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# The Voice

July 29, 2020

Volume 19, Issue 30

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## This Week's Feature



## For the Public Good: Conquering Apprehension Created by Pro Bono Fallacies

By Kelly E. Brilleaux and Brian G. Reaney II

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# For the Public Good: Conquering Apprehension Created by Pro Bono Fallacies

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Nearly all attorneys recognize the importance of pro bono legal services, but a much smaller number will ever provide them. This was the most important finding in the

American Bar Association's 2016 study, *Supporting Justice: A Fourth Report on the Pro Bono Work of America's Lawyers*. The study's results also suggest that attorneys fear that pro bono work will compete with their current practice in various ways. This article addresses some of those fears to show that while real, they are not insurmountable, and to encourage attorneys to provide pro bono legal services.

## Discussion

The American Bar Association (ABA) studied the pro bono work of American lawyers in 2016, aiming to “explore[] how the culture of volunteering has manifested in the legal profession.” ABA Standing Comm. on Pro Bono & Public Service, *Supporting Justice: A Fourth Report on the Pro Bono Work of America's Lawyers* (2018). The published results presented information on the pro bono services being provided and where needs exist and also provided outstanding insight on why attorneys do and do not provide them. While the stated reasons for not providing pro bono services are understandable, they can and should be overcome. One recurring theme among those reasons is the fear that it will compete with an attorney's current practice. As demonstrated below, that competition is minimal and preventable, and pro bono work can actually benefit the attorney providing them.

### ***Pro Bono Cases Require Less Time than You Think***

The ABA's study found that lack of time was the top discouraging factor for providing pro bono services. *Id.* at 20. Another factor cited by over half of the attorneys polled was competing billable hour expectations. *Id.* Many attorneys feel that with an already busy work schedule, and demanding billable hour requirements, there just isn't enough time for pro bono work. But pro bono services take much less time than an attorney would think, and with planning and preparation, that time can be found.

The ABA Model Rules of Professional Conduct provide that all attorneys should “aspire to render at least (50) hours of pro bono publico legal services per year.” Model Rules of Prof'l Conduct R. 6.1 (1980). Attorneys polled by the ABA provided an average of 36.9 hours per year. ABA, *Supporting Justice, supra*, at 7. Using those baselines, if an attorney worked 2,000 billable hours in a year, an additional 50 pro bono hours would be only 2.5 percent more hours, and 36.9 pro bono hours would be only 1.8 percent more. In each scenario, roughly 98 percent of that attorney's hours remain devoted to billable work, satisfying both the attorney's firm and clients. The best part is that the attorney would also be satisfying a new client in need of pro bono legal services. Yes, pro bono work does take more time, but not enough to be prohibitive.

### ***Pro Bono Services Will Not Require You to Compete Against Your Current Clients' Interests***

You may think that it's easiest to take a pro bono case in your primary practice area because you know the law and procedure well. However, this could present a number of conflicts. A former (or potentially future) client could be a defendant in that pro bono case that you've taken. Or maybe that pro bono case hinges on legal arguments that you must rebut in your usual practice. Competing against current or future clients is bad business, so taking pro bono cases in different practice areas may be best.

Fortunately, there are pro bono opportunities in many practice areas, and all attorneys can find one without conflicts. *Id.* at 13–14. However, other discouraging factors highlighted by the ABA's research were lack of necessary skills or experience, and attorneys feared taking cases in unfamiliar practice areas. *Id.* at 20. Luckily, most tasks performed for pro bono clients are the same as those that most attorneys perform every day, such as providing advice, reviewing and drafting documents, writing letters, and making court appearances. *Id.* at 13. Taking pro bono cases with relatively straightforward issues places emphasis on these common tasks and lessens the stress of learning new law. Additionally, pro bono referral programs can offer support, such as form pleadings, mentoring, and CLEs or other resources to inform attorneys on the law

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and practice area. *Id.* at 12. This assistance can help ease concerns that come with taking pro bono cases. Pro bono work could conflict with your current practice, but with some effort, when faced with new legal challenges, that can be conquered.

### ***Providing Pro Bono Services Can Enhance Your Current Practice***

Many understand that pro bono services greatly benefit those in need, but attorneys providing these services can also benefit greatly from the opportunities that may not otherwise be a regular part of their practice. Nearly two-thirds of attorneys polled by the ABA who performed pro bono work said that they were able to meet with and interview clients. *Id.* at 13. Another one-third said that they were afforded court appearances, and many others negotiated settlements. *Id.*

For young attorneys, especially in larger firms, pro bono cases can present unique and much-desired opportunities. Many young lawyers seek client contact, court appearances, and settlement negotiation, but that often won't be a reality until many years into practice. Pro bono cases could increase job satisfaction while also helping build the skills and trust needed to garner more authority in your practice. Pro bono cases even allow more experienced attorneys to refine their skills in lower-stakes settings. In the end, pro bono work benefits attorneys, their firms, and their clients.

## Conclusion

*Pro bono publico* translates from the Latin as “for the public good.” Attorneys are called to give of themselves and put the needs of another first. It is unquestionably a sacrifice, but the sacrifice is rarely as daunting as it seems. Thinking logically proves that the rewards can outweigh any challenge.

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