

GIVING BACK THROUGH PRO BONO

Ways to Impact the Community

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Discussion Overview

- Why Pro Bono?

1. Benefits to Society
2. Benefits to Attorneys and Organizations
3. Trends in the profession

- Pro Bono Best Practices

1. Traditional Model
2. Non-Traditional Model
3. Case Studies

- Addressing common Pro Bono challenges

Benefits of Pro Bono Representation

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Benefits of Pro Bono to Society

Statistics

- **71%** of low-income households experience at least one civil legal problem per year
- **88%** of low-income adults lack a college degree
- **86%** of cases receive inadequate legal help.
- Common Problem Areas:
 - Health Care – 41%
 - Consumer Finance – 37%
 - Rental Housing – 29%

Source: 2017 Justice Gap Report

- Pro Bono addresses a compelling need for assistance among those who cannot afford representation.
- Reduced capacity for non-profit agencies/legal services to fill gap
 - Budget cutbacks
 - Increasing demand due to economic downturn
- Legal representation has a **proven** and measurable impact on success of low-income clients

Benefits of Pro Bono to Attorneys and Organizations

- Taking on Pro Bono Matters provides junior lawyers with unique opportunities for training and professional development.
- Primary benefits
 - Substantial and meaningful client interaction
 - Opportunity to develop skills through experience (e.g. serving as lead counsel, trial experience, etc.)
 - Exposure to broader substantive experience than law firm experience alone

Some men ... delight in automobiles and yachts. My luxury is investing my surplus effort ... to the pleasure of taking up a problem and solving, or helping to solve it, for the people without receiving compensation.

-Justice Louis Brandeis

Benefits of Pro Bono to Attorneys and Organizations (ctd.)

- Relationship Building – Development of strong connections to community members and leaders.
- Public Reputation – Opportunity to enhance the organization’s public image
- Employee Recruitment – Demonstrated commitment to pro bono increases ability to recruit/retain legal talent
- Career Satisfaction/Morale – Ability to work with “flesh-and-blood” client in need gives lawyers a sense of connectedness and purpose within their community
- Community Development – Creation of a more stable community for the business to flourish

Trends in Pro Bono Representation

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Pro Bono Initiatives: ABA Model Rule 6.1

ABA Model Rule 6.1:

Voluntary Pro Bono Service

*“Every lawyer has a **professional responsibility** to provide legal services to those unable to pay. A lawyer should **aspire to render at least (50) hours** of pro bono publico legal services per year.”*

Additional aspirations:

- Substantial majority be without fee to persons of limited means or non-profit organizations designed to address such persons
- Also authorizes reduced-fee services to persons/organizations and participation in activities for improving law, legal system, or legal profession.

- ABA Model Rule 6.1 was first drafted in 1983, with revisions in 1988, 1993, and 2002.
- The 1993 Revision created an “aspirational” 50-hour standard for the performance of pro bono services.
- Adoption:
 - Forty-five (45) states have adopted some version of ABA Model Rule 6.1
 - Six (6) jurisdictions have adopted similar pro bono policies by judicial resolution or state bar policy:
 - CA, DC, OH, OR, TX, VA

Pro Bono Initiatives: CLE Credit for Pro Bono Hours

- ***CLE Pro Bono Rules seek to encourage recruitment and retention of pro bono attorneys by permitting attorneys who take pro bono cases to earn credit toward mandatory CLE requirements.***

- Fifteen (15) states allow or will soon allow pro bono service to count as CLE Credit. The number of pro bono hours required per CLE credit differs by state:
 - 6 hrs/credit – AL, DE, MN, ND, OH
 - 5 hrs/credit – AZ, CO, LA, PA, TN, WI, WY
 - 2 hrs/credit – OR, NY, WA
- Impetus: Increasing tendency of legal aid organizations to offer CLE trainings in-house
- Benefits
 - Tangible incentive for pro bono work
 - Trains future volunteers
 - Fosters community awareness

Pro Bono Initiatives: Pro Bono Reporting Rules

- ***Pro Bono Reporting Rules encourage attorneys to periodically report law-related services and charitable contributions. They seek to raise pro bono awareness/consciousness and collect critical data.***

