Merck & Co.: Achieving Pro Bono Excellence

In 1999, Merck & Co. received a Pro Bono Publico Award from the ABA Standing Committee on Pro Bono and Public Service for its strong commitment to pro bono and for being a corporate leader in developing an in-house corporate pro bono program. Since that time Merck has continued to expand its pro bono program, has acted as a model for other corporations interested in developing a pro bono program, and has won a number of awards for its program. In 2004, for example, Merck was named Corporate Volunteer of the Year by both Pro Bono Partnership and Volunteer Lawyers for Justice and also received an award from the New Jersey State Bar Association. To find out more about how Merck has continued to maintain a strong pro bono culture over the past seven years, we interviewed Mark Daniel, Patent Counsel of Merck, and his administrative associate, Carolyn Coyne.

Pro Bono Connection: Tell us about the history of pro bono at your company.

Merck: The Merck Pro Bono Program began in 1994 at our Rahway, New Jersey location. A partnership was forged with Legal Services of New Jersey and Central Jersey Legal Services, and we volunteered to take on family law and bankruptcy cases. To ensure that the attorneys had the expertise to handle these cases, training was provided by the legal services organizations. Central Jersey Legal Services screened cases for the Merck attorneys and provided office space for client meetings. The first year of the program we handled nine cases. Since the Rahway attorneys had such a positive experience taking these cases, attorneys at Merck sites in Whitehouse Station and Montvale, New Jersey and Upper Gwynedd, Pennsylvania, joined the program. Each site was led by an in-house attorney who volunteered to act as the site’s pro bono coordinator. They partnered with local legal services organizations in providing pro bono legal services.

Because of the success of this expansion and the interest of our attorneys in doing different types of pro bono work, cases involving guardianship, landlord tenant, domestic violence, special education and immigration were added to the program. In 2003, attorneys, paralegals and administrative associates began to assist at legal services sites by providing intake support to walk-in clients seeking legal counsel. In 2004, Merck’s Pro Bono Program partnered with Pro Bono Partnership to begin handling pro bono transactional work for nonprofit organizations.

It is pretty astounding how much we have grown. We currently have over 50% of our attorneys and a large number of our support staff involved in Merck’s Pro Bono legal services.

Pro Bono Connection: What is Merck’s vision for pro bono within the company and for the larger legal community?

Merck: Pro bono is an integral part of Merck’s culture. We look at pro bono as a way to give back to the community and as part of our professional responsibility. We also want to encourage other corporate legal departments to consider starting a pro bono program of their own. To this end, we have sponsored conferences where we have invited corporate counsel to come to Merck to become educated about its program—how we have structured our programs and how satisfying the work can be. We have also consulted independently with companies that have been interested in setting up
or expanding their pro bono programs.

**Pro Bono Connection:** From a policy standpoint, how is pro bono handled in the company? Do you have a set number of hours that an attorney must work per year? Do you allow a certain amount of an attorney’s work product to be pro bono?

**Merck:** We have different pro bono opportunities available to attorneys at each site, depending on attorney interest and community need. Pro bono at Merck is totally voluntary and we do not have a formal pro bono policy. Merck work always comes first, so we encourage attorneys to partner together to handle pro bono case demands. Although we do not have billable hours, our attorneys work long hours, and we give them the flexibility to work on their pro bono cases when necessary. We are aware that there are times when lawyers will have to represent clients during the work day.

**Pro Bono Connection:** What specifically does the company do to encourage pro bono activity and to maintain long-term participation?

**Merck:** We make it easy for our attorneys and support staff to stay involved. We are constantly developing new programs and trying to find interesting cases for our staff. We are also fortunate as we have had two general counsels over the past 13 years who have actively supported pro bono.

It is also important to mention the emphasis we place on training our attorneys for these cases. We provide training for attorneys at Merck’s corporate offices or through Legal Services of New Jersey. Legal Services has also provided us training materials, court forms, and sample pleadings. We also have many of these training sessions on video for new attorneys to use. In addition, we encourage our attorneys to travel to legal services offices to obtain training and CLE credit as needed.

