

ABA/ NLADA 2006 Equal Justice Conference

A Roadmap to Involving Senior Lawyers as Volunteers

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Brief Description:

Legal services providers and bar groups are engaged in a continuous campaign to increase pro bono contributions by the private bar. In general, recruitment efforts have targeted attorneys who are in active practice. Retired and other inactive lawyers also volunteer, but involving them raises unique issues. Presenters will discuss barriers to recruiting and utilizing retired lawyers as volunteers, ways to overcome those barriers, innovative projects and new developments in practice rules.

I. Introduction

- a. **Early 1990's:** Ford Foundation funded AARP Legal Counsel for the Elderly and the ABA Commission on Law and Aging to study existing senior attorney volunteer projects and to examine barriers and ways to overcome them. Project used sub-contracts and other foundation funding to initiate demonstrations in Nashville, Toledo, and Cincinnati. Some other projects in existence at the time: Washington, D.C., St. Louis, Denver, and Savannah.
- b. **Today:** Multi-volunteer projects are active in Salt Lake City, Atlanta, Boston, Chicago, Los Angeles, New York city and suburbs, Salem (Oregon), Minneapolis, and other locations. Numerous legal services programs and other non-profits use one or two volunteers. Some large firms have initiated programs to combine firm work with public service.
- c. **Initiatives:** Practice rules that facilitate volunteering by retired or otherwise inactive lawyers; pro bono program initiatives such as Senior Partners for Justice at the Volunteer Lawyers Project of the Boston Bar Association; Bar initiatives such as ABA Second Season of Service; ABA Senior Lawyers Division *SAVE* project, which matches prospective volunteers with legal services programs serving older people with assistance from AARP Legal Counsel for the Elderly and ABA Commission on Law and Aging.

II. Volunteers and Their Reasons for Volunteering

- a. Retired, or otherwise inactive; previous practice may include private firm, corporate, government, academia, judiciary, (or even legal services).
- b. Motivations vary, and may include giving something back to the community, furthering a commitment to public service, making productive use of skills, learning more about issues that might be confronting in own life (e.g. elder law), finding personal satisfaction with representing “live” clients, opportunity for professional growth, or opportunity for social interaction.

III. Recruitment – Creativity Counts!

- a. Mass mailings?
 - i. Inactive or retired attorneys not always on bar lists
 - ii. Less personal
- b. Peer recruitment?
 - i. Need bar support
 - ii. Involve judge, bar leader, or respected local attorney(s)
 - iii. In-person contact

III. Barriers

- a. Office space and administrative support
- b. Malpractice insurance coverage
- c. Scheduling
- d. Substantive experience
- e. Licensing (see below)

IV. How Can Retired or Inactive Volunteers Help?

- a. Own caseload
- b. Discrete projects
- c. Litigation
- d. Advice and brief services cases
- e. Intake
- f. Mentor less experienced staff on trial practice or appellate advocacy
- g. Public speaking, consumer education
- h. Serve on community boards
- i. Management and personnel matters
- j. Self-help or courthouse resource centers
- k. Mediation
- l. Long-term care ombudsman programs

V. Management Issues

- a. Screening
- b. Supervision
- c. Quality control
- d. Cultural and other personnel issues.

VI. Licensing and Practice Rules

- a. Barriers
 - i. Inactive bar status
 - ii. Living in state where not licensed
- b. Pro Bono Practice Rule
 - i. Emeritus, Emeritus, Active Emeritus, Pro Bono Publicus, Pro Bono Emeritus Rules.
 - ii. Goal: to encourage pro bono by experienced lawyers who are no longer in active practice. Originally aimed at retirees; in recent years, broadened to include younger lawyers not in active practice but interested in public service.
 - iii. Not a *pro hac vice* rule; not an age-based waiver for fully retired lawyers.
 - iv. States with Pro Bono Practice Rules (as of January 2006)
Arizona, California, Delaware, District of Columbia, Florida, Georgia, Hawaii, Idaho, Maine, Massachusetts, Montana, Oregon, South Carolina, Texas, Utah, Virginia, Washington, and West Virginia.

