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**ABA**  
**AMERICAN BAR ASSOCIATION**  
**General Practice,  
Solo & Small Firm  
Division**

**Practicing for the Public Good**

**Friday, October 16, 2009  
1:30 p.m. - 2:30 p.m.**

**2009 Fall Meeting and  
National Solo and Small Firm Conference  
October 16 - 17, 2009  
Millennium Biltmore Hotel  
Los Angeles, CA**

*2009 National Solo and Small Firm Conference*  
*Friday, October 16, 2009*

**Practicing for the Public Good**

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Solo and Small Firm Practitioners are ideally suited to serve the needs of underrepresented or disadvantaged people or causes. Whether the primary mission of the firm is to make money or to advance a particular cause, there are a number of ways in which solo and small firm practitioners serve their communities. This workshop will highlight several models, including a standard private firm with a formal commitment to pro bono service; a private public interest law firm whose primary mission is to assist underrepresented people or causes; a non-profit law firm funded by donors and staffed by law firm attorneys and volunteers; and an independent volunteer program. Panelists will discuss how each model benefits the lawyer, the firm, and the community.



**Pamela H. Feinstein** is the Statewide Coordinator of Pro Bono Support for the State of Washington. In that capacity, she provides resources, training and other support to the staff of the nineteen independent volunteer attorney legal aid programs throughout the state. Prior to that position, she was the Executive Director of Eastside Legal Assistance Program, a stand-alone volunteer attorney program in Bellevue, Washington, from 1991 through 2007.

Appointed by the Washington State Supreme Court, Ms Feinstein spent six years as a member of the Washington State Access to Justice Board and in 2003, the Board presented Ms. Feinstein with its first Access to Justice Leadership Award. She has served on numerous statewide ATJ Board committees, including the 2005 ATJ State Plan Committee and, most recently, the ATJ Standards Committee. Since 1999, Ms Feinstein has been a trainer for the ABA Center for Pro Bono's "Pro Bono Managers—Nuts & Bolts" training at the Equal Justice Conference, and is a peer consultant for the Center. She has been a workshop presenter on a variety of topics related to the provision of civil legal aid through the use of volunteer attorneys.

Ms Feinstein earned her J.D. in 1973 from the University of Kansas School of Law, and her B.A. in Political Science in 1971 from the University of Kansas. She has been admitted to the bars of Washington and Kansas.



**David Lash** is a counsel in the O'Melveny's Los Angeles and Century City offices and a member of the Business Trial and Litigation Practice. He also serves as Managing Counsel of the Firm's public interest and *pro bono* services.

David's experience includes representing and counseling clients on a wide range of issues relating to complex business litigation, including trial and appellate representation, real estate matters, corporate governance, board relations, labor and employment, and all areas of public policy and community relations. His background includes extensive experience in real estate litigation matters, including environmental and CEQA litigation on behalf of regional real estate developers. He manages the nationwide *pro bono* program and oversees its substantive and administrative growth.

Prior to joining O'Melveny, David was Executive Director of Bet Tzedek, one of the largest and most successful non-profit legal services agencies in the United States.



**Steve Nissen** is Vice President of Legal & Government Affairs at NBC Universal. In that capacity, he is primarily responsible for developing and coordinating a comprehensive nationwide state and local government agenda, including anti-piracy, intellectual property protection, tax, digital, broadcast, film production and government compliance. Mr. Nissen also serves on NBCU's Los Angeles Community Affairs Council. In addition to his responsibilities at NBC Universal, Mr. Nissen is a member of the Board of the Los Angeles Chamber of Commerce, as well as the Executive

Committees of the Los Angeles Police Foundation, Los Angeles Biomedical Research Institute, Central City Association and Valley Industry & Commerce Association (VICA).

Prior to joining NBC Universal, Mr. Nissen was a partner in the national law firm of Manatt, Phelps & Phillips from 2002 to 2008, representing a wide range of clients, from Fortune 500 companies to nonprofit entities. His practice focused on litigation, land use, nonprofit governance, government affairs, and administrative law work. Mr. Nissen's most recent tenure at the Manatt law firm was his second stint at the firm, having also practiced law as a partner there in the 1980's.

Prior to re-joining Manatt in 2002, Mr. Nissen worked in the Office of the Governor of California. He served as the Governor's Interim Staff Director, as Director of the Governor's Office of Planning and Research, and as Senior Special Assistant for Innovation in Government. In those capacities, he oversaw statewide initiatives involving technology, land use, government efficiency and environmental matters, and organized the Governor's Summit on Philanthropy. In addition, Mr. Nissen chaired the Energy Reliability Task Force and the e-Government Task Force, and served as the Governor's liaison to the Blue Ribbon Panel on Hate Groups, chaired by former Secretary of State Warren Christopher and former California Governor George Deukmajian.

Before joining the Governor's staff, Mr. Nissen was Executive Director of the State Bar of California, taking charge in the midst of a political crisis which arose when the Bar lost its legislative funding. He worked closely with then Governor Pete Wilson's office, the California Legislature and the state Supreme Court to restore funding, while at the same time streamlining the Bar to make it more efficient and effective for the state's consumers of legal services. Prior to his position at the State Bar, Mr. Nissen was Executive Director of Public Counsel Law Center, which he built into the largest pro bono law firm in the United States, and for which he was often recognized, including being honored as Southern California's Professional in Philanthropy, as well as by the American Bar Association and the State Bar of California. Under his leadership, Public Counsel built a staff of over 40 and a cadre of 10,000 volunteer attorneys providing more than \$200 million worth of legal services to disadvantaged children, the elderly, low-income families, and nonprofit organizations. Nissen currently serves as co-chair of the California State Bar Legal Services Trust Fund Commission and a member of the ABA Standing Committee on Pro Bono and Public Service.



**Anne Richardson** is a partner at Hadsell Stormer Keeny Richardson & Renick, a private civil rights law firm located in Pasadena. Ms. Richardson specializes in all aspects of complex employment and civil rights cases, including international human rights law, consumer and employee class actions, whistleblower litigation, discrimination and harassment. In 2008, she was named one of the Top 50 Women Litigators in Southern California, and has been named a SuperLawyer every year since 2004. She has been listed in The Best Lawyers in America since 2003, and is a Charter Fellow of the Litigation

Counsel of America. She was honored as a California Attorney Lawyer of the Year for her work on the *Doe v. Unocal* case involving international human rights, and received the Pro Bono Award from the ACLU of Southern California.

Ms. Richardson attended Stanford Law School, where she graduated in 1989 with distinction. She received her B.A. from Swarthmore College. She has taught as an Adjunct Professor at Loyola Law School and Whittier Law School, teaching Civil Rights Litigation and Appellate Advocacy. She is the author of several chapters and articles regarding employment discrimination law. Ms. Richardson is currently a Board Member of the ACLU of Southern California and a member of the California Employment Lawyers Association, the National Employment Lawyers Association, California Women Lawyers, and the National Lawyers Guild. A frequent speaker before state and national legal organizations, she was profiled by the California Daily Journal in 1998 and has received an AAV@ rating from Martindale Hubbell.

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**Hernán Vera** is a 1994 graduate of UCLA School of Law, and received his B.A., with Distinction, from Stanford University in 1991. Prior to becoming Public Counsel's President and CEO in March 2008, Hernán was the Directing Attorney of Public Counsel's Consumer Law Project since 2002. Hernán spent six years as a litigator at O'Melveny & Myers LLP in Los Angeles and clerked for the Honorable Consuelo B. Marshall in the United States District Court, Central District.

As Directing Attorney of the Consumer Law Project, Hernán significantly increased the number of major cases filed by the Project, by *pro bono* counsel, and through co-counseling relationships with other civil rights organizations. In 2003, working in coalition with the Asian Pacific American Legal Center, Hernán successfully initiated and settled a large fraud action against a Toyota dealership on behalf of twelve Mandarin-speaking clients. The attendant publicity and settlement of this lawsuit served as the catalyst for legislation (the "Wondries Bill") that expanded the scope of consumer protections in California for limited-English proficient communities. That same year, Hernán co-chaired a successful 10-day jury trial against a South Los Angeles slumlord and played a prominent role in the coalition of legal and grassroots activists that pushed through the passage of Los Angeles' Anti-Predatory Lending Ordinance. In 2006, Hernán co-counseled with Jones Day in obtaining a \$2.5 million judgment against two con artists who swindled a 93-year-old client out of his home. More recently, Hernán has been instrumental in litigating and settling the nationally-publicized "homeless dumping" case against Kaiser Permanente.

Through his work at Public Counsel, Hernán has quickly become a widely-known expert in consumer law. Hernán makes frequent media appearances on issues facing low-income communities and is regularly asked to consult on potential legislation. In 2004, Hernán was named by the *Daily Journal* as one of California's Top 20 lawyers under the age of 40.

Hernán's long-time commitment to social justice and serving the poor through *pro bono* has helped him to forge strong and extensive connections to the Los Angeles legal community. By supervising and managing a heavy docket of *pro bono* cases, Hernán has worked with countless partners and associates at dozens of major law firms and legal nonprofits. Hernán has served on the Board of the Los Angeles Center for Law and Justice, and currently serves as one of the Vice-Chairs of the Board of the California Reinvestment Coalition.

Hernán is married to Julie Su, the Litigation Director at the Asian Pacific American Legal Center. They have two daughters, ages 7 and 5.

## **Topical Outline:**

### **I. ABA Report and Resolution No. 121A – *Supporting and Promoting Pro Bono in Law Practice Settings***

- a. Urges solo and small firm attorneys, larger law firms, corporate law departments and government and military law offices to encourage their lawyers, partners as well as associates, to service their communities through pro bono and public service activities consistent with applicable rules of professional conduct and adopts Pro Bono Policies and Procedures, to provide their lawyers with opportunities to do pro bono work and to adopt specific internal policies and procedures to support such work.
- b. Report indicates that a key to increasing the pro bono participation of small firm lawyers is to develop partnerships with bar associations and legal services providers that can provide them with the resources and support they lack, from pro bono referrals to client screening, training, mentoring, malpractice insurance, forms and materials and other kinds of assistance.
- c. Report urges both solo and small firm practitioners, and bar associations and legal services programs, to enter into such partnerships.

