

Law Firm Management

Pro Bono

Ten Tips for a Successful Pro Bono Program: Building a Program that Benefits Your Community, Your Attorneys, and Your Organization



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While there has always been a need for pro bono services, the need has increased dramatically with the decline of the economy over the past several years. There is a greater need for pro bono services than ever and yet many firms feel the need to cut back on providing pro bono services. Strong and effective pro bono programs are, therefore, more important than ever. There are countless ways to develop a successful pro bono program and no two firms seem to do it alike. This article by no means describes the only way to create a successful program but it shares the approaches we have found effective.

1. Obtain commitment from the top and keep all attorneys accountable for the success of the program.

The most important factor behind a successful pro bono program is commitment and support from all levels of leadership and accountability from all lawyers. At our firm, everyone is expected to do pro bono work, with a goal of 50 hours annually for each attorney (pro-rated for part-time attorneys). No one is exempt from this policy. This past year, the chairman of our firm helped an associate prepare for a criminal trial and the managing partner of our Atlanta office put in over 300 hours on a death penalty case that she handled for over 11 years. They are great examples in the firm and prevent anyone from thinking that they are too busy to do pro bono work. In addition, the chair of the pro bono committee—who is an equity partner—must report at each quarterly partners meeting on the status of cases and is held accountable for the program's success. Associates are also held accountable by asking them on their yearly self evaluation whether they have met their pro bono goal and to explain why if they have not.

As further proof of the support from leadership, all pro bono hours count towards associates' billable requirements. There is no cap. That is not to say that associates can expect to come to the firm and bill 1,800 hours of pro bono time. We are, after all, a business and can only provide those pro bono services by remaining a profitable going concern. But if an associate finds herself on a case that requires hundreds of hours to do the job right, then that is what she must do.

The message to the entire firm is clear: pro bono is an important part of our values and culture and attorneys are supported in their pro bono efforts.

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2. Don't get lost in the surveys and numbers—keep an eye on the primary reason for doing pro bono.

There are numerous surveys that seek information about firms' pro bono efforts—Am Law, Pro Bono Institute, and The Vault to name a few. And while it is admirable for firms to want to do well on these surveys, it is important to not allow the numbers to become the focus of the program. The real reason for doing pro bono is that *it is the right thing to do*. There are so many people in need of legal services, and we are fortunate to have the skills, opportunity, and usually financial ability to meet at least some of that need.

If the surveys motivate people to do more pro bono and recognize firms and attorneys who devote considerable time to those causes and cases, then that is a positive. But if the message of the program turns too much on the hard numbers, it can lose sight of the true purpose of doing pro bono in the first place.

3. Draft a clear pro bono policy.

Many attorneys incorrectly believe pro bono is Latin for “free.” In fact, *pro bono* means “for the good,” and pro bono is short for *pro bono publico* (for the public good). An important step in the development of a pro bono program is to draw a clear line between what is simply unpaid and what is pro bono. Without clear boundaries, attorneys may be tempted to count as “pro bono” any legal work for which the firm is not paid. An important resource that can help clarify the distinction is “What Counts?”¹ by the Pro Bono Institute (an extraordinarily helpful organization that can serve as a resource on many topics).

A key aspect of what counts as pro bono is the threshold for eligibility from an economic standpoint. There is no hard and fast rule as to what constitutes “persons of limited means” as used by the Pro Bono Institute but most legal aid organizations use anywhere from 125 percent to 300 percent of the federal poverty guidelines to determine eligibility for pro bono services. Our firm tried to be as expansive as we could and used 300 percent of the federal poverty guidelines for our policy.

Of course, there should be some room for discretion where appropriate. For instance, we have represented military personnel who are serving overseas and dealing with legal issues back at home without getting too caught up in the precise parameters of their financial standing because helping them furthers the public good for all. A good pro bono policy should always be focused on serving those who are most in need and might not otherwise have any ability to obtain a lawyer.

4. Don't be afraid of the big challenges.

A benefit of having a strong pro bono program is the ability to take on large, complex matters that often provide systemic change. When Interstate 35 collapsed over the Mississippi River in Minnesota in 2007, our firm assembled and led a consortium of local law firms to represent families of the

13 killed and 150 injured—all of it pro bono—earning nearly \$100 million for survivors and families who lost loved ones. This representation was spearheaded by two phenomenally tenacious and compassionate partners, and tens if not hundreds of individuals—attorneys, paralegals, and staff—worked directly on that matter. Even those who were not part of this team followed the progress of the case, and were inspired to find other pro bono opportunities to participate in.

Pro bono cases can require as much time and energy as paid work. This past year, our firm handled nine full-blown trials in pro bono matters. Four of them, for instance, were significant cases in which we represented guardians ad litem in trying to protect children and find them the best home. Another was a criminal jury trial. All five of these trials were conducted entirely by associates under the supervision of a partner. In another trial, the firm represented the Friends of the Boundary Waters in its effort to prevent AT&T from building a 450-foot cellular phone tower in the immediate vicinity of the beloved Boundary Waters Canoe Area Wilderness in an environmental-impact case. After a four-day bench trial, 15 live witnesses, including 8 experts, the judge issued a 58-page order enjoining AT&T from building any tower taller than 199 feet on the location.² Again, numerous associates, including a second-year associate, handled multiple witnesses—including experts—at trial. It was not uncommon for attorneys to devote 300 or 400 hours on that one case. But the experience they each gained was immeasurable.

5. Offer a wide variety of opportunities and allow attorneys the freedom to expand those opportunities.

Attorneys are inspired to do more pro bono when they can work on matters and issues that are important to them. Therefore, a wide variety of options is an important component of a successful program. The best way to do this is to partner with non-profit organizations that can evaluate and screen cases, provide training, and serve as a sounding board for issues as they arise. If an attorney has a particular interest in an area of law that is currently not represented with a partnering organization, allow that attorney to explore ways to build that practice or forge those relationships with other groups.

