furious. On the flip side of all this drama, I'm not walking away empty-handed. I now have an oddly humorous story about how "I once crafted a family reunion in hopes of establishing a Christmas tradition, and got disinherited for my trouble" and a powerful illustration for my kids on what not to do. I now insist that they will each receive their legacy regardless of what choices they make in this life. And it makes me question: Can I contest the will and possibly sue the estate for the legal fees associated with changing my name and the names of my children and grandchildren back to my original name — a dramatic reset of sorts? Do you think this is possible? I suppose this is tremendously difficult, but I'm just about angry enough to do it. Writing this alone was helpful, though I apologize for the length. Forrest Dear Forrest,

I'm sorry to hear that you tried and failed to bring your family together. It sounds like your parents have had tumultuous relationships with their children and, even though you have organized Christmas and remembered people's birthdays and been present for your parents, you have not been able to break that pattern. Your mother based her decision on something your wife said or something your mother thinks she said. She may be a very sensitive person, or perhaps someone who finds trouble where there is none. You could always say, "You misunderstood," or, "That's not what happened." But, ultimately, you must abide by her decision. Life is unfair. As I said to a reader who was unhappy with the size of his inheritance (\$10,000, to be exact), try not to define your entire relationship with your parents by the amount that is left to you in their will. As hard as it is to hear, this may not be about you. It may be that your parents have a limited capacity to give and receive love, and they may think that your youngest brother needs a house most of all. I don't know the details of your

respective financial situations, but you say you live comfortably. The heavy lifting has already been done: You have built your own family without continuing these deep divisions. The legal system is harsh when it comes to inheritance. If you weren't formally adopted by your stepfather, you likely have no standing to contest any aspect of your stepfather's will or its terms, says Blake Harris, an attorney at Mile High Estate Planning in Denver. But you would still have little recourse, even if he did adopt you. Why? Parents can leave whatever they want to who they want. What's more, if you were not mentioned in the will, you were technically not disinherited, Harris says. To successfully contest a will, it must be based on a claim that the will failed to fulfill legal requirements for its proper execution or that your stepfather "lacked testamentary capacity," he adds. You inherited your last name from your stepfather and, because you will not inherit the family home, you want to retaliate by changing your family's last name. Suing them in court would be costly and a fruitless task, given that your mother used a court order to give you your stepfather's last name. (This is often done by parents in a blended family, especially when the child's biological father is no longer around, so it's not that unusual and you would have little grounds for being treated unfairly.) "It would cost thousands of dollars to take this case and only a few hundred dollars to change your name," says Mathew Tully, founding partner of Tully Rinckey law firm in New York. We are a sum of our actions and this tit-for-tat goes against everything you stand for: The importance of family. Changing your name won't change who you are. But taking a frivolous court case would.

An attorney talks difficulties in defending first-degree murder

Ryan Lawrence's charge has been upped from second to first-degree murder

SYRACUSE (WSYR-TV) First-degree murder is the most serious criminal charge in New York State, and it comes with a penalty of life in prison without parole. NewsChannel 9's Jeff Kulikowsky spoke with an experienced defense attorney about what changes and what doesn't when a case is elevated to first-degree murder, like Ryan Lawrence's case. A first-degree murder charge does not occur often, since it has a very specific set of elements that must be met, like killing a police officer or in commission of another felony—and in this case, kidnapping. Attorney Don Kelly said most attorneys will go their whole career without ever having a first-degree murder case. From a legal point of view, Kelly says it offers almost no chance to plea bargain out of that charge unless there are extraordinary circumstances of insufficient proof—which in this case could be the legal question of kidnapping. Without it, there can't be first-degree murder and the most severe sentence under state law. "They're going to be in prison for the rest of their life without question, so certainly there's a great deal of pressure that goes along with that and you have to make sure that they get the best possible defense under all the circumstances, some circumstances which are very difficult," said Kelly. That kidnapping charge may be the key to how the case proceeds. According to the DA, there is a case law that shows a parent, with full custody, can go beyond that point and actually kidnap their own child—an element that would make a case like this first-degree murder. On Tuesday, Senator John DeFrancisco announced proposed legislation that would simply make the murder of a child under the age of 12, enough to qualify for first-degree murder. NewsChannel 9 obtained court documents describing Maddox Lawrence's murder, but due to their graphic nature and out of respect to the family, NewsChannel 9 and LocalSYR.com will not share any of those details.

