



Dear Law Firm 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 law firm 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 law firm 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 law firm; and
- **Pro Bono Programming:** PILI organizes and hosts the Pro Bono Forum on a semi-annual basis, which brings together pro bono leaders from law firms, corporations, law schools and legal aid agencies to discuss timely pro bono issues. We also organize an annual Law Firm Pro Bono Roundtable to bring together law firm pro bono leaders to share best practices.

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, or contact Michael Bergmann at mbergmann@pili.org or 312-832-5129.

Sincerely,

A handwritten signature in black ink that reads "Michael G. Bergmann". The signature is written in a cursive style with a long, sweeping underline.

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. Recruiting and Retention; Firm Morale

Competition for legal talent, whether at the summer associate, recent law school graduate, or lateral attorney level, can be intense. Firms with active pro bono programs enjoy a competitive advantage with many potential new firm attorneys, particularly when a new attorney may be deciding between firms with substantially similar or even identical salary structures. Entry level associates, in particular, are interested in and frequently ask about a firm's commitment to its pro bono program as part of the interview process.

In today's environment, attorneys are more mobile than at any time in the past with nearly 20 percent of associates leaving law firms each year. 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 firm or corporation.

Finally, a successful pro bono program can provide opportunities for lawyers 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.

III. Training and Professional Development

Pro bono projects can be used as training vehicles to provide a wide variety of high quality skills training at a much lower cost than might otherwise be provided through client-paying work. 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, offering meaningful work experience and accelerated professional development opportunities that benefit both the individual attorney and the employer.

IV. Firm Marketing

Pro bono is an effective marketing tool that can provide a firm or corporation with positive publicity, heightened visibility, improved client relationships, and evidence of good corporate citizenship.

V. 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.

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 or Qualified Monetary Contributions

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 New 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 new 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>.

Setting Up Your *Pro Bono* Program

I. Getting Buy-In at Your Law Firm

The first challenge in initiating a pro bono program is to build the necessary support among the leaders of your firm. 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 firm and individual attorneys as well. PILI’s Pro Bono Initiative can help your firm get started.

II. Promulgating a Pro Bono Policy

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

- What your firm 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 billable, bonus or advancement credit will be given to pro bono matters;
- What type of support will be available on pro bono cases (e.g., expert fees); and
- What amount of pro bono work is expected of each attorney.

III. Rolling Out the Program

Once your pro bono policy has been adopted, you must take steps to ensure that the program gets off to a good start. You should consider:

- Encouraging department leaders to lend their vocal support and encourage program participation, 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 manager of the program to cultivate and identify good opportunities for the firm, encourage participation, track involvement and promote successes;
- Partnering with one or more pro bono or legal aid agencies to pre-screen cases for your organization;
- Actively involving your legal staff in the program and encouraging them to spot worthy matters or causes for your firm to handle or support;
- Publicizing your pro bono program’s successes and linking the program with your organization’s marketing, recruiting and professional development efforts; and
- Participating in the legal community’s efforts to identify and share best pro bono practices.

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 firm. For example, a written pro bono policy emphasizes your firm's commitment to pro bono work and to your community. A written pro bono policy can provide guidance and encouragement to newer lawyers as they are developing their professional standards and integrating pro bono work into their individual practices. A written pro bono policy is a reflection to the broader community of your firm's desire to serve the needs of disadvantaged members of the community.

Developing a written pro bono policy for your firm also makes good business sense and promotes a shared understanding of the firm's process and commitment to public interest law. A written pro bono policy documents the firm's tradition of encouraging pro bono activity and establishes the procedures by which the firm will handle pro bono cases. A written pro bono policy can establish consistent guidelines and procedures for how the firm will recognize or "value" pro bono work performed by lawyers within the firm. 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 firm 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 a firm with guidance in drafting its own written pro bono policy. In addition, many firms post their written pro bono policies on their websites. Of course, each firm will have very 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 firm 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 firms have incorporated into their pro bono programs.

The first step is to define the firm's pro bono vision or mission statement. Why is pro bono important and what is the firm'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 firm? 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 running conflicts checks and opening up new pro bono matters?
- Use of Firm Resources for Pro Bono Work – What type of support will be available for pro bono work?
- Recognition of Pro Bono Work – Whether and how much credit will be given for pro bono work? This is probably the most important component of the pro bono policy as it defines, in a quantifiable way, how the firm "values" pro bono contributions by its lawyers.
- Staffing and Supervision of Pro Bono Projects – How will pro bono matters be staffed and who will supervise these matters? Many firms require that all pro bono matters be supervised by a partner or other senior attorney.
- 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 lawyers in the firm, encouraging participation in the pro bono program, and working with local pro bono and public interest agencies and 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 not be customarily done in a medium or large sized law firm or may be outside the expertise of attorneys in a firm or corporation. For example, there is a great need for assistance in family law and immigration cases, both practices that may not have a presence in a firm or corporation. 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 in Chicago who not only screen pro bono cases, but also provide support to their volunteer attorneys. In addition, many agencies provide 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 volunteer attorneys and can be very helpful.

Myth #3: My firm's malpractice insurance policy does not cover pro bono work.

Most law firm's malpractice insurance policies cover pro bono work. Even if your firm or corporation does not carry malpractice insurance or the policy does not cover pro bono work, many pro bono and legal aid agencies in Chicago 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. In addition, it is important that the same preliminary steps taken when you represent a paying client are taken when you represent a pro bono client. Pro bono clients should be treated the same as a paying client when initiating the representation, including conflicts checks, engagement letters, and more importantly, treating the pro bono client as a paying 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. Whether you are in a large or small firm, are a solo practitioner, or in a corporate legal department, client development is an important part of your practice. Clients like to know that their attorneys are well-rounded individuals, and that their lives do not revolve around sending them bills. Moreover, some corporate clients have begun asking about their outside counsel's pro bono efforts, including requiring firms to file annual reports describing the firm's pro bono work. Further, some corporations with in-house legal departments have begun doing pro bono work themselves. Even if your clients are small companies or individuals, they are likely to appreciate that their attorneys are "doing good" in the community.

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

The "billable work displacement" concern is likely to be raised as a deterrent to pro bono work, whether you practice in a large or small firm. Firms that have studied this issue, however, have concluded that not only does pro bono work not displace paying-client work, but in fact the busiest and most profitable 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 paying work; they are simply integrating pro bono work into their practice. Finally, the nation's most profitable and largest law firms listed on the Am Law 100 report a substantial number of pro bono hours by their attorneys; on average 40 hours of pro bono service is performed by each attorney per year at these law firms.