



Dear Corporate Pro Bono Leader:

The Public Interest Law Initiative (PILI) is pleased to present you with the *Pro Bono Prospectus*, developed by its pro bono consulting program, the Pro Bono Initiative. The information included in this folder was designed to provide you with a starting point for leading discussions at your corporation about developing a formal pro bono program and encouraging participation in the program. We applaud you for your efforts and PILI is ready to assist you in this important undertaking.

PILI also has a variety of other resources to aid you in your pro bono efforts:

- **PILI E-newsletter:** PILI's e-newsletter is published every other month and provides the latest news about PILI's programs, events and the latest public interest law and pro bono news. Visit the PILI website to subscribe to the newsletter and to view past editions;
- **Pro Bono Reference Guide:** The Pro Bono Reference Guide includes essential information to develop or improve your pro bono program, and to maintain its success;
- **Pro Bono Consultations:** PILI will organize a consulting team of pro bono leaders from corporations similar in nature to yours who will meet with you and other leaders at your corporation to share their experiences and perspectives regarding each of their pro bono programs. The members of these teams often share samples of relevant materials to further assist you in your efforts. Based on your needs and interests, we will also help you identify the legal aid agencies that would be appropriate partners for your corporation; and
- **Pro Bono Programming:** PILI organizes and hosts the Pro Bono Forum on an annual basis, which brings together pro bono leaders from law firms, corporations, law schools and legal aid agencies to discuss timely pro bono issues and share pro bono best practices. As a complement to Forum, PILI also hosts an annual Corporate Pro Bono Roundtable to bring together corporate pro bono leaders from around Illinois to network, discuss the unique pro bono challenges facing corporate attorneys and to share best practices and strategies for successful pro bono programs.

These services are provided at no cost to firms and corporations interested in establishing or enhancing a pro bono program. If you are interested in learning more about the services provided by PILI, visit our website at [www.pili.org](http://www.pili.org), or contact Michael Bergmann at [mbergmann@pili.org](mailto:mbergmann@pili.org) or 312-832-5129.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael G. Bergmann", with a stylized flourish at the end.

Michael G. Bergmann  
Executive Director

# Why Do Pro Bono Work?

## I. Professional Obligation

It is our ethical obligation as attorneys in Illinois to provide pro bono assistance to persons in need of legal services who cannot afford them.

The preamble to the Supreme Court of Illinois Rules of Professional Conduct provides, in pertinent part, as follows:

It is the responsibility of those licensed as officers of the court to use their training, experience and skills to provide services in the public interest for which compensation may not be available. An individual lawyer's efforts in these areas is evidence of the lawyer's good character and fitness to practice law.

## II. Unmet Legal Needs

The most obvious and compelling reason to perform pro bono work is the need to address the gap between the millions of persons who need assistance but cannot afford or obtain it, and the limited resources available to meet those needs through legal service organizations. The assistance provided by volunteer attorneys is critical to supplement the full-time legal aid attorneys.

## III. Recruiting and Retention; Morale

Competition for hiring good legal talent can be intense. Companies with active pro bono programs likely enjoy a competitive advantage, particularly when a new attorney may be deciding between opportunities with substantially similar or even identical compensation and benefit structures.

In today's environment, attorneys are more mobile than at any time in the past. The costs of replacing departing attorneys are high (often involving recruitment fees and training expenses) and the time involved in transitioning a new attorney is substantial. A strong pro bono culture can contribute to a positive office environment and, in turn, strengthen attorney loyalty to the corporation.

Finally, a successful pro bono program can provide opportunities for lawyers from different practice areas, along with non-lawyer staff, to work together as a team. Pro bono victories and awards can be shared with the entire office, fostering a sense of pride and accomplishment among attorneys and staff.