Tully Named to Prestigious HillVets 100 List

Tully Rinckey PLLC Founding Partner among most influential veterans of 2015

March 23, 2016 – Albany, N.Y. – Tully Rinckey PLLC Founding Partner Mathew Tully was recognized yesterday as one of 2015's most influential and impactful veterans. Tully's accomplishments and achievements as a veteran and business owner were celebrated by HillVets, a nonprofit group of bipartisan veterans and supporters empowering veterans to advance in careers following military service. Tully was honored at a reception at the Reserve Officers Association headquarters on Constitution Ave. NE in Washington, D.C. alongside former U.S. Secretary of Defense and U.S. Senator Chuck Hagel, former Secretary of Defense Donald Rumsfeld, U.S. Sen. Lindsay Graham, Texas Gov. Rick Perry, and many other accomplished veterans who earned their place on the 2015 HillVets 100 list. "It is an honor to be included among this year's list of HillVets 100 recipients," said Tully. "From Tully Rinckey PLLC's beginnings, the mission of the firm has been to defend the legal rights of service members facing employment discrimination due to their military service. We have since grown the scope of legal services we offer to include federal employment law, security clearance representation, and a range of others, but our core focus continues to be the legal defense of our nation's veterans." In the fall of 2015, HillVets requested nominations for the second annual HillVets 100 list. The nominations poured in and HillVets compiled a list encompassing individuals from diverse sectors, including the arts, politics, business, philanthropy, and personal achievements. To be included in the HillVets 100 list, nominees had to demonstrate a purpose of giving back to those that have sacrificed so much for our nation. Tully was among those named to the HillVets 100 list in the category honoring veteran-owned and operated businesses on Capitol Hill. Tully Rinckey PLLC opened its Washington, D.C. location in 2008, and expanded to its latest 6,400-square-foot, seventh-floor suite just one block from the White House on Connecticut Avenue NW in 2014. On Sept. 11, 2001, while employed in the legal department of Morgan Stanley, Tully escaped from the World Trade Center and shortly thereafter relocated to upstate New York. There, he began providing legal services to service members facing employment discrimination based upon military service. Tully has become a pioneer of litigation involving the Uniformed Services Employment and Reemployment Rights Act, which protects the civilian employment rights of military personnel. Following discrimination he faced employed as a federal prison guard, Tully researched and litigated his own USERRA case, deciding then and there to continue his work to help others in the military facing similar issues. In 2005, Tully was deployed to Iraq with the 42nd Infantry "Rainbow" Division of the New York Army National Guard and was based at Forward Operating Base Danger in Tikrit, Iraq. In 2012, he received the Purple Heart for injuries he sustained during a suicide bombing while serving in Afghanistan. His service there also afforded him the Bronze Star. Tully is currently the New York State commander of the Military Order of the Purple Heart (MOPH). For more information or to speak with Mathew Tully, please contact Marcy Velte at (518) 218-7100 or via email at mvelte@1888law4life.com.

