

DIALOGUE

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2009 Award Recipients Discuss their Pro Bono Work

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On August 3, 2009, the five recipients of the ABA Pro Bono Publico Award were honored at the Pro Bono Publico Awards Assembly Luncheon held during the ABA Annual Meeting in Chicago. In the Summer 2009 issue of *Dialogue*, we profiled these individuals and some of their notable contributions in delivering pro bono legal services to the poor. In this issue, the individual recipients describe, in their own words, how they became involved in pro bono, what their pro bono participation has meant to them and the contributions they have made to serve the poor throughout their professional lives. Additionally, program recipients describe the importance of their pro bono work and the unique aspects of their work environment that help to support attorneys who would like to do pro bono.

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Gordon P. Erspamer

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As I left law school in 1978, I was predisposed to do pro bono work, but I had no burning cause to vindicate, as "empathetic" as I was. In my early years in practice I became involved in poverty law cases, drawing upon my work during law school at the Washtenaw County Legal Aid Society. In the early 1980's, events occurred that led me down a different path. My father became seriously ill with leukemia, which he linked to radiation exposure in performing hydrographic surveys at Operation Crossroads in the Bikini Islands. He lacked the energy to pursue any claim or, as he explained to me, "I do not want to spend the last year of my life fighting the Department of Veterans Affairs (VA). So, I began to attend meetings of a non-profit organization dedicated to the cause of "atomic veterans."

I began to investigate our use of soldiers as guinea pigs in the open-air testing of atomic bombs. I learned that an "iron triangle" existed, insulating the government from any judicial scrutiny. First, a statute barred judicial review of VA claim decisions. Second, a veteran could pay an attorney no more than \$10 out of his own pocket for representation. Third, veterans

were barred from suing the government for any torts. For the first time in my life, I could taste and feel injustice on a mass scale.

At about the same time, I received a call from my firm's receptionist, who reported that an old man in a wheelchair and his wife were there to see me without an appointment. My decision to meet with them that day marked the beginning of my journey working for veterans. The story of Al and Jackie Maxwell was captivating: his service in the Army and eventual capture; his experiences in the Bataan Death March; his transport to Japan in one of the infamous "hell ships," which was sunk by an allied submarine; his rescue by a Japanese merchant vessel; his forced labor in Mukden and in Nagoya; his forced participation in the cleanup of Hiroshima; and the couple's loss of four children to congenital heart and lung ailments. The mere telling would have made anyone weep.

Al Maxwell, together with five other atomic veterans or widows, became plaintiffs in a class action which asked the Court to rule that the fee limitation violated due process. After securing a preliminary injunction in the District Court, I argued the VA's direct appeal in the Supreme Court in 1984. During the decade-long course of that case, I met and established friendships with veterans and attorneys serving veterans all across the country. I always drew inspiration from Bob Raven, a former ABA President, who instilled the values of public service in everyone he mentored.

In 1986, the VA was caught shredding millions of pages of documents, and lying in discovery responses in the NARS case. Three years later, in 1989, Congress passed a statute setting up the Court of Veterans Appeals. The first case it heard was that of my mother, Erspamer v. Derwinski, in which the court held that the VA's delay of over 8 years in adjudicating claims arising out of my father's death satisfied the requirements for mandamus under the All Writs Act.

For the next several decades, I represented individual veterans or widows seeking service-connected death or disability compensation. I noticed that the same issues continued to crop up repeatedly — prolonged administrative delay, pressure to reduce grant rates in certain types of cases, documents missing from files, irrational decisions, and, of course, the implications stemming from the absence of attorneys — dismissals based upon missed time deadlines, misconduct by VA adjudicators, and scores of abandoned claims.

Recently, I have led two new cases. The first focuses on the VA's failures to provide mental health care to veterans returning from Iraq and Afghanistan, as well as systemic delays in the adjudication of their claims. The second is on behalf of soldiers used as guinea pigs in the testing of chemical and biological weapons from 1943-75.