### **II. ABA Standing Committee on Pro Bono and Public Service and ABA General Practice Solo and Small Firm Division White Paper Report**

- a. Informal online survey of ABA GPSolo Section members
- b. Goal of survey was to learn more about respondents' participation in pro bono and community service, including motivating factors and challenges to participation.

### **III. Key Survey Findings**

- a. Top Motivators
  - i. Professional responsibility
  - ii. Personal satisfaction
  - iii. Civic responsibility
  - iv. Opportunity to enhance legal skills
  - v. Professional benefits such as contacts and referrals.
- b. Top Barriers
  - i. Lack of time
  - ii. Commitment to family obligations
  - iii. Lack of skills or experience in the practice areas needed by pro bono clients
  - iv. Lack of administrative support or resources.
- c. Top Incentives
  - i. Allowing the attorney to take on a discrete legal task as opposed to a full representation of the client

- ii. Providing free malpractice insurance coverage related to the pro bono work performed
- iii. Providing free training and CLE credit for pro bono
- iv. Offering a full range of volunteer opportunities

**IV. What motivates small firms or sole practitioners to do pro bono work?**

- a. Personal satisfaction
- b. Networking
- c. Recognition
- d. CLE
- e. Gain skills to get own clients (vs. big firm: gain procedural skills to advance in firm)
- f. Learn substantive law that they will apply in their own practices (vs. big firms: procedural skills more important)
- g. Qualifying for an LRIS panel
- h. Gain experience to help get them a job
- i. Connections to facilitate job search, advancement
- j. Find a mentor to help develop skills and learn way around
- k. Loneliness of solo practice – folks to talk about cases with
- l. Social

**V. What hurdles are perceived for/by solo and small firm attorneys in doing pro bono?**

- a. Lack of time
- b. Lack of expertise
- c. Lack of skills or experience in practice areas needed by pro bono clients
- d. Lack of training and administrative support
- e. Lack of malpractice coverage

**VI. How can a legal services or established pro bono program increase private attorney involvement?**

- a. Recognition – nominations for awards, certificates, internal awards, chachkes, letters of appreciation from officials and judiciary
- b. Training
- c. Resources (mentors; forms; manuals)
- d. Orientations
- e. CLE programs
- f. Malpractice coverage
- g. Variety of opportunities (e.g.; intake interviews, assist with mediation, full-blown litigation, etc.)
- h. Partnerships

**VII. What can a pro bono program offer new lawyers to encourage participation?**

- a. Recognition
- b. Training/experience
- c. Resources
- d. Networking opportunities

**VIII. What are some solutions/ responses to perceived barriers to doing pro bono work or more pro bono work?**

- a. Develop mentoring relationships between the volunteer and an experienced attorney in the field

- b. For larger or more complex cases, team together attorney volunteers (perhaps 1 solo and 1 big firm attorney with resources)
- c. Conduct periodic training sessions (free CLE) to review basics and create resource website or library based upon information in those programs - accessible for free to members
- d. Team up on first case with experienced volunteer
- e. Develop forms data base and research data base volunteers can access
- f. Develop a listserv for volunteers to post and answer questions about cases
- g. Provide office meeting space at pro bono provider office for attorney to meet with client (many solos work from their homes and day-lease office space to meet with clients)
- h. Preferential status on court calendars
- i. Limited Representation (Clinics)
- j. Unbundling Rules

**IX. What about lawyers who don't want to go to court?**

- a. Look for discreet transactional projects assisting either nonprofits that help underserved populations or microentrepreneurs who either:
  - i. qualify under the pro bono needs assessment
  - ii. are developing a needed business in a distressed area, i.e.,
    - 1. help negotiate a lease
    - 2. form a 501(c)(3)
    - 3. review an employment manual
- b. Coordinate general counsel relationships for an individual to work for a small non-profit that helps underserved populations

**X. How to reach solo/ small firms?**

- a. Local legal paper and periodicals
- b. Swearing in ceremony
- c. State bar information
- d. Mailing to recent admittees
- e. Web- probono.net
- f. Word of mouth
- g. Judicial outreach
  - i. Letter
  - ii. In a speech
- h. Good press – “volunteer of the month” articles
- i. Local and state bar sections and committees
- j. Membership in various organizations
- k. Presentations to various groups

**Notes:**

**Bibliography & Website Links:**

1. *Supporting Justice II: A Report on the Pro Bono Work of America's Lawyers*, The ABA Standing Committee on Pro Bono and Public Service (February 2009). See: <http://www.abanet.org/legalservices/probono/report2.pdf>.
2. ABA Report and Resolution No. 121A – Supporting and Promoting Pro Bono in Law Practice Settings, See: <http://www.abanet.org/leadership/2006/annual/dailyjournal/hundredtwentyonea.doc>
3. ABA Center for Pro Bono, [www.abaprobono.org](http://www.abaprobono.org)
4. ABA General Practice Solo and Small Firm Division, <http://www.abanet.org/genpractice/home.html>

## An Inside Look at Solo and Small Firm Attorney Pro Bono

by Melanie Kushnir, Assistant Staff Counsel, ABA Center for Pro Bono

This article was reprinted in Solo, Vol. 14, No. 3 (Spring 2008).

While small firm and solo lawyers agree on the need for pro bono legal services, many say the demands of time and a lack of resources make it difficult, if not impossible, for them to contribute.

At the 2006 Annual Meeting, the ABA House of Delegates adopted Resolutions 121A<sup>1</sup> and 105<sup>2</sup> which, in part, urge solo and small firm lawyers to perform pro bono and community service (respectively). The Resolutions identify common barriers lawyers confront in performing pro bono and public service activities and urge adoption of policies and procedures that would aid in overcoming these barriers.

As a follow-up to the Resolutions, the ABA Standing Committee on Pro Bono and Public Service and the General Practice Solo and Small Firm Division (GPSSFD) developed an informal online survey of solo and small firm attorneys. The goal of the survey was to learn more about respondents' participation in pro bono and community service, including motivating factors and challenges to participation.

### Survey Findings

The survey used the ABA's Model Rule 6.1 as the basic foundation for the questions about pro bono.<sup>3</sup> The results confirmed that solo and small firms are deeply involved in their local communities. Respondents indicated that, within the 12 months prior to taking the survey:

- 74% provided pro bono services to persons of limited means or organizations that address the needs of the poor.
- 56% provided pro bono services to groups or

individuals by substantially reducing their fees.

- 53% provided pro bono services to groups or individuals seeking to secure or protect civil rights, civil liberties or public rights.
- 63% participated in activities for improving the legal system or legal profession.
- 80% provided non-law related community service activities.

In addition, respondents who reported providing some level of pro bono and/or community service activities contributed on average 77 hours and 65 hours (respectively) of service within 12 months prior to taking the survey.

Respondents who reported having performed pro bono service were also asked from what referral sources these matters derived. The most common sources of referral were a legal services or pro bono program or a family or friend to whom they provided services. The third-most cited source was "other." Comments indicated that these frequently came from court appointments, former clients, and various non-profits.

The primary reasons given for participation in pro bono and community service were a sense of professional responsibility, personal satisfaction, civic responsibility, the opportunity to enhance legal skills, and professional benefits such as contacts and referrals. Others indicated being motivated by an issue that has impacted their life or that of a loved one or an issue to which they are personally committed.

Factors that were not significant motivators included:

1) employer encouragement and policies; 2) encouragement of law firm clients; and 3) awards or professional and judicial recognition.

Reasons mentioned for not participating were: 1) a lack of time; 2) a commitment to family obligations; 3) a lack of skills or experience in the practice areas needed by pro bono clients; and 4) a lack of administrative support or resources.

The survey also presented respondents with a series of factors and asked the respondents to rate how strongly they agreed the factor would encourage or facilitate pro bono and community service work. While no factor emerged as the single factor that would drive solo and small firm attorneys to conduct more pro bono work, the findings did provide some insight as to what would motivate them. The top motivators cited were:

- Allowing the attorney to take on a discrete legal task as opposed to a full representation of the client
- Providing free malpractice insurance coverage related to the pro bono work performed
- Providing free training and CLE credit for pro bono
- Offering a full range of volunteer opportunities

The factors that would most encourage non-law related community service are: 1) a wide range of volunteer opportunities; 2) the opportunity to partner with other organizations on signature projects; and 3) a direct request from a colleague.

Based on this information, it becomes important to ask what the ABA, bar associations, legal service providers, and volunteers

(continued on page 12)

## Solo and Small Firm

(continued from page 8)

can do to increase pro bono attorney involvement of solo and small firm practitioners.

### Foster Pro Bono Ethic of Service

This survey demonstrates that a large number of solo and small firm lawyers have a profound sense of responsibility to perform pro bono and community service activities and that they gain personal satisfaction from doing so. While awards, CLE credit and other inducements may encourage some participation, it is even more important that the ABA, law schools, and the legal community foster a sense of professional responsibility to volunteer.

### Communicate Availability of Support

Survey responses identified a number of obstacles unique to solo and small firm practitioners who lack the administrative support and resources of a larger firm.

Pro bono and legal service organizations commonly provide free training sessions and some states provide CLE credit for services performed. In addition, most offer malpractice coverage, reliable pre-screening of client financial eligibility, mentoring and co-counseling programs, and opportunities to partner with larger firms on complex cases. Programs that offer these services must communicate more effectively

the availability of these services for cases that they refer.

### Offer a Breadth of Opportunities

Legal service and pro bono programs should offer a wide range of volunteer opportunities including those that enable attorneys to perform discrete legal tasks such as initial consultation or limited representation. Transactional lawyers, who don't want to go to court, can perform discreet transactional projects assisting either nonprofits that help underserved populations or micro entrepreneurs who qualify for service or who are developing a needed business in a distressed area. Similarly, programs can coordinate general counsel relationships for an individual to work for a small non-profit that helps underserved populations.

### Sign-up!

Individuals wishing to volunteer can find pro bono opportunities within their communities by searching the National Pro Bono Opportunities Guide at [www.volunteerforprobono.org](http://www.volunteerforprobono.org). The guide indexes links to organizations and web sites that list pro bono opportunities in each state and provides information on available support services.

