



ACCESS TO JUSTICE

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New Rule Authorizes CLE Credit For *Pro Bono* Representation

by JoAnn Vogt

The Colorado Access to Justice Commission was created in 2003 and charged with addressing barriers facing persons seeking access to our state's civil justice system.¹ Since its inception, the Commission has focused primarily on what it views as the greatest of these barriers, namely, the economic barrier.

Nearly fifty years ago, in *Griffin v. Illinois*, the U.S. Supreme Court observed: "There can be no equal justice where the kind of trial a man gets depends on the amount of money he has."² On a slightly less lofty level, the perceived relationship between money and justice is reflected in the famous *New Yorker* cartoon in which a well-heeled lawyer peers over his desk and inquires of a somewhat shabby client, "You have a pretty good case, Mr. Pitkin. How much justice can you afford?"

Although we might take exception to the cartoon's cynical view, it is hard to deny that civil justice costs money. Many Americans, including many in our own state, are effectively priced out of the system. For the poorest and most vulnerable members of our society, who often need the law the most, the law is least available.

Recent articles in *The Colorado Lawyer* have described the effect of cuts in funding for the legal services programs that have traditionally provided civil legal assistance to low-income individuals in Colorado.³ For example, Colorado Legal Services has suffered a 17 percent loss of funding since 2002, resulting in staff cuts, an office closure, and an 11 percent reduction in clients served.⁴

As funding for legal services programs declines, responsibility for meeting the need for legal representation for the poor falls, increasingly, on volunteers. Many lawyers are extraordinarily generous in contributing their time and resources to help address this need. That commitment, however, is by no means uniform. Moreover, although good statistics for Colorado are not available, there is general agreement that the overall contribution of unpaid lawyer services does not come close to ensuring legal representation for those who need a lawyer, but cannot afford one.⁵

As one of many efforts currently under way to address the need for increased volunteer representation of low-income persons, the Colorado Supreme Court has adopted a new rule. C.R.C.P. Rule 260.8 permits Colorado lawyers to receive continuing legal education ("CLE") credits for providing *pro bono* legal representation in civil legal matters or for mentoring another lawyer or law student who provides such representation.⁶

New C.R.C.P. 260.8

C.R.C.P. 260.8, effective January 1, 2005, is the product of a joint effort of several individual bar members. The proposed rule was endorsed by the Colorado Bar Association, the Denver Bar Association, Metro Volunteer Lawyers, the Colorado Access to Justice Commission, the University of Denver College of Law, and the University of Colorado School of Law. The rule is modeled after similar rules in Wyoming, Delaware, New York, Tennessee, and Washington that appear to have significantly increased the provision of *pro bono* representation in civil cases in those states. It is not a "mandatory *pro bono*" rule but, rather, one that is designed to create additional incentives for lawyers to comply with their professional responsibilities—which include a goal of fifty hours per year of *pro bono* services.⁷

C.R.C.P. 260.8 states that a lawyer providing uncompensated *pro bono* legal representation may apply for and receive one unit of general CLE credit for every five billable-equivalent hours of representation, up to a maximum of nine CLE credits in each three-year compliance period. Credit is also available for lawyers who act as mentors for other lawyers and law students providing *pro bono* representation.

To ensure that credits claimed pursuant to the rule are in furtherance of its purpose, Rule 260.8 places limits on what may be considered qualifying *pro bono* work or mentoring. To be eligible for CLE credit, the civil *pro bono* legal matter in which a lawyer provides representation must have been assigned to the lawyer by one of the following:

- 1) a court;

Readers interested in contributing an article on legal services, pro bono, and access to justice topics should contact Kathleen Schoen at kschoen@cobar.org or Michelle Miller at mmiller@cobar.org.

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- 2) a bar association or local Access to Justice Committee-sponsored program;
- 3) an organized nonprofit entity, such as Colorado Legal Services, Metro Volunteer Lawyers, or the Colorado Lawyers Committee, whose purpose is or includes the provision of *pro bono* representation to indigent or near-indigent persons in civil legal matters; or
- 4) a law school.

Additionally, before assigning the matter, the assigning entity is required to determine that the client is financially eligible for *pro bono* legal representation.