I believe that it is a privilege to serve those who serve. It is one of the few

areas, which is almost as apolitical as it is on the point in the circle where left meets right. As a society, we must all pay more than lip service to our veterans and actively assist those who sacrificed the last measure of their devotion.

I am honored to accept the ABA's award on behalf of the firm of Morrison & Foerster, my colleagues, and our veteran clients.

The Federal Government Pro Bono Program

In April 2009, President Barack Obama signed the Edward M. Kennedy Serve America Act into law. At the bill signing ceremony, the President said, "We need your service right now, at this moment in history. I'm not going to tell you what your role should be; that is for you to discover. But I am asking you to stand up and play your part."

Since 1996, the Federal Government Pro Bono Program, directed by the Department of Justice, has worked tirelessly to spread the spirit of public service across the government and throughout our country. We are honored to receive the American Bar Association's Pro Bono Publico Award in recognition of our efforts.

The Federal Government Pro Bono Program was launched by an executive order of President Bill Clinton in 1996. Prior to this time, attorneys who wished to pursue pro bono work outside of their working hours were largely on their own. President Clinton directed federal agencies to encourage their attorneys to engage in pro bono work and instructed the U.S. Department of Justice to coordinate this effort. The Justice Department enthusiastically followed the President's directive by creating the first federal agency pro bono program and convened a committee of federal agencies to work on the issue. Today, that committee, the Interagency Pro Bono Working Group, has grown to include 36 participating agencies, all of which work together to provide thousands of hours of volunteer legal services to Americans in need of assistance.

Owed to the concentration of participating federal employees in our nation's Capital, the Pro Bono Program has become a significant contributor to the residents of the District of Columbia. Through ongoing relationships with local legal services providers such as the DC Bar Pro Bono Program, the Legal Aid Society, and the Neighborhood Legal Services Program, the program has recruited attorneys to contribute direct representation, mediation, transactional work, and brief advice to the low-income residents of the Capital region. Our attorneys provide services in many areas of law, including family law, domestic violence, landlord-tenant, consumer law, personal injury and more.

Modeled on the successful efforts in Washington, DC, the program expanded to Chicago in 2008. Working with a dedicated group of federal

attorneys in that city, the program developed relationships with several legal services organizations, including the Cabrini Green Legal Aid Clinic, the Constitutional Rights Foundation, Chicago Volunteer Legal Services Foundation and the Legal Assistance Foundation of Metropolitan Chicago, and has begun to recruit federal attorneys to volunteer with those organizations. A similar outreach effort has recently been initiated in New York City.

Government attorneys on the federal, state and local levels face unique challenges in their pro bono work. Unlike their private sector counterparts who may receive billable credit and may access the resources of their firm, government attorneys must do pro bono work on their personal time and use their own resources. They also face potential conflicts of interest and must navigate statutory, regulatory and ethical restrictions which limit the kinds of pro bono work they can do and how they can do it. An important mission of the Federal Government Pro Bono Program is to minimize the impact of these limitations and to provide support to federal government attorneys engaged in volunteer work.

The Program's receipt of the ABA Pro Bono Publico Award is a testament to the efforts of our selfless federal attorneys who not only choose a career of public service, but also contribute their evenings and weekends to those in need of help. The extraordinary men and women who participate in the Pro Bono Program do not seek or expect recognition, but this award indicates that their efforts are appreciated. May their generosity of spirit inspire even more Americans to answer the President's call to stand up and play their part.

Holocaust Survivors Justice Network

Do not go where the path may lead; go instead where there is no path and leave a trail.

– Ralph Waldo Emerson

The ground-breaking Holocaust Survivors Justice Network charted truly new territory in delivering pro bono services to low-income individuals on a coordinated, nationwide basis.

With an explorer's spirit and a comprehensive set of guiding materials (training videos, sample documents and forms, FAQs, and a project website: www.holocaustsurvivorsprobono.org), the Justice Network grew from a pilot program engineered by Bet Tzedek Legal Services and the law firm of Manatt, Phelps & Phillips in Los Angeles to involve more than 130 law firms, corporate legal departments, law schools, and other legal and social service entities in 30 locations in the U.S. and Canada, with a total ramp-up time of less than one year.

