



Doing Well by Doing Good

Why and How One Big Law Firm Values Pro Bono

BY HEATHER CARSON PERKINS
AND CANDACE WHITAKER

Why would a big law firm incorporate pro bono legal services into its culture and practice? Foundationally, it is the right thing to do and makes our lawyers and our firm better. Moreover, large law firms across the country are united in believing that pro bono is fundamental to the practice of law. This article explores our perspective as part of Colorado's vibrant pro bono community.

The Widening Justice Gap

The access to justice gap is the difference be-

tween the civil legal needs of eligible low-income Americans and the capacity of legal aid organizations and other providers to meet those needs. Unfortunately, it is an ever-widening gap. In 2017, the Legal Services Corporation (LSC) reported that "[l]ow-income Americans receive inadequate or no professional help for 86% of the civil legal problems they face in a given year."¹ Almost one-half of that need, or 48%, is related to children and child custody issues.²

In Colorado alone, 880,000 Coloradans meet income eligibility guidelines for Colorado Legal Services (CLS), the state's primary legal

aid-provider. Yet CLS has just 47 lawyers in 14 offices throughout the state.³ Low-income Coloradans need legal help to address issues critical to their well-being, including family stability, safe and affordable housing, domestic violence, consumer protection, and access to government benefits. More people need help every day, including the newly poor, elderly retirees, veterans, the disabled, and other vulnerable populations.

Incorporating Pro Bono into Law Firm Culture

Lawyers have a distinct responsibility to ensure quality access to justice for underserved and vulnerable populations. In taking the Oath of Admission, each Colorado attorney swears to "use my knowledge of the law for the betterment of society and the improvement of the legal system; I will never reject, from any consideration personal to myself, the cause of the defenseless or oppressed."⁴ Additionally, Colorado ethical rules codify lawyers' responsibility to provide pro bono legal services to the poor.⁵ Our firm's leadership embraces support of our lawyers in doing so.

Low-income Coloradans need legal help to address issues critical to their well-being, including family stability, safe and affordable housing, domestic violence, consumer protection, and access to government benefits.

In addition, many law firms recognize that pro bono not only benefits the community, but also makes their attorneys and their firms better. They invest in pro bono programs because it helps their attorneys thrive, develop important legal skills, and get more satisfaction from their careers. Pro bono also promotes altruism within the firm, strengthens culture, and connects attorneys across offices. The stories below highlight just a few of the reasons why pro bono is a core value of our firm.

**Pro Bono Story 1:
Remembering the Forgotten**

During the Vietnam War, the U.S. Air Force used Fairchild UC-123 Provider (C-123) aircraft to disseminate Agent Orange (AO). The Air Force Reserve then began regularly assigning Air Force reservists to serve on C-123 aircraft

(C-123 Reservists) stateside. The Air Force, however, failed to decontaminate the C-123 aircraft or provide protective gear. As a result, many C-123 Reservists contracted AO-related illnesses, including terminal cancers. Because the C-123 Reservists were not exposed to AO while serving on Vietnamese soil, the Department of Veterans' Affairs (VA) denied benefits for their AO-related illnesses.

One of our clients was such a Reservist. The VA denied his application for benefits related to several medical conditions that the VA explicitly recognized as connected to AO exposure, including terminal prostate cancer and peripheral neuropathy, because the VA did not recognize his stateside exposure to AO as a compensable injury.

He began a lengthy and hard-fought campaign to secure regulatory change that would ensure benefits for C-123 Reservists related to

AO exposure. The VA finally amended its regulations to provide C-123 Reservists a presumption of AO exposure, but the new regulation only applied prospectively.⁶

Pro bono attorneys partnered with the National Veterans Legal Services Program to seek full benefits retroactive to 2011, the date of his original claim. On October 16, 2017, the Board of Veterans' Appeals granted his appeal, for the first time acknowledging that a C-123 Reservist's adverse reaction to AO exposure while on active duty for training constituted an independently compensable injury. Advocates will work to ensure consistent rulings on the behalf of similarly situated C-123 Reservists, whose numbers are estimated to be approximately 1,500 to 2,100.

This was a case of first impression with a unique legal theory. The matter was further complicated by the urgency of the client's

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terminal condition and his desire to see this through not only for himself, but also for others similarly placed. Team leader Dave Stark commented that his representation of veterans was “the most rewarding and satisfying” aspect of his career, adding that “these men and women have sacrificed so much for all of us, and we owe it to them to see that they receive the best representation our profession can offer.”

