

Making the Case for *Pro Bono*

by Kaleia Edmundo

There are many competing interests for a lawyer's time, including client demands, professional obligations, and personal commitments. With a busy law practice it may not always be practicable or feasible to fit *pro bono* work into one's day. Many attorneys genuinely want to do *pro bono* work but are concerned about the time constraints in their already busy lives. Despite busy schedules, there are still many compelling reasons to integrate *pro bono* work into a law practice, as well as things to consider when deciding to do so.

The Need for New Jersey Attorney's to Handle *Pro Bono* Matters

First, one cannot ignore the overwhelming unmet needs of low-income individuals in need of legal help. According to 2012 Census data, 31.5 percent of New Jersey's population live below 250 percent of the federal poverty level, which is 2.7 million people. One-third of people living in actual poverty have a civil legal issue requiring the assistance of a lawyer, and less than one-sixth of those living in poverty actually get help.¹ Without access to legal help, many low-income people are left to navigate the judicial system on their own, which can be a daunting task for someone lacking the knowledge and ability to understand the court system. To an attorney, drafting pleadings is routine, while to a self-represented litigant, completing court forms can be daunting and can take weeks of effort to complete, if they can be completed at all.

Second, *pro se* litigants are unfamiliar with common legal practices and rules. To provide self-represented litigants with a better understanding of the court system and family law process, legal services offices coordinate regular legal clinics for the public (such as the office affiliated with this author).

Just one of the state's many *pro bono* service providers, Volunteer Lawyers for Justice (VLJ), runs monthly legal clinics in the areas of divorce and child support. Through these legal clinics volunteer attorneys provide limited-scope assistance to *pro se* litigants by explaining

the court process, helping prepare pleadings, and providing legal advice about their matters. In this author's experience, the most common barriers *pro se* litigants face include literacy issues, comprehension issues for non-native English speakers, disabilities that impact litigants' abilities to prepare their cases, limited education levels, or fear and misconceptions about seeking help. Without legal assistance, many litigants are unable to pursue their legal matters at all, and others with grounds for relief do such a poor job identifying their position to the court that their otherwise valid claims are nonetheless dismissed. Attorney involvement at any stage in a family law case can make a significant impact in resolving the litigant's legal matter.

The Benefits of *Pro Bono* Work

To illustrate the impact an attorney can make when doing *pro bono* legal work, consider Maria's case. Maria was an elderly cancer survivor who was separated from her husband for over 25 years. However, due to her cancer treatments, she was greatly weakened and struggled to fill out the divorce pleadings on her own. By the time she came to the VLJ Divorce Program, she had given up hope of ever getting divorced—as her previous divorce filings were dismissed by the court for administrative reasons. With volunteer help, a new divorce complaint was filed, a filing fee waiver was obtained, and she received guidance on how to properly serve her spouse. Maria obtained her divorce in less than six months and was ecstatic to move on with her life and concentrate on her recovery. While the volunteers who helped Maria considered their assistance to be minor, their help made a major impact on her life.

But there is more to *pro bono* work than just personal fulfillment. In New Jersey, all attorneys licensed in the state have an obligation to do *pro bono* work on a regular basis. Pursuant to New Jersey's Rules of Professional Conduct, specifically R.P.C. 6.1, every lawyer has a professional responsibility to render public interest legal

service. This responsibility can be satisfied by providing *pro bono* legal services to any court-certified program pursuant to R. 1:21-12, which states:

Every lawyer has a professional responsibility to render public interest legal service. A lawyer may discharge this responsibility: by providing professional services at no fee or a reduced fee to persons of limited means or to public service or charitable groups or organizations, by service in activities for improving the law, the legal system or the legal profession, and by financial support for organizations that provide legal services to persons of limited means.

Under *Madden v. Delran*, lawyers in New Jersey are subject to court-mandated *pro bono* service.² Pursuant to a New Jersey Supreme Court directive, the mandatory *pro bono* cases fall into three common case types: 1) providing representation to those accused of violating domestic violence restraining orders, 2) providing representation to people with municipal appeal issues (typically criminal matters), and 3) providing representation to parolees facing parole revocation. *Madden* appointments are made at the pleasure of the court.

When an attorney is assigned a *Madden* case he or she is given little substantive law training. The court does not provide mentors, malpractice coverage, or consider the demands of an attorney's schedule when assigning a *pro bono* case. However, if an attorney provided 25 hours of *pro bono* service through a court-approved provider, he or she can be exempted from *Madden* assignments.³ The providers on this list coordinate *pro bono* programs in various areas of law, and they typically provide more flexible time commitments than mandatory assignments. When choosing a *pro bono* program, ask what benefits they can provide to volunteers. Also, choosing a *pro bono* experience according to one's schedule and interests is far better than having a *Madden* assignment imposed.

Finally, by doing *pro bono* work, volunteer attorneys help improve the perception of attorneys in the community. *Pro bono* work is looked upon favorably in the legal community by colleagues and current and potential clients. It is clear that the Judiciary is supportive of *pro bono* work, evidenced by Chief Justice Stuart Rabner's recent positive endorsement, stating "[p]ro bono work is in keeping with the noblest traditions of the legal profession. Pro bono work is not just a helpful supplement to the legal system, it's vital to the delivery of justice in our state and in our nation."⁴

Things to Consider Before Deciding to Do Pro Bono Work

When choosing a *pro bono* experience, it is important to choose the *pro bono* provider wisely. An attorney's time is precious and *pro bono* time is even more valuable to the people the attorney helps. When looking for a *pro bono* organization, there are a few things to look for to make sure it is a good fit for the volunteer attorney. The author recommends finding a provider that: 1) is court-approved, so the attorney is exempt from *Madden* assignments the next year after completing 25 hours in a calendar year; 2) provides interesting legal issues; 3) offers multiple volunteer opportunities, including the ability to provide limited-scope legal services or to provide full representation; 4) provides continuing legal education and training for volunteers; 5) offers malpractice insurance; and 6) offers hands-on support for volunteers, including co-counseling and/or ongoing mentoring.

Pro bono work is not only a professional obligation, but also provides one an opportunity to develop professionally. *Pro bono* work gives attorneys the opportunity to pursue their passions, hone legal skills, and give back to the community, all at the same time. It also allows for networking with colleagues, the chance to improve the lives of others, and the opportunity to advance the perception of the legal profession overall. ■

Kaleia Edmundo is a staff attorney at Volunteer Lawyers for Justice (VLJ).

Endnotes

1. Legal Services of New Jersey, Poverty Research Institute, Sept. 2014.
2. *Madden v. Delran*, 126 N.J. 591 (1992).
3. The list of court-approved providers can be found at <http://www.judiciary.state.nj.us/probono/>.
4. In the Matter of Opinion No. 17-2012 of the Advisory Committee on Professional Ethics.