

BLUEPRINT
For Constructing a Pro Bono
Project in a Mid-Size Law Firm

A PROJECT OF THE STANDING COMMITTEE ON PRO BONO and PUBLIC SERVICE

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Standing Committee on Pro Bono and Public Service
Honorable Judith M. Billings, Chair

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FOREWORD

In 1993 the American Bar Association adopted Model Rule of Professional Responsibility 6.1, which establishes for each attorney an aspirational goal of 50 hours of pro bono service per year. The ABA's Standing Committee on Pro Bono and Public Service and its project, the Center for Pro Bono, recognize the longstanding efforts on the part of attorneys who work in mid-size law firms (those employing 50 or less attorneys) to provide free legal services to the needy in their community and to meet the commitment of Model Rule 6.1.

To assist mid-size firms and the pro bono organizations that work with these firms in developing successful and efficient pro bono policies and projects, the Center for Pro Bono has developed this **BLUEPRINT**. The **BLUEPRINT** guides pro bono practitioners and coordinators through the issues concerning the development of a mid-size firm pro bono project. The **BLUEPRINT** also highlights new and familiar models which will provide the bases for creating a successful project.

Principal credit for the drafting of this **BLUEPRINT** goes to Greg McConnell, Assistant Staff Counsel for the Center for Pro Bono. Editorial assistance was provided by B. Riney Green, a Member of the Standing Committee on Pro Bono and Public Service, Steven Scudder, Committee Counsel to the Standing Committee on Pro Bono and Public Service, and Bonnie Allen, Staff Counsel to the Center for Pro Bono.

Pro bono work requires sacrifice and dedication, both of time and money. However, in an era of decreased funding for legal services organizations and public support initiatives, the need has never been greater. This **BLUEPRINT** is an aid to helping those who are dependent on your assistance. Thank you for your commitment to pro bono work.

Honorable Judith M. Billings
Chair, ABA Standing Committee on Pro Bono and Public Service

INTRODUCTION

The American Bar Association Center for Pro Bono is pleased to present this packet of materials to provide guidance for developing a pro bono project for mid-size law firms (firms comprised of approximately 10-50 lawyers).¹ The Center realizes that the term "mid-size" may not accurately reflect a firm's size or stature relative to its market. For example a 45-attorney firm located in Los Angeles, California may be a "small" firm in that market, while a firm of the same size located in Nashville, Tennessee may be a "large" firm. Additionally, the Center also recognizes that firms of this size may vary substantially with respect to matters that may impact a firm's methods and means of providing pro bono work, including firm culture, management structure, areas of practice, practice group division, compensation policies, and partner-to-associate ratio. Because of the many variances among mid-size firms, this publication presents a wide variety of illustrative examples of policies and projects. Each illustration has been selected in an effort to present a textually and geographically diverse representation of approaches. Since many of the pro bono policies and project descriptions presented are not dated, the Center recommends contacting each law firm or pro bono organization before relying on its policy or project description in developing a pro bono project.

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I. CONTEMPLATE THE CONCEPT OF PRO BONO

When considering the construction of a pro bono project, a firm should first consider its responsibilities for engaging in pro bono work. The term "pro bono" is short for the Latin phrase "pro bono publico" meaning "for the public good." Generally, pro bono is understood to mean legal work undertaken with the intent to provide legal services at no cost, or at a substantially reduced rate, to persons of limited means. The lawyer's responsibility (some may call it a duty) to provide services to the poor long has been recognized. In ancient Rome, the impoverished were linked to upper-class patronus who assisted the poor and weak in all matters, including litigation. As governments and society evolved and reflected greater concern for the poor, statutes were passed into law which required lawyers to provide free assistance to the poor, or allowed courts to appoint counsel.

In American jurisprudence, the recognition of an ethical duty to affirmatively provide legal assistance to the poor was articulated as early as the 1850's when noted jurist and professor George Sharwood wrote in his "A Compendium of Lectures on the Aims and Duties of the Law" that a lawyer:

"certainly owes it to his profession, as well as himself, that when the client has the ability, his services should be recompensed; and that according to a liberal standard. There are many cases, in which it should be his duty, perhaps more properly his privilege, to work for nothing. It is to be hoped that the time will never come, at this or any other Bar in the country, when a poor man with an honest cause, though without a fee, cannot obtain the services of honorable counsel, in the prosecution or deference of his rights."

The Florida Supreme Court gave a more modern twist on Prof. Sharwood's words in a recent opinion upholding that court's mandatory requirement that members of the Florida bar annually report their pro bono efforts: "Lawyers have been granted a special boon by the State of Florida--they in effect have a monopoly on the public justice system. In return, lawyers are ethically bound to help the state's poor gain access to that system."²

The American Bar Association has taken steps to clarify and quantify the lawyer's obligations with respect to providing legal services to the poor. In 1975, the ABA House of Delegates passed a resolution that provided "it is the basic professional responsibility of each lawyer engaged in the practice of law to provide public interest legal services." In 1993, the ABA adopted Model Rule of Professional Conduct Rule 6.1, which states that a lawyer should provide at least 50 hours of pro bono service to persons of limited means or charitable, religious, civic, community, governmental and educational organizations. MR 6.1 provides as follows:

RULE 6.1 VOLUNTARY PRO BONO PUBLICO SERVICE

A lawyer should aspire to render at least (50) hours of pro bono publico legal services per year. In fulfilling this responsibility, the lawyer should:

(a) provide a substantial majority of the (50) hours of legal services without fee or expectation of fee to:

(1) persons of limited means

(2) charitable, religious, civic, community, governmental and educational organizations in matters which are designed primarily to address the needs of persons of limited means; and

(b) provide any additional services through:

(1) delivery of legal services at no fee or substantially reduced fee to individuals, groups or organizations seeking to secure or protect civil rights, civil liberties or public rights, or charitable, religious, civic, community, governmental and educational organizations in matters in furtherance of their organizational purposes, where the payment of standard legal fees would significantly deplete the organization's economic resources or would be otherwise inappropriate;

(2) delivery of legal services at a substantially reduced fee to persons of limited means; or

(3) participation in activities for improving the law, the legal system or the legal profession.³

In addition, a lawyer should voluntarily contribute financial support to organizations that provide legal services to persons of limited means.

There are a number of different activities to choose from which satisfy the definition of pro bono publico as set forth in Model Rule 6.1:

1. Rendering of free or reduced fee legal services

- individual, organizational and class representation
- legal advice
- training or mentoring those who represent persons of limited means

2. Participating in legal services contract or judicare projects

3. Accepting court appointments

4. Engaging in activities that improve the law, the legal system or the legal profession

- serving on bar association committees
- serving on boards of pro bono or legal services projects
- taking part in Law Day activities
- acting as a continuing legal education instructor
- serving as a mediator or an arbitrator
- legislative lobbying
- administrative rule making

5. Providing financial support to organizations providing free legal services to persons of limited means.

The ABA's call has not gone unheeded. The bar associations of Hawaii, Montana, Minnesota and Mississippi have adopted MR 6.1. In addition, the supreme courts in six other states (Arizona, Florida, Georgia, Kentucky, Nevada and Virginia) have incorporated aspirational service goals similar to MR 6.1 into their ethical rules.

II. CONSTRUCTING A PRO BONO PROJECT

The development of a pro bono project can be looked at as if it were the construction of any other well-built structure: a combination of a strong foundation and a properly suited edifice.

A. Lay the Foundation: Establish a Commitment to Pro Bono Work

The foundation of a successful pro bono project is a firm's desire to undertake pro bono work and a bonafide commitment to make that desire a part of the firm's culture. The reality of pro bono work is that it creates a dilemma both for the individual lawyer and also for the firm. In an increasingly competitive legal market, lawyers and law firms are under great time demands to provide their paying clients with the best, fastest and most reliable legal services possible. At the same time, the need for legal assistance by persons who cannot afford to pay is greatly increasing. As a result, to help meet the needs of the poor, lawyers and law firms likely must sacrifice a portion of time that they otherwise may have spent on billable matters or to attend to the normal demands of life such as family, religion, friends and self. Thus, before beginning a pro bono project, a firm should reconcile the competing time demands of running a law practice and building a successful pro bono project. By doing this, a firm will cement its commitment to pro bono work.

1. Clarify the Reasons for Providing Pro Bono Work

There are many reasons why a law firm accepts pro bono work. A firm will develop a project best suited to its goals and abilities by understanding what reasons motivates its decision to undertake pro bono work. The following is a discussion of reasons why a firm would initiate a pro bono project.

a. The Lawyer's Responsibility

A pro bono project helps the firm enable the individual lawyers in the firm to fulfill their professional responsibility, as described above, to render services to those who are in need of legal services but unable to pay.

b. Pro Bono Provides a Firm with Substantial Economic Benefits

Beyond the duty to assist the poor and needy, pro bono work provides law firms with many tangible benefits that can improve its business standing.

i. Community Relations/Client Building

It is well recognized that clients prefer attorneys who have gained the confidence of others and who have built relationships with individuals and businesses within the community. Word-of-mouth referrals are among the most common means of client development. Pro bono work may lead to referrals from pro bono clients, opposing counsel, program administrators, judges and other persons committed to providing services to the poor who come in contact with pro bono attorneys.

Additionally, assisting the poor and underprivileged is another means for a law firm to demonstrate that it is a good corporate citizen to other persons and businesses in the community. Businesses may look to hire outside counsel who also have demonstrated a commitment to community improvement. As an example, First Union Corporation, a large banking corporation that owns and operates

branch offices across the east coast, has informed all potential outside legal providers that it considers pro bono an important consideration in its hiring decision, and requests that potential outside counsel provide information concerning, among other matters, the firm's pro bono policy and activities. (Attachment 2) First Union, through its General Counsel Marion Cowell, sent letters to other business leaders encouraging them to adopt similar policies. (Attachment 3) Thus, pro bono work may provide a firm with the opportunity to separate itself from its competitors.

ii. Client Relations

In addition to assisting firms acquire new clients, pro bono work may provide a law firm an opportunity to nurture and build relationships with the clients it already serves. DFS Corporation, a San Francisco-based corporation with a three person legal counsel staff, recently joined with its principal outside counsel at Heller, Ehrman, White & McAuliffe, to form a pro bono partnership and jointly participate in a homeless advocacy program sponsored by the Bar Association of San Francisco Volunteer Legal Services Program. (Attachment 4) Through this opportunity, Heller, Ehrman attorneys regularly work alongside the attorneys and other employees of DFS and interact with those persons in a social environment. Similarly, First Union Corporation recently invited all of its outside legal providers to participate as partners in its pro bono efforts. (Attachment 5)

iii. Enhance the Image of the Legal Profession

"The first thing we do, let's kill all the lawyers." Shakespeare's oft-quoted passage seems to typify the negative public view of attorneys in the 1990's. Providing service to the public and demonstrating lawyers' concern for the public welfare and willingness to take action on behalf of others will go a long way to reversing the trend toward negativism regularly associated with the profession.

iv. Recruiting

The ABA's law school accreditation standards provide that a law school "should encourage its students to participate in pro bono activities and provide opportunities for them to do so."⁴ In recent years, many law schools either have expanded or initiated new clinics and other projects designed to introduce law school students to pro bono and educate them about the needs of the underprivileged for legal services. Inspired by these law school experiences, many potential new associates look to continue serving the community as part of their professional lives. According to Judy Bernstein-Baker, the Director of the Public Service Program at the University of Pennsylvania Law School, a potential employer's pro bono commitment and opportunities are a strong consideration of many students graduating from that university, and is frequently the tiebreaker for students choosing between firms offering comparable opportunities.

2. Develop a Pro Bono Policy Statement

To become assimilated into the firm's culture, a pro bono project should be communicated effectively to the attorneys and employees of the firm. Thus, a critical first step is the development of a pro bono statement or policy. Several bar associations have recognized the importance of these policies and urged their members to adopt such written statements. (Attachment 6)

Generally, the policy should state clearly that the firm supports the pro bono efforts of its attorneys and define the type of activities that constitute pro bono. Additionally, to encourage attorney participation, the policy should credit an attorney's pro bono work as billable time toward meeting any recommended amount of work hours established by the firm. At a minimum, the statement should assure all attorneys that they will not be penalized (either officially or unofficially) for participating in a pro bono project. Attached are several sample policies used by law firms. (Attachment 7)

3. Establish a Pro Bono Committee

A firm should form a pro bono committee to effectively implement its commitment to pro bono. In the initial stages, the committee will be charged with organizing the project and generating firm-wide support. In later stages, the committee will act as the development arm to ensure a varied and rich project, and also as a buffer for associates who may work for less supportive partners. Additionally, the committee will ensure that one person's absence or departure will not mean the delay or demise of the project. The committee will act as a symbol of the firm's lasting commitment to pro bono work.

The size of the committee is not of great importance. It may be that only one person, or more than one person acts as the pro bono committee. No matter the size of the committee, it is a good idea to select as participants influential partners who can persuade others of the importance of pro bono work. In addition, the committee might include representatives from different practice groups, both to provide balance and to act as a volunteer draw from all areas of the firm's practice groups. Some firms also include secretarial and paralegal representatives to ensure the full participation of all the firm's resources.

4. Cultivate a Top-to-Bottom Commitment to Pro Bono

For most firms, the largest resource for pro bono work is its associates and young partners. However, younger attorneys may be reluctant to participate because they are insecure about their future status and are unwilling to undertake activities which may diminish their career aspirations or opportunity for promotion. The support, enthusiasm and participation of one or more senior attorneys will signal to younger attorneys that the firm looks at pro bono in a favorable light and will ease the fears of younger attorneys. The support of key senior attorneys also is necessary to run interference for associates who work for less committed attorneys. An often times unspoken, but important facet of senior attorney participation is that a commitment to spread pro bono work broadly among all attorneys assures the firm's lawyers that the economic risk for uncompensated hours is fairly allocated.

B. Build a Framework

After constructing a solid pro bono foundation the next step is to outline the parameters of the pro bono commitment to ensure that the project will be supported by the foundation, fit the designs of the firm, and meet the needs of the community.

1. Determine the Firm's Time Capacity and Flexibility

As discussed above, the reality of pro bono work is that it takes attorney time which may otherwise be spent on billable work projects for the firm, or as attorney free time, both of which are valuable commodities. Thus, before undertaking a pro bono commitment, a firm should examine how much time the firm

realistically is able to donate, and how much time it may expect its attorneys to donate. The amount of time that a firm is willing to devote to pro bono will help shape the type of project that the firm can create. Additionally, the amount of available flexible time also may impact a firm's pro bono project. For example, smaller firms that have fewer attorneys, or firms whose attorneys carry excessive travel loads, may have limited flexibility during regular business hours and may better be able to devote time to pro bono on a week night or weekend. Firms with greater flexibility may be willing to participate in a daytime clinic.

A firm also should be aware of the time required to participate in a project. Among other things, a project may require time devoted to the following matters:

a. Project Administration

Depending on the type of pro bono commitment, a law firm may need to engage in internal administrative work to prepare a conflicts check, establish file numbers, load database information, etc. A firm may relieve itself of much of the time demands if it joins with an existing pro bono provider that already has established an administrative vehicle and is able to assume the administrative responsibilities.

b. Supervisory Time

As with billable work, younger attorneys who do not have excessive experience or development may need assistance from more senior attorneys in preparing their cases. It is advisable to make some pro bono tutoring and mentoring available.

c. Training Time

Frequently, law firms and attorneys engage in pro bono work outside their regular field of practice. To gain the necessary expertise over the subject matter, the pro bono attorney may need to undertake training either by reading prepared materials, or from an attorney within the firm or affiliated with a pro bono provider.

d. Screening Time

If the firm decides to initiate its own project, it may be necessary to screen prospective clients based on, among other issues, their income levels and type of assistance needed. As with administrative time, a firm may shift much of the screening responsibility to an existing program that already has in place a screening mechanism and staff to manage it.

2. Determine the Community's Legal Needs

Pro bono needs vary by community according to various factors. The geographic, economic and civic state of the community play an important consideration. Is the community an urban area or is it principally rural? What is the strength of the local economy? How involved are the citizens in charitable giving? Of course, the existing pro bono situation is also a factor. How many projects are in existence? Which constituencies are they serving? What volunteer opportunities do they offer?

Also, a firm should consider what areas of pro bono work are needed. According to a recent legal needs study performed by the ABA, persons of low economic means most frequently were in need of legal assistance in the areas of:

personal finances and consumer matters, housing and property, and community and regional matters.⁵ Additionally, at the current time many federal, state and local agencies, and private foundations are providing citizen groups (community economic developments groups) substantial funds to develop plans designed to help their own communities. Many of these groups need assistance in traditional business matters such as incorporation, taxes, employment policies, etc.

One available means of determining resource allocation is to ask public interest providers their assessment of the community's legal needs and identify particular problems that need to be addressed or groups that require special assistance. Also, the legal communities in many cities and states have prepared legal needs studies which discuss the particular volunteer needs of the community. Further investigation may be completed informally by meeting with representatives from the major providers of legal services to the poor: pro bono projects, bar associations, legal services projects, and others. In addition, a firm should speak with non-legal service providers. These groups will help identify a list of problem types and client groups, and will help avoid duplication of services where services already exist. These groups also may be willing to join in a collaborative effort providing invaluable service to citizens of the community.

C. Create a Structure: Establish a Pro Bono Project

After constructing the foundation and framework, the next step is to complete the structure and build a successful pro bono project. Generally, law firms construct either of two project models: (1) a commitment to encourage and facilitate attorney participation with an independent local pro bono organization; or (2) a signature project, a project that is readily identified with the firm, which the firm creates, staffs and administers. Both models have proven effective. The reasons for selecting one model over the other or developing another type model are varied, and depend on the particular circumstances of the community and the firm as examined in the Framework analysis in the previous section.

1. Commit to Participate with an Independent Pro Bono Organization

Pro bono organizations commonly perform a great deal of administrative tasks, such as client screening, follow-up, conflict checks, training, etc. Thus, joining an existing organization may eliminate much of the administrative work associated with creating and maintaining a signature project. Additionally, several pro bono organizations exist in every state and many cities or counties. These organizations, either individually or collectively, may address a wide variety of legal issues and serve a wide variety of clients, depending on the firm's location. This allows firm attorneys a varied selection of pro bono opportunities from which to choose. The following is a sample description of particular projects available to law firms.

a. Commitment Projects

A firm may be able to join with other firms or bar associations as part of an organized commitment to participate with various pro bono programs. For example, several bar associations have issued challenges to the law firms in their cities to devote a specified number of hours to pro bono activities, with no connection to a particular issue or group of legal service recipients.⁶ The

St. Louis bar has issued a "25/25" challenge, which urges local law firms to devote 25 hours per year from 25% of the firm's lawyers. One firm that accepted that challenge, Sandberg, Phoenix & von Gontard, agreed to allow local pro bono programs to solicit it for the assistance of its attorneys, and also encouraged its attorneys to individually join various programs. Sandberg, Phoenix manages its response by placing one of its attorneys in a coordinator position to oversee the amount and the type of pro bono conducted by the firm's attorneys. See (Attachment 7)

b. Clinics

Many existing pro bono organizations have successfully developed special programs or clinics, which are specialized projects designed to serve either the particular needs of an identifiable group of individuals (i.e. immigrants, the elderly, etc.), or to assist persons in resolving a specific legal problem (i.e. bankruptcy or divorce). Many firms have joined with these clinics and absorbed a portion of the clinic's caseload. Firms commonly accept a certain number of cases developed by the clinic, or staff a clinic on a designated day or time (i.e. one day a week, one Saturday a month, etc.).

In the District of Columbia, the D.C. Bar Public Services Activities Corporation (PSAC) instituted a Law Firm Pro Bono Clinic which utilizes the services of several law firms. Generally, each participating firm staffs a certain number of clinic nights per year (depending on the size of the firm). The firm provides attorneys and supporting legal assistants who interview and, if warranted, provide representation to the 15 or so clients whom legal services providers have pre-screened and referred. Legal services providers and experts from the private bar furnish training and mentoring. (Attachment 8)

The Legal Services for Cape Cod and Islands, Inc. (LSCCI) sponsors a "Law Firm Counseling Project," which is similar to the PSAC clinic, and is designed for firms with 5-15 attorneys. The LSCCI clinic schedules low income and elderly residents for 30 minute meetings with an attorney to discuss legal problems concerning wills, landlord/tenant, disability and a variety of other concerns. These meetings take place at four separate locations in the Cape Cod area and are scheduled at various times of the day. Several firms have committed to staffing, either separately or jointly with another firm (or even as an individual), a specific day or time slot for the clinic. (Attachment 9)

c. Hotlines

i. Standard Models

A Hotline is a telephone-based intake model which provides clients brief legal advice or guidance for locating a source for further assistance. Commonly, a pro bono organization establishes and advertises a telephone call-in service for persons with a specific legal situation and recruits attorneys to accept the calls and provide the necessary and appropriate legal advice. Often times, the calls lead to referrals to the sponsor organization or other pro bono organizations for more involved legal assistance.

ii. CARPLS - a New Breed of Hotline

In 1993 the Chicago legal community created CARPLS, the Coordinated Advice and Referral Program for Legal Services, in response to its study which found that four out of five legal needs of the poor went unmet, and that many potential clients had difficulty finding the right agency to provide services. CARPLS is

a system designed to accomplish two tasks: (1) match persons who have in-court needs with the agency or an attorney that can best respond to the request for legal services; and (2) provide quick, over the phone legal advice to persons requesting assistance who do not need in-court representation.

The process begins when a person requests legal services from an organization affiliated with CARPLS (over 45 such agencies in Chicago are affiliated with CARPLS). The agency refers the person to CARPLS which performs initial screening to determine the person's eligibility at any of the affiliated agencies. After screening for eligibility, the intake person matches the person with the appropriate agency, if in court assistance is needed, or with an onsite attorney who provides advice on the spot, over the telephone. Law firms have assisted CARPLS by agreeing to staff the hotline calls for a designated time or day. CARPLS provides training and backup legal support by an onsite staff attorney. (Attachment 10)

2. Develop a Signature Project

As highlighted above in the Foundation discussion, one of the essential aspects to a firm's successful pro bono project is the assimilation of the project and pro bono work in general into the firm's culture. A firm may enhance the assimilation process by developing a signature project because such a project allows the firm to take ownership of the project and its direction, and to develop creative means for achieving its goals. The success of the project depends on the firm and its attorneys.