### Increase Awareness and Recognition

The ABA, legal service programs, and their volunteers are poised to develop educational and public awareness materials to promote pro bono service. Lawyers in small firm settings

can support these efforts by participating in bar association initiatives such as programs discussing best practices for encouraging pro bono and public service, recognizing lawyers' participation through public service awards and highlighting achievements in various print and electronic publications.

While the survey's quantitative results did not indicate that bar association recognition was a strong motivator for pro bono service, many respondents focused on this in their comments. As one respondent indicated, "The ABA and other organizations should give greater recognition to the contributions of solo practitioners who devote substantial amounts of time to pro bono... Too often, large law firms and corporate law departments both of which have substantial resources are given recognition for their pro bono work to the exclusion of solo practitioners who go unmentioned."

If you are a solo or small firm practitioner and have suggestions related to this article or are interested in learning more, contact the ABA Center for Pro Bono Assistant Staff Counsel, Melanie Kushnir at [kushnim@staff.abanet.org](mailto:kushnim@staff.abanet.org).

### Endnotes

- <sup>1</sup> <http://www.abanet.org/leadership/2006/annual/dailyjournal/hundredtwentyonea.doc>
- <sup>2</sup> [http://www.abanet.org/renaissance/downloads/2006MY\\_105.pdf](http://www.abanet.org/renaissance/downloads/2006MY_105.pdf)
- <sup>3</sup> <http://www.abanet.org/legalservices/probono/rule61.html>

## Publico Award

(continued from page 11)

urged to continue pro bono work for the firm and Weil partners with its corporate clients on several pro bono projects.

Over the past two years, the

firm has received upwards of 20 different awards from programs around the country for its laudable pro bono work. These include the Pro Bono Institute Pickering Award, the Lawyers' Committee for Civil Rights Under Law Advocate for Justice Award and the Law Technology

News Award for Most Innovative Use of Technology for a Pro Bono Project.

The recipients of the 2009 ABA Pro Bono Publico Award were honored on August 3, 2009 at the Pro Bono Publico Awards Assembly Luncheon during the ABA Annual Meeting in Chicago.

## MEMORANDUM

To: General Practice, Solo and Small Firm Division Council

From: Bruce Hopson, Chair of the GPSSD Public Service Committee; Kathleen Hopkins, Member of the Standing Committee on Pro Bono and Public Service; Melanie Kushnir, Assistant Staff Counsel, Center for Pro Bono

Date: August 11, 2007

Re: Report on the Pro Bono and Non-Law Related Community Service of Solo and Small Firm Practitioners

In response to the recommendations of the Commission on the Renaissance of Idealism in the Legal Profession, the ABA Committee on Pro Bono and Public Service, in collaboration with the ABA General Practice Solo and Small Firm Division Public Service Committee, conducted a survey on pro bono and public service participation. Based upon the results of the survey, the Committee developed an action plan to assist solo and small firm attorneys fulfill their professional responsibility to provide pro bono and public service.

The Standing Committee has approved this Report and agreed to implement the applicable portions and to assist the Division in fulfilling those portions applicable to its members and activities.

We request that the council review the report, approve the plan and authorize the Public Service Committee to work with the ABA Standing Committee on Pro Bono and Public Service and its project, the ABA Center for Pro Bono, to implement the plan.

# Report on the Pro Bono and Non-Law Related Community Service of Solo and Small Firm Practitioners

## Table of Contents

I.	Background	Page:	1
II.	Methodology	Page:	1
III.	Respondents	Page:	2
IV.	ABA Definition of Pro Bono Used for this Survey	Page:	2
V.	Key Findings of the Survey	Pages:	3-8
VI.	Imperatives and Recommendations	Pages:	8-11

### **Appendices**

Appendix A:	Survey Monkey PDF Summary	Pages:	12-20
Appendix B:	Question #8: For the pro bono matters you performed in the past 12 months, from where /who did the pro bono matters come from? (check all that apply)	Pages:	21-22
Appendix C:	Question # 9: Thinking about the pro bono work that you performed in the past 12 months, which of the following factors strongly influenced you to provide pro bono services?	Page:	23
Appendix D:	Question #12: Please provide any other suggestions that would increase the level of pro bono work provided by solo and small firm lawyers.	Pages:	24-26
Appendix E:	Question #13: In the past 12 months, did you provide any non-law related community service?	Pages:	27-29
Appendix F:	Question #14: Thinking about the non-law related community service work that you performed in the past 12 months, which of the following factors strongly influenced you to provide these services?	Page:	30
Appendix G:	Question #17: Please provide any other suggestions that would increase the level of community service work provided by solo and small firm lawyers.	Page:	31
Appendix H:	Question #18: Is there anything else you would like to add?	Pages:	32-34

## **I. Background:**

In March and April 2007, the American Bar Association Standing Committee on Pro Bono and Public Service (“Pro Bono Committee”), in collaboration with the Public Service Committee of the ABA General Practice Solo and Small Firm Division (GPSSFD), conducted a survey of the GPSSFD’s membership concerning their participation in law-related pro bono service and non-law related community service activities and the factors that may influence their involvement.

The information was sought in response to ABA House of Delegates Resolution 121A<sup>1</sup> and 105<sup>2</sup> which encourage lawyers to perform pro bono and community service (respectively). The Report accompanying these Resolutions identifies common barriers lawyers confront in performing pro bono and public service activities and urges the adoption of policies and procedures that would aid in overcoming those barriers.

In August 2005, the ABA Pro Bono Committee released *Supporting Justice: A Report on the Pro Bono Work of America’s Lawyers*<sup>3</sup>, the first national research survey and report on lawyers’ pro bono activity. In order to obtain further analysis specific to solo and small firm practitioners, the ABA Pro Bono Committee and GPSSFD Public Service Committee created this survey to achieve the following:

- Obtain information on the pro bono and non-law related community service activities of solo and small firm practitioners
- Develop an understanding of the factors motivating and discouraging solo and small firm practitioners to perform pro bono and non-law related community service.
- Identify effective strategies to provide solo and small firm lawyers with opportunities to do pro bono and non-law related community service work.

## **II. Methodology:**

This survey was conducted using the online survey tool SurveyMonkey. The sample included members of the GPSSFD, a membership base of approximately 28,000 lawyers. In all, there were 170 lawyer respondents.

GPSSFD members were solicited via the Division’s March and April 2007 monthly e-newsletter, *The Buzz*. All Division members receive the newsletter unless they choose not to. In addition, the GPSSFD Chair, John P. Macy sent an email encouraging Division leadership (approximately 200 lawyers) to complete the survey in a March 2007 email.

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<sup>1</sup> <http://www.abanet.org/leadership/2006/annual/dailyjournal/hundredtwentyonea.doc>

<sup>2</sup> [http://www.abanet.org/renaissance/downloads/2006MY\\_105.pdf](http://www.abanet.org/renaissance/downloads/2006MY_105.pdf)

<sup>3</sup> <http://www.abanet.org/legalservices/probono/report.pdf>

### **III. Respondents**

Most of the respondents (70.6 %) were solo practitioners. Another 18.8% were in a law firm of 2 – 5 lawyers and 7.6% were in a firm of 6 - 15 lawyers. The remaining respondents (2.9%) were in law firms of 16 or more lawyers.

The majority of respondents described their particular area of practice as specialty (52%) while 48% characterized their practice as “general.”

Respondents classified their office location as urban (42.7%), suburban (39.8%), or rural (17.5%).

### **IV. ABA Definition of Pro Bono Used for this Survey**

The survey used the ABA’s Model Rule 6.1 as the basic foundation for the questions about pro bono. Model Rule 6.1 states:

“A lawyer should aspire to render at least 50 hours of pro bono publico legal services per year. In fulfilling this responsibility, the lawyer should:

- (a) provide a substantial majority of the 50 hours of legal services without fee or expectation of fee to:
  - (1) persons of limited means or
  - (2) charitable, religious, civic, community, governmental and educational organizations in matters which are designed primarily to address the needs of persons of limited means; and
- (b) provide any additional services through:
  - (1) delivery of legal services at no fee or substantially reduced fee to individuals, groups or organizations seeking to secure or protect civil rights, civil liberties or public rights, or charitable, religious, civic, community, governmental and educational organizations in matters in furtherance of their organizational purposes, where the payment of standard legal fees would significantly deplete the organization's economic resources or would be otherwise inappropriate;
  - (2) delivery of legal services at a substantially reduced fee to persons of limited means; or
  - (3) participation in activities for improving the law, the legal system or the legal profession.

In addition, a lawyer should voluntarily contribute financial support to organizations that provide legal services to persons of limited means.”

## V. Key Findings of the Survey:

### Incidence of Providing Pro Bono and Non-Law Related Community Service Work

Most of the respondents indicated that they provided some work (i.e., at least an hour) meeting at least one of the elements of the ABA definition of pro bono. During the twelve-month period in question, the vast majority (73.9%) indicated that they provided free legal services to people of limited means or organizations that address the needs of the poor with no expectation of being paid for their services.

Although less common than providing free pro bono work, over a majority of respondents (56.2%) indicated that they provided pro bono work by substantially reducing their fees. In addition, over a majority of respondents (52.8%) indicated that they provided legal services with no expectation of a fee or at substantially reduced fee to groups or individuals seeking to secure or protect civil rights, civil liberties or public rights, or charitable, civic, education or other non-profit organizations.

Almost two-thirds (63.4%) of respondents indicated that they participated in activities for improving the legal system or the legal profession through groups such as bar associations or judicial committees.

Finally, the vast majority (79.9%) of respondents indicated that they provided non-law related community service activity.

### Hours of Pro Bono and Non-Law Related Community Service Work Being Provided

The average number of hours reported by respondents who indicated performing some work meeting at least one of the elements of the ABA definition of pro bono within the twelve month period in question was approximately 77 hours.

The approximate average number of hours reported for each of the elements of the ABA definition of pro bono was as follow:

- Free legal services to people of limited means or organizations serving the poor performed = 54 hours.
- Legal services at a substantially reduced fee = 102 hours.
- Legal services with no expectation of a fee or at substantially reduced fee to groups or individuals seeking to secure or protect civil rights, civil liberties or public rights, or charitable, civic, education or other non-profit organizations = 49 hours.
- Activities for improving the legal system or the legal profession through groups such as bar associations or judicial committees = 99 hours.