The Justice Network's 3,000+ volunteer attorneys have rendered one-on-one legal services to thousands of Holocaust survivors, carefully guiding them through a complex German application for reparations payments, which requires survivors to recount some of the most horrific events of their lives.

Reflecting on his service as the Justice Network's initial volunteer national director, Stan Levy of Manatt speaks for many by saying: "It is one thing to know about historic events. It is something quite different and profound when you actually touch that history through the lives of people who lived it. That moment of meeting with a Holocaust survivor affects you to the very depth of your soul."

The survivors served through the Justice Network are all of advanced age and many are in poor health. It is a true travesty of justice that after enduring one of humanity's darkest eras, more than a quarter of today's survivors live below the poverty line and many more struggle to survive on meager pensions. Indeed, "surviving" has become fraught with its own set of daunting challenges – the Justice Network exists to surmount these challenges.

In addition to helping to procure reparations payments that can enhance each survivor's net worth, the Justice Network also strives to enhance survivors' self-worth. Justice Network volunteers spend hours with each survivor, ensuring that their stories are recorded accurately and that their needs are met. As noted by one survivor's child, "I was impressed by the professionalism of the attorneys ... and moved by their kindness; [it] brought tears to my eyes. Echoes of what I have written here are reverberating from coast to coast. Your work is genuinely appreciated."

The Justice Network succeeds not only by restoring a small measure of justice to Holocaust survivors, but also by facilitating new awareness of the legal needs of this vulnerable population and increasing the level of participation in pro bono work among firms and attorneys in all areas of practice and at every level of experience.

To date, the Justice Network has served approximately 5,000 survivors in connection with the German reparations application. And while the network will continue to serve all who need assistance with that application, it is already moving forward to meet additional legal needs within the survivor community.

Through the guidance of a National Advisory Committee comprised of attorneys from 17 law firms and in-house legal departments in 13 cities, the Justice Network is poised to capitalize on its unique set of coordinated resources and dedicated volunteers to address topics including end-of-life planning and financial service issues that are so pressing for survivors, seniors, low-income and other vulnerable people. By leveraging its innovative infrastructure, the Justice Network will endure and continue to

engage volunteers in providing critical pro bono service for years to come.

The Justice Network's volunteers regularly remark upon how their survivor-clients enrich their lives by providing a greater appreciation of who we are, what we have, and the time and place in which we live. "Our" survivors inspire us to believe that we have the inner resources to transcend life's myriad trials and travails.

They are the true heroes.

This award belongs equally to each of our clients and to the literally thousands of individuals who have worked to make the Justice Network a force for good and justice in the world. We are exceptionally humbled to receive recognition for our work from the ABA, which represents the highest ideals of the legal profession.

It is one of the most beautiful compensations of this life that no man can sincerely try to help another without helping himself.

– Ralph Waldo Emerson

Hope Olsson

I am tremendously honored to receive the ABA's Pro Bono Publico Award and especially want to express my deep gratitude to the public service attorneys who work throughout their careers to provide civil legal services to underrepresented people within our communities. It is these public service attorneys who set the example for all of us to take pride in the profession we practice and the services we provide to clients.

As a second-career attorney, I am always aware of what a privilege it is to practice in a profession that is interesting, challenging and rewarding on a daily basis. The opportunity to do pro bono work by serving individual clients as well as the greater community is an inherent attribute in the practice of law. It is always an honor as well as a privilege to be able to provide legal services to pro bono clients.

One of the primary reasons students go to law school is to learn a profession in which they can help others and give something back to their communities. I was fortunate to attend law school at the State University of New York at Buffalo which has a strong emphasis on public service law and students are encouraged to make a commitment to pro bono work.

It is my good luck to practice in a community that has an established and strong structure within which attorneys can do pro bono work easily and efficiently. The Volunteer Legal Services Project (VLSP) of Rochester, New

York, provides a framework and support services for attorneys to work with pro bono clients. Most importantly, VLSP provides the catalyst to enable more attorneys to make a commitment to do pro bono work.

