Montana Judges Guide to Pro Bono (excerpt) *

JUDICIAL PARTICIPATION IN PRO BONO JUDGES’ COMMONLY ASKED QUESTIONS

Is it appropriate for me to recruit volunteer lawyers?
Yes. Recruitment of pro bono attorneys is not solicitation for charity, as described in Canon of Judicial Ethics 25, but provides access to and enhances the administration of our justice system. Pro se appearances delay court proceedings and do not efficiently use judicial resources. The Code of Judicial Conduct repeatedly admonishes judges to serve the public interest through the administration of speedy and careful justice.

May I use judicial authority to further pro bono involvement?
Yes. Lack of legal representation for the poor impedes access to justice, a subject in which the judiciary has a special interest and responsibility. Judges have a unique opportunity – and obligation – to use their positions to promote and provide access to our courts and to justice. As state and local leaders in the community and legal system, you can lead the way to enhance access for those who feel isolated and alienated from our system of justice.

Can I serve as a member of an advisory board of board member of a pro bono program?
Yes. The Code of Judicial Ethics permits judges to serve as trustees, board members, or officers of organizations devoted to the improvement of the law, the legal system or the administration of justice, or civil organizations. However, these activities are tempered with the requirements that the activities not interfere with the capacity to decide issues impartially or that the organization not be engaged regularly in adversary proceeding.

Does the Code of Judicial Conduct allow me to provide recruitment assistance through membership solicitation letters?
Yes. The most common form of assistance is a recruitment letter or resolution, signed by a judge or judges, sent to local attorneys requesting their participation. This practice has spread widely and has been used successfully in many other states. The invitations urge lawyers to recognize their professional and ethical obligation to represent indigent clients.

May I act as a trainer for pro bono attorneys?
Yes, this includes teaching CLEs or joint training sessions with experienced practitioners in areas of a judge’s particular expertise for new lawyers or other inexperienced lawyers. Ideas to encourage participation in training programs include offering the sessions free to volunteer attorneys or tying attendance and/or CLE credit to an agreement to do volunteers work.

Can I assist in public recognition of volunteers attorneys?
It is appropriate for judges to attend functions honoring volunteer attorneys and to informal local media or others organizations of pro bono work done by attorneys. Judges

* Note: These questions are based on the Montana Canons of Judicial Ethics, which differs from the ABA Model Code of Judicial Conduct.
can also nominate deserving attorneys for pro bono or community service awards, and acknowledge the work of volunteer attorneys at CLEs or other public meetings.

**How can I further assist pro bono efforts?**

1. Thank pro bono attorneys for representing low-income clients with their court cases. Also, refrain from commenting about the type of case or asking why the lawyer is doing a certain type of legal work, which may be interpreted by the lawyer as disapproval on your part;
2. Provide scheduling flexibility for pro bono attorneys, i.e. allow court clerks to grant docket time close to times attorneys are appearing on other matters;
3. Allow pro bono lawyers to be heard first on the calendar;
4. Set pro bono cases at special times;
5. Allows pro bono lawyers to attend routine hearings by conference call;
6. Provide flexible court hours, such as early evening noon, or other non-standard hours, to facilitate pro bono attorneys’ representation of indigent clients (the economic costs of litigation, i.e. child care costs, lost wages, etc., are harsher for low-income people);
7. Provide mechanisms for court personnel to assist pro se litigants with procedural matters, such as court forms and services.