VanStry Comments on Oath Card Overlooked By Lawmakers, Costing County Seat

Oath Card Confusion Costs Lawmakers Dearly

by Iris St. Meran OSWEGO, N.Y. -- What happens after voters cast their ballots and elect a candidate isn't widely known. Once an elected official is sworn into their office, he or she has 30 days to sign an oath of office form under the public officers law. "It's basically a card," said Donald VanStry, Tully Rinckey senior counsel. "There's oftentimes a ceremony where people hold their hands up and they take the oath itself, but they have to file these cards or the oath itself in Albany within a 30-day period." Recently, some lawmakers found out what happens when they don't completely follow the law. In Oneida County, former legislator Harmony Speciale didn't file within the 30-day period and was booted from her county seat. Now she's pushing to be reappointed. In Oswego County, five legislators failed to sign the form: Shawn Doyle of Pulaski, Robert Hayes of Phoenix, Jim Karasek of Fulton, Margaret Kastler of Lacona and Milferd Potter of Pulaski. The legislature reappointed them, but they'll have to run again for their seats this November. Richard Atkins, the Democratic elections commissioner in Oswego County, said when they send out the election certification, they also send a copy of the oath card as a courtesy. "We have no obligation to do this," Atkins said. "The obligation falls on the candidate themselves to file their oath card. The board of election has nothing to do with the oath card." Atkins has been commissioner for seven years and says this was the first time this has happened during his career. Because it's state law, VanStry said candidates don't have much recourse. It might seem like a simple sheet of paper, but it does hold a lot of weight.

Syracuse Lawyer Comments, Mental Examination Could Keep Lawrence Out of Court

Man Accused of Killing 21-Month-Old Daughter to Undergo Mental Health Evaluation

by Iris St. Meran The Syracuse man accused of killing his 21-month-old daughter will undergo a mental health evaluation. Ryan Lawrence was not in court but his attorney made the request in court Tuesday on his behalf. TWC News' Iris St. Meran spoke to a long time criminal defense attorney who provided insight on how the results of a mental health examination could impact a case like this. SYRACUSE, N.Y. -- The defense attorney for Ryan Lawrence said he wants to have a mental health examination done as soon as possible. "To make sure all bases are covered with respect to this matter, we're having a mental health examination both as to competency and as to the eventual outcome of the case," said defense attorney Michael Vavonese. Donald Kelly, Tully Rinckey Managing Partner, is not involved in this case, but has been a criminal defense attorney for a number of years. Kelly says Lawrence would be evaluated by a panel of psychiatrists who will determine if he is competent to stand trial. "None of them can talk about whether or not he was under any influence of mental illness at the time the crime was committed," Kelly said. "None of them can do that. However, they can discuss and reach a conclusion on his mental capacity now." Kelly said if he isn't competent now, a trial cannot be held until he is. Syracuse police confirm they had previous contact with Lawrence, but none of those incidents indicated a mental illness, and he was not arrested or suspected of any crime. When the Amber Alert was issued, saying that Lawrence had a history of mental health issues, police later clarified that statement, saying he was just emotionally unstable based on an alarming message he left behind. Kelly said that message could be harmful to the defense. "It's difficult to say that a

person's mental state was so deteriorated that they could commit this awful, awful act, yet at the same time have the wherewithal to write that note," Kelly said. There wasn't much Vavonese could tell reporters after court. Kelly said that, at this stage, Vavonese is likely gathering as much information, also known as discovery, as possible in order to review the facts of the case. "The police and the district attorney have had plenty of time to work on this case, and he's had almost none," Kelly said. "The district attorney and the police have all sorts of confessions and documentation and all other written statements, of which the defense attorney has none." It's now up to a grand jury to decide on a possible indictment.

"Jeans and Sneakers" Fundraiser Aids Western New York Non-Profit

Law firm gives "Casual Friday" a whole new meaning

WILLIAMSVILLE, N.Y. (WKBW) - A Western New York law firm is giving "Casual Friday" a whole new meaning. The Tully Rinckey Firm is cashing in on employees who want to wear jeans and sneakers. It's all to raise money for non-profit organization across Western New York. Each Friday, employees would donate a dollar for every piece of casual clothing they would wear. This week, the firm donated \$250 to Western New York Heroes. The group trains dogs on how to assist troops suffering from PTSD (Post Traumatic Stress Disorder). So far, The Williamsville law firm has given away more than \$17,000 to charities. Associates said this is a way for the firm to stay connected to the Western New York community.