Although a special focus area, veterans aren’t the only abandoned populations being served by attorneys across the firm, and attorneys regularly express the deep satisfaction and pride they experience from representing these vulnerable populations pro bono.

Pro Bono Story 2:

Helping People Make Critical Decisions

In 2014, we began accepting referrals from

Children’s Hospital Colorado as part of a Medical-Legal Partnership (MLP). At its core, the MLP is intended to address a common reality: families with children who have chronic conditions and special health care needs, such as genetic disorders and developmental disabilities, often have underserved legal needs. To address this, pro bono attorneys help patients and their families resolve issues relating to public benefits (social security and social security disability appeals), housing, special education, and guardianship.

The cases from the MLP push attorneys to master new areas of law, often outside their normal practice areas. Joel Sayres, an intellectual property litigator and MLP team leader, represented a 13-year-old with autism, ADHD, tremors, and memory impairment to access the social security disability income benefits to

which he was entitled. After a contested hearing before an administrative law judge, the client’s full benefits were reinstated, and retroactive benefits were granted as well.

A primary focus of the MLP is a quarterly Guardianship Clinic at the hospital, where firm volunteers meet with families navigating the complex process of obtaining guardianship for a disabled loved one. In one such matter, Joel met with a mother at the clinic who was seeking guardianship for her 24-year-old daughter who had Down syndrome. The mother herself suffered from multiple sclerosis. Joel recounts:

At first the consult was like many others—discussing the various legal and procedural issues involved in obtaining the adult guardianship. However, it soon became apparent that this mother’s true concern was ensuring her daughter’s safety and

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well-being if she passed away, which she felt might not be far away. All she cared about was, *will my daughter be okay when I'm no longer there?* We covered a lot of ground, and she let me know that talking through the options was a tremendous relief. That meeting encapsulated the sort of families we meet at the clinic—tirelessly sacrificing in the face of enormous pain and an intimidating system, all for the selfless sake of their loved ones.

Problem solving is what lawyers do every day, but it can take on special meaning when interacting with clients who are feeling lost within an often unforgiving system. Through pro bono service, attorneys gain unique perspective when they help low-income families make crucial, life-changing decisions.

Pro Bono Story 3:
Advocating for the Voiceless

In 2000, we partnered with Denver Bar Association's Metro Volunteer Lawyers (MVL) to create the Denver Post-Decree Clinic. The clinic serves people with post-divorce issues, such as child support, parenting time, and spousal support. Denver District Court judges suggested its creation to address the most pressing need in the courthouse: post-divorce (or post-decree) cases. Pro bono attorneys at the clinic help needy clients while developing important skills, including client interviewing, listening and communication, drafting, negotiation, and litigation. Clients, the court, and the attorneys all benefit from this important pro bono program.

In one matter, our client had two children with her ex-husband, and they both shared custody and decision-making responsibilities. When the parents could not agree on the medical decisions for the child, and the father failed to attend appointments, the treating physician declined to make decisions without a parental agreement in place, essentially precluding the child from receiving care.

A first-year associate took the lead on this matter and filed a motion to modify the stipulation controlling the medical decision-making responsibilities. She prevailed at a hearing on the matter. Although a small case, it had all the components of a bigger litigation matter.

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Empowering these clients also empowers newer attorneys by boosting confidence and sharpening skills.

Creating a Successful Pro Bono Program

Firms of any size can have successful pro bono programs. However, there are fundamental components that all robust programs share. It begins with commitment by a firm to value service to the community and to embrace law as a profession with a unique responsibility to uphold the rule of law and to serve the dis-

advantaged. Out of that commitment grows program structure, goals, and strategies to achieve those goals.

National, regional, and state leadership programs set benchmarks for participating firms. For example, law firm signatories to the Pro Bono Institute's Law Firm Pro Bono Challenge commit to delivering an annual amount of pro bono legal service equal to at least 3% of the firm's total billable hours, with a majority of the hours dedicated to legal service for persons of limited means.⁷ In Colorado, we also have the Colorado Supreme Court Pro Bono Recognition program, which sets an aspirational goal of 50 hours of pro bono per lawyer per year.⁸