A signature project allows the firm to develop a strong connection with the clients it serves. For example, a firm may want to initiate a homeless clinic. In this circumstance, the firm no longer serves generically labeled pro bono clients, but instead serves the community's homeless, a group that lawyers in the firm and citizens of the community can more easily identify. Additionally, a signature project provides the firm marketing opportunities regarding the community work performed by the project and the firm attorneys. When the community newspaper writes an article on the plight of the homeless, the firm gets a call; when the mayor establishes a blue-ribbon panel on ways to improve the city's response to homelessness, the firm is asked to participate.

a. Firm-Sponsored Clinics

As an alternative to participating in a clinic sponsored by an independent pro bono organization, a law firm may initiate a clinic of its own (or in partnership with a neighborhood-based social service provider). In this model, the law firm takes on greater responsibility by staffing the clinic with attorneys and support staff and, in many cases, providing financial assistance to cover the administrative costs of the project. Common characteristics of a firm-sponsored clinic are the following:

- a firm sends a team of lawyers to a neighborhood-based organization, which may be connected to a legal services provider, on a regularly scheduled basis. The team interviews indigent clients and provides legal services as are appropriate.
- the neighborhood organization and the firm determine jointly the kinds of legal matters that the team will handle.

- the firm interviews clients under the supervision of the legal services provider and takes cases requiring ongoing representation back to the firm as ongoing pro bono matters.
- the law firm schedules the volunteers and follows up on the status of ongoing matters and cases.

As an example of such a clinic, the Washington, D.C. law firm of Beveridge & Diamond has instituted a wills clinic in conjunction with the Whitman-Walker Clinic. The Whitman-Walker Clinic provides legal and other services to persons with AIDS or who are infected with the HIV virus. Beveridge & Diamond lawyers travel on-site to the clinic on a regularly developed schedule and draft wills for clients of the clinic. (Attachment 11)

b. Represent Community Economic Development Organizations

Increasingly, groups of concerned citizens have banded together to form community economic development organizations which are grassroots organizations designed to revitalize distressed neighborhoods into viable economic centers. (Attachment 12) These organizations often need legal assistance to incorporate, implement tax decisions, defend audits, develop employment policies, and respond to other issues that commonly face small businesses. Many law firms, including those that specialize in transactional areas of law such as corporate and real estate, have discovered that they are uniquely qualified to help these citizens help themselves by providing assistance to the community economic development groups. (Attachment 13)

c. Adopt a Nonprofit Organization

In recent years, nonprofit organizations have taken a substantial role in providing various social services to communities including child care, foster care, adult education, teen recreation, health care, etc. Law firms across the country have adopted these organizations as full clients who receive continuing legal advice regarding various topics. The Greater Miami Local Initiatives Support Corporation (LSIC), as part of a grant from the Sadowski Legal Fellowships, has established a project under which local law firms act as general counsel for nonprofit organizations in the area. As part of the LSIC program, the firms agree to serve as legal counsel to the nonprofit for a period of 18 months, devote a minimum of 600 hours of pro bono hours to the organization, and designate a mid-level associate and a partner to act as the official links to the organization. (Attachment 14)

d. Special Projects

In addition to the traditional project models discussed above, several firms have developed innovative projects to address the needs of their communities. Although these projects are unique, the circumstances creating the need for the projects are not and the projects or variations thereof may be duplicated in other cities or areas of the country.

i. Conflict Clinics

Frequently, pro bono organizations are unable to provide assistance to parties seeking help, particularly in domestic matters, because the project already has provided assistance to the opposing party involved in the dispute. As a

consequence, the party seeking representation is deprived of one of the few available options for legal assistance. In Tampa, Bay Area Legal Services, Inc. has remedied this problem through the assistance of Macfarlane, Ferguson and Mullis. This firm, along with one other Tampa firm, has agreed to take all conflict cases from Bay Area Legal Services and either accept representation or pass the matter to another provider of legal services. By doing this, these firms have freed valuable time for Bay Area Legal Services and have provided an avenue of justice to persons who otherwise may not have received legal counsel. (Attachment 15)

ii. Time-Dollars Projects

Edgar S. Cahn, Ph.D, J.D., founder of the Legal Services Corporation and Antioch Law School, developed the "time-dollars" concept, which has recently been applied to the pro bono arena. In short, the time-dollars concept involves a trade of one hour of the legal service provider's time for one hour of the client's time spent on community activity. Depending on the project, the client could receive time-dollar credit for any number of activities, including spending time watching a street corner as part of a crime prevention program or tutoring a child. Holland & Knight's Washington, D.C. office (approximately 105 attorneys) initiated a time-dollar project in partnership with MANNA, Inc., a local nonprofit housing provider. In exchange for helping neighbors, tutoring students, orchestrating cleanups, working on playgrounds and other similar activities, neighborhood residents receive legal advice from Holland & Knight attorneys on problems related to absentee ownership, code violations, and crack houses. The law firm of Macfarlane, Ferguson & McMullen (approximately 55 attorneys) has begun planning the inception of a similar program in Tampa, Florida. (Attachment 16)

III. IF YOU BUILD IT, WILL THEY COME? - RECRUITING ATTORNEYS

Constructing a pro bono project is no guarantee that firm attorneys will participate. Attorneys often need to be educated not only about the benefits received by the legal service recipients, but also about the personal and professional benefits available through pro bono work.

A. Personal Satisfaction

Lawyers have knowledge and a skill that can improve directly the lives of almost everyone around them. For example, pro bono lawyers may assist an individual who wants to adopt a child, make a plan for their economic future, escape a violent relationship, or pay the rent. Alternatively, a pro bono lawyer may be responsible for indirectly benefiting the residents of his or her community by assisting a community center purchase a building to serve neighborhood children, or advising a small business on ways to improve its efficiency and therefore its ability to provide jobs to persons in the community.

For lawyers who predominately represent businesses, pro bono work provides an opportunity to assist individuals. Moreover, the persons seeking pro bono assistance may be different from those persons with whom the pro bono lawyer regularly associates. Thus, pro bono work not only provides lawyers the opportunities to make a difference in the life of their clients, but also exposes lawyers to the problems faced by individuals who come from a broad demographic and economic background.

B. Professional Growth for Young Lawyers

Young lawyers continually seek greater responsibility over case strategy and client contact, and avenues to develop their lawyering skills. Pro bono work can provide maturing attorneys with these valuable opportunities for professional growth in a low stress environment outside of the normal scrutiny of their positions. Frequently, pro bono matters require participation at hearings in front of administrative or court tribunals, brief writing, deposition taking, contract and settlement negotiations, and even trial appearances. While more experienced lawyers commonly provide guidance and oversight, young lawyers frequently find in pro bono work the chance to cut their first teeth.

C. Billable Hours Credit

According to a survey conducted by the New York State Bar Association, the number one reason that attorneys failed to perform any pro bono work was a lack of available time.⁷ To combat this concern, and provide attorneys an incentive to accept pro bono work, a firm should give its attorneys credit toward their budgeted number of hours for the hours that they work on pro bono matters. Firm policy also should assure its attorneys that time spent working on pro bono matters will not negatively influence their annual reviews. See (Attachment 7) Such a policy gives credence to the firm's stated policy in favor of pro bono and alleviates the concerns of attorneys anxious to meet their budgeted billable hour requirements.

D. CLE Opportunities

Many states require that attorneys take certified Continuing Legal Education (CLE) courses to maintain their good standing with the bar. Many pro bono programs offer CLE credit for participation in the program or training. Thus, to provide attorneys with another way to efficiently use their time a firm may want to join with, or make available, the opportunity for firm attorneys to participate in a pro bono program that offers CLE credit. Further, CLE training credit, coupled with a billable hour credit policy, provides attorneys accountable professional credit for every hour they engage in pro bono work.

E. Involve Summer Associates and Interns

Law firms commonly hire law school students as interns or summer associates before they become licensed practitioners. As with young associates, these students are generally eager to learn their trade and take on new responsibilities. By providing them with meaningful opportunities through pro bono work at this early age, that future attorney likely will continue to participate in pro bono work during the course of his or her career. Additionally, by providing summer associates with substantive responsibility, a firm will be able to better evaluate their abilities and potential.

F. Working with Attorneys in Different Practice Groups

Law firms which are comprised of several attorneys that specialize in a discrete area of law frequently structure their workforce into practice groups. As a result, attorneys who work in different groups may not have the opportunity to work with other attorneys in the firm who practice a different area of law. Similarly, for cost reasons, firms may staff cases with only one or two attorneys, which decreases the opportunity to work with other attorneys in a team format. A pro bono project may allow attorneys to work with different

attorneys in the firm and to staff cases with several attorneys to recapture the lost team opportunities.

FOR MORE INFORMATION AND RESOURCES

To assist bar associations and volunteer legal services providers develop and operate effective programs in delivering legal services to the poor, the ABA Center for Pro Bono offers free on-site and telephone consultation, and access to a comprehensive clearinghouse of materials and info packs on the operation of pro bono programs. The Center staff also is available to assist mid-size law firms in the development of pro bono policies and projects. The Center is sponsored by the ABA Standing Committee on Pro Bono and Public Service, and staffed through the ABA's Division for Legal Services.

For further information, please contact the Center for Pro Bono at the American Bar Association, 321 N. Clark St., Chicago, IL 60610. The Center's Hotline telephone number is 312/988-5769. Staff Internet addresses are Greg McConnell, mccconneg@staff.abanet.org; Dina Merrell, merrelld@staff.abanet.org; Cheryl Zalenski, zalenskc@staff.abanet.org

October 1997

ENDNOTES

¹More information regarding the pro bono concerns of small firms and sole practitioners is available through the Center for Pro Bono, and an info pack on this subject is available upon request. The unique pro bono concerns of large law firms (50 or more attorneys) are addressed by the ABA's Law Firm Pro Bono Project, which is administered by the Pro Bono Institute. For more information on large law firm pro bono projects and policies, please contact Esther Lardent (202/662-9231).

²Amendments to Rule 4-6.1 of the Rules Regulating the Florida Bar - Pro Bono Public Service, No. 88646 (May 2, 1997). (Attachment 1)

³Comment No.5 to MR 6.1 emphasizes that the lawyer should strive to meet the 50 hour goal through activities described in subpart (a).

⁴Standards for Approval of Law Schools of the American Bar Association, Standard 302(e).

⁵"Agenda for Access: The American People and Civil Justice," Final Report on the Implication of the Comprehensive Legal Needs Study, The American Bar Association Consortium on Legal Services and the Public (1996).

⁶These local bar challenges are distinct from the ABA Law Firm Pro Bono Challenge administered by the Pro Bono Institute. The Pro Bono Challenge targets the nation's largest law firms, recommending that they contribute at least 3% of their legal services to pro bono efforts.

⁷Final Report of The Pro Bono Review Committee, New York State Bar Association, April 18, 1994. (Attachment 17)

ATTACHMENT

1

A-1

Supreme Court of Florida

**AMENDMENTS TO RULE 4-6.1
OF THE RULES REGULATING
THE FLORIDA BAR--PRO BONO
PUBLIC SERVICE**

No. 88,646

[May 22, 1997]

PER CURIAM.

The Florida Bar (the Bar) petitions this Court for entry of an order amending rule 4-6.1 of the Rules Regulating the Florida Bar. We have jurisdiction. Art. V, § 15, Fla. Const. We deny the petition.

The Bar seeks to amend rule 4-6.1 to eliminate the mandatory annual reporting provision that currently requires all members of the Bar to report whether and how they have satisfied their professional responsibility of providing pro bono legal services to the poor. The proposed amendment would make slight, but crucial, changes in wording in the reporting requirements in section 4-6.1(d). It would replace the "shalls" with "shoulds" and would eliminate the last sentence, which currently reads: "The failure to report this information shall constitute a disciplinary offense under these rules." In short, the proposed amendment would substitute a voluntary annual reporting process for the current mandatory one.

Proponents of the amendment argue the following: The public interest is not served by the mandatory reporting requirement; enforcement of the mandatory reporting requirement would infringe upon rights guaranteed by the state and federal constitutions; the current rule violates the separation of powers principle because it is a legislative undertaking; the current rule is an avoidance technique to prevent federal review of political activity; and finally, the Florida Supreme Court should not operate as a bully pulpit for public relations and encouraging charitable activity. We disagree with these assessments.

At the time this Court adopted the pro bono rules in 1993, we explained our authority and reason for so doing:

The authority and responsibility of this Court to adopt rules on the issue of pro bono legal services to the poor under our constitutional rule-making and administrative authority has been fully addressed in prior opinions. We need not readdress that issue here. We do reiterate, however, that this Court, as the administrative head of the judicial branch, has the responsibility to ensure that access to the courts is provided for all segments of our society. Given the number of reports presented to this Court that document the legal needs of the poor, we find it necessary to implement the attached rules. Justice is not truly justice if only the rich can afford counsel and gain access to the courts. Consequently, these rules are being implemented in the hopes that they will act as a motivating force for the provision of legal services to the poor by the members of this state's legal profession.

Amendments to Rules Regulating The Florida Bar 1.3.1(a), 630 So. 2d 501, 502 (Fla. 1993).

We explained the need for the mandatory reporting requirement:

[W]e do expect members of the Bar, through the simplified report form that will be made a part of the annual dues statement, to report how they have assisted in addressing the legal needs of the poor. We believe that accurate reporting is essential for evaluating this program and for determining what services are being provided under the program. This, in turn, will allow us to determine the areas in which the legal needs of the poor are or are not being met. Because we find that reporting is essential, failure to report will constitute an offense subject to discipline.

Id. at 502-03.

As the opponents of the amendment point out, there have been no fundamental changes in the circumstances surrounding this issue since the Court first determined that accurate reporting is essential for evaluating the delivery of legal services to the poor and for determining where such services are not being provided. There is no more effective way to gauge the success of lawyers in meeting their obligation to represent the poor--an obligation every member of the Bar swears to undertake.

Lawyers have been granted a special boon by the State of Florida--they in effect have a monopoly on the public justice system. In return, lawyers are ethically bound to help the State's poor gain access to that system. The mandatory reporting requirement is essential to guaranteeing that lawyers do their part to provide equal justice.

Based on the foregoing, we deny the petition.
It is so ordered.

KOGAN, C.J., and SHAW and ANSTEAD, JJ., concur.
OVERTON, J., concurs with an opinion, in which HARDING and ANSTEAD, JJ., concur.
HARDING, J., concurs in part and dissents in part with an opinion.
WELLS, J., concurs in part and dissents in part with an opinion.
GRIMES, J., dissents with an opinion.

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING MOTION AND, IF FILED, DETERMINED.

OVERTON, J., concurring.

I concur. I write separately to emphasize two distinct points. First, the rule has been effective. Second, there are no material changes in circumstances that would justify the abandonment of this relatively new reporting requirement. In 1993, we developed our pro bono rule in response to the glaring deficiency in the availability of legal services to the poor. The result reached in 1993 was a compromise solution to a debate between proponents of two extreme positions. Some people argued that the Court had no authority to establish pro bono guidelines. At the same time, others believed that the rule should be mandatory rather than aspirational. This Court approved a carefully crafted compromise that kept the pro bono rule aspirational while creating a mechanism with which to gauge the amount of pro bono work actually being provided in Florida. I concur today both because the current rule has been effective and because I see no compelling reason to disturb the compromise solution reached less than five years ago.

There can be no doubt that the reporting requirement has been effective. Accurate statistics are now available as to the number of pro bono legal hours being provided in Florida each year. These statistics can be used by this Court to analyze the extent to which the constitutional mandate of court access is being met. Additional resources can then be directed intelligently to areas of need. Without the reporting requirement, such evaluations would be made with incomplete information. Further, a positive side effect of our pro bono rule is that both pro bono legal services and contributions to legal services have increased. While the rule was not developed to force attorneys to provide pro bono legal services, the fact that the rule has raised consciousness and thereby increased the performance of such services does not disturb me.

Second the very reasons forwarded in this case for abolishing the reporting requirement were addressed in our 1993 opinion. There we stated:

Some responses we have received argue that a reporting requirement makes this program mandatory rather than aspirational. We reject that contention. Granted, some peer pressure may exist as a result of the reporting requirement. However, given that the reporting requirement is the only true way to evaluate how the legal needs of the poor are being met, we find that the merits of the reporting requirement greatly outweigh any perceived pressure to participate. Indeed, if peer pressure motivates lawyers to participate, we find that such pressure may be beneficial in this instance.

Amendments to Rules Regulating the Fla. Bar, 630 So. 2d 501, 505 (Fla. 1993). The rule neither requires lawyers to provide pro bono legal services nor requires them to contribute \$350. The rule is clearly aspirational. The sole requirement is that a lawyer report what he or she does. The oath that each of us takes as a lawyer in this state includes the words, "I will never reject, from any consideration personal to myself, the cause of the defenseless or oppressed." Some people have asserted that this language should be used to mandate the provision of pro bono legal services. The compromise crafted in 1993 stops short of that measure. The reporting requirement, when viewed in light of the cited section of the oath, is a minimal (and thoroughly reasonable) imposition on the professionals of the bar. The reporting requirement is an important part of the solution to the challenge of making the law accessible to all Floridians. The elimination of this reporting requirement would create a public perception throughout Florida that the courts are only for the rich and that the profession is restricting its pro bono efforts. It would also be perceived as a giant step backwards in the effort to make real the constitutional mandate that all Floridians, regardless of financial resources, are guaranteed access to their courts. While some people might argue that such would only be a perception, I believe that it would most certainly be a fact.

HARDING and ANSTEAD, JJ., concur.

HARDING, J., concurring in part and dissenting in part.

I realize that the issue confronting the Court in this case is complex and a subject on which persons of good will and sound judgement differ. However, I must concur with the majority opinion that the reporting requirement of Rule Regulating the Florida Bar 4-6.1 should remain mandatory.

The proponents of the rule change argue that lawyers themselves, in the exercise of their honor and good will, are the primary control on the profession. Thus, they urge the Court to remove the mandatory reporting provision of the rule.

There seems to be little dispute that the Court should set aspirational goals for pro bono service by members of the Bar. If it is necessary and good for the Court to set such aspirational standards for pro bono service, then it is equally necessary and good for Bar members to report whether they have performed this service and, if so, how much service.

In wrestling with this issue, I was reminded of the words of Alexander Hamilton in *The Federalist*:

If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government, which is to be administered by men over men, the great difficulty lies in this: You must first enable the Government to control the governed; and in the next place, oblige it to control itself. A dependence on the people is, no doubt, the primary control on the Government; but experience has taught mankind the necessity of auxiliary precautions.

The Federalist No. 51, at 286 (Alexander Hamilton) (E.H. Scott ed., 1898).

While most lawyers are honorable and full of good will, few of us would fall within the ranks of "angels." Accordingly, in Hamilton's words, "experience has taught...the necessity of auxiliary precautions." I conclude that the mandatory pro bono service reporting requirement is a necessary auxiliary precaution.

However, I share Justice Wells' concern that the Bar and its members should know what will be expected in regard to enforcement of this rule. Thus, I suggest that any disciplinary action related to mandatory reporting be deferred until a procedure for enforcement is established. The Court should request the Bar to submit a procedure for enforcement and afford Bar members an opportunity to comment on the proposed procedure. Then this Court can determine the appropriate manner in which to proceed.

WELLS, J., concurring in part and dissenting in part.

I concur with all that is said in the majority and concurring opinions concerning a lawyer's obligation to provide pro bono services. However, I dissent from the decision rejecting The Florida Bar's petition because the majority's opinion is without any specifics as to how the Bar is to enforce this rule.

I was a member of the voluntary Orange County Bar Association for my twenty-nine years of practice. A condition of membership in this association is that its members provide the services or contributions required by Rule Regulating the Florida Bar 4-6.1. My experience is that the association's rule worked to the benefit of the association, the community, and the individual lawyer. I know that the legal work I did in the guardian ad litem program was to me so personally rewarding that I count it at the very top of my professional experiences. I urge every lawyer to share that experience. I also urge every voluntary bar association to adopt a condition of membership similar to that of the Orange County Bar Association.

Unlike membership in the Orange County Bar Association, membership in The Florida Bar (the regulatory enforcement arm of this Court) is distinctly different because it is mandatory. Consequently, when this Court enacts a rule stating that the failure to report whether the pro bono goals have been met shall constitute a disciplinary offense, this rule must be read to mean that The

Florida Bar will prosecute through the disciplinary process lawyers who fail to report. I certainly read it that way. To do otherwise and not enforce this rule will relegate what is adopted as a disciplinary rule to a mere charade which regulates only those who by their good faith and loyalty to the law choose to comply. The ultimate discipline is, of course, not the loss of membership in a voluntary association but is the loss of the privilege to be a lawyer in Florida.

In its petition, The Florida Bar asserts that in the 1995-1996 reporting year, nearly 6,700 lawyers declined to report their pro bono involvement on the dues form. It is probable that many of these lawyers failed to report because of the moratorium on reporting¹ or because of oversight. However, The Florida Bar maintains that if a substantial number of those lawyers continue not to report in violation of rule 4-6.1, prosecuting these attorneys will require the diversion of scarce bar resources from other programs such as professionalism, unauthorized practice, the client security fund, and continuing legal education.

The majority should not just dismiss The Florida Bar's concerns about the grievance process without even addressing the problem. Attorney discipline is uniquely the province of this Court. See art. V, § 15, Fla. Const. This Court should not just ignore the admonitions of those to whom we have delegated disciplinary enforcement responsibility and leave it to them to shoulder the problems they forecast the rule will cause. If we are not going to follow the Bar's leadership's advice and replace the rule's "shalls" with "shoulds," then I would continue the moratorium on the mandatory part of the rule until the impact on the disciplinary function of The Florida Bar is understood and addressed. As part of addressing this issue, I believe this Court has an obligation to tell lawyers exactly what the discipline will be if the lawyer fails to report.

In 1993, we adopted what Justice Overton refers to in his concurring opinion in this case as a "compromise solution": making the violation of the reporting requirement a punishable offense. At that time, however, the practical ramifications of this solution were not addressed. Although not noted by the majority, there has been a moratorium on the enforcement of the rule almost entirely since that time. At the very least, proper regulation of The Florida Bar requires that we state when enforcement is to begin, what is to be done to make lawyers aware that this reporting requirement is now in fact mandatory, and what the sanction will be for failing to report.