In addition, respondents who indicated performing some non-law-related community service performed, on average, a total of approximately 65 hours during the twelve month period in question. *See appendix E for open-ended responses specifying types of non-law-related community service provided.*

### Sources of Pro Bono Work

Respondents who reported having performed pro bono service were asked from what referral sources these matters derived. Respondents were provided several options and could check multiple answers, which resulted in final statistics that exceed 100%.

The most common sources of referral were the following:

- by a legal services pro bono program (39.2%);
- by a family or friend to whom they provided services (36.4%);
- by a cold call from a potential client (29.4%);
- by a bar association or an independent pro bono program (28.7%);
- through family or friends who referred them to a third party (25.2%); and
- through a religious organization (23.1%).

The only option which was not a significant source of referral was referral by employer (5.6%). Other frequent referral sources specified by respondents in the “other sources” option (36.4%) included: court appointments, former clients, and various nonprofits. *See Appendix B for a complete list of these open-ended responses.*

### Factors Motivating Pro Bono and Non-Law-Related Community Service Work

#### *Pro Bono:*

Respondents who engaged in pro bono were asked about the factors which strongly influence them to provide pro bono services. They were provided 14 options and could check multiple answers, which resulted in final statistics that exceed 100%.

The two largest motivators to perform pro bono service were a sense of professional responsibility (87.8%) and the personal satisfaction derived from providing the services (75.5%).

Other motivators for those who performed pro bono services included: knowledge of the legal needs of poor people (49%), faith-based commitment (31.3%), the opportunity to enhance your legal skills (30.6%), opportunity to gain exposure in the community at-large (25.9%), and professional benefits such as contacts and referrals (22.5%).

The factors which were not significant motivators included: a directive from court (10.9%), employer encouragement (4.1%), the ability to use the activity toward CLE requirements (2.7%), encouragement of law firm clients (2.0%), awards or professional and judicial recognition (1.4%), and employer policies (0.7%).

Approximately 12% of the respondents specified “other factors” that strongly influenced them to provide pro bono services in the past twelve months. Some of these responses included the following:

- Mandatory pro bono requirements
- Being the only attorney in service area
- Identification with goals of a non-profit organization
- Personal commitment to a disadvantaged or underprivileged group (e.g., immigrants, domestic violence, elderly, youth)
- Sense of fairness
- Way of giving back to government (retired military)

*See appendix C for a complete list of these open-ended responses.*

*Non-Law-Related Community Service:*

Respondents were similarly asked about the factors which strongly influenced them to provide non-law-related community services. For this question, they were provided 11 options and could check multiple answers, which resulted in final statistics that exceed 100%.

Respondents were motivated by similar factors to those who provided pro bono services. The top motivating factors were a belief in civic responsibility (84.8%), the personal satisfaction derived from providing the services (79.2%), and a sense of professional responsibility (52.8%).

Less significant factors were faith-based commitment (34.4%), professional benefits such as contacts and referrals (28.8%), and being asked by a friend or relative (28.8%). As with pro bono, employer policies, employer encouragement, and encouragement of law firm clients were not significant motivating factors.

Approximately 13% of the respondents specified “other factors” that strongly influenced them to provide non-law-related community service activities in the past twelve months. These respondents frequently described being motivated by a topic that has impacted their life or that of a loved one or an organization whose mission is to serve a group or issue in which they are personally committed to. Below are some examples.

- “Most of my non-law service is provided to the National MS Society . . . this is motivated by my wife’s diagnosis with MS.”
- “Deep concern for the unmet needs of many older adults”
- “A belief in using my professional training to improve community and youth programs to help keep youth on the right track”
- “helped children’s school”
- “Keen interest in topic, i.e. Alaskans Against Death Penalty”
- “Belief in the precepts held by civic organizations to serve the community”
- “It is work as a member of the Board of Directors for an illness that effects a family member.”

*See Appendix F for a complete list of these open-ended responses.*

Factors Discouraging Pro Bono and Non-Law-Related Community Service Work

*Pro Bono:*

All respondents who engaged in pro bono in the past 12 months were asked to rank specific factors that discouraged them from performing pro bono. The ranking was a 3 to 1 scale in which a 3 means “very influential” and a 1 means “not at all influential.”

The top two factors discouraging pro bono work were a lack of time (51.7% identified as “very influential”) and a commitment to family obligations (41.1%). The next three highest rated factors were a lack of skills or experience in the practice areas needed by pro bono clients (27.1%), competing billable hour expectations and policies (23.7%), and a lack of administrative support or resources (16.4%).

Factors that were not very influential included a lack of malpractice insurance (5.2%), a lack of desire (4.4%), lack of information about opportunities (2.2%) and discouragement from employer (1.5%).

#### *Non-Law-Related Community Service:*

Respondents were similarly asked to rank specific factors that discouraged them from performing non-law-related community service in the past 12 months. The most influential factors in preventing respondents from performing these services were again lack of time (62.0% identified as “very influential”) and a commitment to family obligations (45.0%).

#### Incentives to Increase Pro Bono and Non-Law Related Community Service

##### *Pro Bono:*

Respondents who provided pro bono service in the past 12 months were presented with a series of 13 factors and asked to rate how strongly they agreed the factor would “encourage solo and small firm lawyers to perform pro bono work”. These factors were selected by the Pro Bono Committee as incentives over which the ABA might have influence. Ratings were on a 3 to 1 scale with 1 meaning “strongly agree”.

While no factor emerged as the single factor that would drive solo and small firm lawyers to conduct more pro bono work, the findings do provide some insight as to what would motivate them. The top motivators would be:

- Allowing the attorney to take on a discrete legal task as opposed to a full representation of the client (59.5% strongly agree)
- Providing free malpractice insurance coverage related to the pro bono work provided (57.7%)
- Providing free training and CLE credit for services provided (53.1%)
- Offering a full range of volunteer opportunities (50.3%)
- Providing mentors and co-counsel (48.0%)
- Obtaining a free manual and forms related to the legal assistance (44.2%)
- Receiving reliable pre-screening of client financial eligibility (40.8%)
- Providing free use of office space and administrative support for pro bono work (39.5%)
- Courts providing scheduling preferences for pro bono volunteers (35.6%)

Factors that were not seen as very strong incentives to increase pro bono work were judicial encouragement to take a pro bono case, a direct request from a colleague, and recognition by a bar association and/or an employer.

Some respondents identified additional factors not used in the agreement ratings that would be an inducement to increased pro bono work. These included:

- Making pro bono mandatory, required for licensing
- Reducing bar membership dues
- Allowing lawyers to deduct the reasonable value of their donated service as taxable income
- Encouraging reduced fee programs

- Providing law students opportunities that will expose them to the legal needs of the poor and encourage their future involvement as practitioners.

Others elaborated on factors used in the agreement ratings. Inherent in their comments was the need of the ABA to recognize the limitations of solo and small firm practitioners in performing pro bono work. Respondents emphasized being provided a roadmap to pursue pro bono work, including opportunities matching their special skills set and the resources and administrative support to do the work. The following comments were illustrative:

- “Provide a wide range of opportunities. One size does not fit all. We have different expertise and availability and clients have different problems”
- “I have just volunteered to serve, pro bono, on a state-sponsored committee working to improve communication among healthcare providers about patients’ expressed desires for treatment and treatment withholding. This makes much better use of my considerable expertise and experience in a specialized field than would, for example, representing a tenant in a dispute with his or her landlord (something I don’t have a clue how to do and am not particularly interested in learning.”
- “I would love to work on some major piece of pro bono litigation if I knew I would be working on it with a team of other small firm- solo lawyers and that we could bond on the project thru using an extranet. I am nervous about taking on a really big firm or case because I am afraid I will be swamped. If I knew that I would be working on answering a BOP while someone else was prepping the deposition, and someone else coordinating pretrial motions and or the investigators, then sure I would get involved in work that effects the lives of Thousands rather than just the work that effects one life at a time.”
- “I have been able to do pro bono work because I receive malpractice coverage, office space for client interviews, client intake screening, reimbursement of direct expenses such as postage, and consultation resources, if desired, from Legal Aid of West Virginia. All I provide is my time.”
- “I personally would rather pick and choose how best to use my skills to help the needy of this world. . . . Just because I am an attorney does not mean that I have the skills in all areas. I personally have tried to focus my practice to a narrow area to eliminate all of the pressure and stress. I personally do not want to learn any new areas of law and would rather help by donating time on boards, assisting organizations in incorporating and qualifying for a tax exempt status, etc. where my knowledge and skills can be more effectively put to good use.”

Finally, although bar association recognition was not a strong incentive in the agreement ratings, many respondents focused on the need for bar association and public recognition in their comments. The following comment illuminated this point:

- “The ABA and other organizations should give greater recognition to the contributions of solo practitioners who devote substantial amount of time to pro bono and bar association activities, which often means trading billable hours (profit) for pro bono work that is uncompensated, directly impacting the bottom line. Too often, large law firms and corporate law departments both of which have substantial resources are given recognition for their pro bono work to the exclusion of solo practitioners who go unmentioned.”

*See Appendix D and H for a full list of these open-ended responses.*

*Non-Law-Related Community Service:*

Respondents were similarly provided with a series of five factors and asked to rate how strongly they agree the factor would “encourage solo and small firm lawyers to perform community service work”. The top factors that respondents indicated would encourage solo and small firm lawyers to perform community service was a wide range of volunteer opportunities (60.1% strongly agree), opportunity to partner with other organizations on signature projects (37.7%), and a direct request from a colleague (35.8%).

*See Appendix G for a complete list of open-ended responses specifying additional factors that would encourage solo and small firm lawyers to perform community service work.*

## **VI. Imperatives and Recommendations**

This study demonstrates that a large number of solo and small firm lawyers have a profound sense of responsibility to perform pro bono and community service activities and that they gain personal satisfaction from doing so. The great majority of respondents provide pro bono and community service activities of some nature, contributing on average 77 and 65 hours (respectively) of service in a given year.

However, the survey demonstrates that solo and small firm practitioners have many challenges to participating in pro bono and community service opportunities. Many of these challenges are unique to solo and small firm practitioners who lack the administrative support and resources of a larger firm. The good news is that most of the identified obstacles to performing more service can be significantly reduced through implementation of a variety of targeted strategies.