**Pro Bono Connection:** How is pro bono managed and overseen in your company?

**Merck:** Each site has a volunteer pro bono coordinator who manages the site’s program in addition to other job responsibilities. These coordinators meet on a regular basis to discuss the program. Logistically, the process works as follows: the cases are faxed to the coordinators by the legal services office for review. A notice is then sent via e-mail to Merck attorneys in the program to make them aware of the new cases. Attorneys will volunteer to take these cases and contact the clients to schedule a meeting at the legal services office. The strong partnership that we have with legal services was instrumental to the success of this program.

The pro bono program acts as a “firm within a firm” because we provide a separate phone line for pro bono calls with voicemail and a special fax line. We also have a separate post office box for incoming mail and have pro bono letter-head for external correspondence. In addition, each case that is accepted from legal services is assigned a case number and a file is opened with a corresponding docket sheet, to keep a log of all correspondence. We have a special pro bono account number to charge expenses, and our employees are covered by the local legal services malpractice insurance.

**Pro Bono Connection:** What advice would you give to other corporations wanting to get involved in pro bono?

**Merck:** Start small, do not become overly ambitious, and make sure senior management is supportive. Hopefully, these corporations will have general counselors who have done pro bono or are supportive of it. I would also advise companies to bear in mind that a program evolves over years, not days or months. In our experience, corporate pro bono programs that attempt to grow too fast have struggled. There needs to be proper training arranged for attorneys and support staff. It is no different from running a small law firm.

**Pro Bono Connection:** What benefits has the company realized as the result of doing pro bono?

**Merck:** Our program has helped those in need in the communities where we work. We believe that we have made a difference in these communities and, more importantly, we have provided legal services to those who would have otherwise gone without. Our lawyers and support staff have also become better advocates, and have enhanced their oral and written communication skills by doing pro bono work. Also, they have become better leaders and have developed an appreciation for pro bono work and a connectedness to the community. As Carolyn Coyne, my administrative associate, once said, “my involvement in the pro bono program has proved to be not only a rewarding and interesting experience, but has added a renewed empathy in me for others less fortunate in our society.”

**Pro Bono Connection:** How do you send a message to young lawyers that doing pro bono work is important?

**Merck:** The most important thing is to lead by example. If young attorneys see their managers actively involved in pro bono they are more likely to get involved and stay involved.

At Merck, we are very fortunate to have Kenneth C. Frazier, Sr. Vice President and General Counsel, who has provided pro bono legal services by handling death row inmate cases. In addition, he is very supportive of Merck’s Pro Bono Program by allowing our attorneys and support staff to provide pro bono legal assistance.

We are very proud of our lawyers and support staff for providing pro bono legal services for those in need.
Pro Bono Policy News from Around the Country

Indiana Implements New Judicial Conduct Rule

Effective January 1, 2006, the Indiana Supreme Court implemented its amendment to Canon 4 of its Code of Judicial Conduct. The amendment clarifies that support of pro bono legal services is an activity that relates to the improvement of the legal system and the administration of justice. It states that a judge may engage in activities intended to encourage attorneys to provide pro bono services, including participating in recruitment and recognition events, scheduling accommodations, and advising pro bono programs. For more information on this rule, see http://www.in.gov/judiciary/rules/jud_conduct/index.html#c4.

Nevada Adopts a New Rule of Professional Conduct 6.1

In April 2006, the Supreme Court of Nevada adopted the Nevada Rules of Professional Conduct and replaced Supreme Court Rule 191 regarding pro bono with Rule 6.1. The most important aspect of this rule change is that it places the Nevada rule more in line with ABA’s model rule 6.1, placing an emphasis on providing direct legal service to persons of limited means. The rule also defines examples of legal services that cannot be considered pro bono such as legal services written off as bad debts, legal services to family members, and activities such as serving on the board of a charitable organization.