## IV. Marketing

Pro bono is an effective marketing tool that can provide positive publicity, heightened visibility, opportunities to work with other departments of the corporation, improved client relationships, and evidence of good corporate citizenship. With most corporations investing significantly in community service and corporate citizenship projects, pro bono is an excellent means for the corporation's legal staff to use their special skills and training to add to the corporation's community contributions.

## V. Training and Professional Development

Pro bono projects can also be used as training vehicles to provide a wide variety of high quality skills training. Through pro bono work, junior attorneys may try cases and gain substantial client contact earlier in their career. With adequate supervision, junior attorneys can be afforded greater autonomy in a pro bono matter, gaining meaningful work experience and accelerated professional development opportunities that benefit both the individual attorney and the employer.

# What Constitutes Pro Bono Work?

## I. Official Definition

While there are various definitions throughout the country of what constitutes pro bono, the Illinois Supreme Court has recently adopted a reporting requirement for pro bono legal services and qualified monetary contributions in which the Court has defined pro bono for purposes of this Rule.

Illinois Supreme Court Rule 756(f) defines pro bono as: legal services to persons of limited means; legal services to charitable, religious, civic, community, governmental or educational organizations in matters designed to address the needs of persons of limited means; legal services to charitable, religious, civic or community organizations in furtherance of their organizational purpose; or training intended to benefit legal aid organizations or lawyers who provide pro bono services. Under the Rule, attorneys also are encouraged to make monetary contributions “to an organization that provides legal services to persons of limited means or which contributes financial support to such an organization.”

The Illinois definition is based in part on Model Rule 6.1 of the American Bar Association’s Model Rules of Professional Conduct, which provides that all lawyers should render public interest legal service.

## II. Examples of Pro Bono Work

The types of engagements that qualify as bona fide pro bono work are varied and countless. Examples include:

- Representing an indigent client in a landlord-tenant dispute;
- Counseling a not-for-profit organization on tax matters;
- Developing and presenting a training session on a substantive law topic for pro bono attorneys; and
- Funding the operations of a legal clinic which serves persons of limited means.

## III. Activities that Do Not Qualify as Pro Bono Work

Not all charitable activities qualify as pro bono work. Examples of activities that do not constitute pro bono work include:

- Serving on the board of a school district where the lawyer does not act as the district’s pro bono legal counsel;
- Offering discounted fees to clients;
- Attending continuing education seminars; and
- Fundraising for organizations.

## IV. Dispelling Myths About Pro Bono Opportunities

Some people think that pro bono work only means representing a poor person in a litigation matter. However, many attorneys regularly engage in pro bono services on a wide variety of transactional matters as well. There is a broad range of case types and legal matters for which pro bono attorneys are needed. Lawyers should be encouraged to devote their pro bono hours and contributions to matters and causes in which they have a personal interest or commitment.

# Illinois Supreme Court Pro Bono Reporting Rule

## I. Background

In 2006, the Illinois Attorney Registration and Disciplinary Commission (ARDC) implemented a pro bono reporting requirement for attorneys licensed in Illinois. According to the Committee Comments to the amended Rule 756(f), the reporting requirement is intended to serve as an annual reminder to Illinois lawyers that pro bono legal service is an integral part of a lawyer's professionalism.

## II. Summary of the Pro Bono Reporting Rule

Rule 756(f) requires all attorneys licensed in Illinois to report, in connection with the attorney's annual ARDC registration, pro bono legal services provided and qualified monetary contributions made during the preceding 12 months.

Pro bono legal services include legal services without charge or expectation of a fee (a) to a person of limited means; (b) to an organization designed to address the needs of persons of limited means; (c) to certain charitable, religious, civic, or community organizations; and (d) pro bono training intended to benefit legal service organizations or lawyers who provide pro bono services. According to Rule 756(f), "persons of limited means" are not only those persons with household incomes below the federal poverty standard but also those persons frequently referred to as the "working poor."

The Rule also encourages attorneys to make monetary contributions to an organization that provides legal services to persons of limited means or that contributes financial support to such an organization.

