

PRO BONO MATTERS

Pro Bono Is Every Lawyer's Professional Responsibility

By Francine J. Lipman*

"The system not only robs the poor of their only protection, but it places in the hands of their oppressors the most powerful and ruthless weapon ever invented."—Reginald Heber Smith, *Justice and the Poor* 9 (2d ed. 1919)

Few things in life are certain—death, taxes, and a lawyer's responsibility to provide pro bono legal services as well as financial support to organizations that provide these services to the poor. ABA Model Rule 6.1 states that, "Every lawyer has a professional responsibility to provide legal services to those unable to pay. A lawyer should aspire to render at least (50) hours of pro bono publico legal services per year In addition, a lawyer should voluntarily contribute

financial support to organizations that provide legal services to persons of limited means." While the clarity of this charge is as obvious as the short and fragile nature of life, too many lawyers are in denial of these simple truths. Fortunately, there are role models among us who can help us open our eyes, minds, hearts, wallets, and schedules to fulfilling our pro bono professional responsibilities and in turn reap the rich rewards of a life well lived.



Frank Agostino, 2012 Janet R. Spragens Pro Bono Award Recipient

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As Chair of the Pro Bono Committee I am honored to recognize Frank Agostino as the 2012 Janet R. Spragens Pro Bono Award recipient.

Frank Agostino has been recognized by his peers as a tax attorney who has gone above and beyond providing access to tax justice on a consistent basis for more than a decade. Frank is a tireless low-income taxpayer advocate actively, regularly, and routinely representing taxpayers before the Tax Court through the New York calendar call program and assisting in countless cases at numerous low-income taxpayer clinics in his area. Frank not only walks the walk by serving others, but he encourages, motivates, inspires, and supports lawyers and law students to do the same—including his associates at Agostino & Associates, PC, and countless others who have heard him speak on ABA Tax Section panels, among others, or taken his tax law classes.

Finally, Frank Agostino well understands that if you build it they will come. Notably, Frank assisted in establishing the first Low Income Taxpayer Clinic at Northeast New Jersey Legal Services, Jersey City, NJ, and also established The Taxpayer Assistance Corporation in Hackensack, NJ, in 2000. In sum, Frank Agostino is a selfless, generous servant to tax justice, a role model for all future and established tax lawyers, and a pro bono tax legend.

* Professor of Law, Chapman University School of Law, Orange, CA.

In addition to recognizing the 2012 Janet R. Spragens Pro Bono recipient, I have the great privilege of working with and mentoring the Public Service Fellows. This elite group of young tax lawyers providing access to tax justice is a great resource for all tax attorneys. These young attorneys can be the bridge to your opportunity to provide services and financial support to satisfy your pro bono responsibilities under the Model Rules.

Interview with Sean Norton

Sean J. Norton, one of the 2011 Public Service Fellows, has been working since August 2011 at Pine Tree Legal Assistance of Maine to provide tax-specific legal assistance to low-income taxpayers.

NQ Describe your background and your work experience in and outside of tax.

SN Before attending law school, I worked for former U.S. Congressman Tom Allen in the First District of Maine. I worked as a field representative and helped constituents resolve problems that they were having with the federal government. After law school and before my Fellowship, I worked as an estate planning associate for Plotnick & Ellis, PC, which is located in the Philadelphia suburbs. During that time, I also obtained an LL.M. in Taxation from Villanova University.

NQ What made you first apply for the Fellowship?

SN While studying for an LL.M., I also worked on cases at Villanova's Low Income Taxpayer Clinic (LITC). At Villanova's LITC, I became more aware of the disproportionate effect that the IRS assessment process has on low-income taxpayers. In particular, low-income taxpayers rely on negative tax credits, such as the Earned Income Credit, to lift them out of poverty. An IRS deficiency assessment usually takes



Sean J. Norton, a 2011 Public Service Fellow.

place after a low-income taxpayer has already spent their original refund and can cause severe financial hardship. After speaking to Pine Tree Legal Assistance of Maine, it became clear that there was an overwhelming need for tax assistance in my home state. This was my chance to give back to a community that has given me so much in the past.

NQ What made you choose Pine Tree Legal Assistance as your sponsoring organization?

SN The main goal of my Fellowship proposal was to provide direct legal services and Pine Tree had an existing Low Income Taxpayer Clinic that served the entire State of Maine. Partnering with Pine Tree allowed me to maximize my caseload and utilize their existing legal aid network to facilitate my outreach projects.

NQ What has been your biggest challenge as a Fellow?

