

Directions for completing this form: Place the title of your workshop in the space indicated, followed by the name and contact information for the presenters. Provide a brief description by placing the cursor on the line below “Brief Description” and commence typing. To complete the “Topical Outline”, place cursor next to each Roman numeral and begin typing. Then place the cursor next to the “a.” to begin listing sub-topics. To list more than one sub-topic, push “Enter” and “b.” should appear on the next line, and so on. Place the cursor on the line under “Notes” to begin providing your notes. To list bibliographic information, place the cursor next to “1.” and start typing. Push “Enter” to move on to “2.” and etc.

ABA/ NLADA 2007 Equal Justice Conference

Ethics and Professional Responsibility Issues in a Transactional Pro Bono Program

Tiela Chalmers; Executive Director; The Bar Association of San Francisco, Volunteer Legal Services Program; tchalmers@sfbbar.org

John Gibbons; Director; Gibbons, Del Deo, Dolan, Griffinger & Vecchione; jgibbons@gibbonslaw.com

Stanley W. Levy; Counsel and Pro Bono Committee Chair; Manatt, Phelps & Phillips, LLP; slevy@manatt.com

Allen Sparkman, Partner, Sparkman Shaffer Perlick LLP, sparkman@sspattorneys.com

Brief Description

Experienced panelists will engage attendees in a discussion of the ethical issues that crop up in pro bono programs, especially those unique to transactional pro bono programs. Discussion will cover many issues, including unbundled (limited scope) legal services and conflicts created by community lawyering. Solutions to these and other professional responsibility issues will be discussed and illustrated with forms and handouts. Materials will cover select ABA Model Rules and state professional responsibility rules, illustrations and hypotheticals, and sample documents that may help programs overcoming certain ethical issues. Expect a lively discussion.

Topical Outline

I. Perspectives / Roles

- A. Volunteer law firm / volunteer corporate law department
- B. Pro bono program

II. Unbundled Legal Services

- A. What are unbundled legal services in a transactional pro bono program?
- B. Rules

1. ABA Model Rule 1.2(c)
 2. Examples of state professional responsibility / ethics rules proscribing limited scope representation
- C. Sample limited scope engagement letter

III. Conflicts

- A. What sort of conflicts arise a transactional pro bono context?
1. Illustration #1
 2. Illustration #2
- B. Rules
1. ABA Model Rule 1.7(a)
Conflict of Interest: Current Clients
 2. ABA Model Rule 1.9
Duties to Former Clients
- C. Remedies for conflicts
1. ABA Model Rule 1.7(b)
Conflict of Interest: Current Clients / permissible representation
 2. ABA Model Rule 1.9(a) and (b)
Duties to Former Clients
- D. Sample conflicts waiver
- E. Imputation of conflicts in pro bono programs
1. ABA Model Rule 1.10
Imputation of Conflicts of Interest: General Rule
 - a. Within a volunteer law firm / corporate law department
 - b. Within the pro bono program
 2. Illustrations / hypos
- F. At what time does a conflict arise?
- ABA Model Rule 1.8

Duties to a Prospective Client

- G. Special Rules
 - 1. ABA Model Rule 6.5
Nonprofit and Court-Annexed Limited Legal Services Programs
 - 2. Illustrations / hypos
 - H. Conflicts in Community Lawyering Projects / Community Economic Development Projects
 - 1. What is community lawyering?
 - 2. Illustrations / Hypos
- IV. Duties to Pro Bono Clients (versus paying clients)**
- A. Rules
 - 1. ABA Model Rules
 - a. ABA Model Rule 1.3
Diligence
 - b. ABA Model Rule 1.4
Communication
 - 2. Examples of state professional responsibility / ethics rules
- V. Client Screening**
- A. Purposes
 - 1. Avoiding conflicts
 - 2. Avoiding “bad” clients
 - B. Sample transactional client application for services
- VI. Other – Ideological Issues**
- A. Volunteer law firm ideologies v. pro bono client ideologies
 - B. Volunteer law firm’s client ideologies v. pro bono client ideologies
 - C. Publicly unpopular cause v. pro bono client case / matter

Notes

Bibliography & Website Links