In particular I want to honor the work of Farmworker Legal Services of New York which is committed to upholding the legal rights of those who work so hard, under unenviable conditions, to bring food to our tables. This population is often invisible to the general public, and it is constantly an uphill battle to pursue their legal rights. The public service attorneys who work in this area serve as model advocates in working to pursue the basic constitutional rights of individuals.

For many pro bono clients, their presenting legal problem is one of the very few times they will be involved in the legal system. The work of legal services and pro bono lawyers serves to demonstrate that the law can help solve these problems. It is an opportunity to engender respect for the work attorneys do and for the legal system as a whole. I am honored to have the opportunity to do pro bono work on a regular basis and I encourage other attorneys to think about why they went to law school in the first place and to do pro bono work. Pro bono work is an excellent way to serve people who wouldn't otherwise have legal representation and to make the community a better place for all.

Weil, Gotshal & Manges LLP

The lawyers and staff of Weil, Gotshal & Manges are honored to receive the 2009 Pro Bono Publico Award, which is especially meaningful because candidate law firms must be nominated for the award by other persons or organizations. For the past several years Weil Gotshal has enjoyed the strong support of five nominating organizations: The Legal Aid Society, Lawyers Alliance for New York, New York Lawyers in the Public Interest, Dallas Volunteer Attorney Program, and Legal Services for NYC. We are gratified by their support for this recognition because it is emblematic of the deep relationships the firm seeks to build with organizations in the pro bono arena.

Since embarking on a project to revitalize its approach to pro bono, Weil Gotshal has posted tremendous increases in pro bono hours and matters. The cornerstone of the firm's approach is our firm-wide policy to encourage participation and embed a pro bono ethic into the firm's culture. The firm maintains the goal that every lawyer perform 50 hours of pro bono work each year; the expectation that every partner work on a pro bono matter each year; and the requirement that every new entering attorney – from first-year associates to lateral partners – take on a pro bono matter within the attorney's first two years at the firm.

The policy has clearly produced the desired results. Since 2004, Weil Gotshal has seen a 100% increase in the number of hours devoted to pro

bono work firm-wide. In 2008 alone, the firm performed over 89,000 hours of pro bono work, an average of roughly 82 hours per lawyer in the US, and equivalent to 45 full-time lawyers.

While the raw numbers are useful – they help to quantify the impact of what the firm does – they capture only part of the story. Along with encouraging greater lawyer participation, Weil Gotshal’s guiding philosophy is to bring genuine change to the pro bono world by challenging the traditional pro bono model associated with large law firms. Rather than just log hours, Weil Gotshal seeks to develop and implement new models for the provision of pro bono legal services. That often means formulating new ways to deliver pro bono service, such as partnering with The Legal Aid Society to provide pro bono representation in housing court, a rarity for large law firms before Weil Gotshal attorneys did it. Similarly, the firm seeks innovative approaches to counseling pro bono organizations, helping them to better leverage their resources and time to drive efficiencies within their own organizations.

More than simply logging large numbers of pro bono hours, Weil Gotshal aspires to demonstrate leadership in the pro bono arena by encouraging and developing innovative approaches to problem solving. This philosophy has led the firm to partner directly with the providers of aid and services – such as Human Rights Watch, Oxfam, and the UN World Food Program – to help them think proactively about how the considerable skills and resources of law firms and their lawyers might enhance each organization’s core mission. These partnerships have the potential to revolutionize not only the effectiveness of aid and service delivery on a global basis, but the very idea of what pro bono can do.

The world’s top law firms handle transactions and litigations of extraordinary sophistication. Weil Gotshal’s vision for pro bono is that the same level of sophistication be applied to challenges – like human rights, climate change, and economic development – that require both local action and global resolve. The firm is very proud of and grateful for the ABA’s recognition and is no less excited about what the future holds for pro bono programs across the legal industry.

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