Though I support the aspirational goal, I cannot support imposing this as a rule of discipline on members of The Florida Bar against the advice of the leadership of The Florida Bar without addressing the practical ramifications and working out enforcement procedures. It is only after these practical ramifications are confronted and enforcement procedures are evaluated that a fair weighing can be made of whether the violation of a reporting requirement to foster an aspirational goal should be an offense subject to discipline. Imposing disciplinary sanctions for such a violation is uncharted waters into which I am unwilling to sail without a better compass.

GRIMES, J., dissenting.

I fully agree that a lawyer *should* provide pro bono legal services to those who cannot afford them. Therefore, I applaud the aspirational goals of rule 4-6.1 of the Rules Regulating The Florida Bar. However, I believe the coercion which is implicit in the mandatory reporting requirement is inappropriate if not counterproductive for the reasons set forth in my opinion in *In re Amendments to Rules Regulating The Florida Bar*, 598 So. 2d 41, 54 (Fla.

1992) (Grimes, J., concurring in part, dissenting in part). I would grant the petition of The Florida Bar.

Original Proceeding--Rules Regulating The Florida Bar

John W. Frost, II, President, Bartow, Florida; Edward R. Blumberg, President-elect, Miami, Florida; John A. DeVault III, Immediate Past-president, Jacksonville, Florida; John F. Harkness, Jr., Executive Director, Paul F. Hill, General Counsel and John A. Boggs, Director of Lawyer Regulation, Tallahassee, Florida; Joseph W. Little, Gainesville, Florida; Harvey M. Alper of Massey, Alper & Walden, Altamonte Springs, Florida; Thomas Rowe Schwarz, Lauderhill, Florida; and Jane E. Hendricks, Miami, Florida,

for Petitioner

Talbot D'Alemberte, Tallahassee, Florida; Alan C. Sundberg of Carlton, Fields, et al., Tallahassee, Florida, and Randall C. Berg, Jr., Peter M. Siegel and David Weintraub of Florida Justice Institute, Inc., Miami, Florida; Wm. Reece Smith, Jr., Tampa, Florida; Lynn Whitfield, President, and Gerald Williams, General Counsel, Florida Chapter of The National Bar Association, West Palm Beach, Florida; and Miyoshi D. Smith, Miami, Florida,

in Opposition to the Petition

¹There has been a moratorium on reporting during the pendency of a federal lawsuit challenging the rule's constitutionality. In August 1996, the federal district court upheld the constitutionality of the mandatory reporting rule. *Schwarz v. Kogan*, TCA 94-40422 (N.D. Fla., Aug. 9, 1996) (Order Directing Entry of Judgment).

ATTACHMENT

2

A-2

Marion Cowell: Putting His Term Into Perspective

By Melissa Pershing

When Marion Cowell, executive vice president and general counsel at First Union Corporation, became chair of the Pro Bono Planning Committee (PBPC) nearly two years ago, he was plagued by a general feeling that only a very small percentage of the legal needs of the poor were being served. How does he feel now?

"I have had the honor of having several pro bono attorneys serve on the committee who have great ideas and deserve a medal for the work they do. I have also been thoroughly impressed by the pro bono coordinators I have met and worked with through the committee. They carry a big load as well. But there are many problems, particularly in rural legal services delivery, that I had not even considered. For instance, in rural areas of our state 20 to 30 percent of poor people who need legal services don't even have a telephone. A lawyer can't call them, so they must make a special trip to a pay phone or to a neighbor or family member's home. Even then they often have to leave a message because a lawyer is not available at the time."

The Pro Bono Planning Committee is split into several subcommittees studying various special issues (for this year's roster of committee members see box this page): Rural Delivery, Law Firms, Law Schools, Sections, CLE, Pro Bono Conference, Modest Means and Government/Corporate Lawyers. Committee members also receive and review nominations, then vote to recognize special pro bono and legal services efforts through several statewide awards, such as the Chief Justice Award (outstanding local bar), Outstanding Pro Bono Attorney and Outstanding Legal Services Attorney of the Year.

First Union Develops Pro Bono Initiatives

Cowell's service as chair of the Pro Bono Planning Committee has helped to spur him in developing programs at First Union to serve as models for corporate counsel and law firms around the state. First Union Attorneys Wayne Sams and Meg Maloney are the pro bono coordinators at First Union's Charlotte office, and work closely with Legal Services of the Southern Piedmont and VLP Coordinators Becky Lowder (Gaston County office) and Sandy Feibelman-Coppolla (Cabarrus County).

In November, 1996, First Union rolled out a pro bono program policy for its Legal Division offices in Charlotte, and those in Philadelphia, Jacksonville, and Boston as well. There is a lawyer in each office coordinating pro bono activity for that location.

The First Union model is especially notable because of its far reaching commitment to pro bono. Cowell says, "Two ways we are working to knit pro bono service into the fabric of what we do is by writing it into individual job descriptions and by advising law firms we buy legal services from of our interest in pro bono and that their participation is a factor we consider in deciding whether to employ firms and attorneys. We have put in our job descriptions an expectation of participation in pro bono matters, based on the definitions and parameters in our policy and then pro bono activity will be part of each attorney's annual review."

One area First Union is focusing on is service in rural areas in instances where it does not interfere with the local bar. We have had training in employment law and the hearing offices are near I-85 so it is convenient for us to travel. We have also been working to define pro bono, what is and what is not included as a pro bono activity--we have set an aspirational goal of 35 hours of pro bono service per year per attorney for now and we anticipate moving that goal up to 50 hours per year as we become more experienced."

"Another thing we would like to try to provide is education, perhaps seminars on consumer credit. We could develop a road show for rural areas on the dangers of credit and then present it in cooperation with a local bar or other local organization." (For more information on the First Union Pro Bono Policy, contact Marion Cowell's Charlotte office at (704) 374-6828. E-mail MARION.COWELL@firstunion.com)

(At the time of print) *Melissa Pershing is director of Public Service Activities at the North Carolina Bar Association.*

Pro Bono Planning Committee
Marion A. Cowell, Jr., Chair
Rudolph A Bata, Jr.
Harry B. Crow, Jr.
Roswald Daly
Tom Berkau, Jr.,
Victor J. Boone
John J. Butler
Justice Henry E. Frye
Christ Graebe
Brenda Ford Harding
Celia Mansaray
Matthew P. McGuire
Jean Person
David C. Pishko
Marjorie A. Putnam
Amiel J. Rossabi
Paul C. Shepard
Judith V. Siegel
Beth Browning Tate
Scott Tippet
Deborah Weissman
Linda Whitehead-Taylor
Robert J. Willis

ATTACHMENT

3

A-3

Reply to Charlotte Office
March 14, 1997

"Corporation"

Re: Pro Bono Legal Services

Dear Mr.

As lawyers, we are all familiar with the responsibility for members of our profession to provide pro bono services to the less fortunate members of our community, and many lawyers do a spectacular service for our profession and the less advantaged people in their communities through the provision of legal services at reduced or, in many cases, no fee.

I am currently in my second term as Chairman of the Pro Bono Planning Committee for the North Carolina Bar Association and in that role I have become increasingly aware of the need for members of our profession to provide services at reduced, and in many cases at no fee, for less advantaged people. First Union lawyers for many years have participated in voluntary referral programs in communities where we maintain Legal Division offices. However, as all of us know, there are increasing demands for pro bono services because of the reduced funding for legal services organizations at the federal and state levels. Consequently, at First Union we have initiated a policy of expectation for each of our attorneys to provide no less than 35 hours per year of pro bono legal services, beginning with the calendar year 1997.

For your information, I have taken the liberty of enclosing a copy of First Union's Pro Bono policy.

We are also amending each First Union attorney's position responsibility description to indicate this expectation with respect to providing pro bono legal services and each of our attorneys has been advised that their performance with regard to this expectation will be considered as a part of their annual review.

Obviously, there are limitations as to what our lawyers may be able to do as many do not have significant trial experience and, of course, frequently banks may be involved in credit issues less advantaged people are having and we have to be mindful of these potential conflicts. However, there are many areas where we believe we can be of assistance.

We will be appearing at administrative hearings, providing general legal advice, working with recognized pro bono referral programs and Legal Services organizations where we maintain Legal Division offices, and, perhaps, in appropriate cases helping to provide training in transactional work and elsewhere that we have the appropriate experience.

I would be more than happy to discuss the First Union pro bono program or any other aspect of pro bono with you or other members of your firm. As we gain more knowledge and experience at First Union from our participation in pro bono programs, we will share our experiences with you and other members of your firm. We invite you to view periodic updates of our pro bono program on our upcoming Legal Division web page. As an indication of our commitment to pro bono

services, we would plan to increase the amount of time our attorneys are expected to contribute from 35 hours as it presently stands to a goal of 50 hours per year as we gain experience.

Please let me hear any questions or comments you might have.

Cordially yours,

Marion A. Cowell, Jr.

MAC,Jr:ns

Enclosure

ATTACHMENT

4

Corporate Counsel Partners in Pro Bono

by Rachel Shigekane, Managing Attorney, Bar Association of San Francisco Volunteer Legal Services Program

Many pro bono programs are looking for new ways to increase attorney involvement. Corporate counsel remain a relatively untapped resource due to several factors that discourage pro bono involvement. A recent recruitment success by VLSP shows that collaboration can help make corporate counsel available to pro bono programs.

DFS Group Limited and its outside counsel, Heller Ehrman White & McAuliffe, have stepped beyond the bounds of their traditional relationship to form a unique pro bono partnership that benefits both their working relationship and the community in which they reside.

Bill Foss, General Counsel of DFS, explained that the law department wanted to get involved in pro bono but also recognized a number of constraints. "We are a three-attorney department, and all attorneys engage in extensive international travel. We also do not handle litigation in-house and we have no specific expertise in many of the areas in which pro bono efforts focus. Lastly, malpractice insurance is something not covered by DFS' insurance policies. However, many of these constraints might be less of a problem for a large law firm and it occurred to me that undertaking pro bono work in conjunction with an outside law firm might hold some interesting possibilities."

When Mr. Foss raised the matter with senior staff at Heller Ehrman, DFS' principal outside counsel, they responded enthusiastically. After meeting with staff from the Bar Association of San Francisco's Volunteer Legal Services Program, DFS and Heller Ehrman decided to adopt VLSP's Homeless Advocacy Project (HAP) with a special emphasis on SSI/SSDI disability benefits law. Their decision to adopt HAP was primarily fueled by the dismantling of federally funded legal services programs by Congress this past year.

Attorneys and paralegals from DFS and Heller Ehrman attended the comprehensive Legal Advocates Training offered by HAP. The training has enabled them to represent individuals in direct service and in impact litigation cases which legal services programs may be prohibited from handling.

The management team at Heller Ehrman viewed the partnership as a way to promote increased pro bono work in the legal community and also viewed the partnership as an opportunity to strengthen a relationship with a very good client.

Lokehani Devone of DFS described her experience. "Although we were initially skeptical about our ability to deal with legal issues outside our areas of expertise, I found that the problems faced by people on the street are very basic. These require a fundamental level of advocacy at which attorneys are adept. It is rewarding, both professionally and personally, to be able to do something about the homelessness we see in San Francisco. It is also rewarding to work with partners and associates from Heller outside the usual client relationship."

DFS and Heller Ehrman look forward to their continued partnership, and VLSP anticipates using this partnership model to encourage increased pro bono participation by corporate counsel.

ATTACHMENT

5

A-5

Reply to Charlotte Office
March 14, 1997

"Law Firms"

Re: Pro Bono Legal Services

Dear Doug:

As lawyers, we are all familiar with the responsibility for members of our profession to provide pro bono services to the less fortunate members of our community, and many lawyers do a spectacular service for our profession and the less advantaged people in their communities through the provision of legal services at reduced or, in many cases, no fee.

I am currently in my second term as Chairman of the Pro Bono Planning Committee for the North Carolina Bar Association and in that role I have become increasingly aware of the need for members of our profession to provide services at reduced, and in many cases at no fee, for less advantaged people. First Union lawyers for many years have participated in voluntary referral programs in communities where we maintain Legal Division offices. However, as all of us know, there are increasing demands for pro bono services because of the reduced funding for legal services organizations at the federal and state levels. Consequently, at First Union we have initiated a policy of expectation for each of our attorneys to provide no less than 35 hours per year of pro bono legal services, beginning with the calendar year 1997.

For your information, I have taken the liberty of enclosing a copy of First Union's Pro Bono policy.

We are also amending each First Union attorney's position responsibility description to indicate this expectation with respect to providing pro bono legal services and each of our attorneys has been advised that their performance with regard to this expectation will be considered as a part of their annual review.

Obviously, there are limitations as to what our lawyers may be able to do as many do not have significant trial experience and, of course, frequently banks may be involved in credit issues less advantaged people are having and we have to be mindful of these potential conflicts. However, there are many areas where we believe we can be of assistance.

We will be appearing at administrative hearings, providing general legal advice, working with recognized pro bono referral programs and Legal Services organizations where we maintain Legal Division offices, and, perhaps, in appropriate cases helping to provide training in transactional work and elsewhere that we have the appropriate experience. Our lawyers will be more than happy to partner with members of your firm in the provision of pro bono legal services on a basis that individual attorneys could agree on and I encourage you to alert members of your firm that many of our lawyers would like to partner with others where they can be of assistance in jointly providing pro bono legal services.

I would be more than happy to discuss the First Union pro bono program or any other aspect of pro bono with you or other members of your firm. As we gain more knowledge and experience at First Union from our participation in pro bono programs, we will share our experiences with you and other members of your firm. We invite you to view periodic updates of our pro bono program on our upcoming Legal Division web page. As an indication of our commitment to pro bono services, we would plan to increase the amount of time our attorneys are expected to contribute from 35 hours as it presently stands to a goal of 50 hours per year as we gain experience.

Please let me hear any questions or comments you might have.

Cordially yours,

Marion A. Cowell, Jr.

MAC, Jr:ns

Enclosure

ATTACHMENT

6

A-6
Tab a

January 1993

**THE ATLANTA BAR ASSOCIATION AND
THE ATLANTA COUNCIL OF YOUNGER LAWYERS
MODEL PRO BONO POLICY FOR LAW FIRMS AND LAW DEPARTMENTS**

The Atlanta Bar Association and the Atlanta Council of Younger Lawyers hereby encourage all Atlanta-area law firms and legal departments to adopt and implement the pro bono policy set forth herein, or another written pro bono policy which substantially incorporates the elements of the policy set forth herein:

I. SOURCE OF POLICY

In creating this policy, we have been first guided by the Georgia Code of Professional Responsibility, as follows:

Canon 2 states:

"A lawyer should assist the legal profession in fulfilling its duty to make legal counsel available." Ga. Code of Prof. Resp., Canon 2.

Ethical Consideration 2-25 states, in pertinent part:

Historically, the need for legal services of those unable to pay reasonable fees has been met in part by lawyers who devoted their services or accepted court appointments on behalf of such individuals. The basic responsibility for providing legal services for those unable to pay ultimately rests upon the individual lawyer, and personal involvement in the problems of the disadvantaged can be one of the most rewarding experiences in the life of a lawyer. Every lawyer, regardless of professional prominence or professional workload, should find time to participate in service the disadvantaged. The rendition of free legal services to those unable to pay reasonable fees continues to be an obligation of each lawyer, but the efforts of individual lawyers are often not enough to meet the need. Every lawyer should support all proper efforts to meet this need for legal services. Ga. Code of Prof. Resp. EC 2-25.

We have also been guided by the amendment to EC 2-25 recently proposed by the Board of Governors of the State Bar of Georgia (which presently is awaiting the approval of the Georgia Supreme Court), which adds a provision suggesting that each attorney in Georgia endeavor to perform 40 hours of pro bono service annually, of which 20 hours should be devoted to work involving the direct provision of legal services to the poor.

The American Bar Association's resolution on pro bono and public service has further inspired this policy. It urges "attorneys to devote a reasonable amount of time, but in no amount less than 50 hours per year, to pro bono and other public service activities" and "all law firms and corporate employers to promote involvement of associates and partners in pro bono and other public service

activities by counting all or a reasonable portion of their time spent on these activities, but in no event less than 50 hours, toward their billable time requirement, or by otherwise giving actual work credit for these activities." ABA House of Delegates, August 1988.

Most importantly, we have been guided by the need for the private bar to provide legal services to protect and promote indigent, public and civil rights in those numerous instances in which, without pro bono services, such rights would go unprotected and unserved.

II. MODEL LAW FIRM/LAW DEPARTMENT PRO BONO POLICY

1. This firm [department] recognizes the professional responsibility of each attorney to provide pro bono services and encourages each attorney in the firm [department] to perform such services.

2. For the purposes of this policy, pro bono services are defined as:

(1) legal services provided without charge (or at a substantially reduced charge) to:

(a) low-income individuals, or organizations in matters which are designed primarily to benefit or address the needs of low-income individuals;

(b) individuals or organizations in matters seeking to secure, protect or promote justice, civil rights, civil liberties, public rights, or other needs with broad societal implications; or

(c) non-profit organizations, associations or corporations, including without limitation, charitable, religious, civic, community, governmental, and educational organizations; or

(2) participation in activities, whether through bar association auspices or otherwise, for improving the law, the legal system, the legal profession, or the administration of justice.

3. Because providing legal services to or on behalf of the poor is the most important and most needed type of pro bono service, it is hoped that a substantial portion of each lawyer's annual pro bono service will involve providing legal services to or on behalf of the poor.

4. Each attorney within the firm [department] shall receive a credit against his or her expected annual billable hours for hours billed to pro bono matters, up to forty (40) hours per year, as if such work were billed and collected. Pro bono work shall be considered for purposes of lawyer evaluation.

5. Pro bono legal matters undertaken by attorneys in the firm [department] shall be subject to the same standards of attention, priority, and professional performance as any other work undertaken by the firm [department] and shall be treated accordingly.

Note: The Atlanta Bar Association and Atlanta Council of Younger Lawyers recognize and acknowledge that individual law firms and law departments may choose to adopt modified versions of a pro bono policy that are more

specifically tailored to their individualized needs, interests and organizational structures.

III. RECOGNITION

Those law firms and law departments which adopt and fulfill this or a similar policy should be accorded recognition and commendation for fulfilling these special and vital professional and community obligations. The ACYL and the Atlanta Bar Association will work with the State Bar and state and local courts to develop programs designed to provide such recognition and commendation.

Tab b

Model Law Firm and Corporate Legal Pro Bono Policies

To: Members of the State Bar of Michigan

From: James K. Robinson, President

In response to the great unmet need for legal services on the part of that portion of the population which cannot afford to pay for them, and the legal profession's acknowledged obligation to render public interest legal service to provide access to the administration of justice to those who otherwise would be denied it, the Pro Bono Involvement Committee has launched a campaign to encourage law firms and corporate legal departments to endorse the Pro Bono Standard adopted by the Representative Assembly, and to adopt written Pro Bono policies for their lawyers. This important undertaking has been endorsed by the Board of Commissioners, many of whose members have already had their firms adopt and promulgate the proposed policy.

It is our intent to publish early next year a list of the participating firms and corporations to demonstrate the profession's commitment to its public service responsibilities.

Every reader is urged to initiate steps within the firm or corporate legal department with which he or she is associated leading to adoption of this policy. We urge that this be accomplished by January 31, 1991 and ask that notice of adoption be provided to Kay Fischer, State Bar Pro Bono Coordinator, at State Bar Headquarters in Lansing who will compile a list of firms and legal departments which have taken this action.

Model Law Firm Pro Bono Policy

Introduction

The purpose of this memorandum is to record the firm's policy of encouraging *pro bono* activity and to describe the procedures which will be followed by the firm in handling *pro bono* matters.

Michigan Rules of Professional Conduct

Rule 6.1 provides as follows:

"A lawyer should render public interest legal service. A lawyer may discharge this responsibility by providing professional services at no fee or a reduced fee to persons of limited means, or to public service or charitable groups or organizations. A lawyer may also discharge this responsibility by service in activities for improving the law, the legal system, or the legal profession, and by financial support for organizations that provide legal services to persons of limited means."

The comment on this rule states as follows:

"Every lawyer regardless of professional prominence or professional workload, should find time to participate in or otherwise support the provision of legal services to the disadvantaged."

The Firm's Commitment

The firm believes that *pro bono* matters are an important part of its overall responsibility. It is part of every lawyer's professional responsibility to provide *pro bono* legal services to those in need, and the firm wishes to create an environment in which its individual lawyers will be encouraged to meet their responsibility by handling *pro bono* matters.

The firm believes that *pro bono* matters must be handled with the same level of professional competence as any other matter handled by the firm.

Michigan Voluntary Standard

The firm endorses the voluntary standard adopted by the Representative Assembly of the State Bar of Michigan on April 28, 1990, which is attached.

The firm encourages its lawyers to meet the standard, to the extent possible, primarily by providing legal services to low income individuals or to organizations providing services to low income individuals, as provided in points one and two of the standard.

Administration

Pro Bono Coordinator. The firm has named _____ as its *Pro Bono* Coordinator. The *Pro Bono* Coordinator has the responsibility for managing the *pro bono* efforts of the firm and its individual lawyers. All matters proposed to be undertaken by the firm or an individual lawyer on a *pro bono* basis shall be reviewed by the *Pro Bono* Coordinator, who will ensure that:

- 1) Acceptance of the matter is compatible with overall workload constraints;
- 2) There is no legal or business conflict with an existing client;
- 3) The legal issue raised is not frivolous or untenable;
- 4) There will be adequate supervision; and
- 5) The case is appropriate for *pro bono* representation.

Recording of Time and Handling of Expenses. Time spent on authorized *pro bono* matters will be counted as part of total productive hours and shall be considered for the purpose of performance evaluations and compensation.

It is expected that waiver or suspension of fees for indigent individuals (see e.g., MCR 2.002) will be sought where appropriate. However, the firm will devote the resources of the support staff--legal assistants, secretaries, word processing, messenger service, duplicating and the like--to *pro bono* matters. Assignment of lawyers and legal assistants and non-reimbursable expenses of a non-routing nature must be cleared in advance by the *Pro Bono* Coordinator.