On completion of the *pro bono* representation or mentoring, the lawyer fills out a form seeking CLE credit and submits it to the assigning entity, which in turn verifies that the lawyer is entitled to such credit. The entity then submits the form to the Colorado Board of Continuing Legal and Judicial Education.⁸

Incentive for Pro Bono Work

The proponents of the new rule understood that many Colorado lawyers recognize their professional responsibility to provide *pro bono* representation and want to do so, but often are unsure where to find out about appropriate cases—not to mention, where to find the time and resources to undertake the representation. It is hoped that C.R.C.P. 260.8 will serve as an incentive for lawyers to contact one of the assigning entities and take a case. A list of Colorado *pro bono* coordinators, local bar programs, and local access to justice committees follows this article.

The Colorado Constitution guarantees that “courts of justice shall be open to every person and a speedy remedy afforded for

every injury to person, property or character.”⁹ For many of our neediest citizens, the courthouse door is still closed. For every *pro bono* case a lawyer takes, that door opens a little wider.

NOTES

1. See generally Clay, Taubman, and Vogt, “Access to Justice Commission: 2004 Report,” 34 *The Colorado Lawyer* 42 (Jan. 2005).

2. *Griffin*, 351 U.S. 12, 19 (1956).

3. See, e.g., “Access to Justice Commission: 2004 Report,” *supra*, note 1; Taubman, “Pro Bono Representation—An Ethical Perspective,” 32 *The Colorado Lawyer* 15 (Oct. 2003); Nichol, “The Command of Equal Justice,” 31 *The Colorado Lawyer* 57 (July 2002).

4. *Id.*

5. *Id.*

6. To obtain a copy of the rule, see “Court Business,” 34 *The Colorado Lawyer* 137 (Jan. 2005) or online at <http://www.cobar.org/tcl> and click on the Jan. 2005 issue, then “Court Business.” It also can be accessed directly from the Colorado Supreme Court website: <http://www.courts.state.co.us/supct/rules/2004ruleschg.htm> and click on Rule Change 2004(20).

7. See Colo.RPC 6.1 and Comment (“Every lawyer, regardless of professional prominence or professional work load, has a responsibility to provide legal services to those unable to pay.”).

8. For copies of the form, as well as the complete text of the new rule, see note 6, *supra*.

9. Colo. Const. art. II, § 6. ■

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Pro Bono Coordinators

Sally Maresh
Metro Volunteer Lawyers
Denver (1st, 2nd, 17th, 18th
Judicial Districts)
(303) 830-7860

Grant Nyhammer
Alpine Legal Services, Inc.
Glenwood Springs
(970) 945-8858

Patricia Craig
Northwest Colorado Legal
Services Project
Frisco
(970) 668-9612

Barbara Williams
Northwest Colorado Legal
Services Project
Leadville
(719) 486-3238

Candace Sparks
Northwest Colorado Legal
Services Project
Gunnison
(970) 641-3023

Patty Bennett
Uncompahgre Volunteer Legal Aid
Montrose
(970) 249-7202

Sherri Ferree
Northwest Colorado Legal
Services Project
Hayden
(970) 276-2161

Angela Sedillos
Weld County Legal Services
(970) 351-7300

William Alexander
Pueblo County Bar Association
(719) 553-2467

Sue Parenteau
Boulder County Legal Services
(303) 449-7575

Karen Detmers
The *Pro Bono* Project
Grand Junction
(970) 243-7940

Mary Ann Corey
El Paso County *Pro Bono*
Colorado Springs
(719) 471-0380

Patt Emmett
Southwestern Bar Volunteer
Legal Aid
(970) 247-0266

Colorado Legal Services
Durango
(907) 247-0266

Local Bar Programs

Joe Krabacher
Thursday Night Bar Program
Pitkin County
(970) 925-6300

Jennifer Rice
Legal Aid Larimer County Bar
Association
Fort Collins/Loveland
(970) 402-2075

Southern Colorado *Pro Bono* Project
(719) 589-5532

San Luis Valley Bar *Pro Bono* Project
(719) 589-5532

Local Access to Justice Committees

Lynne Sholler
Local Access to Justice Committee
Durango
(970) 375-7756

Sue Parenteau
Local Access to Justice Committee
Boulder County Legal Services
(303) 449-7575

Aaron Clay
Local Access to Justice Committee
Delta
(970) 874-9777

Steve Flynn
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