Another notable change is that the word “legal” was inserted in the provision regarding an attorney’s ability to provide a $500 contribution in lieu of providing pro bono legal service. Now, the rule states that the $500 is to be provided “to an organization or group that provides pro bono legal services to persons of limited means,” which emphasizes that one’s contribution be directed towards organizations providing legal services as opposed to other types of service. The rule also gives the State Bar the authority to impose a fine of $100 on attorneys who, after a 30 day warning notice, do not submit their annual pro bono reporting form, as required by the rule. This rule will soon be available at http://www.nvsupremecourt.us/.

Illinois Amends Rules to Require Mandatory Reporting

On June 14, 2006, the Illinois Supreme Court amended Supreme Court Rule 756: Registration and Fees, and Supreme Court Rule 766: Confidentiality and Privilege, to set out new requirements mandating that attorneys disclose voluntary pro bono service. The new reporting requirement requires that attorneys report, on an annual basis, whether they have provided pro bono legal services to the poor. Attorneys must indicate the number of hours of pro bono legal services they have provided as well as the amount of qualified monetary contributions they have made over the past 12 months.

In addition, the rule states that attorneys who do not provide information on voluntary pro bono service on the form will not be registered for the year and will be removed from the master roll of attorneys. To view the additional provisions of the rule, see http://www.state.il.us/court/SupremeCourt/Rules/Amend/2006/061406.pdf.

2006 ABA Pro Bono Publico Awards

The Standing Committee on Pro Bono and Public Service annually presents five awards to individual lawyers and law firms that have demonstrated outstanding commitment to volunteer legal services for the poor and disadvantaged. The awards will be presented at the Pro Bono Publico Awards Assembly Luncheon at the Hawaii Convention Center on Monday, August 7, 2006 at the ABA Annual Meeting in Honolulu.

This year’s recipients are: Debra Brown Steinberg has led the Cadwalader firm’s 9/11 pro bono efforts, providing representation to families of World Trade Center victims. In addition to personally representing several families of 9/11 victims herself, she played a leading role in the creation and development of the New York Lawyers for the Public Interest 9/11 Project in early October 2001. Ms. Steinberg has also had a role in the drafting and passage of legislation on behalf of victims’ families. Specifically, she drafted the Association of the Bar of the City of New York’s comments on the interim and final regulations for the 9/11 Victim Compensation Fund and a substantial portion of the 9/11 Victims and Families Relief Act in NY. Furthermore, she drafted substantial portions of legislation to provide legal recognition and protection to family members of non-citizen victims of the attacks—known as the September 11 Family Humanitarian Relief and Patriotism Act—which is currently pending in both the House and Senate. Ms. Steinberg has received many (continued on page 4)
Publico Awards
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honors and recognition for her pro bono service including praise by the United States House of Representatives (May 18, 2004) and acknowledgement in a New York State Senate Legislative Resolution (April 29, 2003). Ms. Steinberg also received the New York State Bar Association’s 2003 Pro Bono Service Award.

Ward Coe is a partner and head of the litigation department at Whiteford, Taylor & Preston, LLP. He has spent well over 1,300 hours working for systemic changes in the delivery of pro bono legal services in Maryland.

Mr. Coe exercised tremendous leadership in encouraging his firm to adopt a pro bono policy and, some years later, to lead his firm’s efforts to become the first in Baltimore to dedicate a partner to pro bono service. As a result of Mr. Coe’s leadership, the amount of the firm’s pro bono legal service has doubled.

In addition to firm leadership, Mr. Coe has provided direct pro bono representation, has served as a member of the Maryland Judicial Commission on Pro Bono which recommended new state pro bono rules, and has chaired the Court of Appeals Standing Committee on Pro Bono Service which is charged with implementing the new rules. He has traveled the state and provided countless hours of pro bono fulfilling the obligations of these roles.