## III. Compliance with Rule 756(f)

The reporting requirement consists of two questions that have been added to the annual Illinois ARDC registration form. All attorneys must respond to both questions, even if they did not perform any pro bono work or make a qualified monetary contribution in the preceding 12 months.

Question 1: Pro Bono Legal Services.

- Attorneys who did not perform any pro bono work in the preceding 12 months should check the "No" box on Question 1 and state whether the attorney is prohibited from providing legal services because of his or her employment.
- Attorneys who did perform pro bono work in the preceding 12 months should check the "Yes" box on Question 1 and identify the number of hours within each category of legal services listed.

Question 2: Monetary Contributions.

- Attorneys who did not make a monetary contribution to an organization that provides legal services to persons of limited means or that contributes money to such an organization should check the "No" box on Question 2.
- Attorneys who did make a monetary contribution within the preceding 12 months should check the "Yes" box and identify the approximate amount of the contribution.

## IV. Penalty for Noncompliance

An attorney's failure to report the required information will result in an attorney's name being removed from the master roll of licensed attorneys in Illinois.

*The complete amended Rule is available at <http://www.state.il.us/court/SupremeCourt/Rules/Amend/2006/061406.pdf>.*

## Pro Bono for House Counsel Not Licensed in Illinois

On July 1, 2008, amendments to Illinois Supreme Court Rules 716 and 756 went into effect that give retired and inactive attorneys as well as in-house attorneys with limited admission status the ability to provide on a pro bono basis critical legal assistance to disadvantaged people who would otherwise be shut out of the justice system. The amendments grew out of a desire of retired, inactive and in-house attorneys across the state who wanted to help meet the legal needs of the most vulnerable in Illinois, but were previously barred from doing so.

The [Attorney Registration and Disciplinary Commission's \(ARDC\)](#) website includes the forms that organizations ("sponsoring entities") and pro bono attorneys must complete in order to perform pro bono work under the amended rules. The Rules are summarized below, with references to the relevant ARDC forms.

### **In a nutshell, the amendments to Rules 716 and 756:**

- Provide that retired, inactive and in-house attorneys with limited admission status may do pro bono work — without charge or expectation of a fee — for individuals of limited means or charitable, civic, community or other similar groups; and
- Include safeguards to ensure that clients are receiving high quality legal services and that the profession is adequately protected.

### **Potential Pro Bono Attorneys Covered by these Amendments Must:**

- Provide pro bono services under the auspices of a sponsoring entity, which is defined as "a not-for-profit legal services organization, governmental entity, law school clinical program or a bar association providing pro bono services";
- Register their pro bono participation, along with verification from the sponsoring entity, with the ARDC on an annual basis (Form: [Attorney 1 on the ARDC website is the initial form to be completed](#); [Form: Attorney 2 is the renewal form](#)); and
- Participate in any trainings required by the sponsoring entity (the amendments exempt retired or inactive attorneys engaged in pro bono from meeting Illinois' MCLE requirements).

### **Legal Aid Organizations That Want to Work with These Attorneys Must:**

- Submit an application to the ARDC describing the organization's pro bono program in which retired, inactive or in-house counsel may participate ([Form: Sponsor 1 on the ARDC website](#));
- Certify that the organization will provide appropriate training and support to pro bono attorneys
- Provide malpractice insurance to pro bono attorneys; and
- Submit an annual statement to the ARDC verifying the continuation of any pro bono programs and describing any changes in pro bono programs in which retired, inactive or in-house counsel participate. ([Form: Sponsor 2 on the ARDC website](#)).

Additional information about the Rules is available at [www.IllinoisProBono.org](http://www.IllinoisProBono.org); the webpage includes a list of legal aid and pro bono organizations that have registered with the ARDC to act as a sponsoring entity under Rule 756.

