

PROPOSED MODEL PRO BONO POLICY FOR LAW FIRMS

INTRODUCTION

Attorneys in the state of Washington have a long and distinguished tradition of providing pro bono legal services. Yet despite the generous contributions of many attorneys and law firms, the legal needs of the disadvantaged in our state continue to go largely unmet. The inability of our current system of public and pro bono legal services to meet the growing needs of indigent clients has created a crisis in access to justice.

In 1996, the WSBA Pro Bono and Legal Aid Committee conducted a survey of law firms throughout the state in order to determine what efforts were being made at the institutional level to encourage pro bono service. The survey revealed that most firms lack a formal commitment to pro bono work.

Indeed, only about twelve percent of the firms responding had adopted a written pro bono policy. The few firms that did have a written policy were those employing more than fifty attorneys. No firm with fewer than ten attorneys had a written pro bono policy. Similarly, only ten percent of the firms surveyed had established a minimum number of pro bono hours expected of each attorney. No firm with fewer than fifty attorneys had set a pro bono goal for its attorneys.

In response to what we perceived as a lack of leadership and structure in most law firm pro bono programs, the WSBA Pro Bono and Legal Aid Committee has drafted a model pro bono policy for law firms. The model is based on a review of existing policies in Washington along with models from other states. It attempts to integrate a wide variety of ideas that have proven successful in increasing the amount and diversity of pro bono service provided by private law firms. It is meant to assist law firms of all sizes in establishing an

institutional commitment to pro bono work. Although a pro bono policy must be tailored to the particular firm involved, the Committee believes that certain elements are essential to any firm policy. We have attempted to incorporate those elements into the model.

The model is meant to be simple and easily adapted to any size law firm. Although individual firms may elect to adopt the model policy as written, the Committee expects that many firms will treat the model as a starting point for developing their own unique policies. We encourage such experimentation. Our goal is to begin the process of establishing an institutional commitment to pro bono service rather than to dictate the precise nature of that commitment.

I. FIRM COMMITMENT TO PRO BONO

The firm believes that pro bono service is an essential element of every attorney's professional responsibility. The legal profession possesses unique skills and abilities that allow us to serve the disadvantaged and promote the public interest in ways that no other profession can. The firm recognizes its special obligation to assist attorneys in fulfilling this promise. Accordingly, the firm strongly encourages and expects its attorneys to engage in pro bono activities on behalf of persons of limited means and to improve access to justice. This is a firm-wide commitment. The firm expects each partner, associate, and paralegal to help fulfill this obligation.

Committee Comment

Law firms have a responsibility to encourage and support pro bono activities. An institutional commitment to pro bono service establishes the firm's leadership in this area and sets the tone for every attorney in the firm. The goal is to create a firm culture supportive of pro bono activities by stressing the value the firm places on such work.

II. PRO BONO DEFINED

Each attorney is free to determine how to fulfill his or her pro bono responsibilities. Pro bono service includes providing professional legal services to persons of limited means, to public interest or charitable organizations, or to other groups or activities whose purpose is improving the law or the legal profession. Pro bono service does not include non-legal volunteer activities, fee-generating matters which have become uncollectible, or unsuccessful contingency matters.

Committee Comment

Firms should encourage individual attorneys to pursue any pro bono opportunities that interest them. By defining what the firm considers to be "pro bono," however, the firm can establish its expectations and priorities with respect to such work. Individual attorneys may choose to perform other types of community service, but "pro bono" is a special type of service that involves the delivery of free legal services. Firms may elect to further narrow the definition of "pro bono" to focus on providing legal services to persons of limited means rather than to civic, religious, artistic, educational or other charitable organizations.

III. ADDRESSING PRO BONO EXPECTATIONS IN THE HIRING PROCESS

Pro bono service is an integral part of the firm's practice. The firm's strong commitment to pro bono work should be emphasized throughout the hiring process. Pro bono service should be discussed when interviewing any job applicant. Each new attorney and paralegal will be given a copy of the firm's Pro Bono Policy and will meet with the Pro Bono Coordinator to discuss his or her specific areas of interest. Summer associates are expected to participate in pro bono matters.