With this data, the ABA is poised to develop educational and public awareness materials for reducing the impact of de-motivators and increasing the influence of motivators to encourage more pro bono and community service activity by solo and small firm practitioners.

The **ABA Pro Bono Committee** should consider the following strategies for increasing pro bono and community service participation by solo and small firm practitioners.

- Offer programming at the annual Equal Justice Conference (EJC) and National Legal Aid and Defender Association (NLADA) revealing survey findings and demonstrating how pro bono providers can most effectively support the participation of solo and small firm practitioners in performing pro bono services.
- Encourage increased participation of solo and small firm practitioners at EJC through increased marketing to this constituency.
- Draft an article for GPSSFD journal/magazine on the survey findings & recommendations as they relate to how solo and small firm practitioners can pursue pro bono service.
- Encourage increased nominations of solo/small firm practitioners for the ABA Pro Bono Publico Awards.

- Provide on-going support and resources to GPSSFD Public Service Committee, including assistance in strategic planning, participation in Committee conference calls, and representation at Committee/Division sponsored public service-related meetings, programs, and events.
- Conduct outreach to state and local bar association solo and small firm committees to provide technical assistance on ways to increase pro bono participation, build partnerships with legal service and pro bono programs and encourage the sharing of successful models and best practices.
- Conduct outreach to pro bono providers to provide technical assistance on ways to effectively support the participation of solo and small firm practitioners in performing pro bono services, expand partnerships with the bar, and encourage the sharing of best practices and successful models.
- Collect best practices solo/small firm pro bono models, including policies, successful programs and initiatives for inclusion in Center clearinghouse library.

In addition, the **ABA GPSSFD Public Service Committee** should consider these strategies:

- Hold monthly Committee conference calls and include representatives from the ABA Pro Bono Committee.
- Develop strategies to increase committee membership and strengthen involvement of Division leadership.
- Develop annual pro bono programming at GPSSFD meetings &/or ABA Annual Meeting discussing how solo and small firm practitioners can pursue public service work and get involved in the GPSSFD Public Service Committee.
- Increase Division-wide marketing and promotion of Committee's Public Service Awards
- Create a GPSSFD Public Service Committee website
- Publish a pro bono related article in GPSSFD magazine on the survey findings & recommendations as they relate to how solo and small firm practitioners can pursue pro bono and community service.
- Feature monthly or quarterly "Spotlight" articles highlighting pro bono activities performed by solo/small firm practitioners via website, e-newsletter, or written publications.
- Collaborate with state and local bar association solo and small firm committees in order to share resources and best practices on pro bono and community service activities and initiatives.
- Develop Committee sponsored pro bono and public service projects that can be replicated nationwide.
- Create a model pro bono policy for small firms.

Finally, **legal service and pro bono programs** can increase participation of solo and small firm practitioners by focusing their recruitment strategies on the top motivating factors to performing service identified by respondent's in the survey's key findings. Thus, legal service and pro bono programs should emphasize the following incentives:





- A wide range of volunteer opportunities including those that enable attorneys to perform discrete legal tasks, such as an initial consultation or limited representation.
- The availability of discreet transactional projects for lawyers who don't want to go to court (e.g., assisting either nonprofits that help underserved populations or micro-entrepreneurs).
- Malpractice coverage
- Availability of training sessions and free CLE credit for services performed.
- Free manuals and forms available and easily accessible to volunteers.
- Strong mentoring and co-counsel programs.
- Opportunity to partner with larger firms on complex cases.
- Availability of office meeting space and free administrative support.
- Networking opportunities
- Significant recognition including press coverage, nominations for awards, certificates, internal awards, chachkes, letters of appreciation from officials and judiciary, etc.
- Reliable pre-screening of client financial eligibility
- Preferential status on court calendars.




In addition pro bono and legal service programs can promote pro bono opportunities as well as disseminate program information through a variety of mediums, including the following:

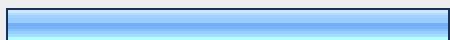
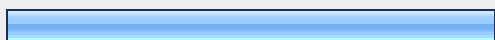
- State bar information
- Local legal papers and periodicals
- Swearing in ceremony
- Mailings to recent admittees
- Web - postings on [www.probononet.org](http://www.probononet.org) and [www.volunteerforprobono.org](http://www.volunteerforprobono.org)
- Judicial letters and speeches.
- Good press – “volunteer of the month” articles
- Local and state bar association sections and committees
- Membership in various organizations
- Presentations to various groups.

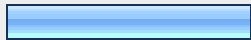

This is not meant to be a comprehensive list. The ABA should solicit ideas and strategies for expanding pro bono participation of solo and small firm practitioners from a wide range of communities.

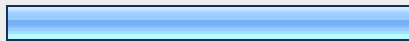

ABA General Practice Solo and Small Firm Division Public Service Committee Survey

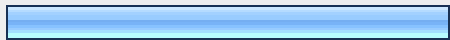

How many practicing attorneys work full-time for your firm?			Response Percent	Response Count
1/Solo Practitioner			70.6%	120
2 - 5 Attorneys			18.8%	32
6 - 15 Attorneys			7.7%	13
16 or more Attorneys (please specify how many)			2.9%	5
			<b>answered question</b>	<b>170</b>
			<b>skipped question</b>	<b>0</b>

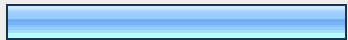

Which of the following best describes the location of your office?			Response Percent	Response Count
Urban			42.4%	72
Suburban			40.0%	68
Rural			17.7%	30
			<b>answered question</b>	<b>170</b>
			<b>skipped question</b>	<b>0</b>

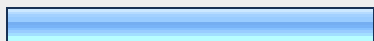
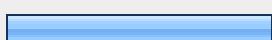

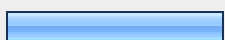
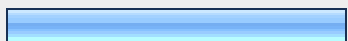
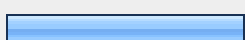
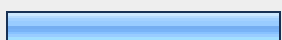
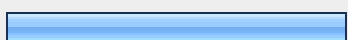
Would you describe your particular area of practice as a general or specialty practice?			Response Percent	Response Count
General			47.7%	81
Specialty (SPECIFY)			52.4%	89
			<b>answered question</b>	<b>170</b>
			<b>skipped question</b>	<b>0</b>

In the past 12 months, did you provide free legal services to people of limited means or organizations that address the needs of the poor with no intention of being paid for your services?			Response Percent	Response Count
No			26.1%	42
Yes, please specify number of hours			73.9%	119
			<i>answered question</i>	<b>161</b>
			<i>skipped question</i>	<b>9</b>

In the past 12 months, did you provide legal services at a substantially reduced fee to people of limited means or organizations serving the poor?			Response Percent	Response Count
No			43.5%	70
Yes, please specify number of hours			56.5%	91
			<i>answered question</i>	<b>161</b>
			<i>skipped question</i>	<b>9</b>

In the past 12 months, did you provide legal services with no expectation of a fee or at a substantially reduced fee to groups or individuals seeking to secure or protect civil rights, civil liberties or public rights, or charitable, civic, religious, educational or other non-profit organization?			Response Percent	Response Count
No			47.2%	76
Yes, please specify number of hours			52.8%	85
			<i>answered question</i>	<b>161</b>
			<i>skipped question</i>	<b>9</b>

In the past 12 months, did you participate in activities for improving the legal system or the legal profession through groups such as bar associations or judicial committees?			Response Percent	Response Count
No			36.7%	59
Yes, please specify number of hours			63.4%	102
			<b>answered question</b>	<b>161</b>
			<b>skipped question</b>	<b>9</b>

[IF YOU ANSWERED "NO" TO QUESTIONS 4-7, SKIP TO QUESTION NO. 13] For the pro bono matters you performed in the past 12 months, from where/who did the pro bono matters come from? (check all that apply)			Response Percent	Response Count
Referred by a legal services pro bono program			39.2%	56
Referred by a bar association or an independent pro bono program			28.7%	41
Referred by your employer			5.6%	8
Through a religious affiliation			23.1%	33
Family or friends to whom you provided services			36.4%	52
Through family or friends who referred you to a third party			25.2%	36
By cold call from a potential client			29.4%	42
From some other source (SPECIFY)			36.4%	52
			<b>answered question</b>	<b>143</b>
			<b>skipped question</b>	<b>27</b>

**Thinking about the pro bono work that you performed in the past 12 months, which of the following factors strongly influenced you to provide pro bono services? (check all that apply)**

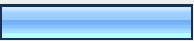
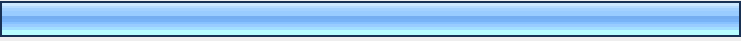
		<b>Response Percent</b>	<b>Response Count</b>
<b>A sense of professional responsibility</b>		<b>87.8%</b>	<b>129</b>
The personal satisfaction derived from providing the services		75.5%	111
The opportunity to enhance your legal skills		30.6%	45
The ability to use the activity toward CLE requirements		2.7%	4
Employer policies		0.7%	1
Employer encouragement		4.1%	6
Encouragement of law firm clients		2.0%	3
Professional benefits such as contacts and referrals		22.5%	33
The opportunity to gain exposure in the community at-large		25.9%	38
A directive from court		10.9%	16
Knowledge of the legal needs of poor people		49.0%	72
Faith-based commitment		31.3%	46
Awards or professional and judicial recognition		1.4%	2
Other (please specify)		12.2%	18
		<b><i>answered question</i></b>	<b>147</b>
		<b><i>skipped question</i></b>	<b>23</b>


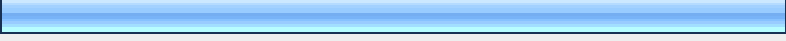
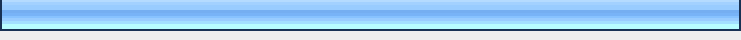



