

## **Through the Looking Glass: Volunteers on Volunteering**

**Kirk Baumeister, Senior Patent Counsel, Johnson & Johnson, Radnor, PA**

**Sarah Brown, Liaison & Board Member, Volunteer Lawyers' Project  
University of Dayton School of Law**

**Melanie Kushnir, Assistant Staff Counsel, ABA Center for Pro Bono, Chicago, IL  
[Moderator]**

**L. Jonathan Ross, Partner, Wiggin & Nourie, P.A., Manchester NH**

**Lori Thompson, Pro Bono Coordinator, National Federation of Paralegal Associations,  
Washington D.C.**

### **Brief Description:**

What does a volunteer look for in a volunteer experience? What leads one attorney to take multiple cases a year for 20 years, and another to disappear after the first referral? This workshop presents the opportunity to hear from a panel of volunteers, including a private attorney, paralegal, corporate counsel, and law student, on what programs can do to recruit, then hold on to, its volunteers.

### **Topical Outline:**

- I. Recruitment Techniques that work:**
  - a. Telethons and personal contact from other volunteers
  - b. CLE credits – low cost or free; Bar Foundation support
  - c. Training – in-house for law firms, resource lists, materials, forms
  - d. Mentors – private volunteer bar; legal service lawyers; co-counsel services when appropriate
  - e. Separate pro bono panel for appellate work
  - f. Malpractice Insurance
  - g. Court courtesy to take pro bono lawyers first on list
  - h. Filing fee waivers; sheriff service fee waivers
  - i. Reimbursement of some costs
  - j. Developing an available pool of other volunteer services: stenographers (depositions), experts, etc.
  - k. Recognition – from program, bar (state and local), publicity, awards, etc.
- II. Unbundled Legal Services Rule – Limited Service Rules**
- III. Bar Association Involvement/ Roles for Bar Leaders**
- IV. Court Involvement in Pro Bono/Access to Justice and ACJ Commission**

- V. Tips for Recruiting Corporate Counsel Volunteers**
- a. Create the Right Message
    - i. Many corps have made a commitment to improve their local communities
      - 1. Example: J&J has the credo "We are responsible to the communities in which we live and work and to the world community as well. We must be good citizens -- support good works and charities. . . ."
    - ii. Marketing pro bono to corporate legal departments as a way for legal staff to improve their communities will strike a chord with legal management.
  - b. Ensure Attorney is Suitably Matched
    - i. Corporate lawyers may be reluctant to take a pro bono matter in an area of law they know little to nothing about. Some may be reluctant to take on an individual as a client. And, most corporate lawyers are not regularly "in court."
    - ii. Pro bono matters relating to non-profit organizations (general corporate, contractual, real estate) that don't require court appearances may be better received than family law, estate or other matters where the client is an individual and hearings or other appearances are required.
    - iii. On the other hand, for many non-litigators, pro bono work provides courtroom experience and direct client contact that they may not otherwise experience and may thrive on the challenge of learning a new skill.
  - c. Offer Substantive Training
    - i. For areas of law that corporate attorneys are not generally familiar with, it is imperative to offer a good training program.
    - ii. Training should be short & to the point.
    - iii. Training must be from a practitioner who knows the area of law well (to instill confidence in the trainees) and provide a good set of typical draft pleadings, etc.
  - d. Offer Back-Up Support, Including Mentors & Co-Counsel
    - i. Mentor attorneys must be available for consultation on issues after a pro bono case accepted.
    - ii. Mentor attorneys need to realize that a corporate lawyer taking pro bono cases is unlikely to ever be a potential competitor. Thus, phone calls should always be returned.
    - iii. Pro bono agency must assist pro bono attorney with finding co-counsel if necessary such as when matters that are ordinarily non-contested become contested and a trial is necessary.
    - iv. Co-counsel should be an experienced attorney in the field, not a beginner looking to develop their trial skills.
  - e. Offer and Disclose Applicable Malpractice Insurance Coverage
    - i. Scope of agency's malpractice coverage and history/frequency of claims by agency-referred clients should be fully disclosed to volunteer attorney (without volunteer having to ask).
  - f. Recognize Volunteers
    - i. If corporate legal management is encouraged to recognize staff that participate in pro bono (since those staff are helping to meet corporate goals), then more staff likely to participate.

- g. Never Ask a Corporate Counsel Volunteer to Account for Hours on Case
  - i. All corporate counsel have come from law firms and don't ever want to see a timesheet again!

## **VI. Examples of Pro Bono Activities for Corporate Counsel**

- a. Providing traditional legal representation to individuals and families on range of issues including consumer, family law issues, housing, wills, etc.
- b. Participating in non-litigation activities, such as brief advice and referral clinics or hotlines
- c. Providing legal representation to nonprofit institutions including community-based organizations, on a range of issues using business/transaction skills including: drafting by-laws, seeking tax-exempt status, assisting a tenant organization in the development of affordable housing through handling complex zoning, tax, real estate and financing issues
- d. Undertaking legal research and writing projects
- e. Placing an in-house counsel as an extern in a legal services or pro bono program office
- f. Engaging in public policy to address systemic issues by lobbying, drafting and proposing new legislation or amending existing laws.