Tab C

Board adopts Model Pro Bono Policy

Editors' Note: Published below is the Philadelphia Model Pro Bono Policy approved by the Board of Governors at its July 25 meeting. Prepared by the Young Lawyers Section, the Committee on the Delivery of Legal Services and Philadelphia Volunteer Lawyers for the Indigent, the model is designed to provide guidance to Philadelphia law firms and legal departments in creating their own pro bono policies. The model policy is followed by a model pro bono procedures memorandum.)

Pro Bono Policy Statement of Lincoln & Douglas

The law firm of Lincoln & Douglas encourages its lawyers to render public interest legal service. The lawyers in the firm are engaged in a wide variety of such endeavors, including [list current efforts].¹

The firm's support of public interest legal service is based first and foremost on the duty of lawyers, as professionals, to contribute to the welfare of the community. In a society governed under the rule of law, lawyers have an obligation to make sure the legal system works, especially for the disadvantaged.

The firm also supports public interest legal service because it provides valuable experience for the younger lawyers in the firm and because it gets lawyers of all ages actively involved in the community.

An associate's involvement in pro bono activities is an important factor in the partnership's ongoing evaluation of the associate. A willingness to serve, and become involved with, the community evidences a level of maturity and professionalism which is highly prized by the firm.

ALT. 1: For evaluation purposes, each lawyer in the firm is given billable hour credit for time spent on pro bono matters up to 50 hours per year. ALT. 2: All time spent on pro bono matters is treated in the same manner as billable hours for purposes of evaluating lawyers. ALT. 3: The firm encourages each of its lawyers to have one pro bono matter on his or her active docket at all times. ALT. 4: Although there is no strict formula by which a lawyer is given "credit" for pro bono work, the firm recognizes that participation in pro bono activities decreases a lawyer's time on billable matters.<+>2<P>

The term "Philadelphia lawyer" means a lawyer who is an expert at his or her profession, and who believes that all citizens are entitled to the protection of their rights under the law. The firm of Lincoln & Douglas believes that it is the duty of every lawyer to make a part of his or her practice the provision of legal service to the poor, thereby promoting the growth of justice within our community.

1 This sentence can be used to highlight any past or present accomplishments of the firm in the area of public interest legal service. If the firm has not been active in such activities to date, the sentence can be omitted.

2 There are many approaches to the question of giving "credit" for pro bono work in the firm's evaluation of lawyers. Associates in particular are concerned with this issue.

The most important factor in overcoming this evaluation anxiety is for the firm (especially the senior lawyers in the firm) to truly support pro bono work and to acknowledge and encourage lawyers who become involved. Some ways in which this encouragement can be manifest are set forth in the attached procedures memorandum. A preliminary question, however, is whether the firm will give formulaic credit for pro bono work. Some firms give hour-for-hour billable credit for pro bono work. Other firms give billable hour credit up to a specific number of hours. Still others generally encourage pro bono without any formulas. Another approach is for the firm to encourage each of its lawyers to handle one active pro bono matter at a time.

In August 1988, the American Bar Association passed a resolution urging all of its members to contribute 50 hours each year to the delivery of legal services to the poor, either by providing such service, or by making an equivalent financial contribution. In September 1990, the law School of the University of Pennsylvania began its new Public Service Program, which requires every student, as a condition of graduation, to spend 35 hours in each of their second and third years in some public service program. In December 1990, the Pennsylvania Bar Association Task Force for Legal Services To The Needy released the report of its intensive 18-month investigation of the unmet legal needs of the poor, and recommended that all lawyers devote a minimum of 15-25 hours each year to the delivery of legal services to the poor through their local pro bono programs, in addition to making financial contributions to their local legal services and/or pro bono programs. In April 1991, the Young Lawyers Section of the Philadelphia Bar Association passed a resolution calling upon all firms to adopt a written pro bono policy encouraging each attorney to maintain one active pro bono matter on his or her active dockets at all times.

The Philadelphia Bar Association urges all lawyers to adopt as their personal goal the ABA's standard of 50 hours of pro bono service each year and urges all firms to adopt Alternative 1. In doing so, however, it recognizes that firms will have different approaches to how they should honor their ethical obligation to render public interest service under Rule 6.1 of the Pennsylvania Rules of Professional Conduct. For that reason, the Model Policy contains several alternatives. Each policy has its own merit: all have the same purpose: to encourage each attorney to take seriously and satisfy our profession's ethical responsibility to ensure that "Equal Justice Under Law" means what it says, for all people, regardless of their ability to pay a lawyer. The Philadelphia Bar Association recognizes that the law firms will have the critical role to play in ensuring that this ethical responsibility is recognized, accepted, and satisfied by each of their attorneys.

Pro Bono Procedures Memorandum of Lincoln & Douglas

TO: All Lawyers and Paralegals

FROM: Management Committee

DATE: _____ . 199__
RE: Pro Bono Procedures

This firm is committed to support the pro bono activities of its lawyers and paralegals, and has adopted a written Policy Statement expressing the terms of that commitment. The purpose of this memorandum is to outline certain procedures which will be followed within the firm with respect to the firm's Pro Bono Program.

1. *Pro Bono Committee.*¹ The firm will have a Pro Bono Committee consisting of approximately ____ lawyers and one paralegal appointed by the Management Committee. The committee's task will be to supervise the firm's Pro Bono Program and to encourage lawyers and paralegals in the firm to become active in pro bono activities.

Although pro bono work encompasses a broad range of activities, the Pro Bono Committee will concern itself with a narrower range of pro bono work, to wit: legal work that a lawyer does for free, which is in lieu of (and of the same character as) legal work one would perform on behalf of a paying client, and which is on behalf of someone who needs assistance and is unable to pay.²

2. *Pre-Acceptance Procedures.* Before accepting such a pro bono matter, a lawyer should do two things:

a. *Contact Pro Bono Committee.* Call [name of coordinator], or, if he/she is unavailable, call any other member of the Pro Bono Committee. The purpose of this step is to permit a member of the Pro Bono Committee generally to review the matter to make sure (i) that the firm does not have a policy against handling such matters and (ii) that the firm has the resources to handle the matter properly.

b. *Conflict Check.* The lawyer should distribute a regular conflict memorandum.³

3. *Opening File and Timerecord.* Once a pro bono matter has been approved and cleared for conflicts, the lawyer should open a file and a timerecord. All pro bono matters should be opened under the client designation "Pro bono" having the client number "XXXXX." The matter designation should include the name of the referring agency, if applicable, and the name of the client. For example, if you take a case on behalf of John Doe through Philadelphia VIP, the full designation should be "Pro Bono, re: VIP--John Doe" and the number would be XXXXX/#####.⁴

4. *Legal Services Agreement.* The lawyer should prepare and have the pro bono client execute a legal services agreement. The agreement should specifically define the scope of the representation. For matters accepted through Philadelphia VIP, the VIP form may be used. In all other cases, the form of agreement should be approved by [name of pro bono coordinator].⁵

5. *Associate Evaluations.* The firm wishes to ensure that associates' pro bono work is given serious consideration during the annual associate evaluation process. Just prior to each evaluation period, the Pro Bono Committee will request from each associate a short memorandum describing his or her pro bono activities during the last year. The Pro Bono Committee will then forward these memoranda, along with any additional comments from the Pro Bono Committee, to the Associate Evaluation Committee. The Management Committee has instructed the Associate Evaluation Committee to give serious consideration to each associate's

pro bono work in the evaluation process in accordance with the firm's Pro Bono Policy Statement.⁶

6. *Training; Supervision.* The Pro Bono Committee should make lawyers in the firm aware of training sessions relating to pro bono areas of the law. Such sessions are presented annually by Philadelphia VIP and other legal service organizations in Philadelphia. Lawyers are encouraged to attend such training sessions.

Each pro bono case should be supervised in the same manner as fee-generating cases are supervised within the firm.

7. *New Lawyers.* The Pro Bono committee should hold annual meetings with the firm's summer associates and new full-time associates to inform them of pro bono opportunities and of the firm's pro bono policy. These summer associates and new lawyers should be encouraged to make pro bono work a regular part of their practice.

8. *Paralegals.* Paralegals are also encouraged to work on pro bono matters. All pro bono legal work by paralegals must be performed under the supervision of a lawyer in accordance with the Rules of Professional Conduct.⁷

9. *Other Matters.* The Pro Bono Committee is authorized to address any other matters which may arise with respect to the firm's Pro Bono Program.

¹ Most firms with active pro bono programs have a Pro Bono Committee to supervise pro bono work. It may consist of anywhere from three to 10 persons. It is most beneficial for the program if the committee is chaired by a partner. Often a senior associate on the committee is designated as the contact person (or "pro bono coordinator") to act as the liaison with the local pro bono programs; referrals come in through this contact person. Other firms do not have a committee but rather designate one lawyer or administrator to be the pro bono coordinator.

² There are many definitions of what constitutes "pro bono work." The definition included in the memorandum is a narrow definition encompassing only true legal work for the indigent and the disadvantaged. Other more general charitable and civic work can be encouraged by the firm but probably does not require coordination by the Pro Bono Committee.

³ The firm's regular conflict procedure should be followed for pro bono matters.

⁴ Of course, every firm has its own filing and timerecords systems. To ease administration, pro bono matters should, to the greatest extent possible, be treated in the firm's filing and timerecords systems the same way billable matters are treated.

⁵ The firm may wish to prepare a form of legal services agreement for pro bono matters based on the Philadelphia VIP model. This form of agreement can than be attached as an exhibit to the Pro Bono Procedures Memorandum.

⁶ This procedure should be adjusted to conform to your firm's associate evaluation process. The important point is that the evaluators (a) be aware of each associate's pro bono activities and (b) give positive credit to associates for their pro bono work.

⁷ Pennsylvania Rules of Professional Conduct, Rule 5.3.

Tab d

Los Angeles County Bar Association Pro Bono Policy

I. Minimum Commitment

A. Each lawyer in Los Angeles County should provide a minimum of 35 hours of *pro bono* service each year.

B. Each law firm and corporate law department should provide a minimum number of hours of *pro bono* legal services each year equal to the product of 35 and the number of its Los Angeles County lawyers.

II. Definition of Pro Bono Services

Pro bono services, for purposes of this policy, shall mean providing legal services without charge to the client to:

- A. Low income individuals;
- B. Organizations which have as a principal purpose promoting the interests of low income individuals;
- C. Organizations which:
 - 1) Are organized or seek organization under the California Nonprofit Corporation law or similar law of another state and/or are exempt or seek exemption under Section 501 (c) (3) of the Internal Revenue code; and
 - 2) Are otherwise unable to pay for those services without significantly affecting their ability to conduct their programmatic activities; or
- D. Individuals, groups of individuals or organizations seeking to secure or protect civil rights, civil liberties or public rights.

III. Implementation By Law Firms and Corporate Law Departments

A. Every law firm, corporate legal department and government law agency should adopt an express policy, to be communicated on at least an annual basis to all lawyers, encouraging its lawyers to provide *pro bono* legal services.

B. The provision of *pro bono* legal services as defined herein, should in all respects be accorded the same treatment and respect within a law firm or corporate law department as the provision of fee-generating legal services. Attorneys should receive credit for the time they devote to *pro bono* legal services in the same manner that they receive credit for the time devoted to fee-generating matters. The resources of the firm or department, including the time of senior attorneys for supervision and evaluation, should be available for use on *pro bono* matters in the same manner as they are available on fee-generating matters.

Los Angeles County Bar Association Commentary To Pro Bono Policy

This commentary is intended to serve as background and amplification of the specific provisions of the Policy.

I. Commentary to Section I--Minimum Commitment

Commentary to paragraph A: The minimum standard of 35 hours of *pro bono* service per year applies to all lawyers as individuals. A lawyer who practices within a law firm, corporate law department or government agency should not count towards the fulfillment of his or her *pro bono* commitment, the *pro bono* service time spent by his or her colleagues. No lawyer should consider that he or she has met the minimum individual standard in any year unless he or she has, in fact, directly provided at least 35 ours of *pro bono* service.

Commentary to paragraph B: For simplicity of expression, the term "law firm" is used in this Commentary to refer to corporate law departments as well as law firms.

Each firm will need to decide for itself whether, at the end of the year, it can deem its own commitment to have been satisfied if some of its lawyers have not met the individual standard described in paragraph A. Above. A firm may consider its commitment to have been met in any instance where the number of *pro bono* service hours provided by the firm's lawyers is equal to or greater than the firm's minimum hours' commitment. Another firm may not consider its commitment to have been met until each of its lawyers has met his or her own individual commitment. A firm that determines to meet its commitment in the aggregate may do so to permit concentrated and sustained handling of high impact *pro bono* matters by a small group of its lawyers. On the other hand, a firm that meets its collective commitment by calling upon each of its lawyers to fulfill his or her respective individual commitment will strengthen and enlarge the observation of an important professional responsibility. The Association does not take any position with respect to which of these different methods of meeting a firm commitment is preferable--the choice between these methods is left to each firm.

Government law offices are urged to adopt an express *pro bono* policy which encourages *pro bono* work by its attorneys and assures that attorneys are not penalized for undertaking such work. The *pro bono* policy of the California Attorney General's Office is an excellent example of such a policy.

II. Commentary to Section II--Definition of Pro Bono Services

The primary objective of this Policy is to increase the availability of legal services to poor people, The Association recognizes, however, that many lawyers and law firms regard activities other than representation of poor people as *pro bono* service. In an attempt to accommodate these views, the Association has utilized a broad definition of what constitutes *pro bono* service for purposes of the Policy. The Association has, however, limited the term to providing legal services to the specified individuals and groups. This is to for two reasons. First, the Policy is meant to encourage members of the Association to render *pro bono* service in their capacity as lawyers. It is thus appropriate to ask that members fulfill their commitment by performing legal services as

opposed to some other form of public service, however valuable. Second, to the extent that the Policy is directed to firms, the definition of *pro bono* service is intended to underscore the fundamental importance of treating *pro bono* work in every respect as indistinguishable from "collectible" work. With *pro bono* work limited to legal services, the Association hopes that firms will be comfortable according billable hour credit for work fulfilling commitments under the Policy.

Commentary to Preface: "Legal services" includes teaching or counseling with respect to self-advocacy skills and litigation and non-litigation activities. This definition does not preclude requiring clients to pay costs such as filing fees.

Commentary to paragraph A: The Association does not desire to establish a rigid or overly technical definition of low income. A guide which may be helpful, however, many government agencies use 125% of the federal poverty index as an eligibility standard for legal services. The current annual income figures in the index are \$7,200 for an individual and \$14,500 for a family of four.

III. **Commentary to Section III--Implementation by Law firms and Corporate Law Departments**

The Association recognizes that every law firm has a unique organization and management style and that firms will choose to implement the Policy in different ways. The Association does believe, however, that certain conditions within law firms discourage lawyers, and particularly younger lawyers, from undertaking *pro bono* work. Toward the end of assisting firms to satisfy their commitment under the Policy, the Association offers the following recommendations:

A. *Pro Bono* representation needs to be visibly encouraged and supported by the management of the law firm. A perception that the senior lawyers in the firm do not encourage or support *pro bono* work is probably the single greatest deterrent to the provision of *pro bono* legal services by more junior lawyers. Support for *pro bono* work may be demonstrated in numerous ways, including promulgation of express policies consistent with this Policy, provision of *pro bono* services by senior lawyers themselves, service by senior lawyers on the boards of legal services organizations and active recruitment of younger lawyers to do *pro bono* work. It is crucial that younger lawyers be aware of the *pro bono*-related activities of their more senior colleagues so that they know that their own *pro bono* activities will be accorded the respect they merit.

B. Each firm should create some mechanism to ensure communication between the firm and the various organizations that are sources of *pro bono* work. One mechanism would be to create a committee or designate a *pro bono* coordinator responsible for identifying those organizations, making contact with them and communicating with them on a regular basis.

C. Similarly, each firm is urged to create some mechanism to ensure communication within the firm regarding *pro bono* work. Lawyers should be kept informed of the types of *pro bono* legal services that are needed and specific matters that provide service opportunities. In addition, lawyers should be kept informed of the *pro bono* matters that have been undertaken by the firm.

D. An effort should be made to include as broad a range of lawyers as possible in the firm's *pro bono* efforts. Many lawyers mistakenly believe that *pro bono* work is for litigators only, when in fact many poor people and non-profit organizations are in need of non-litigation types of legal services, as more fully described in Section I of this Report.

E. *Pro Bono* work should be considered in evaluating lawyers and determining the compensation of lawyers in the same manner as fee-generating work. This policy is particularly important with respect to associates in private law firms who will be deterred from performing *pro bono* services if they perceive that it will damage their standing and progress toward partnership.

F. Firms should encourage their lawyers to pursue *pro bono* work in those areas that most interest them and should support each lawyer's choices in that regard. While doing so, however, some firms may also wish to consider developing a firm-wide expertise in a particular area of *pro bono* works so as to provide more efficient *pro bono* services.

Los Angeles County Bar Association Report On The Need For A Pro Bono Policy

The Association is deeply concerned that there exists a critical and growing shortage of *pro bono* legal services for the poor and near poor in Los Angeles County. The need for civil legal services falls increasingly short of the supply, notwithstanding the efforts of legal services programs and volunteer *pro bono* efforts by attorneys.

I. The Growing and Changing Poverty Population

The disparity between need and availability of *pro bono* legal services in the Los Angeles area has become increasingly acute in recent years. Poverty in Los Angeles County has experienced a dramatic growth. The proportion of County residents living in poverty has grown steadily over the past two decades, from about 11% in 1969 to nearly 15% by 1986. The number of Los Angeles County residents eligible for free legal services has grown in the past fifteen years from approximately one million to nearly two million.

The composition of the poverty population has changed as well. The percentage of children in poverty in California doubled between 1969 and 1987. Today nearly one in four children in California is born into poverty. These children experience a cluster of problems that includes low educational performance, poor nutrition, child abuse and involvement with crime and criminals. Most of the legal needs of these children are not met by existing programs.

The poor population is also increasingly comprised homeless individuals and families. A 1984 HUD report called Los Angeles the "homeless capital of the United States." Estimates of this growing population range from 35,000 to 60,000 and upward. The fastest-growing segment of the homeless population consists of families.* Children under 18 now make up over 10% of the homeless.

Racial and ethnic minorities are an increasing proportion of the population in Los Angeles County and are disproportionately poor. Of the total poverty population, 44% are Hispanic, 29% Black, 6% Asian Pacific and 1% American Indian. Civil rights organizations, including the NAACP, MALDEF and Fair Housing Council, report an upsurge in civil rights violations victimizing this population, such as discrimination in housing and employment.

II. Emerging and Continuing Local Needs

This growing and changing poverty Population experiences continuing legal problems, as well as new legal issues which have emerged in recent years, Homelessness, until recently the problem of a few, is now experienced by families, military veterans, and even currently employed people.

As families are increasingly headed by women, the need for legal assistance to working mothers becomes critical. Enforcement of child support responsibilities and access to safe child care services are among the most important types of assistance needed.

Growing societal awareness of the age-old problems of domestic violence including abuse of children, the elderly and spouses, has resulted in greater statutory protections which are frequently meaningless in the absence of trained legal assistance. Current volunteer programs are unable to meet the need for *in*

propria persona assistance and provide virtually no representation in contested cases.

New legal problems have also emerged for immigrants, particularly for those who have applied for amnesty under the recent Immigration Reform and Control Act. Approximately 1.2 million amnesty applicants--nearly 40% of the nationwide total--reside in Los Angeles County. These immigrants need legal assistance to document compliance with the Act and to appeal adverse decisions.

The poor also continue to experience chronic, routing problems, made more difficult by their increasingly thin margin of subsistence and the growing complexity of the legal system. Routine evictions now number over 35,000 per year in the downtown court alone, and legal aid programs are currently able to assist only one-fourth of these tenants. In recent years, the consequences of an eviction have become much more serious. Rather than forcing a family to move to smaller, less healthful quarters an eviction now frequently forces it to live on the streets.

Routine family law matters continue to constitute one of the largest areas of needs. Astonishingly, in Los Angeles County virtually *no* free assistance is available to low income people in contested dissolutions. Although excellent services exist to instruct people how to proceed *in propria persona*, only one attorney in the County represents clients on contested matters. A legal needs study just completed for the City of Santa Monica identifies family law as the single greatest area of unmet need.

Consumer problems also continue to plague low income communities. Virtually no legal assistance is available for families seeking vindication under the consumer protection statutes for illegal lending practices, shoddy merchandise and other fraudulent and misleading practices. A continuing need also exists for volunteers to handle home equity fraud cases, which have proliferated with the upsurge in property values in Los Angeles County.

Enforcement of the minimum wage laws is yet another area of serious and continuing need. Violations of these laws are common, particularly in some sectors of the garment and restaurant industries in Los Angeles County.

Poor people also continue to experience serious problems in obtaining the government benefits to which they are entitled. Illegal reductions and terminations in Social Security, unemployment welfare and other benefits jeopardize the subsistence of people living on extremely low incomes, creating a domino effect which frequently includes the loss of one's home, children and health. These problems especially threaten the well-being of children, the disabled and the elderly. Navigating the bureaucracies charged with administering these programs requires trained legal assistance.

III. Inadequacy of Current Programs

In all of these and many other areas, the need for legal services far outstrips the availability. Overworked and underfunded legal aid offices must turn away the vast majority of the people who request their assistance. For example, the Legal Aid Foundation of Los Angeles receives approximately 500,000 requests for assistance each year and is able to assist only 10% of that number. In an effort to make the most appropriate use of scant funds. Legal services programs are forced to focus on the most urgent types of problems and still must turn away cases with merit even in those areas.

Funding for legal services programs, always grossly inadequate, has not kept pace with the growth in the poverty population. The total funding for legal services in Los Angeles County is currently only \$10.00 per eligible poor person per year. By conservative estimate, the average poor person experiences at least one legal problem per year. Because it is impossible to provide meaningful assistance for only \$10.00 per case* legal services programs must decline to assist the majority of those who request services.

In an effort to supplement the work of legal services programs, bar associations in recent years have devoted substantial efforts to developing *pro bono* programs. These efforts have significantly increased the services available to poor people. For example, this Association, in cooperation with the Beverly Hills Bar Association, sponsors and supports Public Counsel, the *pro bono* arm of the two associations, and the Los Angeles County Bar Foundation makes substantial yearly grants to organizations providing legal assistance to the poor. Other agencies in our community, some entirely private and others with a measure of public funding, provide free legal services in specialized areas of need.