6. Involve many people in the administrative aspects of the program.

The role of pro bono chair can be a time consuming job. Many pro bono chairs are partners with a full-time per diem practice and cannot devote as much time to pro bono casework and administration as is required. Thus, a successful pro bono program cannot rest on one person's shoulders alone.

An enormous part of our success has been the enthusiasm and creativity of our pro bono manager—an attorney who helps administer the program in addition to handling her own pro bono cases. She helps field the numerous calls we get from potential

clients, screens them for eligibility, and tries to find attorneys to handle matters that meet our eligibility requirements. We have a pro bono committee, consisting of our managing partner, regional office pro bono chairs, other partners, associates, and a librarian, in addition to the chair and the pro bono manager, that meets several times a year to ensure the program is meeting its goals. In addition, we have a cadre of attorneys who act as liaisons with our various non-profit partners. Depending on the organization they liaise with, they may assist in placing matters, coordinate the staffing of clinics, and provide guidance and advice to others. All of these people are invaluable to the success of the program.

7. Look for opportunities to include your clients.

Marketing your pro bono successes to clients is one way to reap business development rewards from your pro bono program. A more impactful way is to directly partner with inside counsel on pro bono projects. Many in-house legal departments lack the infrastructure to find, vet, and staff pro bono cases. Inside counsel might be hesitant to take on a pro bono case without the support network of experienced attorneys and support staff that many law firms can offer. Partnering with outside counsel to take on pro bono cases allows inside counsel to benefit from outside counsel's experience and resources, broadening the pool of attorneys that are available to assist the community through the provision of pro bono legal services.³

8. Use pro bono work to create mentoring relationships that might not otherwise develop.

Pro bono cases provide a great opportunity for attorneys to work with people with whom they might otherwise not get the chance to work. Requiring pro bono cases to have a supervising partner on the matter is a good practice. But we encourage partners to allow the associate to run the case as much as is appropriate.

We encourage associates to loop in other attorneys at different stages of the matter to get a variety of feedback. Perhaps it is early in a case and an associate wants to bounce some case themes off someone. Later, another attorney can help brainstorm the best way to structure a brief for a motion. Where there is an oral argument, we put together a panel of attorneys to moot the associate—just as we would for a paying client. Setting up small groups to brainstorm on strategy or to play devil's advocate on a case has also proven an effective means to get attorneys involved and interacting with others outside their practice area. Pro bono cases provide great excuses for associates to interact with attorneys and show off their skills. Likewise, these types of more discrete pro bono assignments are ideal for partners who may wish to do pro bono but have a hard time finding the time to take on an entire case.

9. Create a centralized repository of helpful pro bono information and training.

One of the biggest deterrents to getting someone to take on a pro bono case is often the fear of the unknown. Providing appropriate training and materials for pro bono cases is imperative. Creating a portal page or some other type of repository that provides training materials, relevant statutes organized by topic, and names of people who have experience in a given area and are willing to provide guidance is particularly helpful. The pro bono chair and other members of the committee cannot always be available to respond to questions, and the portal allows for some immediate self-help measures for attorneys working on pro bono cases.

There are several other items that should appear in such a portal. A well-drafted pro bono engagement letter should be readily available so that everyone is using the same template that can be varied to some degree as appropriate. Translating the engagement letter into other languages can also be helpful. In order to assist attorneys in the screening process, provide a screening form that contains a chart showing the various income levels necessary for economic eligibility depending on how many dependents live with the client.

10. Recognize efforts on pro bono matters —and have fun.

Recognizing the efforts of those who do pro bono work is another important component of a successful program. We have an award that is given out at the firm's annual all-attorney meeting to honor an attorney who has shown particular dedication to pro bono endeavors. Past recipients include both partners and associates. In addition, each year we provide a small gift of gratitude to everyone who met their 50-hour goal.

Every month, we send an email update to everyone in the firm about our program, including stories about specific pro bono matters. We highlight even cases that we did not "win" because the efforts put forth in those instances are equally important and deserving of recognition. And we include the names of not just the attorneys who worked on the case, but also the names of the staff members who helped—without whom we could not have any chance of doing our job well.

These monthly updates include a friendly reminder about the pro bono goal, and to provide further motivation, a hyperlink to a list of all attorneys and their year-to-date number of pro bono hours. This allows everyone to know their own progress towards the goal (and everyone else's)—and keeps them accountable for the success of the program.

We also have what has been coined "The Goose Egg Club" for those attorneys who have not yet spent any time on pro bono work. More than once, partners—sometimes very senior partners—have approached the pro bono chair to say, "I don't want to be a Goose Egg. What can I do?" There is a fine line

between embarrassment and shame on the one hand and a healthy dose of positive peer pressure on the other. We hope to stay on the side of the latter, but if someone is going to be motivated to take on a pro bono case because they do not want to be a Goose Egg, we can live with that.

Overseeing a pro bono program has many challenges yet many more rewards. Lawyers can and do have a great impact on clients' lives. Thanks to the pro bono programs of law firms throughout this country, there are immigrants free from persecution, children in safe homes free of abuse, tenants who can remain in their homes, people that can enjoy civil rights that they were previously deprived of, and countless other stories that make us all proud to be lawyers.

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¹ <http://www.probonoinst.org/images/pdfs/what%20counts%202008.pdf>.

² AT&T has appealed the order and the case is currently before the Minnesota Court of Appeals.

³ Marschall I. Smith and Martin R. Lueck, *Successful Partnering Between Inside and Outside Counsel*, Chapter 37A, Pro Bono, April 2011.