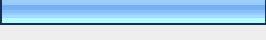
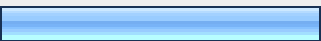
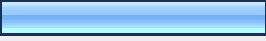
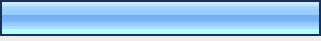
<b>Regardless of the amount of pro bono work that you provided in the last 12 months, how influential are the following factors in preventing you from performing pro bono services?</b>					
	Very influential	Somewhat influential	Not at all influential	Rating Average	Response Count
Lack of time	<b>51.7% (76)</b>	36.7% (54)	11.6% (17)	1.60	147
Competing billable hour expectations and policies	23.7% (33)	32.4% (45)	<b>43.9% (61)</b>	2.20	139
A commitment to family obligations	<b>41.1% (58)</b>	39.7% (56)	19.1% (27)	1.78	141
A lack of skills or experience in the practice areas needed by pro bono clients	27.1% (38)	30.7% (43)	<b>42.1% (59)</b>	2.15	140
A lack of information about opportunities	2.2% (3)	14.9% (20)	<b>82.8% (111)</b>	2.81	134
Discouragement from your employer	1.5% (2)	3.8% (5)	<b>94.7% (126)</b>	2.93	133
A lack of administrative support or resources	16.4% (23)	31.4% (44)	<b>52.1% (73)</b>	2.36	140
A lack of malpractice insurance	5.2% (7)	9.0% (12)	<b>85.8% (115)</b>	2.81	134
A lack of desire	4.4% (6)	11.9% (16)	<b>83.7% (113)</b>	2.79	135
	<b><i>answered question</i></b>				<b>149</b>
	<b><i>skipped question</i></b>				<b>21</b>

**ABA House of Delegates Resolution 121A, adopted August 2006, encourages pro bono service by solo and small firm lawyers. How strongly do you agree that each of the following factors would encourage solo and small firm lawyers to perform pro bono work? (Rank 1 - 3 with 1 = "Very Strongly").**

	1	2	3	Rating Average	Response Count
A wide range of volunteer opportunities	<b>50.3% (74)</b>	36.1% (53)	13.6% (20)	1.63	147
The opportunity to work on a discrete legal task, such as an initial consultation, rather than a full representation of the client	<b>59.5% (88)</b>	27.7% (41)	12.8% (19)	1.53	148
Free training and CLE credit for services performed	<b>53.1% (78)</b>	31.3% (46)	15.6% (23)	1.63	147
Judicial encouragement to take a pro bono case	25.9% (38)	<b>40.1% (59)</b>	34.0% (50)	2.08	147
Courts provide scheduling preferences for pro bono volunteers	<b>35.6% (52)</b>	<b>35.6% (52)</b>	28.8% (42)	1.93	146
Volunteer receive a free manual and forms related to the legal assistance	<b>44.2% (65)</b>	41.5% (61)	14.3% (21)	1.70	147
A colleague asking them directly to take a pro bono case	24.7% (36)	<b>50.0% (73)</b>	25.3% (37)	2.01	146
Mentors and co-counsel are provided	<b>48.0% (71)</b>	34.5% (51)	17.6% (26)	1.70	148
Reliable pre-screening of client financial eligibility	<b>40.8% (60)</b>	35.4% (52)	23.8% (35)	1.83	147
Provision of free malpractice insurance coverage related to the pro bono work	<b>57.7% (86)</b>	23.5% (35)	18.8% (28)	1.61	149
Free use of office space and administrative support for pro bono work	<b>39.5% (58)</b>	29.3% (43)	31.3% (46)	1.92	147
Bar associations recognition for pro bono volunteers	18.9% (28)	<b>48.6% (72)</b>	32.4% (48)	2.14	148
Employers recognition for pro bono providers	21.4% (31)	29.0% (42)	<b>49.7% (72)</b>	2.28	145
	<b>answered question</b>				<b>150</b>
	<b>skipped question</b>				<b>20</b>

Please provide any other suggestions that would increase the level of pro bono work provided by solo and small firm lawyers.		
		Response Count
		36
	<i>answered question</i>	<b>36</b>
	<i>skipped question</i>	<b>134</b>

In the past 12 months, did you provide any non-law related community service activity?			
		Response Percent	Response Count
No		20.1%	31
Yes, please specify number of hours and briefly describe		<b>79.9%</b>	<b>123</b>
	<i>answered question</i>		<b>154</b>
	<i>skipped question</i>		<b>16</b>

Thinking about the non-law related community service work that you performed in the past 12 months, which of the following factors strongly influenced you to provide these services? (check all that apply)			
		Response Percent	Response Count
A sense of professional responsibility		52.8%	66
<b>A belief in civic responsibility</b>		<b>84.8%</b>	<b>106</b>
The personal satisfaction derived from providing the services		79.2%	99
Employer policies		2.4%	3
Employer encouragement		4.0%	5
Encouragement of law firm clients		3.2%	4
Professional benefits such as contacts and referrals		28.8%	36
The opportunity to gain exposure and leadership in the community at-large		34.4%	43
Asked by a friend or relative		28.8%	36
Faith-based commitment		34.4%	43

Awards or professional recognition		0.0%	0
Other (please specify)	<input type="text"/>	12.8%	16
<b>answered question</b>			<b>125</b>
<b>skipped question</b>			<b>45</b>

**Regardless of the amount of non-law related community service work that you provided in the last 12 months, how influential are the following factors in preventing you from performing these services?**

	Very influential	Somewhat influential	Not at all influential	Rating Average	Response Count
Lack of time	<b>62.0% (93)</b>	30.7% (46)	7.3% (11)	1.45	150
A commitment to family obligations	<b>45.0% (67)</b>	42.3% (63)	12.8% (19)	1.68	149
A lack of information about opportunities	7.6% (11)	29.9% (43)	<b>62.5% (90)</b>	2.55	144
Lack of support from your employer	1.4% (2)	5.0% (7)	<b>93.6% (132)</b>	2.92	141
A lack of desire or interest	4.9% (7)	21.5% (31)	<b>73.6% (106)</b>	2.69	144
<b>answered question</b>					<b>150</b>
<b>skipped question</b>					<b>20</b>

**ABA House of Delegates Resolution 105, adopted August 2006, encourages all lawyers to perform community service. How strongly do you agree that each of the following factors would encourage solo and small firm lawyers to perform community service work? (Rank 1 - 3 with 1 = "Very Strongly").**

	1	2	3	Rating Average	Response Count
A wide range of volunteer opportunities	<b>60.1% (89)</b>	22.3% (33)	17.6% (26)	1.57	148
A direct request from a colleague	35.8% (53)	<b>41.9% (62)</b>	22.3% (33)	1.86	148
Bar association recognition	21.6% (32)	<b>40.5% (60)</b>	37.8% (56)	2.16	148
Employer's recognition	22.4% (33)	27.2% (40)	<b>50.3% (74)</b>	2.28	147
Opportunity to partner with other organizations on signature projects	37.7% (55)	<b>39.0% (57)</b>	23.3% (34)	1.86	146
<b>answered question</b>					<b>150</b>
<b>skipped question</b>					<b>20</b>

<b>Please provide any other suggestions that would increase the level of community service work provided by solo and small firm lawyers.</b>		
		<b>Response Count</b>
		16
	<i>answered question</i>	<b>16</b>
	<i>skipped question</i>	<b>154</b>

<b>Is there anything else that you would like to add?</b>		
		<b>Response Count</b>
		37
	<i>answered question</i>	<b>37</b>
	<i>skipped question</i>	<b>133</b>

## Appendix B

***Question #8: For the pro bono matters you performed in the past 12 months, from where /who did the pro bono matters come from?***

- From local organization that provides courtroom advocacy services for victims of domestic violence.
- I represented this person on related matters for which I was court appointed, this was work that needed to be done but a court was not going to appoint me so I just did it anyway.
- Client at reduced rates; Rotary.
- Calls from charitable organizations.
- State program providing volunteer GAL for DSS cases. Our State (SC) requires attorneys to participate in pro bono yearly
- Court appointment.
- Existing clients and assignment by court.
- Court appointments.
- Through volunteer participation in nonprofit organizations.
- Clients who became indigent after started my representation. Forgave the outstanding balance instead of withdrawing as counsel.
- Local law schools.
- Long-standing relationship with a non-profit organization that serves the underprivileged Latino population.
- Referred by another professional association.
- Previous client who could not afford to pay for the work needed.
- Court appointments which paid \$50/hour.
- Referred by former clients.
- Referred by other clients, and ongoing representation of non-profit orgs I represent.
- Court appointments.
- I felt sorry for a poor, disabled, woman whose ex was not paying alimony. I was able to collect it for her, after a trial where he was sent to jail for contempt.
- The reduced rate imposed on me by the state public defender's office, to include the arbitrary reduction in fees. The PD's office pays 60% of what a normal billing rate is.
- Not included in the above hours, but something I consider pro bono - a fair number of people who need a lawyer other than me call me because of my website. I spend a considerable amount of time finding a lawyer who can help them (e.g., a health lawyer in another state, a practitioner of Elder Law, a plaintiff's malpractice attorney).
- Court Assignment Federal Probono panel US District Court NYED.
- Member of the Maryland Professionalism Commission/ appointed by the Court of Appeals.
- Existing clients.
- Court referral; other lawyer referral.
- Women's Shelter; County Police Dept., Victim Assistance.
- Court appointments. Legal Aid Society.
- Law school.

- Referred by County Judge and County Attorney in rural area; also District Judges.
- As an attorney who donated his time to create non-profit youth and community organizations; as a volunteer to teach CLE courses for other lawyers.
- Non-profit organization.
- National Lawyers Guild.
- Through a direct request from a community based non-profit organization in need of employment law counseling on a specific matter.
- Membership in bar associations.
- Organizations in my rural community and in the state to which I belong.
- Word of mouth.
- Fee arbitration.
- The Maryland Defense Force (MDDF) division of The Maryland National Guard, and The Maryland State Firemen's Association for the benefit of (fbo) the Maryland Voluntary Emergency Services.
- Referred by another lawyer.
- Previous client.
- Referred by other clients or attorneys with knowledge of my civil rights practice.
- Domestic Violence Shelter.
- From a former client.
- Referred by other attorney and by previous clients.
- I try to find a pro bono attorney for a deserving military member or family member. I get calls/e-mails from all over the world.
- From another attorney.
- Judges, courts, associations for mentally disabled persons.
- Bar Association Activities.
- Bar Association & CLE activities.
- My child goes to a nonprofit preschool and they needed some legal help.
- Appointment to ethics committee by supreme court.
- aa.