- Twenty-one (21) states have adopted rules for lawyers to report their pro bono activity and contributions on a periodic basis
- States rules differ on whether pro bono reporting is *mandatory*, as a condition of maintaining one's license, or *voluntary*.
 - Mandatory: FL, HI, IL, IN, MD, MS, NV, NM, NY
 - Voluntary: AZ, CT, GA, KY, LA, MT, OH, OR, TN, TX, WA

Pro Bono Service as a Condition for Receiving a Law License: Trends in New York and Elsewhere

- On September 14, 2012, the New York Court of Appeals became the first state to require pro bono service as a condition to become licensed for law practice.
- Chief Judge Lippman’s Advisory Committee Report defines purpose of rule:

By requiring 50 hours of pro bono work...this Initiative addresses the crisis in access to justice, and – just as importantly – helps prospective attorneys build valuable skills and imbues in them the ideal of working toward the greater good.

Basics of “50-hour Rule”

- § 520.16(a) – 50-hour requirement applies to (1) law graduates and (2) out-of-state attorneys not eligible for reciprocity in New York.
- § 520.16(b) – Defines pro bono service as (1) services for persons/organizations or limited means, (2) government work, (3) certain approved work (e.g. clinics)
- § 520.16(c) – Requires supervision by law school or admitted attorney

Activity in States

- Montana – State Supreme Court issued Order on December 16, 2014 authorizing applicants to submit voluntary statement of pro bono activities along with application.
- Proposals to adopt preadmission requirements in California, Connecticut, and New Jersey, but have not yet been implemented.
- ABA Report from October 2013 recommends alignment with Model Rule 6.1.

Pro Bono Best Practices

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Traditional Model

The “Traditional” Model

Treats Pro Bono as isolated from the organization’s other activities, relying primarily on initiative of individual attorneys

Does not provide organization-wide system for intake and assignment of pro bono work

Examples

- Individual coordination with local, state, and federal courts
- Participation in pro bono committees
- Individual references from not-for-profits and legal aid organization

Non-Traditional Model

The “Non-Traditional” Model

Treats Pro Bono as fully integrated into organization’s business model, leveraging Pro Bono as means to grow and develop organizational network.

Provides systemic backing for Pro Bono representation, including development of formal Pro Bono policy

Examples

- Formal partnerships between law firms and corporate clients
- Participation of attorneys in non-profit boards
- Corporate social responsibility programs
- Recognition of Pro Bono success (e.g. Pro Bono awards)
- Use of “clearinghouse” to handle intake, track metrics, and assist in project management

Case Study: Pro Bono Partnerships

- Annual, ongoing partnerships with clients, enabling clients to participate in pro bono work
- Activities that are client-directed and flexible:
 - Two-hour clinics with no ongoing work
 - Partnership on intake day, followed by ongoing work
 - CLE Training
- Examples of past and ongoing work:
 - Assisting military veterans with access to benefits
 - Assisting domestic violence Victims with VAWA cases
 - Assisting local entrepreneurs with small business issues

Case Study:

Corporate Social Responsibility

- Creation of a Corporate Responsibility Director position to foster relationships with non-profit organizations which support underserved communities
- CSR program dedicated to providing volunteer opportunities for both professionals (lawyers and non-lawyers) and clients
- Examples of past and ongoing work:
 - Reading mentoring in a NYC public elementary school;
 - Serving lunch to seniors in a local senior center;
 - Revitalizing a public school;
 - Sorting donations at a food pantry
 - Participating in the NYC “Hope Count” homelessness count; and
 - Assembling, packing and donating Thanksgiving family meals.

Overcoming Common Obstacles

Finding: Cross-organizational collaboration and systemic backing in Pro Bono may help address some of the most common obstacles for Pro Bono representation

- Obstacles that Non-Traditional Model can help address:
 - Lack of prioritization and resources
 - Lack of flexibility
 - Lack of legal malpractice insurance
 - Lack of litigation experience for transactional attorneys

Q&A

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