SN The demand for low-income tax assistance is greater than the current supply of legal aid attorneys. I struggle daily with having to turn clients away who have no other access to representation. This is not a challenge;

it is a travesty. My biggest challenge is to the ABA member who is reading this article. I challenge you to contact your local LITC and take one pro bono case from the LITC each year. You can find clinic listings in IRS Publication 4134 or you can email me at snorton@ptla.org, and I will put you in touch with an LITC practitioner near you. If you do not have time to volunteer, then please consider making a donation to your local LITC. Each LITC must match a certain amount of federal funding in order to fulfill its grant requirements and your donation could help with this.

NQ What has been your most rewarding experience as a Fellow?

SN Dealing with the IRS is a scary experience for anyone. The combination of complicated administrative procedures and the threat of potential collection actions can inflict severe stress and anxiety on any taxpayer. This stress factor is multiplied ten fold when applied to low-income taxpayers. Most taxpayers seek assistance after his or her debt has been assigned to IRS Automated Collection Services (ACS). ACS typically sends out generalized notices that threaten collection activities that range from bank levies to real property seizure. In what I believe to be an attempt to prompt immediate payment, ACS notices fail to explain the lengthy time processes involved with such collection activity. My most rewarding experience is repeated almost daily when I explain to a low-income client that I can quickly place them in currently not-collectible status and avoid the basic garnishment and levy system. I do not understand why ACS notices fail to explain this as well.

NQ How do you expect the Fellowship will affect your future career plans?

SN Before the Fellowship, I would have most likely stayed in the estate planning field. Now, I would like to continue my work in the LITC community.

NQ Any advice for lawyers/law students interested in tax related public service or pro bono work?

SN Call your local LITC and volunteer. If you are an attorney, take a case pro bono or offer to spend some time recruiting other attorneys that you know. Do you know accountants that would volunteer and help with filing past-due income tax returns? If so, then refer them to your local LITC as well. If you are a student, offer to assist an LITC in any way that you can, such as answering phones, intake, and research and writing. Visit your local LITC and introduce yourself to the director of the clinic.

NQ After the Fellowship, do you currently plan to stay at Pine Tree?

SN Pine Tree is incredibly supportive of my work but I do not expect to have a position when my funding expires. Similar to other legal aid organizations across the country,

Since 2009, the Section has funded two Public Service Fellows each year, including Sean and these other amazing young lawyers (Fellowship details are available at <http://www.americanbar.org/groups/taxation/awards/psfellowship.html>):

- Laura Newland (AARP's Legal Counsel for the Elderly, 2009–11)
- Vijay Raghavan (Prairie State Legal Services, 2009–11)
- Katie Tolliver Jones (Legal Aid Society of Middle Tennessee and the Cumberlands, 2010–12)
- Douglas Smith (Community Action Program of Lancaster County, Pennsylvania, 2010–12)
- Anna Tavis (South Brooklyn Legal Services/Immigrant Workers' Tax Advocacy Project, 2011–13)
- Ana Cecilia Lopez (University of Washington School of Law Federal Tax Clinic, 2012–14)
- Jane Zhao (Center for Economic Progress, 2012–14)

Pine Tree is working through significant federal budget cuts and future funding levels cannot be estimated. This is just one more reason why members of the ABA Tax Section should volunteer on a pro bono basis and submit monetary donations to their local LITC.

Sean can be contacted at snorton@ptla.org or (207) 400-3298. Information about applying for future Public Service Fellowships can be found at: <http://www.americanbar.org/groups/taxation/awards/psfellowship.html>. ■

2012–2013 Nominees

In accordance with Sections 4.2, 6.1, and 6.3 of the Section of Taxation Bylaws, the following nominations have been submitted by the Nominating Committee for terms beginning at the conclusion of the 2012 ABA Annual Meeting in August. Under the Section Bylaws, the current Chair-Elect, Rudolph R. Ramelli of New Orleans, LA, becomes Chair of the Section at the close of the Annual Meeting.

Chair-Elect:

Vice Chairs:

(For a one-year term)

Secretary:

(For a one-year term)

Assistant Secretary:

(For a one-year term)

Council Directors:

(For a three-year term)

Council Director:

(For a one-year term)

Michael Hirschfeld, New York, NY

John P. Barrie, New York, NY (Communications)

Eric Solomon, Washington, DC (Government Relations)

Priscilla E. Ryan, Chicago, IL (Committee Operations)

Alice G. Abreu, Philadelphia, PA (Publications)

William H. Caudill, Houston, TX (Professional Services)

Leslie E. Grodd, Westport, CT (Administration)

Megan L. Brackney, New York, NY

Thomas D. Greenaway, Boston, MA

Jody J. Brewster, Washington, DC

Julie Divola, San Francisco, CA

Fred F. Murray, Washington, DC

Charles Rettig, Beverly Hills, CA

Bahar Schippel, Phoenix, AZ

Mary A. McNulty, Dallas, TX