Program Structure and Support

Successful pro bono programs encourage and support attorneys, paralegals, and staff, inviting broad participation. Structure begins with a detailed written pro bono policy and procedures. Generally, policies address the fundamental aspects of the program, including income eligibility and other qualification factors, the definition of pro bono (as distinct from community service), and the billable hour credit that the firm will provide for pro bono. Sample policies and resources are available through a variety of resources.⁹

Law firm pro bono programs generally are overseen by either a dedicated individual (such as a pro bono counsel), a group of dedicated individuals (such as a firm-wide committee), or a combination of both. For example, our firm employs a unique combination of staffing that is commensurate with our commitment to pro bono. It includes a pro bono counsel and director, a dedicated professional staff, and a firm-wide pro bono advisory group comprising representative partners. The professional pro bono staff works together as a coordinated team, addressing the pro bono needs in each community where we have offices. The model operates by relieving day-to-day responsibility for pro bono management from individual lawyers and also allows us to plan and discharge a strategic vision.

Firms promote and encourage pro bono in a variety of ways. For example, many firms give billable-hours credit to attorneys and paralegals

for pro bono legal work and include pro bono matters in annual performance evaluations. Importantly, pro bono clients are served with the same commitment and quality of service as all other firm clients.

Broad versus Narrow Strategic Approach


Some big law firms take a narrow approach to their pro bono strategy, preferring to focus on discrete signature areas of practice or projects in which they develop an expertise. Firms may employ a resident expert to lead these cases or projects, and the specialty area may exist for years as the backbone of their program.

Other firms have adopted a more broad-based approach to pro bono, preferring to have a wide variety of pro bono opportunities that serve the needs of the community and appeal to a wide range of volunteers. Fortunately,

resources exist to help firms build and maintain strong pro bono programs.¹⁰

Once the strategic approach that best suits a law firm's culture is chosen, it is a continual process of assessment, adjustment, and fine-tuning. Law firms are not static, nor are the needs of the community and the nonprofits with which we partner. Professional pro bono staff or an advisory group/committee monitor trends and changes, and continually adjust the program to align the firm's program with internal and external developments and need.

Conclusion

Big law firms imbed pro bono into their culture and practice to benefit the community and the individual pro bono clients that they serve. A strong pro bono program also creates a stronger firm and better, happier lawyers. All law firms can achieve this objective, regardless of size. 



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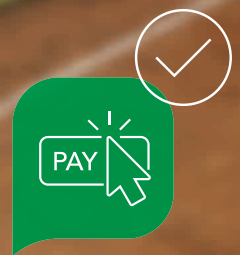
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3. Colorado Access to Justice Commission, "Justice Crisis in Colorado 2014: Report on Civil Legal Needs in Colorado" (2014), www.coloradojustice.org/portals/16/repository/ATJHearingFullReport.pdf.
4. Colorado Supreme Court, Colorado Attorney Oath of Admission, www.coloradosupremecourt.com/Current%20Lawyers/Oath.asp.
5. See Colo. RPC 6.1.
6. See 38 C.F.R. 3.307.
7. See Pro Bono Institute's Law Firm Pro Bono Challenge Initiative, www.probonoinst.org/projects/law-firm-pro-bono/law-firm-pro-bono-challenge.
8. See Colorado Supreme Court Pro Bono Legal Service Commitment Recognition Program RPC 6.1, www.courts.state.co.us/Courts/Supreme_Court/Pro_Bono.cfm.
9. See Colo. RPC 6.1.
10. See Pro Bono Institute, www.probonoinst.org. See also Association of Pro Bono Counsel, www.apbco.org.

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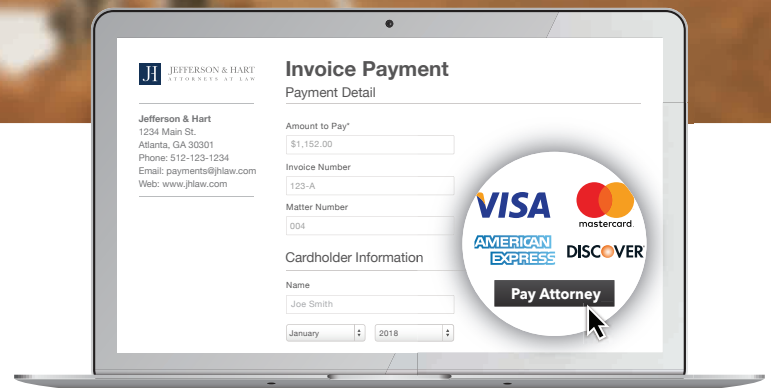
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