# Setting Up Your Pro Bono Program

## I. Getting Buy-In at Your Corporation

The first challenge in initiating a pro bono program is to build the necessary support among the leaders of your organization. You need to be prepared to dispel the “myths” of pro bono and to articulate why having a program will not only benefit the clients you intend to serve, but your organization and individual attorneys and staff as well. PILI’s Pro Bono Initiative is a key starting point in your efforts.

## II. Promulgating a Pro Bono Policy

The less experience your organization has with pro bono work, the more important it will be to promulgate a policy explaining how the program will work. The policy should address:

- What your organization considers to be pro bono work;
- Who will approve the engagements and what type of information will need to be provided before a pro bono matter is accepted;
- Whether and how much credit will be given to pro bono matters;
- Whether and what insurance is available for pro bono services rendered;
- What type of support will be available on pro bono cases (i.e., use of administrative staff, copy equipment) and what type of expenses will be reimbursed (i.e., expert fees); and
- Whether pro bono work is expected or required of each attorney and if so, in what amount, or rather that pro bono work is encouraged and valued.

## III. Rolling Out the Program

Once your pro bono policy has been adopted, you should consider the following to get your program off to a good start.

- Encouraging corporation and legal department leaders to lend their vocal support and encouragement to participation in the program, ideally by their own example;
- Having a few pro bono opportunities in hand to distribute to interested lawyers; and
- Announcing publicly the purposes and goals of the program.

## IV. Maximizing the Program’s Potential

As your pro bono program gains traction, maximize its potential by:

- Appointing a program manager to encourage participation, track involvement and promote successes;
- Partnering with a pro bono or legal aid agency to pre-screen cases for your organization;
- Involving your legal staff actively in the program and encouraging them to spot worthy matters or causes for your organization to handle or support;
- Publicizing your pro bono program’s success and linking up the program with your organization’s marketing, recruiting and professional development efforts;
- Participating in the legal community’s efforts to identify best pro bono practices;
- Considering the creation of a partnership with a law firm that you have engaged as outside counsel; and
- Developing a program that is self-sustaining in order to ensure the program’s viability during times of staffing changes, particularly in the role of General Counsel.

# The Importance of a Pro Bono Policy

## I. Why a Pro Bono Policy?

There are numerous advantages to adopting a written pro bono policy within your corporation. For example, a written pro bono policy emphasizes your corporation's commitment, and that of your senior management, to pro bono work and to your community. A written pro bono policy can provide guidance and encouragement to members of your corporation as they consider integrating pro bono work into their professional life. A written pro bono policy is a reflection to both your own corporation and to the broader community of your corporation's desire to serve the needs of disadvantaged members of the community.

Developing a written pro bono policy for your corporation promotes a shared understanding of the corporation's pro bono process and its commitment to public interest law. A written pro bono policy documents the corporation's tradition of encouraging pro bono activity and establishes the procedures by which the corporation will handle pro bono cases. A written pro bono policy can establish consistent guidelines and procedures for how the corporation will recognize or "value" pro bono work performed by employees of the corporation. Finally, and oftentimes most importantly, adopting a written pro bono policy can help build and maintain the necessary support for pro bono work among the leaders of the corporation and ensure the sustainability of the program for the future.

## II. Components of a Pro Bono Policy

There are many "model" pro bono policies available through the Pro Bono Initiative that can provide your corporation with guidance in drafting its own written pro bono policy. Of course, each corporation will have different reasons for establishing a pro bono program and will have adopted different procedures for implementing and managing that program. Nonetheless, it can be helpful for a corporation that is considering establishing a new pro bono program or revising an existing pro bono policy to review a variety of policies to get an idea what other corporations have incorporated into their pro bono programs.