Unfortunately, the needs, described above, continue to outrun all presently available resources. This presents a grave challenge to the Association and to all of its individual members. The disparity between needs and resources has become acute precisely at a time when lawyers are affected by new pressures. The Association is concerned that, as the practice of law becomes more competitive, and lawyers work longer hours for paying clients, less time is available to devote to *pro bono* work. A recent American Bar Association poll found that only one in five lawyers currently participates in any form of *pro bono* activity. Estimates of participation by lawyers in Los Angeles County are consistent with this national average.

IV. Opportunities for Pro Bono Involvement

Opportunities for *pro bono* work abound. Numerous excellent programs needing volunteer lawyers in Los Angeles County conduct case screening, provide needed training and offer malpractice insurance coverage. A comprehensive listing of current *pro bono* opportunities is set out in the *pro bono* Directory sponsored by the Legal Aid Foundation of Los Angeles in cooperation with Public Counsel and the Los Angeles County Bar Association. (A copy of the directory is attached.) *pro bono* programs are now so well-developed that attorneys in any area of practice can participate in meaningful *pro bono* work. Thus, the essential foundation for an effective *pro bono* policy exists.

For litigators, cases abound in a wide variety of areas, including family, consumer, landlord, tenant, real property, probate, tort defense, immigration and juvenile law. Available cases range from small matters with a likelihood of settlement to major public interest litigation.

Less well-known but equally plentiful are the *pro bono* opportunities for non-litigators. Corporate attorneys are needed to assist nonprofit groups to incorporate, to manage their affairs under law and to comply with a myriad of local bureaucratic requirements. Real estate lawyers are needed to assist nonprofit organizations seeking to develop urgently-needed low-income housing. Tax lawyers are needed to assist nonprofit organizations to comply with Internal Revenue Service requirements. Probate lawyers can volunteer to provide needed assistance to relatives seeking to protect the interests of children, to the elderly and disabled and to the dying. The AIDS epidemic has given this need an entirely new dimension. Finally, the last decade has seen a threefold increase

in new Dependency Court filings. Today, some 30,000 abused, neglected or abandoned children fall under Dependency Court jurisdiction. Until recently, Public counsel and the Association's Barristers Panel had no satisfactory way to identify those cases which urgently required a volunteer lawyer to fill the need for an advisor who had no conflict of interest. The need for such assistance which usually does not require litigation is well beyond the present availability of expertise volunteers.

Non-litigators and litigators alike can also provide valuable legal services in areas outside of their specialties. Many *pro bono* programs, such as Bet Tzedek, Mental Health Advocacy Services and Harriett Buhai Center for Family Law, have developed excellent training programs and instructional materials which enable volunteer attorneys to counsel poor clients in areas including immigration, family law and government entitlement cases. These programs provide especially meaningful opportunities for younger lawyers who are still developing their practices.

In addition to direct representation of the disadvantaged, numerous groups are seeking to make a difference in the quality of life in our community. These largely nonprofit organizations are often in desperate need for a lawyer's advice and assistance. As one example, a shortfall in licensed child care spaces in Los Angeles County exists of at least 60,000. This shortfall affects the working poor most acutely, and it is exacerbated by the complexity of local licensing ordinances, leasing difficulties and other onerous and discouraging requirements. The advice and help of volunteer lawyers are needed to assist the County's 20,000 centers to remain in business, providing poor children with, a safe and healthful alternative to a latchkey existence or life on the streets.

V. The Need for the Association's Pro Bono Policy

Many attorneys in Los Angeles provide critically-needed volunteer legal services. These efforts are undertaken by individual lawyers, law firms, corporate law departments and government law agencies, and they make a substantial contribution toward the objective of achieving equal access to justice for all regardless of income. They also serve to ensure the vindication of important rights and the advancement of socially beneficial activities. The Association contends those who have stepped forward to provide *pro bono* services in our community and encourages them to continue to do so.

Notwithstanding these efforts, the Association recognizes that purely voluntary efforts by lawyers cannot alone service all the legal needs of underrepresented poor people. There must be public funding of legal services programs, and that funding must be increased substantially over what it has been in the past. Accordingly, the Association will continue to support vigorously the efforts of legal services organization to maintain and increase their funding levels.

Because such funding will be inadequate, at least in the short terms, to enable legal services programs to meet all the needs of the poor, the Association feels it is critical to supplement these programs with increased *pro bono* service by members of the bar. To the extent that we can increase the number of lawyers providing *pro bono* legal representation and the number of hours of service provided by each lawyer, we can make a tremendous contribution toward reducing the gap between the legal needs of the poor and the amount of lawyer time available to meet those needs.

The Association also recognizes the tradition among many lawyers to provide *pro bono* services to nonprofit corporations seeking to promote socially beneficial objectives and to people or organizations seeking to protect important civil rights and civil liberties. The Association believes that these activities are also valuable and should be promoted.

In order to work effectively toward fulfillment of these needs, *pro bono* legal representation must be accepted as the obligation of every lawyer and as an endeavor meriting the highest respect of the legal community and one's colleagues. Toward the end that such acceptance and respect become the norm in our community, the Association has adopted the *pro bono* Policy attached hereto. We ask each lawyers law firm and corporate law department in Los Angeles County to join in the effort by committing to adhere voluntarily to this Policy and by making *pro bono* representation an essential part of every lawyer's practice.

The Association has undertaken the development of this Policy in recognition of the many Los Angeles lawyers, law firms, corporate law departments and government agencies which have already established commendable *pro bono* policies. One of the largest local firms, for example, currently budgets an annual aggregate commitment of 10,000 hours of *pro bono* service. The 15-lawyer Los Angeles office of a multistate firm encourages *pro bono* work by providing "billable credit" for up to 100 hours per year. Two Los Angeles headquartered multinational corporations have corporate guidelines encouraging employees to participate in community service. The California Attorney General's Office has an express policy encouraging *pro bono* service. These examples are commendable. The Association believes they must become more widespread.

The Association has taken this action also to assure that Los Angeles lawyers share leadership on this issue with the many other pre-eminent bar associations committed to enhancement of *pro bono* services. The American Bar Association recently established a minimum annual standard for all lawyers of 50 hours of *pro bono* work. The Boston Bar Association has adopted a *pro bono* policy calling on each of its members to devote a minimum of 35 hours per year. The Association of the Bar of the City of New York as established a similar policy, urging each of its members to render a minimum of 30 to 50 hours of *pro bono* service each year. By joining this movement, Los Angeles lawyers will demonstrate in a tangible and valuable way their support for this very important issue.

Proposed Resolution Los Angeles County Bar Association

WHEREAS, the Los Angeles County Bar Association is deeply concerned that there exists a critical and growing shortage of *pro bono* legal services in Los Angeles County, most notably for the County's nearly two million low income people;

WHEREAS, the Association is deeply concerned that despite a recent upsurge in *pro bono* activity, only one in five attorneys volunteers to provide civil legal services; and

WHEREAS, given the current level at which legal services programs are funded, *pro bono* legal services are a necessary and important supplement to the work of such programs;

NOW, THEREFORE, the Los Angeles County Bar Association adopts this *pro bono* Policy and the accompanying Report on the Need for a *Pro Bono* Policy and Commentary to *Pro Bono* Policy.

ATTACHEMENT

7

A-7

Tab a

**Munger, Tolles & Olson LLP
Pro Bono Policy**

Munger, Tolles & Olson is committed to serving the Los Angeles and San Francisco communities through the provision of a wide range of pro bono legal and other community services. Based upon its efforts, Munger, Tolles & Olson was honored in 1996 with both the American Bar Association Pro Bono Award and the State Bar of California Pro Bono Award.

Munger, Tolles & Olson is a charter member of the ABA Pro Bono Challenges, and has consistently met or exceeded that pro bono commitment of 50 hours per attorney and 3% of all firm legal services being devoted to indigent clients. We encourage all lawyers in the firm to provide pro bono services and support them in doing so. An individual's contributions to the community and the firm through his or her pro bono and community work are considered in evaluating that individual's progress within the firm and that individual's compensation in the same manner as paid work.

Munger, Tolles & Olson's Pro Bono Policy emphasizes the direct provision of pro bono legal services to the poor. Although the Los Angeles County Bar Association recommends a Pro Bono Policy that requests each lawyer to provide a *minimum* of 35 and 50 hours, respectively, of pro bono legal services each year, we believe that our lawyers should do more than provide 35 hours per year of pro bono services as defined in the County Bar's Policy, whether it be through provision of additional pro bono legal services or through other community service. To encourage pro bono, we have been and will continue to recognize pro bono work in evaluating and compensating both partners and associates who provide more than 50 hours of pro bono work.

We also believe that each lawyer's contribution to the firm and the community cannot be measured based merely upon the *number* of hours of pro bono legal services that person has provided. Accordingly, the firm will adhere to the terms of paragraph III.B of the County Bar Policy as it relates to treatment of and credit for pro bono legal services performed by associates. The quality and level of an associate's pro bono work will also be considered in evaluating that associate's advancement and compensation, as they are with respect to fee-generating work. Each partner's pro bono contributions should be evaluated by his or her partners with the same care that each partner's fee-generating and other contributions to the firm are evaluated in determining partnership compensation each year.

The Pro Bono Committee is responsible for implementing this Pro Bono Policy. In order to facilitate the Committee's work, lawyers should open client accounts for and record the time they spend on pro bono matters. Before accepting pro bono representation that will involve a significant commitment of a lawyer's time or of firm resources, lawyers should consult with the Pro Bono Committee in the same manner that one ordinarily consults with the Litigation Steering Committee. The Committee does not have the authority to decide whether a lawyer may accept any particular pro bono representation, but may make recommendations to individual lawyers or to the firm.

Tab b

The Missouri Bar
Volunteer Lawyer Registration

Name: Bar No.

Address: Firm/Office: Sandberg, Phoenix & von Gontard, P.C.

Street: One City Centre, 15th Floor

City: St. Louis, MO 63101

Telephone: 314/231-3332 Zip Code: 63101

I am willing to provide pro bono services in the following areas:

- Domestic Relations, Employment, Consumer, Guardianship/Probate, Bankruptcy, Emergency Cases, Housing, Other (Describe), Government Benefits

X I am presently provided pro bono legal representation* through Legal Services of E. Missouri (name of organization) Hours per year 450-500.

I am presently providing pro bono legal representation* independently. Hours per year.

I am willing to provide financial support to Missouri's pro bono legal services programs. Please provide me with additional information.

*Pro bono legal representation is the direct provision of legal services to the poor, without an expectation of compensation, whether civil or criminal, or uncompensated legal services rendered to charitable, public interest organizations with respect to matters or projects designed to address the needs of poor persons.

Signature Date

Please return completed form to: Volunteer Lawyer Program The Missouri Bar P.O. Box 119 Jefferson City, Missouri 65102-0119

X. Pro Bono Matters

In keeping with Canon 2 of the Code of Professional Responsibility, it is the policy of the Firm to perform "Pro bono" work, when requested, for

individuals who need legal service but are unable to pay reasonable fees. Deserving charities and matters of public interest may also be considered, although the decision to perform such work is a voluntary act of the Firm, not an ethical obligation. Each such case should be evaluated, first by the individual lawyer, then by the Client Committee. Due consideration should be given to the availability elsewhere of affordable services (through the Lawyers Reference Services) or free services (through the Legal Aid Society). Before charitable or public interest work is undertaken, due consideration should be given to the preferences and beliefs of the diverse individuals in the Firm. Once a "Pro bono" case is approved by the Client Committee, it should be handled like any other case: the attorney should complete a new matter form, open a file (under Client No. 88882) and record all time devoted to the matter. Hours devoted to "Pro bono" cases will be treated for all purposes as if they were billable. Family matters under Pro bono work must be approved by the Management Committee.

Tab c

PRO BONO POLICY
Weiss, Berzowski, Brady & Donahue
700 N. Water Street #1500
Milwaukee, WI 53202
414-276-5800
25 Attorneys

TO: All Attorneys
FROM: _____
DATE: April 19, 1991
RE: Pro Bono Files

Over the years, this firm has handled a number of pro bono matters on an informal basis. We want to encourage this type of service to our community while at the same time ensuring that proper safeguards as to quality of work and commitment of resources are maintained. Therefore, the following procedures should be followed:

1. Approval--An agreement to provide pro bono services requires Management Committee approval. The five members of the Management Committee are _____, _____, _____, _____, and myself. You may make a request to any one of them and the matter can be handled informally and quickly.

2. Open a File--The provision of legal services whether for a fee or not should be reflected in the opening of a file and the maintenance of appropriate records. Therefore, when providing pro bono legal services please open a file. The file should be maintained and closed in all respects as any other file. For example, conflicts checks are still necessary.

3. Work Assignments--The obligation to a pro bono client is the same as to any other client. Therefore, we must ensure that proper staffing and support is provided for pro bono assignments. Please do not get involved in work that you are not qualified to do simply because you initially received the pro bono assignment. If advice outside your area of expertise is required, please make sure it is obtained. You may contact me with any difficulties in that regard.

We will use a separate client number () for pro bono work. A file will be opened and _____ will assign a file number to it. No billing attorney credit will be received for such work. Work attorney credit will be determined by the compensation committee.

As attorneys we have an ethical obligation to render public interest legal service. This obligation can be met by both no fee or reduced fee service to appropriate clients. The firm encourages and supports your efforts to meet this obligation.

Tab d

**PRO BONO POLICY
Ross & Stevens, S.C.
First Wisconsin Plaza
P.O. Box 2599
Madison, WI 53701-3599
608-283-5630
33 Attorneys**

Our firm recognizes and supports the voluntary pro bono resolution adopted by the State Bar of Wisconsin's Board of Governors on April 15, 1989.

In support of this resolution, we expect our attorneys to contribute legal services and to implement the delivery of pro bono services as follows:

1. We expect our attorneys to contribute 25 hours per year in pro bono services by representation of low-income client(s) without a fee or at a substantially reduced fee through:

- A. Participation in an organized pro bono panel or project; or
- B. Appointment by a state or federal court in civil cases; or
- C. Serving "of counsel" or otherwise providing legal services directly to or for an organization whose primary purpose is to serve the needs of low-income persons; or
- D. Accepting as clients low-income persons whose civil legal needs would otherwise be unmet.

2. We will, in computing "25 hours per year," compute either through individual totals or an average cumulative total for the number of attorneys in our firm.

3. We will encourage and recognize the legal service contributions of partners and associates by counting toward our billable-hour goals or requirements all or a reasonable portion of time spent in provided pro bono services.

4. To comply with the spirit of this policy, we will ascertain that the pro bono client is low-income at the onset of the case, and we will not redefine a nonpaying client as "pro bono" after the matter is concluded.

5. We will on an annual basis designate as "pro bono coordinator" at least one attorney within our firm to explain and promote this policy among members of the firm.

ATTACHMENT

8

**D.C. BAR PSAC LAW FIRM PRO BONO CLINIC
A Law Firm Rotation Model**

A multi-issue clinic--landlord/tenant, public benefits, family (primarily custody), consumer, personal injury defense, wage claims--held on Wednesday evening in the Bar office is staffed by teams of volunteers from 38 of the city's largest law firms and the U.S. Department of Justice, which are committed to providing representation to all clients with meritorious cases interviewed on their clinic night (average 15).

INTAKE

Legal service providers do the initial intake of clients. Income guidelines are 175% of poverty, so providers can include clients who exceed their income limits.

REFERRAL

Referral kits are distributed to providers. Simple referral form (client id. information, income, type of problem, adverse parties/counsel, any deadlines) is FAXed to PSAC's Clinic Coordinator, who contacts clients to verify information, get any additional info. on type of problem. Coordinator schedules client with supervision of staff attorney.

PRE-CLINIC

Referral sheets for all scheduled clients FAXed to firm Thurs. prior to clinic for conflicts check. Monday before firm's 1st clinic, PSAC staff do in-firm walk-through.

CLINIC NIGHT

5:30: firm team (6-8 partners & associates; 2 paralegals) arrive (1 para. greets clients; 1 helps copy client documents)

6:00-8:00: interviews of approximately 15 clients

7:00: mentors and pizza arrive; mentors debrief with interviewers as they finish interviews.

Firm may accept case at clinic and have client sign retainer, or may take case back to firm for decision.

POST-CLINIC

Firm sends PSAC copies of retainer agreements or declination letters; PSAC tracks cases via mentors & firm clinic contacts and periodic follow-up mailings; attorney completes case closing form.

PSAC TRAINING AND SUPPORT

Full-day substantive training at beginning of program; separate videos of individual sessions given to participating firms

A manual covering all clinic subjects--law, procedure, interview questions, resources, practice tips; regular updates; pleadings bank on disk for landlord/tenant & custody cases

Mentors--landlord/tenant, public benefits, family mentors assigned to each firm and attend clinic night; family mentors do in-firm training. Panels of experts on other subjects on-call.

If a firm opts to co-staff its clinic nights, PSAC will arrange the pairing. From then on, the firms will coordinate efforts to ensure that the

clinic nights are fully staffed and the accepted cases are distributed and assigned to attorneys.

To coordinate the efforts between PSAC and the participating law firms, we ask each firm to name a team consisting of one partner and one associate/pro bono coordinator whose responsibilities will include recruiting volunteers within the firm, ensuring that the firm's clinic nights are fully staffed, conducting conflicts checks, assigning and processing every case accepted by the firm, completing quarterly case status reports, and serving as a liaison with PSAC for all other matters involving the Clinic.

TIME AND PLACE

At about 5:30 P.M., usually on Wednesdays, the volunteer attorneys and legal assistants will arrive at the D.C. Bar Conference Center located at 1250 H Street, N.W., Washington, D.C., B-1 Level. Complimentary parking is available in the building lot.

An orientation to the facilities will be conducted from 5:30 to 5:45. The first wave of clients are scheduled for 6:00 P.M. This allows the attorneys time to ask questions and review their cases prior to the interviews. The second wave of clients are scheduled for 7:00 P.M. It is suggested that the interviews last no more than approximately 45 minutes.

The D.C. Bar Conference Center is equipped with a waiting room for the clients, cubicles for interviewing, and conference rooms for the subsequent debriefings. A photocopy machine is available, and PSAC provides most of the necessary forms (releases, intake questionnaires, etc.) on site.

CASE SCREENING

Cases referred to the law firms at the clinic nights are pre-screened by legal service providers, and in some instances, specially trained social service organizations, with additional information being provided by PSAC's Clinic Coordinator.

The referring organizations minimally screen the cases for income eligibility and case type (see below). Also, the parties involved in the dispute are identified to allow PSAC and the law firms to conduct a conflicts search. In addition, cases are also superficially screened for merit.

Once an individual is referred to PSAC, the Clinic Coordinator confirms the information provided by the referring organizations, and supplements the client file with any facts necessary for the PSAC Staff Attorney to decide whether the case is appropriate for the Clinic.

After a client is accepted by PSAC, a confirmation letter is sent indicating the place and time of the clinic night interview. The client is also sent an information sheet which states his or her responsibilities in assisting the volunteer attorney with his or her Clinic case.

Despite all of this pre-screening, it remains a function of the volunteer attorney interviewing the client to assess each case on the merits and evaluate whether providing legal representation would have an impact on the outcome.

CLINIC SUBJECT AREAS

Cases to be referred to the Law Firm Pro Bono Clinic include the following types:

LANDLORD AND TENANT--Tenant representation only in D.C. Superior Court and the Rental Accommodations and Conversion Division.

FAMILY--Primarily Custody matters (Special training seminars are available for firms prior to every clinic night).

DISABILITY/PUBLIC BENEFITS--SSI; SSDI; General Public Assistance: Food Stamps: Social Security; Unemployment Compensation.

CONSUMER--Home improvement; Debt Collection; Affirmative Breach of Warranty.

PERSONAL INJURY DEFENSE--Often involving an uninsured motorist.

WAGE CLAIMS--Simple affirmative actions by employees who have worked but have not been paid by their employers.

Case types excluded from the Clinic are:

- Bankruptcy
- Civil Protection Orders
- Criminal
- Employment Discrimination/Wrongful Termination
- Immigration
- Name Changes
- Prisoner Matters
- Probate Matters
- Fee Generating Cases (Contingency Fee)

Ultimately, the goal of the Clinic is to function in a holistic manner, providing the range of assistance necessary to resolve all of the interrelated legal problems a client presents. At this point, we simply encourage the firms to evaluate all of the clients legal predicaments and to inform PSAC of other matters that may need attention and which the firm does not have the resources to service.

Periodically, PSAC will review the unmet legal needs of the community and may modify accordingly the case types accepted into the Clinic.

INCOME GUIDELINES

Client income eligibility guidelines are set at a level slightly higher than those currently used by most other legal service providers. Doing so enables representation to be provided to some of that group of people "caught in the middle"--not poor enough to qualify for free legal assistance from other organizations, but totally without resources to afford an attorney.

SUPPORT MATERIAL AND MENTORS

PSAC provides each participating firm with several Law Firm Pro Bono Clinic Manuals which contain sections on most of the case types accepted by the Clinic. Separate Family Law Manuals are also provided to the firms.

PSAC furnishes the firms with pleading banks for Landlord and Tenant and Family Law matters.

Four videos will be distributed to each firm covering Landlord and Tenant, Family, Disability and Public Benefits matters. Each video runs about 1 hour 20 minutes.

Each participating firm is assigned a mentor in the areas of Landlord and Tenant, Disability/Public Benefits and Family Law. The mentors attend the clinic nights and answer questions the volunteer attorneys may have regarding the cases. A mentor list will be distributed to each attorney listing the names, addresses and telephone numbers of the firm's three mentors. These assigned mentors have committed their time and talent to the Clinic and the volunteer attorneys are encouraged to take advantage of their expertise throughout the lives of the cases. The mentoring system is designed to provide each firm with the same three mentors for each of its clinic nights.

Also, special training sessions are available for the volunteer attorneys representing clients in family matters. These trainings are conducted at the law firms, usually a day or two before or after each clinic night at around 6:00 P.M.

To facilitate each law firm's management of the clinic nights, on the Monday before the Wednesday evening clinic, the PSAC staff is available to attend a luncheon at the law firm and conduct an orientation to the Clinic for the firm's volunteer team, including how to prepare and what to expect from the clinic night.

