

An Inside Look at Solo and Small Firm Attorney Pro Bono

by *Melanie Kushnir, Assistant Staff Counsel, ABA Center for Pro Bono*

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While small firm and solo lawyers agree on the need for pro bono legal services, many say the demands of time and a lack of resources make it difficult, if not impossible, for them to contribute.

At the 2006 Annual Meeting, the ABA House of Delegates adopted Resolutions 121A¹ and 105² which, in part, urge solo and small firm lawyers to perform pro bono and community service (respectively). The Resolutions identify common barriers lawyers confront in performing pro bono and public service activities and urge adoption of policies and procedures that would aid in overcoming these barriers.

As a follow-up to the Resolutions, the ABA Standing Committee on Pro Bono and Public Service and the General Practice Solo and Small Firm Division (GPSSFD) developed an informal online survey of solo and small firm attorneys. The goal of the survey was to learn more about respondents' participation in pro bono and community service, including motivating factors and challenges to participation.

Survey Findings

The survey used the ABA's Model Rule 6.1 as the basic foundation for the questions about pro bono.³ The results confirmed that solo and small firms are deeply involved in their local communities. Respondents indicated that, within the 12 months prior to taking the survey:

- 74% provided pro bono services to persons of limited means or organizations that address the needs of the poor.
- 56% provided pro bono services to groups or

individuals by substantially reducing their fees.

- 53% provided pro bono services to groups or individuals seeking to secure or protect civil rights, civil liberties or public rights.
- 63% participated in activities for improving the legal system or legal profession.
- 80% provided non-law related community service activities.

In addition, respondents who reported providing some level of pro bono and/or community service activities contributed on average 77 hours and 65 hours (respectively) of service within 12 months prior to taking the survey.

Respondents who reported having performed pro bono service were also asked from what referral sources these matters derived. The most common sources of referral were a legal services or pro bono program or a family or friend to whom they provided services. The third-most cited source was "other." Comments indicated that these frequently came from court appointments, former clients, and various non-profits.

The primary reasons given for participation in pro bono and community service were a sense of professional responsibility, personal satisfaction, civic responsibility, the opportunity to enhance legal skills, and professional benefits such as contacts and referrals. Others indicated being motivated by an issue that has impacted their life or that of a loved one or an issue to which they are personally committed.

Factors that were not significant motivators included:

1) employer encouragement and policies; 2) encouragement of law firm clients; and 3) awards or professional and judicial recognition.

Reasons mentioned for not participating were: 1) a lack of time; 2) a commitment to family obligations; 3) a lack of skills or experience in the practice areas needed by pro bono clients; and 4) a lack of administrative support or resources.

The survey also presented respondents with a series of factors and asked the respondents to rate how strongly they agreed the factor would encourage or facilitate pro bono and community service work. While no factor emerged as the single factor that would drive solo and small firm attorneys to conduct more pro bono work, the findings did provide some insight as to what would motivate them. The top motivators cited were:

- Allowing the attorney to take on a discrete legal task as opposed to a full representation of the client
- Providing free malpractice insurance coverage related to the pro bono work performed
- Providing free training and CLE credit for pro bono
- Offering a full range of volunteer opportunities

The factors that would most encourage non-law related community service are: 1) a wide range of volunteer opportunities; 2) the opportunity to partner with other organizations on signature projects; and 3) a direct request from a colleague.

Based on this information, it becomes important to ask what the ABA, bar associations, legal service providers, and volunteers

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can do to increase pro bono attorney involvement of solo and small firm practitioners.

Foster Pro Bono Ethic of Service

This survey demonstrates that a large number of solo and small firm lawyers have a profound sense of responsibility to perform pro bono and community service activities and that they gain personal satisfaction from doing so. While awards, CLE credit and other inducements may encourage some participation, it is even more important that the ABA, law schools, and the legal community foster a sense of professional responsibility to volunteer.

Communicate Availability of Support

Survey responses identified a number of obstacles unique to solo and small firm practitioners who lack the administrative support and resources of a larger firm.

Pro bono and legal service organizations commonly provide free training sessions and some states provide CLE credit for services performed. In addition, most offer malpractice coverage, reliable pre-screening of client financial eligibility, mentoring and co-counseling programs, and opportunities to partner with larger firms on complex cases. Programs that offer these services must communicate more effectively

the availability of these services for cases that they refer.

Offer a Breadth of Opportunities

Legal service and pro bono programs should offer a wide range of volunteer opportunities including those that enable attorneys to perform discrete legal tasks such as initial consultation or limited representation. Transactional lawyers, who don't want to go to court, can perform discreet transactional projects assisting either nonprofits that help underserved populations or micro entrepreneurs who qualify for service or who are developing a needed business in a distressed area. Similarly, programs can coordinate general counsel relationships for an individual to work for a small non-profit that helps underserved populations.

Sign-up!

Individuals wishing to volunteer can find pro bono opportunities within their communities by searching the National Pro Bono Opportunities Guide at www.volunteerforprobono.org. The guide indexes links to organizations and web sites that list pro bono opportunities in each state and provides information on available support services.

Increase Awareness and Recognition

The ABA, legal service programs, and their volunteers are poised to develop educational and public awareness materials to promote pro bono service. Lawyers in small firm settings

can support these efforts by participating in bar association initiatives such as programs discussing best practices for encouraging pro bono and public service, recognizing lawyers' participation through public service awards and highlighting achievements in various print and electronic publications.

While the survey's quantitative results did not indicate that bar association recognition was a strong motivator for pro bono service, many respondents focused on this in their comments. As one respondent indicated, "The ABA and other organizations should give greater recognition to the contributions of solo practitioners who devote substantial amounts of time to pro bono... Too often, large law firms and corporate law departments both of which have substantial resources are given recognition for their pro bono work to the exclusion of solo practitioners who go unmentioned."

If you are a solo or small firm practitioner and have suggestions related to this article or are interested in learning more, contact the ABA Center for Pro Bono Assistant Staff Counsel, Melanie Kushnir at kushnim@staff.abanet.org.

Endnotes

- ¹ <http://www.abanet.org/leadership/2006/annual/dailyjournal/hundredtwentyonea.doc>
- ² http://www.abanet.org/renaissance/downloads/2006MY_105.pdf
- ³ <http://www.abanet.org/legalservices/probono/rule61.html>