## **VII. Paralegal Pro Bono Volunteers**

- a. Introduction
  - i. Paralegals are a great resource.
  - ii. Paralegals are interested and actively involved in supporting local *pro bono* programs.
  - iii. Paralegals have become valuable and integral partners in helping to meet the legal needs of their low-income community members.
  - iv. Paralegals have the skills, talents, and education to interview clients, draft documents, and provide research.
  - v. As defined by the ABA, a legal assistant or paralegal is a person, qualified by education, training or work experience who is employed or retained by a lawyer, law office, corporation, governmental agency or other entity and who performs specifically delegated substantive legal work for which a lawyer is responsible.
  - vi. Paralegals volunteering in *pro bono* efforts are subject to the same laws, rules, and ethical considerations that apply to paralegals in employment situations.
- b. Existing Support for *Pro Bono* Service
  - i. National Federation of Paralegal Associations (NFPA): Canon 1.4 of the *NFPA Model Code of Ethics and Professional Responsibility and Guidelines for Enforcement* states that paralegals should aspire annually to contribute twenty-four (24) hours of *pro bono* services under the supervision of an attorney or as authorized by administrative, statutory or court authority.
  - ii. In 1999, NFPA adopted the ABA's Model Rule 6.1 definition of *pro bono*.
  - iii. The *ABA Model Guidelines for the Utilization of Legal Assistant Services* state that lawyers should facilitate legal assistant participation in *pro bono* activities.

- c. How Paralegals Can Help
  - i. Paralegals are great resources to provide intake interviewing and screening functions.
  - ii. Paralegals are usually trained to conduct interviews and to make appropriate community referrals.
  - iii. Paralegals can continue to work with the program's attorney as a team member throughout the representation of the client.
  - iv. Paralegals can be utilized to draft documents, provide follow-up information to the client, and serve as a liaison between the attorney and client.
  - v. Paralegals can also provide direct client advocacy with programs such as in the court-appointed special advocates (CASA) programs where volunteers advocate for children under court supervision.
- d. How to Recruit Paralegals
  - i. Local Paralegal Associations – many have a *Pro Bono* Coordinator and existing *pro bono* programs.
    - 1. The *Pro Bono* Coordinator can assist with the overall administration of the program, recruiting and training volunteer paralegals, establishing the procedures and forms to be used by volunteers, and coordinating the scheduling and work of the volunteer paralegals.
  - ii. Paralegal Programs – many paralegal programs have a requirement for *pro bono* service prior to graduation or have an internship requirement.
  - iii. Government Paralegals – many federal government agencies have established *pro bono* policies and support paralegals supporting local *pro bono* projects. The Probono.net web site includes information about how to utilize government attorneys/paralegals and includes copies of the *pro bono* policies (<http://www.probono.net/dc/about.cfm>).
  - iv. Most federal agencies have a representative that attends the Interagency *Pro Bono* Working Group meetings (Washington, DC) and the contact information is available on the Probono.net web page. The Group is also working on reaching out to the region offices and encouraging region staff to get involved in *pro bono*.
- e. Why Paralegals Volunteer
  - i. Paralegals volunteer to utilize or expand on their existing legal knowledge and work experiences.
  - ii. Many paralegals don't have client contact at work and thrive in volunteer environments that provide client contact and interaction.
  - iii. Paralegals volunteer to participate in their community and take pride in helping the low-income members of their community access legal services.
- f. What Paralegals Need – How to Retain Paralegals
  - i. Paralegals are not attorneys and need to follow the state statutes concerning the unauthorized practice of law.
  - ii. Provide an organized volunteer environment with support.

- iii. Case screening works best if it takes place in the office to ensure that the staff attorney or the program coordinator is available for consultation.
- iv. The volunteer should have appropriate forms and guidelines to assist in the determination of the nature of the legal problems in each client's situation. A comprehensive list of community agencies should be available for appropriate referrals.
- v. Training: Paralegals should be invited to attend substantive training sessions concerning the specialty area for the clinic or program such as family law, consumer law, and landlord-tenant law.
- vi. New paralegals should be encouraged to team with a more experienced paralegal during their first volunteer experience. A positive and stress free volunteer experience the first time will encourage the paralegal to return and continue to volunteer.
- vii. Provide Constructive feedback and follow-up training.
- g. Challenges or Special Issues
  - i. Paralegals are not attorneys and cannot provide legal advice. Attorney supervision is required for all legal services performed for the client.
  - ii. Experienced paralegals may know the answer to a client's question. Paralegals need to be reminded to talk with an attorney prior to answering the client's question to avoid the appearance of practicing law.
  - iii. Paralegals must clearly inform clients that they are not attorneys and cannot give legal advice. A name tag (first name only) with the title Paralegal will provide a constant reminder to the clients.
  - iv. Malpractice insurance is also required and must cover paralegals and other non-attorney volunteers.
- h. How to Advertise New or Existing *Pro Bono* Opportunities
  - i. Local paralegal associations can provide a prime source of volunteers for *pro bono* programs. They already have a network to reach many working paralegals and can assist in the recruitment and coordination of the volunteers.
  - ii. Many local paralegal associations have a monthly or bi-monthly newsletter, an e-mail list, or website that they utilize to communicate with their members and can advertise local volunteer opportunities.
  - iii. Many local paralegal associations have network or committee meetings where a non-profit organization or bar association representative could talk about a new or existing volunteer opportunity.
  - iv. Many law firms have a *pro bono* policy and *pro bono* coordinator that can assist in advertising volunteer opportunities.
  - v. Contact the local paralegal programs and recruit their students. Many programs require an internship or *pro bono* hours to graduate and the students may have day time availability.