RECOVERY OF EXPENSES/FEES

The firms agree to undertake every client's representation on a pro bono basis, which means that the firms do not charge for attorney or paralegal hours expended on the matter. The firms have the right to seek and negotiate for an award of attorney fees and costs from the opposing party, and to retain any fees or costs awarded by the court or agreed to by the opposing party.

The firms agree to advance the costs of litigation, including any court filing fees, copying charges, long distance telephone charges, postage charges, and other such fees necessary for litigation. The clients are not required to reimburse the firms for these costs.

CASE FOLLOW-UP

Each firm will submit to PSAC copies of Retaining Agreements for each client it represents through the Clinic. Copies of letters declining representation also will be submitted to PSAC.

Once a case has been resolved, the firm will submit to PSAC a Closed Case Report indicating the number of pro bono hours spent on the matter. PSAC will send the firm's contact person a quarterly status report requesting that any updates be disclosed to PSAC. This serves to identify those cases which have been closed by the firm, but which have not been closed by PSAC.

OTHER RESOURCES

Often, low-income clients need referrals to social service agencies for additional assistance. A comprehensive list is available at the clinic night (and for distribution to the firms).

March 1997

ATTACHMENT

9

**LEGAL SERVICES FOR CAPE COD AND ISLANDS, INC.
LAW FIRM COUNSELLING PROJECT**

1. On certain mornings or afternoons each week in four separate locations (Falmouth, Hyannis, Orleans, and Plymouth), law firms and individual attorneys participating in Legal Services for Cape Cod and Islands, Inc.'s Law Firm Counselling Project will interview and counsel low income and elderly clients who are residents of towns in close proximity to the hosting location.

2. The interview sites are as follows:

Falmouth Human Services, 35-41 Glenwood Place, Falmouth, MA;
LSCCI--Hyannis office, 460 West Main Street, Hyannis, MA;
Cape Cod Bank & Trust Company, Main Street, Orleans, MA; and
LSCCI--Plymouth office, 18 Main Street Ext., Plymouth, MA.

3. Interviews are generally held on Tuesday mornings and afternoons in Hyannis; on Wednesday mornings in Falmouth and Orleans; and two variable days per week in Plymouth. Appointments will be scheduled for the attorney at one-half hour intervals, beginning at 9:00 a.m. and ending with a final interview at 11:30 a.m. for morning sessions, and beginning at 2:00 p.m. with the final interview at 4:30 p.m. for afternoon sessions.

4. Applicants for service will contact LSCCI. LSCCI will screen clients for geographic and income eligibility and obtain information particular to each applicant's legal problem. Thereafter, the executive director will determine which clients present issues within LSCCI's priorities which are handled by staff advocates and which clients present issues appropriate for law firm counselling project appointments.

5. LSCCI will schedule the appointments for the clients, send the clients confirmation letters, and make confirmation telephone calls the day prior to the interview. Clients will then appear at the interview site for a specifically scheduled appointment. Absent an emergency, no clients will be seen at the interview site without an appointment.

6. LSCCI informs clients that they will be interviewed in person at the appropriate interview site by a private attorney who is volunteering his or her time to help, that the attorney will provide the client with advice/brief service on how to resolve the legal problem, and that it is up to the client to follow-through with the attorney's advice.

7. Generally, clients will only be given one law firm counselling project appointment per legal problem. LSCCI usually cannot provide clients counselled through law firm counselling project with full service representation in-house; however, if a client presents a compelling situation which would warrant further review by LSCCI, the law firm attorney needs to bring the matter to the attention of the executive director.

8. Each participating law firm will be completely responsible to ensure that the interview site is staffed on its scheduled day.

9. By noon on the day before each interview day, LSCCI will fax to the law firm an appointment schedule listing client identifying information and a brief

description of each client's problem. LSCCI's executive director will review the information before it is faxed.

10. The day before the interview day, LSCCI will call each client who has a telephone to remind him or her of the appointment. It is possible that on some days, for example, during bad weather, a few clients may not keep their appointments. The interviewing attorney may choose to take reading material or other work to the interview site to minimize the frustration of missed appointments. LSCCI makes every effort to ensure that clients keep scheduled appointments.

11. During the interview, the attorney will be responsible for evaluating the client's problem for the benefit of the client, and recommending any future course of action which may be necessary or possible. It has been LSCCI's experience that 75% of clients' problems are resolved to the client's satisfaction by means of an opportunity to discuss the problem with an attorney and receive some general advice.

12. At the end of each interview the attorney may choose to dictate or to write a summary of the client's problem and the advice offered. The use of dictation equipment taken to the interview site by the attorney has proven to be most efficient. The tape or notes should be transcribed by the law firm staff, and the resulting memo and any other materials will be mailed/faxed to LSCCI for case file processing and retention in the client's file. These summaries should be received by LSCCI no later than the Friday after the law firm appointments.

13. LSCCI's executive assistant is the recipient of these materials from participating law firms. Materials will be brought to the attention of the executive director and, if necessary, further action will be taken on behalf of the client.

14. LSCCI staff will be alert for and will accept any phone calls from law firm attorneys on interview days in order to provide assistance when needed.

15. On occasion, it may be necessary for the law firm attorney to perform some additional work after the appointment, for example, brief research, a phone call, a follow-up letter to the client, or a simple legal document. To the extent possible, the attorney should perform this work. If the case demands more extensive work, the attorney may transfer the case back to LSCCI for further in-house review.

16. At each interview, the attorney may want to remind the client to contact LSCCI directly if any new problems occur. The attorney is not expected to take any additional unexpected or unrelated calls from the client.

17. During the handling of cases received at the interview site, each attorney will be covered by LSCCI's professional liability insurance consisting of the following coverages: a) professional liability coverage: \$1,000,000 each claim, \$1,000,000 aggregate, \$1,000 deductible each claim; b) personal injury liability coverage: \$100,000 each claim; \$300,000 aggregate; \$1,000 deductible each claim; and c) disciplinary proceedings costs: \$5,000 each claim; \$500 deductible each claim.

18. LSCCI staff will make appointments for clients who have the following kinds of legal problems which LSCCI staff also handle:

Housing--general landlord/tenant, illegal lockouts, evictions, subsidized housing cases, general housing, authority problems, repair problems, homelessness issues, discrimination cases;

Elderly Law--representation of wards or proposed wards in guardianship and conservatorship cases, representation of wards or proposed wards in involuntary commitment cases, housing, government benefits, utility shutoffs, medicaid, medicare, other consumer health issues, nursing home law, tax abatements, fraud or duress by relatives, wills, home equity conversion;

Disability Law--overpayments, representative payee problems, work incentive issues, architectural access issues;

Family Law--advice on abuse prevention issues, homelessness and child custody, divorce, custody, child support, state intervention, post judgment matters on support issues; and

Government Benefits--Social Security and SSI overpayments, state veterans services, unemployment compensation.

19. LSCCI staff will also make appointments for clients who have the following kinds of legal problems which LSCCI does not handle:

Landlord/Tenant--non-emergency lockouts, security deposit cases, housing authority damage claims, some repair problems, utility issues;

Consumer--inappropriate garnishments, mortgage foreclosures, small claims matters, deficiency judgment suits, automobile repossessions, and general consumer issues;

Simple wills, powers of attorney, homestead declarations;

Elderly Law--real estate transfers from joint names to the at-home spouse, estate tax returns where a house is the only asset and there is no tax, divorce;

Bankruptcy; and Miscellaneous.

LSCCI staff does not work in the above areas, but they are recognized as important areas of concern for low income families. The primary service to be provided to clients in these areas will be advice and counselling, and any other service the attorney decides to provide.

20. On occasion, during the course of the interview, an attorney may find that a client who appeared to be eligible for services is not, or that the client's legal problem is fee-generating, criminal or otherwise outside the scope of this project. In such situations, the attorney may provide the client with the information and advice deemed appropriate, and then the client may be referred back to LSCCI for referral to a member of LSCCI's over-income fee-generating referral panel.

21. In the event that a conflict of interest becomes apparent during the course of the interview, the attorney shall so notify the client and LSCCI, and the client should be referred back to LSCCI.

22. Attorneys participating in the Law Firm Counselling Project will become members of LSCCI's over-income fee-generating referral panel, and will be

referred cases in accordance with the general operating practices of the program.

23. LSCCI will provide to each law firm all available reference materials on the legal areas mentioned above. For those areas where useful materials are not available, LSCCI staff will provide any kind of training which might be helpful.

24. LSCCI staff and their specialty are as follows:

Hyannis office--508/775-7020

Patricia A. Pap Executive Director; Family Law/Housing Attorney
T. Richard McIntosh Government Benefits Attorney
Carol Schafer Disability Law Attorney
Thomas Kosman Elder Law Project Attorney
Kathy Enos Government Benefits Paralegal
Robert Brown S.J.C. Rule 3:03, Family Law
Jacqueline Sullivan Executive Assistant
Charmaine Jones Secretary
Karen Shields Secretary
Maureen Holland-Herrera Secretary

Plymouth office--508/746-2777

Jennifer J. Katz Managing/Family Law Attorney
Susan Nagl Housing Attorney
Charlotte Stevens Secretary

Please do not hesitate to contact any LSCCI staff member for information or assistance at any time. Thank you very much for your participation in this pro bono effort on behalf of low income and elderly clients.

July 24, 1996

ATTACHMENT

10

**Coordinated Advice and Referral Program for Legal Services
CARPLS**

Program Description

"An invasion of armies can be resisted, but not an ideas whose time has come."
--Victor Hugo

Founded in May of 1993, the Coordinated Advice and Referral Program for Legal Services (CARPLS) provides efficient legal aid and increased access to legal services for low income residents of Cook County. CARPLS coordinates referrals among twenty-four legal services agencies with forty-five programs in the Chicago area, provides legal advice and brief services to low income clients and tracks trends in the delivery of legal services.

HISTORY AND NEED

CARPLS was created to combat problems highlighted in the landmark <I>Illinois Legal Needs Study<P> (1989). As the first statewide legal needs assessment conducted in Illinois, the study's goal was to quantify the legal needs of the poor, inventory the existing civil legal services, identify any gaps in service and develop a set of recommendations to address the unmet legal needs of the poor.

The study found that four out of five legal problems faced by poor families went unaddressed. In the Chicago area, potential clients had difficulty gaining access to the appropriate agency, even though there are dozens of quality programs available. Each provider had its own intake criteria. Income guidelines varied. Some served people in specific zip codes; some served only certain client populations or handled certain types of cases. A few programs handled over 30,000 client contacts a year; others a few hundred. The variety of programs and the differences in the guidelines that each of them follow makes it impossible to keep track of who is providing what services. The result can be devastating for a client. Clients are all too often bounced from agency to agency searching for the right program to assist them. As a result, numerous clients slipped through the cracks, never addressing their legal problems.

In addition, the study also confirmed what is true nationally--about 75% of cases handled by legal aid programs fell under the category "brief services" (defined as "referrals, formal advice and other brief services"). Yet traditional legal aid programs are not designed to provide accurate referrals or simple advice in a timely fashion. These programs employ a multi-level screening process to identify the very best cases which fit into their guidelines. Given limited time and resources, making referrals is not a high priority compared to providing more extensive services. Thus, the study concluded that the burden of making referrals and providing answers to simple legal questions affected the programs' ability to provide more extensive services, such as in-court representation.

The study's dramatic findings were followed by a recommendation to create a central information and referral system for legal and related services in the Chicago metropolitan area. This recommendation led to the creation of CARPLS,

which addresses the need for more legal advice, more accurate referrals and more coordination of services.

PROVIDING LEGAL SERVICES

CARPLS is a unique service in that it provides callers with immediate access to an attorney. Traditional legal services programs are not structured in such a way. Typically at these programs, an intake worker will take information about the caller and her problem. If the client fits into the established guidelines, the intake worker will set up an appointment for a more complete intake. After the appointment, the client's case may be presented at a weekly acceptance meeting. If the case is accepted at that meeting, the case is assigned an attorney or paralegal. This process could take weeks.

If a potential client simply needs to know her rights, an answer to a legal question or how to file something pro se, the multi-step screening process is cumbersome and unnecessary. CARPLS reduces the time it takes for an attorney to advise a client on those matters. Sixty-four percent of our cases are resolved by a staff attorney, usually within days and without the expense of a multi-step screening process. It is this ready access to an attorney that is the hallmark of CARPLS' services.

When an affiliated service provider determines it cannot help a caller, it transfers the caller to CARPLS via a Centrex phone system. This call is answered by a CARPLS' staff attorney who collects information to determine the caller's eligibility for free legal services and simultaneously enters the data into a computerized case record. After listening to the caller's problem, the staff attorney determines what kind of assistance the caller needs.

CLIENT REFERRALS

If the caller is in need of extensive services, such as in-court representation, the attorney matches the caller's data with the case acceptance criteria of the affiliated programs using a specialized computer database. The client is then referred to the program most suited to his legal need, geographic area and income level. Case acceptance criteria is monitored daily for changes. If a program needs to adjust its intake, CARPLS can immediately alter its referrals to account for this change.

ADVICE AND BRIEF SERVICES

In cases that do not require a referral to another legal aid program or where no referral is available, the CARPLS' staff attorney provides advice or brief services to assist the client with their legal problem. Sixty-four percent of cases handled by CARPLS are handled in this manner.

In keeping with CARPLS' commitment to provide expanded services to its clients, CARPLS has developed self-help materials to assist clients who must represent themselves pro se in court. CARPLS' staff attorneys have also begun making third party telephone calls and reviewing documents such as leases and contracts.

The following case illustrates the kind of immediate access to lawyers and quick response from lawyers that characterizes CARPLS' services.

Lois, a 76 year old widow receiving Meals on Wheels services from the Illinois Department of Aging, called CARPLS in a panic. Arthritis prevented Lois from maintaining her apartment and her landlord was fed up with the mess. He began

eviction proceedings. Lois had a court date the day she called CARPLS. The staff attorney told her that no legal services provider would go to court with her that day and instructed her to appear in court and ask for a continuance so that CARPLS could try to find her an attorney. The staff attorney advised Lois of the eviction process and sent the client a handout on the subject. She also informed Lois that DOA had housekeeping services for Meals on Wheels recipients. With Lois' consent, CARPLS contacted DOA and asked that Lois receive housekeeping services. After trying unsuccessfully to place the case with a few legal services programs, the staff attorney called the landlord to determine whether he would drop the eviction if Lois had housekeeping services. He agreed to do so as long as Lois maintained the services. A week later, CARPLS called the client to verify that the housekeeping services were in place and the landlord was satisfied with the arrangement. It took about an hour of CARPLS' time to prevent Lois from being kicked out in the five degree weather.

By using lawyers at the front door of service, CARPLS can handle these brief service cases at a much lower cost per case than the traditional legal aid programs. These programs spend an estimated \$200 per case; CARPLS' cost per case is a mere \$27. This efficient design enables our affiliated legal aid programs to spend more resources on cases requiring in-court representation

ONGOING LEGAL NEEDS STUDY

In addition to performing direct services, CARPLS also functions as a continuing legal needs study, tracking trends and gaps in the provision of legal services. Because CARPLS acts as a central hub for all of the legal services programs in Cook County, CARPLS' database tracks where clients' needs are and where there are gaps in the service delivery system. This ability to view the system as a whole is invaluable and has helped CARPLS' affiliates in their bids for funding to combat particular problem areas, such as domestic violence and employment law issues.

BENEFICIARIES

CARPLS was designed to serve two constituencies: low income residents of Cook County and the existing legal aid community.

CARPLS serves low income individuals who are seeking assistance to resolve a civil legal problem. Most callers face a legal problem that can be classified as an emergency, in that it represents a threat to their ability to provide basic necessities--food, shelter, safety, medical care, a subsistence income--for themselves and their families. Such instances require immediate legal help.

CARPLS' clients are people who are marginalized by their economic and social class, gender, race and disability. Our demographic breakdown is as follows: 55% of our client base earns below 100% of the federal poverty guidelines; 72% are female; 46% are African American and 10.5% are Latino; 14.5% consider themselves disabled and 63% are senior citizens.

The legal services community's reliance on CARPLS became apparent when two affiliated programs were forced to restructure because of funding cuts. With a moment's notice, CARPLS helped an affiliate place a number of divorce cases at a time when as many as five family law providers had simultaneously closed their intake. In another instance, CARPLS took all of the calls (on two day's notice) for a provider when they closed their doors for three weeks.

Two additional instances document the importance of CARPLS within the legal aid community. In November 1996, Uptown Peoples Law Clinic burned down. The clinic immediately forwarded all calls to CARPLS until it was able to establish a new location. Additionally, in April 1997, lawyers from the largest legal services program in Cook County went on strike. The strike lasted for one month. During that time, all clients were forwarded to CARPLS for advice or placement with another service provider. In all instances, CARPLS was there to ensure that callers who would normally have sought help from these affiliates could still receive legal advice from other sources.

CONCLUSION

Information about one's rights, how to prevent a legal problem or an answer to a legal question are needs that do not require the full legal arsenal of legal services programs. There is no replacement for the breadth of expertise and representation that a legal aid agency can supply, but there are ways to make the delivery of services more efficient and timely. CARPLS is one of those ways.

For additional information, please contact:

CARPLS
910 W. Van Buren St., Suite 700
Chicago, IL 60607
Administration Phone: (312) 738-9494
FAX: (312) 738-9487

ATTACHMENT

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**WHITMAN-WALKER CLINIC, INC.
LEGAL SERVICES DEPARTMENT**

The Legal Services Department of the Whitman-Walker Clinic was established in 1986 to provide free legal representation to people living with HIV infection and AIDS in the Washington, D.C. metropolitan area. The Whitman-Walker Clinic is the only organization providing comprehensive legal services to people with HIV in this area.

Whitman-Walker Clinic Legal Services operates a pro bono publico program of direct client services, including counseling, advocacy and representation for people living with HIV and AIDS on legal matters related to their diagnosis. Public education, training and technical assistance to other attorneys with HIV-related cases is another important mission of our staff and volunteers. We are actively engaged in legal reform efforts through advocacy and through impact litigation. Our Staff of nine consists of the legal services director, associate director, two attorneys in D.C., one attorney and a legal assistant in Virginia, a *pro bono* coordinator, an entitlements advocate, and an administrative assistant. Over 500 legal services volunteers currently provide advocacy and representation for clients, organize fundraising events like the Legal Community AIDSWalk, serve on our advisory board, and respond to public speaking requests.

The Legal Services Department serves all individuals who are HIV seropositive, regardless of race, sex, sexual orientation, age, religion or national origin. All services are free of charge. With the exception of estate planning services, for which we have liberal income and asset guidelines, clients are served on a *pro bono* basis without income eligibility restrictions in recognition of the impoverishing impact of AIDS. We are grateful for donations.

Services

Planning documents: counseling; preparation of simple Last Wills and Testaments, general powers of attorney, powers of attorney for health care decisions, living will directives and declarations as to disposition of bodily remains. To be eligible for a Last Will and Testament, the individual must meet liberal income and asset guidelines.

Volunteer Programs

Wills clinic--1407 S Street, N.W.: Weekly estate planning clinic *by appointment only* at our 1407 S Street, N.W., office for clients seeking assistance with preparation of wills, powers of attorney, and other planning documents. Attorneys from the law firms of Beveridge & Diamond, Arnold & Porter, Crowell & Moring and Skadden, Arps, Slate, Meagher & Flom staff this clinic on alternating weeks.

ATTACHMENT

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Community Economic Development: A Role for the Private Bar

by The National Economic Development and Law Center

Editor's Note: *This article was adapted and includes segments from a recent National Economic Development and Law Center article in the November 1989 <P>Clearinghouse Review<I> entitled "Practicing Community Corporate Law," written by Law Center staff and John Little of Legal Services of Greater Miami, James Head, executive director of the Law Center, coordinated the writing of this article. For more information about Community Economic Development (CED) or the Law Center, write or call the National Economic Development Center, 1950 Addison St., Suite 200, Berkeley, CA 94704; (415) 548-2600.*

Each year, the National Economic Development and Law Center, a legal services national support center specializing in Community Economic Development (CED) issues, provides assistance to hundreds of legal services field programs and the client organizations they represent. These field programs combine legal advocacy with developmental strategies to assist residents of low-income communities in their efforts to develop affordable housing, create and manage business ventures that produce jobs, and revitalize and stabilize neighborhood commercial areas.

Many of these activities require specialized legal assistance in the corporate, tax, finance, and business law areas. For private attorneys who work in these specialized areas of law, CED offers a unique opportunity to make contributions to legal services clients without having to venture outside of their area of interest. This article will discuss the current CED activities which are occurring in legal services field programs and their client communities, and examine how the private bar can contribute to this emerging area of practice within legal services.

What is Community Economic Development?

Community Economic Development (CED) is a developmental strategy for the revitalization of poverty areas. It is a strategy which encompasses a wide range of economic activities and programs, all with a common underpinning: community self-sufficiency for community benefit. It may start, for example, with a welfare rights group operating a Women, Infants and Children (WIC) nutrition program; a tenants' organization securing Community Development Block Grant (CDBG) to undertake housing rehabilitation; senior citizens developing cottage industry ventures; poor people forming and operating a credit union; impoverished farm workers developing an agricultural cooperative; handicapped persons patenting and manufacturing a new wheelchair; or a tribe of Native Americans developing a shopping center.

A CED developmental strategy seeks to strengthen eligible legal services client organizations by assisting them to become self-sufficient and become principal participants in their own effort for social and economic justice. It is a recognition that the cycle of poverty will not be broken solely by changes in law through legal services efforts. CED is not a strategy which can be perfected by legal services advocates working in a vacuum or with a nominal plaintiff. Inherent in CED is maximum client involvement, a strong emphasis on community legal education, and communication both within and among communities.

CED utilizes entrepreneurial methods similar to those used by traditional businesses in the private sector--such as corporate and legal forms, market studies, business plans, and financial packaging--to develop efficient, productive and profitable enterprises. However, it does so in the context of a community's values (such as local community ownership and capacity building) and public needs (such as job creation and economic diversity) rather than primarily focusing on business profits. The main vehicle for these activities is the use of not-for-profit organizations. These organizations serve as the catalyst for implementing developmental strategies which bring services, income, and resident ownership opportunities to low-income communities.