## Appendix C

***Question #9: Thinking about the pro bono work that you performed in the past 12 months, which of the following factors strongly influenced you to provide pro bono services?***

- SC state bar requirement to perform pro bono and I chose to work for Volunteer GAL program to satisfy requirement.
- If the client did not receive assistance client would suffer major damage.
- Income.
- No formal law job; ability to be a volunteer due to having an employed spouse.
- I mostly write pro bono or low bono wills and powers of attorneys for older folks with very little cash. They all have something they worry about. It is a nice feeling to know that you have done something to ease their mind during their remaining time. And frequently I become a friend and a resource person for them. When you haven't got anybody else, I guess I'm as good as it gets... and that's a scary thought.
- The majority pro bono cases I handled or I am handling are all former clients whose cases I had previously handled.
- I just really wanted to help this family.
- Only attorney in the County.
- To provide youth based organizations to offer opportunities to youth to keep out of trouble and to provide scholarships to youth to further their educations.
- Identification with the goals of the nonprofit organizations served.
- Sense of fairness that the individual could not navigate the intricacies of his auto and health insurance on his own.
- Mandatory pro bono requirement by State Bar (NJ).
- 1) To assist a community based non-profit organization through a crisis; and 2) to improve diversity within the legal profession.
- I have always believed that when you are blessed, you should share your blessing for the benefit of those who are deserving to do my small part to make the world a little bit better place for my having passed this way.
- I am the only practitioner of immigration law in a 90-mile radius, and so I feel a sense of personal and professional responsibility to the immigrant victims of domestic violence, the elderly, and others who literally need my services in order to survive.
- I am retired military. The government has been good to me and this is my way of paying back. I volunteer at Texas Lawyers Care, State Bar of Texas.
- It just needed to be done and I happened to be in the right/wrong place at the time.
- Opportunity to do work that gains exposure to referring attorneys.

## Appendix D

***Question #12: Please provide any other suggestions that would increase the level of pro bono work provided by solo and small firm lawyers.***

- Expectations tied to renewal of dues just like MCLE.
- There should be a large choice of legal charitable work available rather than the small set of choices selected by the Judiciary.
- I suspect that small firm lawyers are already providing plenty of pro bono work.
- In North Dakota we had a terrible time getting more attorneys to take PB family law cases. We began a Reduced Fee Program (\$40/hr on a \$300 retainer) and have had great success. It is still a significant amount of money to the client and helps the client be economically reasonable.
- Pro bono program at the local law school is very limited in the nature of cases that students may take. (Items 6&7 are not eligible for student participation) Then, when practicing, these attorneys are not aware of the full needs of the community nor of the areas where their assistance can be of use. Furthermore, pro bono attorneys are limited in the use of students as assistants.
- Prescreening of financial eligibility would be most appropriate. Even with prescreening, I found myself performing services for a family that definitely was quite able to pay for the legal services provided.
- Better screening of financial ability of alleged people in need of pro bono services. A lot of these people just do not want to pay a lawyer for services and could do so if necessary.
- The more push there is to make pro bono work mandatory, the more resistance and excuses there will be to providing same.
- As a transactions attorney with little or no experience in litigation or desire to get that experience, I would rather donate money to non profit to provide those services. The non profit often times have staff attorneys who are experienced in this area and can accomplish more in a shorter period of time. Secondly, many of the problems I have seen when helping these people really could be handled by a paralegal and appears to be more cutting through red tape and bureaucracy. Oftentimes many of the problems are self created by the persons seeking help to solve the mess they created. I would rather put my efforts into helping an organization that truly is providing service to the poor and needy who cannot truly help themselves. I helped form an organization that is drilling wells and providing safe clean drinking water in rural Tanzania to people who cannot afford to provide clean water sources. Average annual per capita income in Tanzania is less than \$300. When I see situations where whole villages are suffering illness from contaminated water, I personally find their needs more compelling than someone who has a for example a problem with their landlord due to their own actions. Just my point of view.
- My experience is that African American Solo/small firm lawyers do more than others because their own community is very needy. I have not heard of any of my white or Asian classmates (2005 JD grad) giving as much time. Some mall/solos take pro bono matters to their detriment-- when the cases are very "hairy". I happen to have solid financial cover through spouse and luxury of spending 3-6 hours a week with a legal services organization as a volunteer. I will see how much it changes once I start working full or almost full time. I am not Solo by choice -- will be in a firm as soon as hired --

then I will see how much time could be devoted to pro bono work. To put in context -- my husband said I went to law school to do "no money law" -- i.e. low-no paid pro bono or public interest law. I find it interesting that I -- despite desire and experience was turned down 3x by a large public interest firm and that firm has very few black attorneys (none in its main office) yet a large # of its clients are black. This is probably way more than you wanted!!

- Lawyers should be able to deduct the reasonable value of their donated professional services from their taxable income.
- Provide a wide variety of opportunities. one size does not fit all. We have different expertise and availability and clients have different problems.
- "Employer" is not a concept for solos. "Judicial encouragement" sounds a bit like extortion to me. Suggestion about mentors and co-counsel is insulting to someone like me who is a leader in my field. I have just volunteered to serve, pro bono, on a state-sponsored committee working to improve communication among healthcare providers about patients' expressed desires for treatment and treatment withholding. This makes much better use of my considerable expertise and experience in a specialized field than would, for example, representing a tenant in a dispute with his or her landlord (something I don't have a clue how to do and am not particularly interested in learning).
- Lo Bono is very helpful to solo and small firmers, particularly, if you are just starting out, have kids, have law school debt, a mortgage, etc. In smaller communities we all know who doesn't do pro bono; for them, a call from a local judge with a direct referral of a client is persuasive.
- Mandatory hours by the Bar.
- I would love to work on some major piece of pro bono litigation if I knew I would be working on it with a team of other small firm- solo lawyers and that we could bond on the project thru using an extranet. I am nervous about taking on a really big firm or case because I am afraid I will be swamped. If I knew that I would be working on answering a BOP while someone else was prepping the deposition, and someone else coordinating pretrial motions and or the investigators, then sure I would get involved in work that effects the lives of Thousands rather than just the work that effects one life at a time.
- I think the burden falls disproportionately on solo/small firm lawyers. When big firms are producing profits per partner in excess of \$500K, it's completely unreasonable to look to solos to foot the bill.
- I have been able to do pro bono work because I receive malpractice coverage, office space for client interviews, client intake screening, reimbursement of direct expenses such as postage, and consultation resources, if desired, from Legal Aid of West Virginia. All I provide is my time.
- More public recognition.
- Getting a thank you from those you help means more than anything else. Being in a smaller community I get that all the time. That is sufficient.
- Reduction in membership fees and other professional fees in recognition of pro bono work (translation = less income because of pro bono work!) done by solos and small firms who struggle to afford the very high cost of Bar Membership.
- The problem with pro bono clients is that they expect that they are your ONLY client. They call constantly. Because they are getting free services they have no sense of how you have to manage your time.

- Working on projects jointly with clients or in connection with existing clients.
- The ABA and other organizations should give greater recognition to the contributions of solo practitioners who devote substantial amount of time to pro bono and bar association activities, which often means trading billable hours (profit) for pro bono work that is uncompensated, directly impacting the bottom line. Too often, large law firms and corporate law departments both of which have substantial resources are given recognition for their pro bono work to the exclusion of solo practitioners who go unmentioned.
- I do not think that there is any group of lawyers that do more. This question really needs to be addressed to the larger firms they are the one who throw money not effort after the problem. It is the solos and small firm lawyers who do the work. Have the funds made available to assist these lawyers by taxing lawyers on their income. If Bar dues and Equal Justice campaigns were based on contributions as a percentage of income you would have the problem well under control.
- Gpers need templates, how to's and road maps to assist them in getting the job done. And this can be in representing nonprofits and such not just the indigent divorce client.
- Legal services for the "poor" seems to be the driving motivation; but, there are other resources for the poor already in place-legal aid, public defender, private legal aid societies, etc. pro-bono lists should not omit other worthy entities for which pro bono services would be a benefit-but not refer to these other entities as "other"!
- Availability of coordination between clients and lawyers using a model such as Public Counsel in Los Angeles.
- Court's recognition of burden that these cases can cause and thus agreement to extensions of time, etc. as needed.
- Helping people do pro se work is sometimes possible, which helps me spread my pro bono resources to as many clients as possible.
- Reminding lawyers that they know more than they think and it's OK to admit not knowing a specific answer.
- Elimination of state bar dues levy for legal services upon showing of a set number of pro bono hours provided.
- A recognition that bar associations (including the ABA) can only seek to persuade lawyers to engage in pro bono work. No bar association has the "power" to compel any lawyer or group of lawyers to perform any pro bono work, or to do anything else in connection with the practice of law. It would also help if ALL lawyers (including, but not limited to judges, bar association executives, legislators, etc.) had the same obligations that are attempted to be placed on sole practitioners and small firm lawyers. In short, it is the individual, not any bar association that will decide whether or not to perform pro bono work, and the nature and extent of that work.
- I would like to be more involved with supporting the Bar but it is hard to schedule and expensive when meetings are out of town. More assistance with expenses would be helpful.
- Its like "Famous Amos" of cookie fame. Just do it. Its an attribute of being a member of a profession.
- Recognition by courts in the form of preferred appointments by judges to cases that pay a fair fee. There are many judges that seem not at all inclined to balance pro bono appointments with appointments that pay a fair fee, giving the latter instead to favored persons who, as far as I can see in my 25 years of practice, do no pro bono or community work whatsoever.

## Appendix E

**Question #13: In the past 12 months, did you provide any non-law related community service activity?**

- 25
- 60 Not for profit work.
- Church action.
- 30 in Rotary and Church.
- 15
- 150
- 40 Women's Shelter, 50 church, 5 Habitat for Humanity, others (ministerial alliance, MS fundraising, etc.).
- Hundreds, Pres. of Mature Services Bd, Community Legal Aid Board, Elder Abuse Prevention Conference Committee, Senior Independent Living Coalition, plus other one-time activities.
- Town meeting issues.
- 20
- 160 - went to Bay St. Louis, MS for Hurricane Katrina rebuilding/ relief work for one week; volunteered to feed the homeless at a local rescue mission, volunteered at a county children's shelter.
- 80, boards and committees.
- Lions Club - 60 hours.
- School & sports related, coaching.
- 10 Church activities.
- 30
- Hundreds serving on united way, YMCA boards, chairing local political campaign.
- 250+ Chair of nonprofit board.
- Volunteer at a soup kitchen - 150 hours.
- 240 Hours - Charitable Boards or activities.
- 30+ - Church related activities.
- At least 75 hours - Board and Executive Committee Service.
- 100+
- 10
- 100 - I am an elected town councilwoman.
- 20
- 60 hrs American Red Cross platelet donor programs.
- 20 Church.
- 50+, 3 groups, wide areas.
- 15
- Planning Commission activities 120 hours.
- Faith-based, ministry to those in need.
- Scholarship committee.
- 50 +/-
- 20+ hours
- Constitution development for a local school, support for a family whose child was skilled be an alleged drunk driver 40.
- ~30. Helped coach a high school mock trial team.