State Bar Pro Bono Practice Rules as of February 1, 2006

State	Age?	Years of practice?	In-state license?	Waive dues?	Waive MCLE?	Program certification?	Require supervision?
Arizona Supreme Court Rules 38, 39 www.supreme.state.az.us	No	10 of last 15	No	Yes	Yes	Yes	Inactive: No Emeritus: Yes
California Bar Rule Art.1 §12 www.calbar.ca.gov	No	10 3 of last 8 in Calif.	Yes	Yes	No, but CLE fee waived	Yes	No
Delaware Supreme Court Rule 69 www.delaware.gov/rules	No	No	Yes	Reduced	Yes	Yes	No
District of Columbia Ct. App. Rules 49(c)(9)(10) www.dcappeals.gov/dccourts	No	No	No	Yes	N/A	Yes	Yes, if not DC bar member
Florida Bar Rule 12 www.flabar.org	No	10 of last 15	No	Yes	No	Yes	Yes
Georgia Bar Rule 1-202 (d) www.gabar.org	70	25	Yes	Yes	Yes	Yes	No

Hawaii Supreme Court Rule 20 www.courts.state.hi.us	No	No	Yes	Yes	N/A	Yes	No
Idaho Bar Rule 223 www2.state.id.us/isb	No	10 of last 15	No	Reduced	Yes	Yes	Yes
Maine Bar Rule 6(d) www.courts.state.me.us/rules	No	No	Yes	Reduced	Reduced	Yes	No
Massachusetts Sup. Jud. Ct Rule 4:02(8) www.mass.gov/courts	No	No	Yes	Yes	N/A	Yes	No
Montana Bar Rule Art. 1, §3 www.montanabar.org	No	10 of last 15	Yes	Yes	Yes, but fee waived	Yes	No
Oregon Bar Rule 6.1 www.osbar.org	No	Pro Bono: No Emeritus: 40	Yes	Yes	Yes	Yes	Pro Bono: Yes Emeritus: No
South Carolina Supreme Court Rule 415 www.judicial.state.sc.us	No	10 of last 15	No	Yes	Yes	Yes	Yes
Texas Bar Rule Article XIII www.texasbar.com	No	5 of last 10	No	Yes	Yes	Yes	Yes
Utah Code Ch 16 Bar Rules www.utcourts.gov/resources	No	No	Yes	Reduced	Yes	Yes	Yes
Virginia Supreme Court Rule 6:4-3 www.vsb.org	No	10 of last 15	Yes	Yes	No	Yes	Yes
Washington Court Rule 8(e) www.wsba.org	No	5 of last 10; 10 of 15 if out-of-state	No	Reduced	Yes, but required training	Yes; one year renewable	No
West Virginia Bar Rule Article II §11 www.state.wv.us/wvsca	No	10	No	Yes	Yes	Yes	Yes

VII. Innovative Models

a. Bar Association: Senior Partners for Justice, Boston, MA

- i. Volunteer Lawyers Project of the Boston Bar Association.
- ii. Number of volunteers and professional backgrounds
- iii. Recruitment methods
- iv. Scheduling and type of pro bono work.
- v. Peer support and volunteer recognition
- vi. Cost to program
- vii. Outcomes – for volunteers, for program, for clients
- viii. Other

b. Legal Services: AARP Legal Counsel for the Elderly, Washington DC

- i. Number of volunteers and professional backgrounds
- ii. Recruitment methods
- iii. Scheduling and type of pro bono work.
- iv. Peer support and volunteer recognition
- v. Cost to program

- vi. Outcomes – for volunteers, for program, for clients
- vii. Other

c. Large Firm (1): Mayer, Brown, Rowe & Maw LLP Senior Tour

Adapted from article by Adrian Steele for 2006 edition of *Senior Attorney Volunteer Projects: A Resource Manual*.) Contact Adrian Steel at asteel@mayerbrownrowe.com

- i. Part of firm protocol for partners age 55+. May opt for regular compensation plan until retirement (age 65 “normal” or 60 “early”), or choose 3-year program of reduced billable hours in exchange for training, mentoring, and pro bono projects. Partner status retained for three year period.
- ii. Type of work - international, national, and local, including Eastern European law reform projects, supportive housing projects for homeless, represent charitable organizations. Firm helps identify potential projects.
- iii. Outcomes: improved transition of clients; firm retains expertise and leadership; partners nearing retirement undertake meaningful public service activity; more dignified and respectful approach to compensation reductions.

d. Large Firm (2) - D.C. Bar Senior Lawyer Public Interest Project

Helps prospective volunteers. Website includes issues for lawyers not yet retired.

www.dcbbar.org/for_lawyers/pro_bono/senior_lawyer_public_interest_project

e. Bar Association: ABA *Second Season of Service Initiative*

- i. Recognize “active retirement”
- ii. Encourage lawyers departing from practice to volunteer with legal services organizations and other non-profits
- iii. Utilize ABA resources
- iv. Other

Notes:

Bibliography & Website Links:

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2. Galanter, Marc. “Old and in the Way: The Coming Demographic Transformation of the Legal Profession and its Implications for the provision of Legal Services.” 1999 Wis. L. Rev. 1081 (1999).
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