In 2002, Mr. Coe received a Maryland Pro Bono Service Award from the Pro Bono Resource Center of Maryland. In September, 2005, Mr. Coe received The Maryland Bar Foundation’s Professional Legal Excellence Award for the Advancement of the Rights of the Disadvantaged, and in October, 2005, he was selected to receive The Pro Bono Resource Center’s Pro Bono Legal Service Award.

Richard Zitrin has been a dedicated pro bono attorney providing direct legal services to clients of the Homeless Advocacy Project (HAP) of the Bar Association of San Francisco’s (BASF) Volunteer Legal Services Program for over four years. He also created the twice-monthly drop in legal clinic at San Francisco’s Glide Memorial Church and single-handedly staffs the clinic on a regular basis. In addition to his direct client work, Mr. Zitrin conducts pro bono work on a systemic level—drafting rules, codes and legislation in partnership with bar associations and state governments.

Mr. Zitrin’s pro bono commitment has been evident since his graduation from law school. After graduation, he and a group of new attorneys and law students founded the Criminal Legal Aid Collective (CLAC), a nonprofit organization in San Francisco that provided pro bono legal defense services to indigent clients in criminal cases.

Mr. Zitrin is also extremely active in the community and with local, state and national bar associations. He is also the recipient of several awards, including being honored by the Bar Association of the San Francisco’s Foundation for volunteer work in 2004, and a Certificate of Merit from BASF for promoting “equality and justice for all” in 2002.

Debevoise & Plimpton, LLP is an international firm that has set the standard for pro bono. The firm’s commitment to pro bono legal service is demonstrated by its consistent ranking among the nation’s top law firms for pro bono work. In 2005, Debevoise was ranked number one on the American Lawyer’s A List.

Debevoise & Plimpton gets lawyers involved right away upon joining the firm and has taken several different approaches to introduce new lawyers to pro bono. The firm has done extensive transactional pro bono work with numerous non-profit and community-based organizations serving low-income communities.

In recent pro bono cases, Debevoise lawyers have advocated on behalf of clients seeking to assert and defend international human rights, prisoners’ rights, voters’ rights, labor and employment rights, First Amendment rights and other constitutional civil rights, as well as the rights of individuals with mental illness.

Debevoise has been recognized for its outstanding pro bono work by a variety of public interest organizations. In 2005, Debevoise was honored by The Legal Aid Society for its work on prisoners’ rights. In 2004, Debevoise was honored with the first Marvin E. Frankel Pro Bono Award by Human Rights First, in recognition of the firm’s longstanding commitment to pro bono activities in the field of human rights. In 2003, Debevoise was the recipient of The Legal Aid Society’s 2003 Pro Bono Publico and Public Service Law Firm Award and was recognized for its pro bono efforts by the Urban Justice Center.

Winston & Strawn –
V. Ann Liechty Child Custody Award
In the late 1990’s, staff from the Chicago Volunteer Legal Services Foundation (CVLS) were appointed as guardian ad litem in a handful of problematic guardianship cases in Cook County. However, by the early 2002, the appointments grew more than the CLVS staff could handle. As a direct result of this development, in late 2002 Winston & Strawn and CVLS formed a partnership that continues to this day. This partnership has benefited both parties, as it allows Winston to have a continuing pro bono opportunity for its lawyers and CVLS a larger staff base to handle the growing number of appointments assigned to them from the minor guardianship courtroom. The significance of Winston’s work is twofold: it is being done by partners, and attorneys from practice areas other than litigation are providing representation. Between February 28, 2003 and January 16, 2006, more than 40 Winston attorneys have donated 2,300+ hours as Guardian Ad Litem in 74 cases. Winston is the first law firm to be honored with this award.

ATTENTION: We are always curious and eager to hear news from your lives and your communities about new pro bono initiatives. We would be happy to share your pro bono thoughts and questions in our next issue of Pro Bono Connection. Please email us at: herzj@staff.abanet.org.