

**ABA / NLADA 2009 Equal Justice Conference**

**Pro Bono By the Numbers**

**Jamie Hochman Herz**  
**Assistant Committee Counsel**  
**ABA Standing Committee on Pro Bono and Public Service**  
**312 988-5748**  
[\*\*herzj@staff.abanet.org\*\*](mailto:herzj@staff.abanet.org)

**Joanne Martin**  
**Senior Research Fellow**  
**American Bar Foundation**  
**312 988-6500**  
[\*\*joanne@abfn.org\*\*](mailto:joanne@abfn.org)

**Brief Description:**

Did you know that 73% of attorneys surveyed reported providing free legal services to people of limited means or organizations serving the poor last year? Also, did you know that attorneys who performed these pro bono legal services contributed on average 41 hours of service? Come to this session to hear more about the improvements made in study methodology and the resulting findings of the recently released ABA Pro Bono Data Collection Study, which refined and updated the study conducted in 2004. There will be a facilitated discussion of next steps and we welcome your comments and input in this process.

**Topical Outline:**

**I. Introduction to Study**

- A. Report is part of ABA Standing Committee on Pro Bono and Public Service's efforts to:
1. Assess the level of pro bono participation by America's lawyers
  2. Identify strategies for growing the culture of pro bono legal services in the country

**II. Background and Objectives of Study**

- A. The Committee conducted its first national quantitative pro bono study in 2004
1. To track and measure individual pro bono activity
  2. To develop a valid and consistent methodology for gathering pro bono data for future studies

- B. The Committee then conducted a national pro bono qualitative study in 2007
1. Study done to clarify findings from 2004 study and measure whether pro bono participation had increased over time
  2. Study interviewed 40 attorneys about their definition of pro bono and the particulars of their pro bono practice.
  3. A second quantitative study was then developed from this qualitative data
- C. The Committee conducted a second national quantitative pro bono study in 2008
1. The following new objectives were defined based on the results of the previous studies:
    - Quantify the amount of pro bono work done by attorneys, particularly work classified as Tier 1
    - Improve the ABA's understanding of how attorneys define pro bono work
    - Obtain reactions to ABA initiatives that could encourage pro bono work
    - Identify the characteristics of recent pro bono service that can be used to guide development of new pro bono initiatives and communication around them
    - Obtain demographic and work environment data that will permit analysis of the findings by attorney subgroups

### **III. Methodology of Study**

- A. Interviewed 1,100 attorneys which reflected a representative sample of attorneys nationwide. Distribution of the interviews of attorneys by state reflected the attorney population therein
- B. The sample was distributed over three practice settings
1. Private practice (83%)
  2. Corporate counsel (9%)
  3. Government (8%)
- C. Questions consisted of:
1. Questions about Demographics
  2. Definitions of pro bono service
  3. Amount of pro bono they did in the last year
  4. Inquiries about the attorney's most recent (typical) pro bono case

### **IV. Key Findings**

- A. Defining Pro Bono Service

1. 64% of attorneys indicated legal work had to be delivered free to be considered pro bono (when asked about their most recent case in the past year, however, 90% indicated that they had provided legal services for free)
2. When serving a person, more than two-thirds of the attorneys agreed that the person had to be of limited means
3. When serving an organization, 72% believed that only some not-for-profits organizations qualify for pro bono representation. One third of the attorneys felt that a for-profit organization could also qualify for pro bono representation.
4. Most of the attorneys were willing to accept that some activities other than the direct provision of legal services could be considered pro bono.

#### B. Past Year Pro Bono Service

1. During the 12 months preceding the survey, 73% of respondents provided free legal services to persons of limited means or to organizations that address the needs of persons of limited means (Tier 1 service)
2. Average attorney reported providing 41 hours of Tier 1 service during this time period
3. One-fourth of the sample indicated that they had provided 50 hours or more of pro bono service.
4. Approximately one-third of attorneys indicated that they performed some form of pro bono service in the last year that did not meet the Tier 1 definition.
5. Approximately one-fifth of the attorneys stated that they did not do any form of pro bono work in the past year

#### C. Attributes of Most Recent Pro Bono Service

1. In describing their most recent pro bono service, the vast majority of attorneys reported that their most recent work was provided for free.
2. Eighty two (82%) percent of these attorneys indicated that the number of hours provided and the tasks that they performed were consistent with their expectations (94%).
3. Two-thirds of the attorneys who had provided pro bono service in the past year indicated that the entity served was a person rather than an organization
4. Slightly fewer than half indicated that the client was referred to them, with a legal aid organization clearly being the number one source of referrals.
5. Most attorneys receiving a referral were familiar with the referral source before accepting the client.
6. Forty-three (43%) percent of those who had indicated some preexisting familiarity with the referral source or the client believed that they would have accepted the engagement on a pro bono basis even if both parties had been unknown to them.

D. Encouraging Pro Bono Activity

1. More than three- fourths of those who had performed pro bono service in the past year indicated that they do not seek out pro bono opportunities: the opportunities find them.
2. Both providers and non-providers of pro bono identified that providing free training or CLE credit for pro bono and giving the attorney the ability to define the scope of the engagement were the most powerful incentives to encourage greater pro bono activity

E. Discouraging Pro Bono Activity

1. Non-providers identified a lack of time as the primary reason for not providing pro bono service.
2. An employer's attitude towards pro bono activity seems to have a significant impact on attorney willingness to do pro bono.
3. Attorneys who provided pro bono were significantly more likely to indicate that their employers encourage pro bono service (72%) than were the non-providers (36%).
4. Non-providers were significantly more likely than the providers to feel that their employer had no clear pro bono policy or that their employer discouraged pro bono service.
5. Twenty-seven (27%) of non-providers in the private practice setting indicated that no one had asked them to provide pro bono.

**V. Initiatives Arising from the Research**

- A. Reporting to interested stakeholders specific findings about various demographic groups surveyed in the study such as women, attorneys of different ethnicities, and attorneys of different ages.
- B. Developing materials and resources to help states reach out to different attorney demographic groups.
- C. Educating attorneys about the availability of malpractice insurance through organized pro bono programs.
- D. Cooperating with constituents on developing their own data collection tools to replicate this study on a statewide or local level.
- E. Focusing on increasing employer policies that encourage pro bono practice, particularly in the corporate and government arenas.
- F. Providing strategies to pro bono organizations and bar associations on how to best recruit attorneys as volunteers and on how to best reach out to them to get them to accept a pro bono matter.

- G. Increasing awareness of referral sources by providing tools and strategies programs can use to publicize what they do.
- H. Educating attorneys on what activities constitute pro bono under Model Rule 6.1.
- I. Educating attorneys that they will be working within the realm of their competency when accepting pro bono engagements.
- J. Developing strategies for increasing corporate pro bono so that it approaches the level of private practice pro bono.
- K. Developing national models for pro bono attorney recruitment, retention and recognition.
- L. Disseminating the information gathered from the study about sources of pro bono and pro bono outreach to create strategies for recruitment to be used by participants in the Pro Bono Committee's National Pro Bono Celebration.

**Bibliography & Website Links:**

1. [www.abaprobono.org/report2.pdf](http://www.abaprobono.org/report2.pdf)
2. [www.abaprobono.org](http://www.abaprobono.org)