Importance of Law and Lawyers in Economic Development

The United States has one of the world's most advanced legal systems. This remarkable body of law has been a primary ingredient in the success of our national economy.

Three areas of the law, in particular, provide the framework for complex economic relationships. These areas are corporate law, contract law, and administrative law. Without this framework, the web of human cooperation that is essential for modern economic development would be impossible to achieve. For this reason, community organizations must have ready access to lawyers in order to construct and maintain appropriate legal frameworks for CED and neighborhood revitalization.

Corporate and business lawyers rarely go to court. Instead, they provide such services as real estate closings, "structuring" of business ventures, bond counseling, syndications, contract negotiation, dispute resolution, tax advice, creation of trusts, corporate counseling, securities registrations, administrative hearings, and legal advice. This type of practice is very different from the service delivery litigation practice engaged in by many legal services and pro bono attorneys. Business-oriented lawyers help their clients to structure and maintain mutually beneficial economic relationships. At present, about three fourths of all of the lawyers in the United States are engaged in this type of practice.

By contrast, trial lawyers or litigators deal primarily with the breakdown of human relationships. Litigation involves contract disputes, torts, and criminal violations. Here, the lawyer's job is either to bring the opponent to its knees or to patch up the broken relationship through the settlement process.

Both types of legal practice are essential for clients living in low-income communities. Unfortunately, many legal services and pro bono programs have concentrated on litigation to the detriment of other types of practice. As a result, many otherwise qualified client organizations have been unable to get the type of legal help that they need in order to make their economic development strategies work.

Sometimes, a combined CED and litigation strategy can offer a more permanent solution to legal services clients than either strategy used alone. For example, while a legal services or pro bono attorney might focus on litigation to ensure low-income participation in the Community Development Block Grant (CDBG) program, a CED strategy may also be used to assist client organizations in becoming applicants for CDBG funds. This provides a new incentive and ensures their presence in the CDBG citizen participation process. More importantly, it leads to their operational involvement in the economic revitalization of their own community. They not only set, but also implement their own priorities. By

taking a broader approach to what can be achieved by litigation, a legal services or pro bono advocate working in the health, welfare, or employment areas can assist groups of clients in getting involved in creating service institutions such as: the operation of their own health facilities, home health ventures, community health centers, and HMOs; development of ventures which are owned and operated by working welfare mothers and subsidized with their AFDC grants; and development of strategy options and legal structures to enable Job Training Partnership Act (JTPA) workers to use JTPA employment as a base to develop worker-owned ventures.

The Role of Legal Services for CED

The Law Center provides assistance to hundreds of legal services programs each year on some aspects of community economic development. In addition, there are fifteen to twenty legal services programs which have integrated CED into their delivery systems by having a staff person devoted either part time or full time to working on these issues. One program, the Legal Assistance Foundation of Chicago, has been able to develop a separate private bar involvement project called the Community Economic Development Law Project. Operated by the Lawyers Committee for Urban Affairs with Chicago Bar Association support, this project recruits members of local law firms to work on CED issues referred by legal services staff attorneys. To date, the program has handled a number of CED projects, including representing non-profits that wanted to buy tax delinquent properties for rehabilitation through Chicago's Tax Reactivation Program; representing a variety of groups that are addressing the economic development needs of low-income women; and working with public housing tenants groups.

The role of an attorney in CED strategies can vary, encompassing everything from corporate and tax assistance for start-up organizations to significant involvement in an actual development project. When working on a development project, an attorney is usually required at the beginning of the project. He or she is needed to set up the venture's organizational structure and to prepare all subsequent contracts and agreements. Throughout the project, the community-based organization (CBO) acting as developer will require legal assistance and legal representation in dealing with government agencies, lending institutions, private contractors, etc. Typically, this assistance involves real estate closings, syndications, contract negotiations, and the structuring of business ventures. Perhaps the best way to illustrate the role of the attorney is to examine an actual case study of working with an experienced community-based organization (CBO) in the housing development process.

Working with an Experienced CBO

Previously, the local legal services program had assisted this CBO in getting organized by helping them with such matters as bylaws, tax-exempt status, etc. The organization had progressed to the point where it received \$50,000 per year administrative funding from the city. It also had a \$15,000 grant from a foundation. As a result, the organization had an executive director and a secretary, with office space donated by a local church.

The organization's first development project was the rehabilitation of a dilapidated building with five apartments upstairs and three small stores on the ground floor. A local church donated the building, with the CBO taking over the mortgage. The Enterprise Foundation, a national housing developer, provided a predevelopment grant that paid for initial architectural services. Construction and permanent financing were provided by an innovative low-interest loan fund administered by the county. Additional construction financing was provided by

the Enterprise Foundation. Permanent financing (paying off the construction loan from Enterprise Foundation) was provided by a local bank. Excellent technical assistance was provided to the CBO by the local Enterprise staff.

The first job for the attorney was to assist in the acquisition of the property. This involved such tasks as searching the title, negotiating with the seller, and drafting and recording the conveyance documents. The "seller" was the local church that had parented the CBO some years earlier. There was no purchase price per se, but the CBO did have to assume a mortgage with a \$25,000 balance.

The next legal task was to "structure" the deal. In this particular project there was no need to create a separate subsidiary corporation. Nor was it necessary to draft a joint venture partnership agreement. The CBO was acting as a sole developer, thanks to the technical assistance being provided by the local Enterprise Foundation staff. It was, however, necessary to assist in negotiating a series of contractual relationships. These included contracts with the general contractor, the architect, and the various funding sources. The loan agreements and closing documents were drafted by the attorneys for the two lenders. The CBO's attorney, however, was actively involved throughout the process, including negotiating the loan terms; helping the CBO to provide all of the information and documents requested in the commitment letters; reviewing documents; and representing the CBO at the two loan closings. An additional task required the legal services attorney to draft the tenant leases, both commercial and residential.

During the development process, a dispute arose with the general contractor. The contractor had gone over budget in providing security services. At one point he had written a check that had bounced. The security services subcontractor brought a lawsuit against the general contractor and the CBO, but no project-threatening mechanic's liens were involved. The legal services attorney negotiated a settlement agreement wherein the subcontractor was paid his money after the CBO had completed the work and had obtained a certificate of occupancy on the building. The money for the payment came out of the proceeds of a state-funded energy conservation grant.

A Role for the Private Bar

Pro bono attorneys interested in CED can similarly play the legal counsel role described above. An attorney with corporate, tax, finance, and business law skills can greatly improve the ability of legal services client organizations to participate in and be successful at CED. This participation can take a number of forms including:

- Participation by individual sole practitioners, partners and associates in large firms, and members of corporation legal departments in pro bono referrals specifically targeted to organizations working on CED projects. This is currently the most active form of involvement by the private bar in CED activities, and tends to attract involvement from the larger firms in urban areas.
- Creation of subject area specific pro bono panels (i.e., corporations, tax, real estate) to meet the needs of legal services organizations working on CED activities. The Chicago Community Economic Development Law Project described earlier is an example of this type of pro bono participation. This model provides the most flexibility in allowing pro bono attorneys to provide assistance in their areas of expertise.

- Use of CED strategies as a remedy in litigation. This emerging area of CED involvement remedies in litigation. It can involve the use of litigation to assist tenants in a landlord-tenant dispute to pool together their monetary damage awards to join together and purchase the building as a co-op, as was accomplished in Florida.
- Assisting nonprofit organizations in obtaining pro bono services from other professional sectors who are clients of the lawyer or law firm. Organizations may need assistance from other areas like accounting, insurance and management associated with housing development and business ventures. Many lawyers and their firms represent clients from these fields. Assisting the nonprofit in obtaining pro bono assistance in those other areas can sometimes be as valuable to the nonprofit as legal representation staff.

Community Economic Development will continue to play an important role in addressing the needs and concerns of legal services clients in poor communities. Whether the activity is housing development, commercial revitalization, or job creation ventures, community economic development empowers client organizations to improve the economic circumstances of their communities. The private bar continues to be a valuable resource in assisting those organizations to achieve their goals.

ATTACHMENT

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A-13

Pro Bono Report:

Community Counsel Matches Hillsborough Real Estate Lawyers with Non-Profit Corporations

How Many Pro Bono Lawyers Does It Take To....??? (develop affordable housing)

(This article was submitted by Marilyn Kershner, staff attorney at Bay Area Legal Services in Tampa)

The development of affordable housing projects by not-for-profit corporations is never easy. There are government regulations, site development headaches, potential environmental problems, and, of course, financial hurdles. And every real estate developer needs quality legal advice.

Thanks to the lawyers of Hillsborough County, that advice is being provided free of charge through the *Community Counsel pro bono* program created and coordinated by attorney Marilyn Kershner at Bay Area Legal Services in Tampa.

When **Self-Reliance**, Inc. wanted to acquire and renovate 57 apartment units owned by the RTC, they were able to tap into the combined resources of <I>three<P> law firms to close and finance the deal.

George F. Gramling, III (Frank, Schabacker, Gramling, Simmons & Dunlap) provided legal advice concerning environmental laws and reviewed the audit performed at the site. **Annette Horan** (Lau, Lane, Pieper, Conley & McCreadie) provided leasing and management advice, together with forms for the management contract and the tenant leases.

And **S. Katherine Frazier** (Hill, Ward & Henderson) assisted with the transfer of title to a subsidiary and the closing of the rehabilitation mortgage loan.

The legal services necessary to complete this transaction would normally cost thousands of dollars. Thanks to the efforts of these volunteer lawyers, those savings can be redirected into the project itself.

"The assistance, experience and expertise which was shared with us has been invaluable," wrote Chris Deady, the Director of Housing. "With such insight and advice, we were able to make a vision a reality for Self Reliance, and to provide 57 units of accessible, affordable housing for low income and disabled persons in Hillsborough County."

The first year of this unique pro bono project which provides free legal help to eligible non-profit groups produced several other affordable housing partnerships.

The future homeowner clients of **Tampa Habitat for Humanity** benefited from more than 50 hours of pro bono legal services provided by Lee Nelson<P> (Annis, Mitchell, Cockey, Edwards & Roehn) in assisting Habitat with its efforts to acquire and build its first multiple home subdivision.

Two new farmworker housing projects were also the beneficiaries of free legal services provided by *Community Counsel* volunteer lawyers.

Donald S. Hart, Jr. (Glenn, Rasmussen & Fogarty) accepted a referral of a rural farmworker mission and is assisting their housing non-profit with the development of a multi-family complex for migrant workers and their families.

Foley & Lardner attorneys assisted a new rural non-profit (Homes for Hillsborough) from incorporation to a recent ground-breaking for self-help single-family farmworker houses through the Farmers' Home Administration's 502 program.

Housing non-profits are not the only clients accepted by *Community Counsel* for referral to pro bono lawyers. As stated in the Comments to the Supreme Court's pro bono rule, "Pro bono legal service to the poor need not be provided only through free legal services to individuals; it can also be provided to charitable, religious or educational organizations whose overall mission and activities are designed predominately to address the needs of the poor."

The **Lee Davis Neighborhood Development Corporation**, a community-based non-profit seeking to improve their blighted neighborhood and the lives of those who live there, has received free employment law advice from **Nancy Roslow** (Zinober & McCrea). Trenam, Kemker real estate lawyer, **Robert Stern**, helped the group with leasing questions.

Another community-based group, Peterson Road Community Association, has received a donation of more than 100 hours from the real estate department of **Carlton, Fields, Ward, Emmanuel, Smith & Cutler**, thanks to department head **Laurence Kinsolving** who sought out opportunities to help low-income neighborhood groups because of his expertise in homeowner and condominium association law.

Kinsolving, a senior real estate practitioner called the legal services pro bono office to ask "How can we help?" Attorney **Rob Freedman** is co-counsel on this matter, which includes advocating for the neighborhood's needs before the local commission and county departments.

Real estate, land use, environmental, employment, tax and corporate attorneys in Hillsborough County who are interested in possible *pro bono* referrals from *Community Counsel* should contact attorney Marilyn, Kershner, Bay Area Legal Services, (813) 223-2525, for more information.

The Supreme Court's *pro bono* service opinion urges lawyers to provide more free legal services to low-income clients... However, the Court's rule indicate that *pro bono* service may also be donated to a "charitable, religious or educational organization whose overall mission and activities are designed predominantly to address the needs of the poor."

In addition, lawyers may assist non-profit and community associations on a particular project which will improve a low-income community. These legal services will indirectly benefit low-income residents and are, therefore, appropriate for inclusion in the *pro bono* plan adopted in each judicial circuit.

Enter Community Counsel. Non-profit groups without sufficient resources to pay for legal help may now apply to the Bay Area Volunteer Lawyers program for possible placement with a law firm or lawyer. Each group is screened to verify that their project will provide direct benefits to low-income people. The group must request a specific service, and must reapply if legal needs arise in the future. No lawyer is asked to become the group's "general counsel."

Community Counsel Projects include transitional housing for domestic violence victims; affordable housing subdivision development; self-help farmworker housing; clearing title for affordable modular homes; assistance with lobbying County officials regarding crime problems; acquisition of an apartment complex for accessible housing for the disabled; and preparing tax exemption applications for low-income community organizations.

Special recognition and sincere appreciation are hereby extended to the following attorneys and law firms who have donated significant resources and hours to help qualified non-profit groups and low-income neighborhood associations with their legal needs:

Carlton, Fields, Ward, Emmanuel, Smith & Cutler: David Burke, Jeanette Flores, Rob Freedman, Andy Greenberg, Lawrence Kinsolving, Morris Massey, Kathleen McLeroy, and George Meyer;

Foley & Lardner; M. Lisa Fenton (now practicing with Rudnick & Wolfe), David Rieth, & Stan Tarkow;

Annis Mitchell, Cockey, Edwards & Roehn: Lee Nelson and Olin Shivers; and George Gramling, III, Jeannete Croley, Richard Fee, Barbara Pankau, William Platt, & Conrad Swanson.

If you or your law firm would like to "adopt" a Community Counsel applicant, please call attorney Marilyn Kershner at 223-2525. Forms and "how-to" hand-outs are available.

Community Counsel

- Legal Assistance for Community-Based Non-Profit Groups regarding corporate, tax, real estate, zoning and employment issues.
- Information Clearinghouse regarding community resources, government programs, grant sources and providers of technical assistance for non-profit groups.
- Education and support for client groups through Board of Directors trainings, informational hand-outs and the *Community Counselor* newsletter.
- Technical Assistance with researching of funding sources and grant request proposals.

Community Counsel is a legal and technical assistance program provided as a community service by **Bay Area Legal Services, Inc.** (a private, non-profit civil legal services agency).

Applications are welcomed from community-based organizations who are committed to the economic betterment of low and moderate income families and neighborhoods. Priorities for group acceptance include organizations whose program address:

- ▶ Support for Families of Limited Means
- ▶ Combatting Neighborhood Deterioration
- ▶ Enhancing Economic Stability through Job Training, Job Placement and related Child Care

- ▶ Support for Residents with Special Vulnerabilities (including the elderly, battered spouses, the homeless and seasonal agricultural workers)
- ▶ Increased Availability of Affordable Housing

Program fee information:

- The applicant group must lack the financial resources to retain a private attorney in order to qualify for the services of *Community Counsel*.
- A \$50 application fee must be remitted with the completed application. A one-hour consultation will be provided to all applicants.
- If the group's application is accepted, the group will be asked to remit a \$150 program fee semi-annually to help defray program expenses, including photocopies, postage, clerical support, travel, faxes and telephone.

For further information, contact attorney Marilyn Kershner at 223-2525.

**Bay Area Legal Services, Inc.
Attn: Community Counsel
700 Twiggs Street, Suite 800
Tampa, FL 33602-4079**

ATTACHMENT

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Pro Bono Opportunities in Community Development Law

By: Mark Buchbinder, Esq.

Community Development involves the transformation of a distressed neighborhood into a revitalized vibrant environment in which people can live, work, and enjoy life. It is a holistic approach to community building which recognizes that in addition to the "bricks and mortar" approach of constructing buildings, there must also be economic development and the provision of an array of social services to insure affordability and a livable community.

The Sadowski Legal Fellowships in Community Development was set up to create opportunities for attorneys to be involved in community development legal work. This program which is located at the office of the Greater Miami Local Initiatives Support Corporation works together with the Eleventh Judicial Circuit's Put Something Back program. Since the program's inception in January 1996, attorneys have worked with non-profit organizations all over Dade County. Such diverse organizations such as Centro Campesino Farmworkers Center, Little Haiti Housing Association, East Little Havana Community Development Corporation, Project Teamworks, and many others involved in community development work have availed themselves of *pro bono* attorneys to help them resolve legal issues.

Corporate specialist have helped new groups incorporate, performed corporate legal assessments for several organizations and helped them update corporate documents and by-laws, and assisted organizations in business transactions. Real property and transactional specialists have assisted by handling closings, structuring real estate development projects, clearing title problems, and creating homebuyer counseling manuals for affordable housing first-time buyers. Governmental specialists have handled issues involving platting, zoning and environmental problems. Tax attorneys have assisted organizations in obtaining 501 (c) (3) status, handled tax audit issues, and ad valorem tax appeals. Attorneys have also been involved in giving guidance on landlord-tenant, employment, economic and business development, and insurance issues.

A pilot project has linked up Akerman, Senterfitt & Eidson, P.A. with Little Haiti Housing Association, Holland & Knight with Opa Locka Community Development Corporation, and Stearns Weaver Miller Weissler Alhadeff & Sitterson P.A. with Miami Beach Development Corporation. Each of these firms has agreed on a *pro bono* basis to act in a "general counsel" mode for the community development corporation to which they are paired.

Congratulations and thanks are due to the attorneys in the three firms participating in the pilot project as well as to all the other attorneys who have volunteered their time to be part of the program. Attorneys are being recruited to represent non-profit organizations and to participate as lecturers and panelists in workshops which are set up to educate community development professionals and attorneys. Please contact Mark Buchbinder Esq. Program Director at 381-7967 for more information and to obtain a registration form to become part of the Sadowski Legal Fellowship Community Development Legal Panel.

Exchange

Private Bar Involvement in Legal Services for the Poor
Volume 14, Number 4 August 1996
Greater Miami LISC: Building Communities
by *Mark Buchbinder Esq.*

The Local Initiatives Support Corporation (LISC) is a national not-for-profit corporation that the Ford Foundation created in 1979. Its purpose is to forge partnerships between the private sector and local community leaders to rebuild low-income neighborhoods, and its foundation is the belief that locally-directed physical change is a powerful tool for revitalizing communities. The Greater Miami LISC program started in June 1984.

LISC's mission is to assist local community development corporations (CDCs) in their efforts to transform distressed neighborhoods into healthy communities. LISC believes that CDCs are the best vehicle to achieve lasting and positive community change for the benefit of people with low or moderate incomes.

LISC supports CDCs in the development of affordable housing, vital commercial facilities and job-creating industrial projects. As a result of helping people in tangible, measurable ways. LISC is actually building communities. Perhaps more importantly, these redevelopment efforts generate positive consequences that go well beyond visible improvements. They help to:

- develop indigenous leadership
- stimulate increased and leveraged outside investment
- forge productive alliances among residents, local government, business and philanthropic communities.

Sadowski Legal Fellowships

Consistent with LISC's mission and methods, the Greater Miami LISC has established the Sadowski Legal Fellowships in Community Development Program (the Program). The Program supports CDCs in the community development mission by utilizing attorney and law firm time and expertise to strengthen CDCs' operations and to facilitate an expansion of their development activities. The Program brings the legal profession into the community building equation in an appropriate format, and it creates opportunities for attorneys to perform pro bono legal work in such areas as transactional and real property, corporate, tax, environmental and governmental law.

The Program is named for William E. Sadowski who was a lawyer, state legislator and Secretary of Community Affairs for the State of Florida. He believed strongly in attorney involvement in public/private partnerships to enhance affordable housing and in community development to help build a sense of community for all.

The Program attempts to realize Sadowski's belief by pairing law firms with select CDCs to meet the latter's core legal needs and to give technical assistance as required. In addition the Program will provide needed assistance to a broader number of not-for-profit entities involved in community development activities by creating and/or reviewing their legal structure and operations and by seeking attorneys to work on specific programs and issues. As a result, training, referral services, linkages with law schools and bar associations are an integral part of the Program.

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The Program's funding comes from a three year Florida Bar Foundation IOLTA grant and a grant from the Collins Center for Public Policy, which obtained the funds from the State of Florida.

The Sadowski Legal Fellowships in Community Development Program has five basic components:

- A Pilot Project
- A Legal Referral Panel of Attorneys Who Have Special Expertise to Help CDCs Resolve Specific Legal Issues
- Training Programs and Workshops
- Law School, Bar Association and Legal Services Program Involvement
- Overriding Legal Issues and Institutional Change.

Pilot Project

Through the pilot project, three large law firms are selected as fellowship recipients and matched with three CDCs. Each law firm agrees to:

- serve as legal counsel for a designated CDC for an 18 month period
- devote a minimum of 600 pro bono hour for this client's benefit.

The law firms designate a mid-level associate and a partner as the official firm links to the Program. The designated associate is the primary contact person for the CDC, which the firm considers a client like any other client.

When the pilot project was instituted, we anticipated that the firm would provide services in such areas as general corporate work, transactional and real estate matters, title clearance, tax matters, collections, governmental work, environmental matters, assisting CDCs with the "business" side of transactions and other community development work. Although the associate is not responsible for performing all the legal work that the CDC requires, he or she must recruit other attorneys in the law firm whose field of expertise is needed to handle a particular legal issue. In providing these services, the associate has the full staff support of the law firm and the ability to consult with other law firm members on legal matters.

A partner in each law firm assists in the internal firm coordination to facilitate the program. The Greater Miami LISC has invited each of the three law firm partners to be part of its Advisory Committee.

The three CDCs were chosen after we held a basic legal needs assessment workshop with the entity's staff and board. The selection criteria was based upon need, ability to take advantage of the legal assistance and interest in participating in the pilot project. Each CDC was matched with an appropriate, law firm and given a small grant to reimburse the law firm for "out of pocket" and some general overhead costs.

The pilot project link-ups began on January 1, 1996. The first step was to conduct a thorough legal assessment and review of corporate documents, personnel policies, private and governmental contracts and other matters related to the entity's legal capacity to do business. Many other legal issues have emerged as

each CDC develops affordable housing, creates economic opportunities and works as a partner with others in the provision of needed services.