- i. Successful Volunteer Experiences
  - i. Factors: Great training, mentors, support, feeling part of the team, being treated with respect, constructive feedback, and appreciation (recognition program that includes volunteers).
  - ii. DC Bar's Advice and Referral Clinic
  - iii. Uncontested Divorce Legal Clinics (Northern Virginia)
  - iv. Walk-In Legal Clinics (Maryland )

### **VIII. Law Students**

- a. How Do You Get Law Students to Volunteer?
  - i. Present the law student program as a well oiled machine
    - 1. Sponsor kick-off meeting
    - 2. Distribute membership/orientation packet
    - 3. Explain how volunteer process works
    - 4. Have a volunteer lawyer speak about why he/she volunteers and/or the different experiences of past volunteers
    - 5. Offer free food.
  - ii. Tell them what is in it for them
    - 1. Development & enhancement of legal practice skills (interviewing, research, trial preparation, and inter-personal skills)
    - 2. Exposure to various areas of substantive law & public service careers
    - 3. Networking through exposure to local attorneys
    - 4. Remind of reasons for attending law school; re-inspire commitment to help others.
    - 5. Providing much needed legal services to persons of limited means
    - 6. Personal fulfillment
  - iii. Make your presence known to students
    - 1. Promote program during 1L orientation
    - 2. Participate in law school organizational/job fairs
    - 3. Perform outreach to student organizations
    - 4. Pro Bono brochure; newsletter, email
    - 5. Giveaways
- b. How Do You Ensure Success of Your Program & Keep Student Volunteering?
  - i. Establish definitive guidelines and structure
    - 1. Institute standard operating procedures
    - 2. Ascertain criteria to meet as condition of membership, if applicable
    - 3. Require training for specific programs/assignments
    - 4. Draft necessary forms/paperwork for procedures
  - ii. Evaluate program's efficiency
    - 1. Utilize an assignment completion form to gauge attorney and student performance and satisfaction

2. Utilize personal email/phone contact to follow-up on ongoing assignments in order to spot problems students might be having
3. Maintain consistent interaction with law students to ensure they are satisfied with frequency of opportunities, possibly consider more projects that involve group involvement
- iii. Recognize Students
  1. Annual award for one student's noteworthy dedication to *pro bono*
  2. Law School: Official certification for *pro bono* on transcript; pro bono distinction at graduation; awards ceremony
  3. Pro bono award/ certificates
- iv. Show Appreciation to Volunteers
  1. Annual spring event to thank attorneys/ Wine and cheese Reception or other social event
  2. Offer free CLE credit
  3. Send thank you notes or give small token of appreciation such as gift baskets.
  4. Law School: Pamphlet detailing all of the *pro bono* initiatives present at the law school to be used in the school's recruiting materials
  5. Newsletter/ website recognition
- v. Stay in students sights so they don't forget about you
- c. How do you overcome the challenges in working with law students?
  - i. Scheduling concerns
    1. Exams and Papers
      - a. Avoid student assignments during this time
  - ii. Personality of Law Students
    1. Be aware of tendencies of law students and strictly adhere to guidelines
    2. If a member has not fulfilled the guidelines or requirements, use a student to convey that message in the appropriate manner.
    3. Keep the lines of communication constantly open
      - a. Send out reminder emails
      - b. Make contact person and information easy to find
  - iii. Ensure Effective Training & Quality Supervision
    1. Law students may perform legal work ONLY under the supervision of an attorney
      - a. Be aware of unauthorized practice of law and student practice rules.
    2. Require training before students participate in program
    3. Provide refresher or specialized instructions for specific programs
      - a. Living Wills clinic
      - b. Handouts

**Notes:**

**Bibliography & Website Links:**

1. ABA Center for Pro Bono [www.abaprobono.org](http://www.abaprobono.org)
2. Corporate Pro Bono <http://www.corporateprobono.org/>
3. Equal Justice Works <http://www.equaljusticeworks.org>
4. Pro Bono Institute <http://www.probonoinst.org/>
5. Pro Bono Net <http://www.probono.net/>
6. Pro Se Unbundling Resource Center, ABA Standing Committee on Delivery of Legal Services <http://www.abanet.org/legalservices/delivery/delunbund.html>
7. White Paper on Unbundling, *An Analysis of Rules that Enable Lawyers to Serve Pro Se Litigants*, ABA Standing Committee on Delivery of Legal Services. To view PDF, see: <http://www.abanet.org/legalservices/downloads/delivery/prosewhitepaperfeb2005.pdf>