Committee Comment

Discussing pro bono work during the interview process reinforces a firm culture in which pro bono activities are a routine part of the firm's practice. The firm's attorneys are given an opportunity to tout their pro bono activities while conveying to prospective associates the pride with which the firm views its pro bono efforts. Each new attorney and paralegal should be encouraged to get involved in pro bono work as soon as possible. It is essential that new hires become involved in pro bono projects before being overwhelmed with fee-generating matters.

IV. TIME DEVOTED TO PRO BONO

Each attorney may devote as much time to pro bono work as he or she wishes consistent with other responsibilities. The firm expects each attorney to perform at least ___ hours of pro bono service per year [Optional: with at least half of this amount dedicated to providing legal services for persons of limited means]. [For firms with billable hour requirements: Up to ___ hours spent on pro bono projects will be credited toward billable hour expectations. In the event a particular project requires an unusual time commitment, the firm will consider granting additional credit toward billable hour requirements. In any event, no attorney will be penalized for having fewer billable hours due to an increased commitment to approved pro bono projects.]

Committee Comment

The committee believes that each firm's commitment to pro bono should be stated in concrete terms. Establishing a minimum number of hours to be devoted to pro bono work makes the firm's commitment more real. It is easier for individual attorneys to understand and act on. It is also easier for the firm to monitor its success in promoting pro bono activities. Although the minimum number of pro bono hours is left to the discretion of individual firms, the committee suggests that 50 to 100 hours per year would be an appropriate goal. A pro bono policy should never be used as a means of limiting an attorney's pro bono work.

V. RECOGNITION OF PRO BONO WORK

The firm expects its attorney to provide pro bono services. Each attorney's efforts to satisfy this expectation will be considered in performance evaluations and compensation decisions. Pro bono work will be given equal consideration and reviewed according to the same standards as any other work.

Committee Comment

The firm's commitment to pro bono must be more than a symbolic one. To give substance to this commitment, pro bono hours should be considered a positive factor in performance evaluations and compensation decisions. Without such incentives, pressure to perform fee-generating work may leave little time for pro bono activities. It is essential that the firm create an atmosphere in which the value of pro bono service is recognized and appreciated.

VI. STAFFING AND SUPERVISION OF PRO BONO PROJECTS

Our firm provides the same quality of representation to all clients regardless of their ability to pay. Pro bono projects will be given the same staffing, attention, and resources as any other project. Pro bono matters are to be supervised by partners with the full resources of the firm available in support.

Attorneys should possess the knowledge and experience required for success on any project. Pro bono matters are no exception. Attorneys and paralegals working on pro bono matters outside their area of expertise are expected to seek advice, training, and if necessary, supervision from attorneys in that specialty.

Committee Comment

The firm's commitment to pro bono is evident in how that work is treated in terms of staffing, supervision, and resources. Pro bono matters must never be viewed as subject to lesser standards than any other.

Attorneys interested in pursuing pro bono opportunities outside their areas of expertise should be encouraged to attend CLEs and seek mentors if necessary to facilitate their representation of pro bono clients.

VII. PRO BONO COORDINATOR

The firm has designated a Pro Bono Coordinator. The Pro Bono Coordinator is responsible for monitoring the quality, quantity, and diversity of the firm's pro bono activities. The Pro Bono Coordinator is also charged with keeping the entire firm apprised of pro bono developments, policies, and opportunities. Any questions or problems regarding pro bono matters should be referred to the Pro Bono Coordinator.

Committee Comment

It is essential that the firm have a point person to coordinate pro bono activities. The firm may wish to emphasize the importance of pro bono work by designating a partner as Pro Bono Coordinator. The Pro Bono Coordinator is the contact person for every attorney in the firm on the subject of pro bono work. The Pro Bono Coordinator should be prepared to suggest pro bono opportunities, approve specific projects, and assist in locating mentors as needed. The Pro Bono Coordinator should also take an active role in tracking the firm's pro bono activities and publicizing those activities within the firm. Larger firms should consider establishing a Pro Bono Committee. Each department within the firm should be represented. The Pro Bono Coordinator should attempt to delegate as many tasks as possible to members of the Committee.