The Program awards the "fellowship" to the law firm, not to an individual attorney within the firm. The result of this unique aspect of the Program is that the entire firm receives recognition for its commitment to provide complete legal services to the CDC as needed. All parties anticipate that the law firm will cooperate fully with and give full recognition to the associate and partner who operates as the liaison between the firm and the CDC.

Legal Referral Attorney Panel

Attorneys who practice in areas such as corporate, tax real estate, environmental and governmental law too often are not called upon to do pro bono work in their field of specialization. The Community Development Legal Panel was established to allow attorneys to participate in this program using their particular expertise without having to make an eighteen month commitment. An appropriate attorney is matched with a not-for-profit organization that has a specific legal issue or problem that requires legal advice or resolution. The attorney works on that specific issue only.

The following list contains examples of some of the items referred to attorneys since the panel's inception:

- a construction loan agreement between the CDC and a contractor
- loan documents for rehab loans and loans under the CDBG program
- existing insurance policies for review
- an environmental (archeological) issue with Metro-Dade County
- delinquent waste liens on property that a CDC sold to a title insurer who now is seeking reimbursement
- waiver of plat issues to make undersized lots buildable and usable
- sales tax exemptions for CDCs
- the creation of a legal chapter in a home ownership manual
- the incorporation of and the 501(c)(3) status for a neighborhood group interested in becoming a CDC
- an update of by-laws for an existing CDC
- delinquent tax issues (payroll and property)
- liability issues for members of a CDC board
- code violations not discovered in a multi-family building until after the closing of the transaction
- structure an economic development project for a neighborhood association.

The Community Development Legal Panel works together with Legal Services of Greater Miami, which has referred several organizational clients and the Dade County Bar Association's Legal Aid program. An attorney who becomes part of the panel and accepts a referral also becomes part of the <I>Put Something Back<P> program, which is a joint pro bono project of the Dade County Bar Association and the Eleventh Judicial Circuit. The program gives the attorney appropriate pro bono credit and covers the legal work under the program's professional liability policy.

Training Programs and Workshops

The training workshops provide information, help to surface legal issues and provide a recruitment tool for attorney involvement.

A half-day workshop sponsored jointly with the Put Something Back program was held in February with basic training in not-for-profit and tax exemption issues. Another full-day training workshop entitled "Community Development Law: Issues and Problems" was held in June. Both workshops were CLE accredited and free to those attorneys who agreed to join the Community Development Legal Panel and take a case. In addition, seminars and "Brown Bag" lunch meetings on other specific topics are being planned.

Workshops for not-for-profit organizations on community development and legal capacity issues are also taking place. *How to Stay in Business By Really Trying* was a one-day legal workshop on corporate law, board liability and how to maintain tax-exempt status. In addition, we are planning future seminars. They will cover contract negotiation skills and contract compliance, land use and environmental issues, personnel and employment, and corporate subsidiaries and partnerships. The program has worked closely with Legal Services of Greater Miami in the structure of and training given at each workshop.

Involvement of Law Schools, Bar Associations and Legal Services Programs

A mission of this program is to teach law students about community development law and to involve them in pro bono activities. There are many opportunities that will allow students to get good "hands on" experience while providing assistance to community development organizations.

A law student from the University of Miami School of Law graduate program in Real Property Development served as an intern with the program during the 1996 spring semester.

During the summer, five second year law students from the University of Miami School of Law and St. Thomas School of Law (through the Pro Bono Students America/Southeast program) volunteered their time. Three of the students were assigned to work with each of the three law firms and CDCs that are linked in the pilot project component of the program, one student is working with a volunteer attorney and Fannie Mae in developing information about affordable housing for first-time homeowners, and one student is working as a volunteer attorney researching and developing proposed legislation on affordable housing ad valorem tax issues.

In the 1996-97 school year the program will be part of the clinic program at St. Thomas School of Law.

Overriding Legal Issues and Institutional Change

Ultimately, we hope that by assisting CDCs and other organizations engaged in community development work, the affordable housing stock will increase economic development opportunities will be created and a sense of involvement and equal opportunity for all segments of the community will be achieved. Blocking the fulfillment of this goal are various systemic or institutional barriers that need to be overcome. Attorneys can be helpful by using their skills to assist in the legal or legislative resolution of some of these issues.

Several legal issues have emerged from the organizational assessments that we undertook at the beginning of the program. Many seem to be of importance, including:

- the ad valorem tax issue as applied to tax credit and other affordable housing
- use and resale restrictions for affordable housing

- uniform loan closing and disbursement forms and documentation
- governmental permit and zoning processes that need to put community development projects on a "fast track."

Attorneys both in groups as part of the bar association committees or individually are being recruited to help formulate the issues and find creative ways of resolving them to everyone's benefit.

Pro Bono Opportunities that Result in Community Building

The Sadowski Legal Fellowships in Community Development is an effort of the Florida Bar Foundation to create Opportunities for private bar involvement in areas where traditionally there has been little pro bono involvement.

It is LISC's effort to give community development organizations the opportunity to get the legal assistance that they could not otherwise afford. This assistance is an integral part of the effort to strengthen corporate infrastructures and to get needed professional help in the structuring and completion of needed community affordable housing and economic development.

It is an opportunity to create a cadre of attorneys who are knowledgeable and experienced in community development work, and it brings the legal profession to the forefront of community building. LISC gives law students the opportunity to learn about and participate in community development law, and it gives them a sense of a pro bono commitment. It creates an atmosphere to surface issues and creates systemic change as needed. It is a "win-win" opportunity for all.

Mark Buchbinder, Esq. is Program Director. Sadowski Legal Fellowships in Community Development, Greater Miami Local Initiatives Support Corporation.

ATTACHMENT

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Equal Access on Harbour Island

by Marilyn Kershner

Harbour Island Office Building

3:00 p.m., Wednesday

The oak-paneled lobby on the fifth floor of the prestigious office building overlooking Tampa Bay is occupied by representatives of various corporations. Dressed in designer dresses and Brooks Brothers suits, many sporting Rolex watches or expensive jewelry, carrying Hartman brief cases, they wait for consultation with an attorney at one of Florida's largest, and most prominent law firms.

4:00 p.m.

The occupants of the black leather furniture in the tastefully decorated seating area are now all sporting blue jeans. Some are in cowboy boots and t-shirts. Small children are hushed and told to sit down. Instead of climbing up the backs of the low, comfortably cushioned chairs. Their parents are busy filling out forms and, like their corporate counterparts, waiting to consult with a knowledgeable attorney. The only difference: these clients will not pay any legal fees.

They are the fortunate beneficiaries of a unique and precedent-setting law firm pro bono project organized and conducted by attorneys at the Tampa office of Carlton, Fields, Ward, Emmanuel, Smith & Cutler, P.A. The clients have been referred to the law firm by Bay Area Legal Services because the opposing party in their dispute has previously been interviewed by a legal services lawyer, thereby creating a conflict of interest.

Carlton. Fields lawyers are taking the concepts of "equal justice" and "equal access" quite seriously. Many of the firm's attorneys have stepped forward to provide advice and counsel, and frequently full representation, to this special group of low income and "working poor" residents of Hillsborough County.

The growing demand for free legal aid has increased the number of applicants who are caught in the lawyers ethical web of "conflict of interest." In 1995, Bay Area Legal Services referred more than 400 eligible clients to Carlton. Fields for a free consultation.

Gwynne Young, a law firm shareholder and 21-year litigation veteran, is the driving force behind this special pro bono effort. She conducts many of the client interviews herself, because of her expertise in family law matters (the most frequent reason these applicants want to see a lawyer). And Ms. Young, a compassionate individual who admits she has trouble saying no, personally has handled at least thirty cases to date, sometimes litigating against staff attorneys at Bay Area Legal Services.

Several other partners and associates conduct client interviews at these weekly clinics. Non-English speaking applicants are paired with Suzanne Elinger, a bilingual health care associate and a former nurse who was raised in Argentina. "Attorneys like us are very isolated. These cases give me a different perspective, an opportunity to see how others live and how desperate their

circumstances are," comments Elinger. "Many of these people are worried about the basics: 'Where am I going to live? How am I going to feed my kids?'"

Tom Barber, who readily admits that he is "not a bleeding heart," views his pro bono participation as "legal charity work." While some might want to do their community service by building houses. Barber prefers to donate his legal knowledge. "It's an area where we, as lawyers can have the greatest impact. Besides, who else is going to do it?"

"This is 'people law'," comments Lorien Smith Johnson, who has participated in the clinic since its inception. "Often, you can solve the client's problem in an hour, or help them by just listening sympathetically and letting them tell their side of the story."

Keeping the children entertained while their parents talk to a lawyer has proven to be one of the major challenges for a firm unaccustomed to a lobby full of youngsters and to toddlers intent on handling every piece of office decor in the lawyers' offices.

Kevin Napper uses toys, candy (with parental permission) and a small pair of binoculars to entertain the kids, being more familiar with this type of client screening after several years as an assistant state attorney. Magic markers and legal pads are the primary source of entertainment in other offices.

5:30 p.m.

In a large corner office, a little boy sits on a grown-up chair at a walnut credenza. A variety of colored highlighters and paper are strewn across the floor, temporarily forgotten because he is currently fascinated by the magnetic paperweight he discovered on Gwynne Young's desk.

As the child plays quietly, his father is counseled on how to prepare for a custody hearing scheduled for the following Monday. The advice that he receives is insightful and practical, based on years of family law experience and many hours spent in the courtrooms of Hillsborough County. Without the dedication of the community-minded lawyers at Carlton, Fields, it is important personal counseling that he never would have received.

Marilyn Kershner is a Staff Attorney at Bay Area Legal Services in Tampa. She coordinates the Community Counsel Project, which matches pro bono attorneys with not-for-profit organizations.

Conflicts Procedures For Bay Area Legal Services, Inc. Tampa, Florida

INTRODUCTION

Bay Area Legal Services, Inc., has five client service offices; three in Hillsborough County (Tampa, Plant City, and Wimauma) and two in Pasco County (Dade City and New Port Richey). We handle our conflict checks through a program incorporated into our Management Information System. This system contains information regarding all open cases, closed cases, and appointments.

The names of all current and past clients of Bay Area Legal Services, Inc., and all current and past opposing parties to Bay Area clients, have been entered into our management information system (MIS) database. Since the attorney for

the spouse abuse shelter became part of BALS in July, 1996, the names of all his former clients from the shelter have been entered into the MIS database for conflict checking purposes, only. In addition, the name of any person who has an appointment pending in a Hillsborough County office (Plant City, South County, or Tampa) is entered into the database. Likewise the name of anyone referred to our program by another program is entered in the MIS database when the referral is received.

When an individual calls for an appointment, an intake paralegal (Tampa) or the receptionist (branch offices) conducts preliminary screening to determine if the caller appears to be financially eligible for our services. No records are made of the information given in conducting the financial eligibility screening. For those callers who appear to be eligible for our services, the person screening notes the caller's name and any other name the caller has been known by, and requests from the caller the names of any persons whom the caller believes to be potential opposing parties to the caller, including any other name the opposing party has been known by.

The person screening then conducts a search through the computer to determine if the caller is an opposing party to a former or current client or to an applicant with a pending appointment. A further computer search is conducted to determine if any of the potential opposing parties are former or current clients or have a pending appointment. If no potential for conflict appears from the computer check, the caller is given an appointment and the caller's name and opposing party name are entered into the appointments database, along with a description of the legal problem.

Once the person screening has determined that a potential for a conflict exists, he or she completes the top portion of an application form (excluding financial information), indicates the names of all potential opposing parties, indicates the reason the caller has stated for needing legal assistance, and completes a conflict check form. That form is used to indicate the basis for the suspected conflict and when completed provides identifying information about the potentially conflicting party (age, race, social security number, address) which is used to determine if the person(s) involved in the legal matter is the same person(s) whose name is listed in our computer records.

The partially completed application form with the conflict check sheet attached is then sent to the deputy director's secretary for a determination. The deputy director's secretary will complete a form noting all possible conflicting cases for review by the deputy director. In many instances it will be obvious at that point that there is a definite conflict or that no conflict exists. However, if it is not possible to determine from the listing of possible conflicting cases, any closed files relevant to the potential conflict are pulled and attached to the application form. If the potential conflict involves any open cases, the deputy director's secretary retrieves the file from the handling attorney or paralegal's secretary for review by the deputy director.

The deputy director examines all relevant materials, including the application and any attached files, and decides whether a conflict exists. When no conflict is found, the conflict check sheet is marked and the appropriate intake paralegal or receptionist is notified to schedule an appointment for the caller. If a conflict exists between the caller and a former or current client, the conflict check sheet is marked to indicate that fact, along with directions as to how to refer the caller for an appointment.

HILLSBOROUGH COUNTY

In Hillsborough County, two private law firms have agreed to interview applicants whose matters conflict with current or former clients of Bay Area Legal Services. For all cases except domestic violence injunctions for residents of the spouse abuse shelter, where the former or current client was a client of one of the BALS teams, the deputy director refers the caller by letter to the Tampa office of the law firm of Carlton, Fields, Ward, Emmanuel, Smith and Cutler. For conflict cases where the applicant is a resident of the spouse abuse shelter seeking a domestic violence injunction, the applicant is referred to the law firm of Macfarlane, Ferguson and Mullis. These firms have agreed to handle the intake for all conflict cases, including the evaluation of the case for acceptance, as a <I>pro bono<P> project in cooperation with the Bay Area Volunteer Lawyer Program (BAVLP). Those cases that are accepted are placed with an attorney from the staff of the law firm.

Conflict cases referred to Carlton, Fields and to Macfarlane, Ferguson will continue to be tracked and monitored by the BAVLP as a conflict case. Occasionally a conflict case may be referred back to the BAVLP from the private firms. It is important for all staff handling cases which have been identified as a conflict to refrain from discussing those cases in the presence of staff members who--in the case of persons handling "black conflicts"--are members of the BAVL or--in the case of "red conflicts"--are members of the teams other than the BAVLP. (See explanation of "black conflict" and "red conflict" below.) If the former or current client has been seen by both a BALS team and by the BAVLP, the application will be referred by the deputy director to the Hillsborough County Bar Association's Lawyer Referral Service, along with a letter to the Lawyer Referral Service requesting that the referral fees be waived.

Further screening for conflicts must be done by each attorney or paralegal at intake. When any applicant comes in for the initial interview, the interviewer must review the application form to determine whether the opposing party listed on the application form is the same as that listed on the appointment sheet. If any names come to light other than what is listed on the intake schedule, the interview is suspended until the conflict checking procedures can be completed through the deputy director's secretary.

Applicants at outreach sites who are seen on a walk-in basis will also be screened for conflicts. Prior to interviewing the applicant, the attorney or paralegal who is conducting the interview telephones a staff member who has access to the program's MIS, giving the name of the applicant and of all opposing parties. If the computer check indicates a possible conflict, the matter is referred to the deputy director (or in her absence, to the director) for an immediate determination of whether an actual conflict exists.

When the determination is made that a conflict exists among any past, current or potential clients, in order to maintain confidentiality for both the former or current client and the new applicant, all files and other papers concerning the two conflicting parties are kept separate and are appropriately stamped to clearly indicate the existence of a conflict. This step occurs at the time the applicant appears for the initial appointment, since a potential conflict only becomes an actual conflict when the conflict applicant keeps the appointment.

For conflict applicants who are seen by the two private law firms or by the BAVLP, the files are kept in a red file folder and the application and blue forms are stamped with a red "CONFLICT" stamp. Those files have always been and

will continue to be kept separate and confidential from all BALS attorneys and files. No one except staff of the BAVLP has access to those materials.

Conflict applications and files which are referred to one of the BALS teams are stamped with a large black "CONFLICT" stamp. (We also stamp with the black "CONFLICT" stamp the files of existing or former clients who are the opposing party to a conflict applicant referred to the BAVLP or to the private firms.) When an applicant whose case is in conflict with a current or former BAVLP client is referred to BALS, the opposing party's file is stamped with a red "CONFLICT" stamp and given to the staff of the BAVLP for filing in the segregated filing system.

The BAVLP staff has been instructed that when checking for an old file, if they see a black "CONFLICT" stamp, they must not read the file or the application. Instead, it should be presented to the deputy director with the reason for needing access to the file. The deputy director will determine what information, if any, is to be made available to the staff person. All staff members are instructed to refrain from discussions as to any conflict cases within the common areas of the office where they might be overheard by unauthorized persons.

All applicants are given an explanatory paragraph on the application for legal assistance informing them of our conflict policy and they are requested to sign an acknowledgment that they have read the explanation and agree to apply for legal services under the terms stated in such policy. If there is a conflict between a current applicant and former client, we will not notify the former client, but will make a notation on the application and the closed file. If there is an identified conflict between two clients with open cases, a notification letter is mailed to each client explaining that one client will be represented by BALS staff and the other client will be represented by a volunteer attorney who is not on the BALS staff. In this way clients who are not comfortable with the arrangement have the opportunity to terminate the representation.

In the case of applicants who live outside of our service area and who are referred to us by another legal services program, we will observe all conflict procedure requirements, except that the matter will be referred to the coordinator of the Bay Area Volunteer Lawyer Program for review, instead of to the private firms. The BAVLP coordinator will make contact with the referring legal services program and the applicant, address any immediate situations needing attention, and will then refer the applicant as a conflict case to a volunteer attorney for representation, if appropriate.

PASCO COUNTY

In Pasco County, due to the limited attorney population there is no law firm other "conflicts panel" to which applicants with conflicts can be referred. Where it is determined that a conflict exists, the caller is advised to contact the local or statewide Lawyer Referral Service for assistance in getting representation.

Rev. 9/25/96

1. Due to the large volume of calls that we receive and the significant number of those callers who are not financially eligible for our services, it is not feasible to process every caller and potential opposing party through the computer to check for potential conflicts prior to determining financial eligibility.

ATTACHMENT

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A-16

Community Law Group

By Susan Fox

The Community Law Group will meet on Friday, April 25, at 12:00 noon in the Main Conference room of MacFarlane, Ferguson & McMullen, 111 Madison Street, Suite 2300, Tampa, FL 13602. Susan Fox will facilitate this organizational meeting. Lunch will be provided. This group will discuss the formation of a new pro bono service opportunity for lawyers, paralegals, and other interested parties.

The Community Law Group will pursue the Time Dollars concept developed by Edgar S. Cahn, Ph.D., J.D., Founder of the Legal Services Corporation, and the Antioch Law School. In a nutshell, this concept involves a trade of one hour of the legal service provider's time for one hour of the client's time, to be contributed to the client's community.

The Community Law Group hopes to adopt a willing community whose members qualify as 'the poor' (to ensure that the Florida Supreme Court's criteria for pro bono service are met) and to coordinate with the service organization for that community to administration of the hours the clients give in return for their legal service.

The Time Dollars concept affirms that the contribution of each person matters and will be valued by the community. The client is viewed as a co-producer in that the client's contributions will recirculate and 'grow the community'. Time Dollars creates an active involved client who has made an investment in building the community.

Time Dollars represents a fundamental change in the relationship between the pro bono lawyer and the poor client. The current system removes both causation and consequences from legal problems of the poor. Dr. Cahn points out that the pro bono lawyers have been winning the big cases (for example, the busing litigation), but things keep getting worse in the communities that are served. The co-production principle of the Time Dollars presents these hypotheses:

- Without a significant input of effort by the ultimate consumer, nothing professionals or organizations or foundations do yields the desired outcomes.
- Professionals need to find ways to motivate consumers to supply that critical effort.
- The poverty community will never attract enough dollars to purchase that effort on the scale needed, however, other institutions and organizations will contribute the actual dollar costs of using Time Dollars to secure the co-production essential to enhance their success or reduce their failure.

Time Dollars confers appropriate value on common acts of decency and caring. The market economy tends to devalue these acts. Time Dollars also redefines 'work' so as to compensate contributions by those for whom the market economy has little or no use. For example, a client can fulfill his legal service time dollar fee by spending the hours teaching a child to read.

Anyone interested in the Time Dollars concept or the Community Law Group is encouraged to attend the April 25th meeting. The Community Law Group also plans to have a presence at the Community Law Fair at the Lee Davis Community Center on May 3rd, from 11:00 a.m. to 3:00 p.m.

ATTACHMENT

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FINAL REPORT OF THE PRO BONO REVIEW COMMITTEE

April 18, 1994

x. Reasons for Non-participation in Qualifying Pro Bono Activities

Part III of the Survey asked respondents to indicate the reason(s) why they did not perform qualifying pro bono service. Table 11 lists the reasons in rank order, from most to least frequently cited, and for each reason shows the percentage of respondents who reported not having engaged in qualifying pro bono service during that survey year. The relative rank order of the reasons cited were virtually identical during the three survey years, as were the relative percentages of respondents who cited each reason. The three most frequently cited reasons from the 1991 survey were the following: (a) 48.3% said, "I did not have the expertise in the legal areas required by poor persons"; (b) 44.7% said, "I did not have the time to volunteer"; and (c) 38.5% said, "I did not have the office support staff to perform this type of pro bono legal work". During 1992, the most frequently cited reason for non-participation in pro bono came from 43.1%, who indicated that they did not have time to volunteer.

Table 12 shows the type of employment setting of the respondents who selected a reason for non-participation in qualifying pro bono service. The same pattern of findings is apparent across the three survey years, except for law school faculty respondents, where the observed variation is probably due to the sampling error of such a small group. In general, the reasons given for non-participation have remained the same. For example, Reason 10 (lack of expertise in the legal areas required by poor persons) was a frequently cited reason for not doing pro bono work among corporate counsel (72.5% in 1990, 72.0% in 1991, and 56.2% in 1992) and by attorneys in private practice (50.5% in 1990, 52.9% in 1991, and 45.1% in 1992).

Table 13 compares the size of the firm for attorneys in private practice who listed reasons for non-participation. It was found that the smaller the firm, the more likely it was for attorneys who did not perform qualifying pro bono service to indicate that they lacked office support (Reason 9) or that their financial circumstances limited their availability (Reason 15). Attorneys in private practice from larger firms were more likely to indicate that they did not have time to volunteer (Reason 7) or did not have the expertise in the legal areas required by poor persons (Reason 10).