The first step is to define the corporation's pro bono vision or mission statement. Why is pro bono important and what is the corporation's commitment to pro bono work? In addition to this statement, which is typically found at the beginning of the pro bono policy, a written pro bono policy should address the following:

- Definition of Pro Bono – What type of work will qualify as pro bono work in your corporation? Not all volunteer work typically qualifies as pro bono work. You should consider using the definition of pro bono that has been adopted by the Illinois Supreme Court in Rule 756.
- Process for Taking on a Pro Bono Case – What is the process for preventing business or positional conflicts and taking on a new pro bono matter?
- Professional Liability Insurance – Will the corporation provide it, or must the legal service provider?
- Use of Corporate Resources for Pro Bono Work – What type of support will be available for pro bono work? May pro bono work be done during business hours? If so, is there any limit for work during business hours?
- Recognition of Pro Bono Work – How will pro bono work be recognized? Is it considered in performance evaluations?
- Staffing and Supervision of Pro Bono Projects – How will pro bono matters be staffed and who will supervise these matters?
- Management of Pro Bono Program – Who will be responsible for managing and overseeing the pro bono program, reviewing and approving new pro bono matters, keeping track of the pro bono work being performed by the corporation, encouraging participation in the pro bono program, and working with local pro bono and public interest agencies, other corporations and law firms to identify new projects and cases?

## Dispelling the "Myths" of Pro Bono

### **Myth #1: I do not have time to do pro bono work.**

This is one of the most significant individual obstacles to performing pro bono work. Attorneys are busy, which is a good thing for both the attorney and his or her employer. However, pro bono work does not have to involve a huge time commitment. There are persons of limited means who only require a few hours of legal assistance. A substantial amount of pro bono work consists of small, discrete projects that involve less than ten hours of an attorney's time. For example, assisting an elderly person with a power of attorney or living will might involve three to five hours of your time, as does reviewing a lease or purchase contract for a person of limited means. There are numerous pro bono projects in need of only a few hours of an attorney's time, and the rewards of this work are great whether it involves five hours or hundreds of hours.

### **Myth #2: I do not have expertise in the area of law where pro bono work is available.**

A significant segment of pro bono legal service needs involves work that may be outside the expertise of attorneys at a corporation. For example, there is a great need for assistance in family law and immigration cases, both practices that do not have a presence in most corporate legal departments. Attorneys should not be discouraged, however, from branching into areas of the law where they may have an interest but not the experience. There are dozens of public interest agencies throughout Illinois who not only screen pro bono cases, but also provide support to their volunteer attorneys. In addition, many agencies provide substantive legal training programs for interested attorneys, sometimes in the attorney's own office. Finally, attorneys who practice in a particular area are usually receptive to questions from other volunteer attorneys and can be very helpful.

### **Myth #3: Our malpractice insurance policy does not cover pro bono work.**

Even if your corporation does not carry malpractice insurance or the policy does not cover pro bono work, many pro bono and legal aid agencies in Illinois have policies that cover their volunteer attorneys. If you do not have insurance coverage, you should inquire with a particular agency as to its coverage. A corporation may also purchase malpractice insurance to cover its pro bono program. In addition, it is important that the same preliminary steps taken when you represent a corporate client are taken when you represent a pro bono client. Pro bono clients should be treated the same as a corporate client when initiating the representation, including conflicts checks, and more importantly, treating the pro bono client as any other client during the representation.

### **Myth #4: My clients do not care about pro bono work.**

Clients cannot care about your pro bono work if they do not know about it. Even in a corporate legal department, client relationships are an important part of your practice. Clients like to know that their attorneys are well-rounded individuals. Further, your clients are also employees of the corporation, and they are likely to appreciate that their attorneys are "doing good" in the community.

### **Myth #5: Pro bono work will displace "real" client work.**

The "work displacement" concern is likely to be raised as a deterrent to pro bono work. Studies on this issue, however, have concluded that not only does pro bono work not displace "real" client work, but in fact the busiest and most efficient attorneys in an office are the attorneys performing the most pro bono work! These studies confirm that successful attorneys who do pro bono work are not turning down regular client work; they are simply integrating pro bono work into their practice.