- Board member at United Communities Southeast Philadelphia, free guide tour for Landmarks group.
- 20
- SOCIAL SECURITY.
- I serve on the board of two organizations and I also serve as their treasurer.
- I am very involved in the community -- tutoring; mentoring; working on a committee to figure out ways to bring estate planning to low /mod income families -- at least 5 hours a week.
- 30--environmental activism.
- 100
- 80 three boards of directors.
- Junior Achievement 16 hours.
- Assisted youth groups.
- 60 hours - volunteering for the environment.
- Not that I recall, but it's been a rough year and I may have forgotten something.
- Non-profit Boards.
- 60 Chamber of Commerce.
- 80
- 400
- 25+ hours
- 10
- 50
- Over 40
- 20+ through our church - mentor-mentee.
- 4, Read Aloud and band spaghetti dinner.
- 50
- We live in a small community and spend a significant amount of time volunteering for community organizations and actively participating on several boards of directors. We give back to the community t
- 20 with the Knights of Columbus escorting wheelchair patients to Church services.
- Board of Directors of community service club.
- 10
- 50. Legal advisor for high school mock trial team.
- 1 hour per week teaching law to high school students.
- 40
- Church
- Participation in civic groups 100+ hours.
- 12
- 90- volunteer at high school assisting students in theater program; assistance to condominium association where own unit; school presentation to preschool kids about lawyers.
- 150 - 200 - Non Profit Board of Directors.
- 20 hours – YWCA.
- 50 – Boards of non-profits.
- I am Adviser of the Rotary youth Group in my club, Interact Club Caribe. Two hours every week on average plus i.5 hrs for Rotary international Club meetings.
- 100
- Mediation volunteer. Just started, but plan to do 8 hrs/mo.
- at least 100 - Scoutmaster - religious service
- 250

- 5 hours a week.
- 260
- 101
- Faith-based programs 200<sup>+</sup> hours.
- Ran for office.
- About 80 hours on non-profit board.
- 120 hours teaching
- 10
- Court Appointed Special Advocate for Foster child (not law related).
- 200
- 20
- Rape Crisis Center; activities at my church; political activities.
- 20 hours, kind of law-related, lecturing about immigration to community groups.
- 50
- Teaching at law school/150 hours.
- 15
- 50
- 40
- 20-30
- 20
- Several civic organizations (YMCA Board, Charitable Foundation, etc. 25 hours).
- 24 Service on local planning commission.
- 50
- 45
- 100
- 20. Preparing a “Family Support Plan” for a State Military Unit.
- Big Brother/Big Sister program - 6 hrs.
- 10
- 15
- Donate blood 1 hour.
- 35
- Volunteer with Hands on Atlanta to tutor a 2nd grader. Also do park cleanups with them 2X/yr.
- Over 40
- 50
- 12
- 100 12 step work.
- Church 300 hours.
- 200--Chamber of Commerce, Church and Alumni Association governance.
- 100 hours--Christmas project; housing project and board service related to domestic violence.
- 100 hours to equestrian activities and 500 to a judicial election.
- 20 hours, various activities including running for charity and soup kitchen.
- 70, Rotary Club service.
- 30
- 200

## Appendix F

***Question #14: Thinking about the non-law related community service work that you performed in the past 12 months, which of the following factors strongly influenced you to provide these services?***

- “service above self”.
- Deep concern for the unmet needs of many older adults.
- I belong to several service clubs in the area.
- Was raised with community service as a given...thought it was normal to come home from work and go to a meeting; would love not to be driven to it, but am nevertheless.
- These are the factors that have influenced such activities in the past.
- It is work as a member of the Bd. of directors for an illness that effects a family member.
- Helped children's school.
- We give back to the community through active participation in community organizations that make us a stronger, healthier community.
- A belief in using my professional training to improve community and youth programs to help keep youth on the right track.
- Belief in the precepts held by civic organizations to serve the community.
- Co-founder of a community festival, stay involved without becoming an interference.
- Knowledge of need and ability to serve.
- Keen interest in topic, i.e. Alaskans Against the Death Penalty.
- Most of my non-law service is provided to the National MS Society with their volunteer activities and lobby activities; this is motivated by my wife's diagnosis with MS.
- My own 12 step commitment.
- Letting the public know that lawyers are not just about fees and controversy.

## Appendix G

***Question #17: Please provide any other suggestions that would increase the level of community service work provided by solo and small firm lawyers.***

- Decrease Bar Association dues and Licensure renewal fees for community service work.
- Making attorneys provide voluntary service is akin to involuntary servitude. My associates and I provide more service to clients and our community than any other attorneys I know. This type of attitude from bar associations is offensive and degrading and does nothing to serve the purpose of raising public respect for attorneys.
- The many solos I know give back a lot to the community. In my experience, we solos are an independent lot, less likely than big firm lawyers to be influenced by peer pressure. The ABA needs to realize that there is a big difference in the working environment between solos and small firm lawyers.
- Underwrite it. The ABA is dominating by mega firms with mega millions. I listen to what the ABA House of Delegates says about as much as I listen to the President of Iran.
- Not being so caught up in self.
- Remember, lawyers are working people too. Between regular business and the stress associated, now add on pro bono work and on top place community service?
- Tolerable workloads.
- We choose to help the community rather than clients one on one with our "pro bono" program. By supporting the United Way or Domestic Assault Shelters by serving as President or on the Board, we are able to help the entire community with our donated time, rather than one or two individuals. I am amazed at the amount of community service the four attorneys in our firm actually do. I truly believe we are a better community because of our own volunteer work.
- A thank you from those who receive your efforts is worth more than anything else. Living in a smaller community you get that all the time. It is enough.
- Solo's and Small firm practitioners do this work because it is there in their lives. They never have to look far. It is not like they are spending their time in private clubs and exotic vacation sites. They are in the communities' daily see what needs to be done and doing it because they know it is the right thing to do.
- Make a comprehensive list of such opportunities available to new lawyers as they don't understand the value that community service provides and once you get them at an early age they will always be there for community service.
- Volunteers are rare these days, incentives are important but securing the incentive should not be the goal or motivation. it is a delicate balance act. The desire must exist or the effort will not be genuine.
- Find someone to amuse the spouse and kids while the lawyer is performing pro bono work on top of bar association work on top of client and firm-related work and trying to find time to sleep.
- Recognition of the limitation of time that volunteers have by non-profits or groups that are being served.
- See previous comments.
- It's your community. We all have a responsibility to make it better.

## Appendix H

### *Question #18: Is there anything else you would like to add?*

- No
- Clients who have to pay something, even a small amount, seem to be more reasonable in their expectations.
- I am a special case, as I do my pro bono work outside my normal job duties, as I work in a corporate setting and have a small solo practice in addition. I am not pressed to have my practice provide my livelihood so I am more free than others to provide pro bono services. While my employer acquiesces to my pro bono work, they neither encourage, require or hinder that service.
- Giving to the community is part of being an attorney, but not at the expense of your practice or your family.
- I do not believe that anyone should be mandated to perform any kind of volunteer work. Being made to do so will not provide quality work but rather mediocre or less than mediocre work from the person directed to volunteer unwillingly.
- I just started my practice several months ago and wish I could take on more cases for free. However, at this time, I am just trying to get by. As my practice develops and becomes more stable, I hope to be able to help more criminal defendants that do not have the means to hire counsel.
- In addition to my private practice, I work as a staff attorney part-time for a pro-bono legal services agency, which provides CLE training, manuals, forms, and mentoring support for the volunteer attorneys. This is an effective way of leveraging legal services to the poor. Unfortunately, there is never enough funding for this and similar agencies, and always a greater need for volunteer attorneys than the local bar provides. I am opposed to "mandatory" pro bono where an attorney is attached by a court to provide legal services without regard to the "volunteered" attorney's experience or ability in an area of law. This is not only unfair to the attorney, but does not provide real legal assistance to the client. I also do not support CLE credit for pro bono legal services, since there is no relationship between the quality of the services provided or the learning experience, if any, of the attorney by providing such service. It is an invitation to giving inadequate if not bad legal service to people with great need, and rewarding the service with credit whether or not anything was learned by the provider.
- Thank for the opportunity for my input.
- In my experience, solo and small firm lawyers provide as much pro bono service as possible. Unlike those in larger firms, solo practitioners are severely limited, at least in my State, by lack of time, increasing costs, and lack of the ability to pay for administrative support and overhead to fund pro bono cases. Donations to legal services organizations are more cost effective and easier for me than trying to put in extra pro bono hours at the expense of my family and my business.
- Most lawyers I know provide a significant number of hours each year for their own pro bono clients and community organizations, without any need for help/demand from courts, bar associations, or legal services orgs.
- I personally would rather pick and choose how best to use my skills to help the needy of this world. Many attorneys volunteer their time with their church and other organizations

that render service to the community. Just because I am an attorney does not mean that I have the skills in all areas. I personally have tried to focus my practice to a narrow area to eliminate all of the pressure and stress. I personally do not want to learn any new areas of law and would rather help by donating time on boards, assisting organizations in incorporating and qualifying for a tax exempt status, etc. where my knowledge and skills can be more effectively put to good use.

- I WOULD PREFER TO RECEIVE TRAINING.
- Nope
- Why do you limit the survey to solos and small firms? Why not compare solos and small firms to large firms? Why not provide the paying of funds ( 2 or 3%) of net income to a bar sponsored activity which would pay lawyers?
- I think a lot of lawyers resent the idea that something that was formerly done from the goodness of one's heart because they had been blessed has now become a quasi-requirement for which quantification has been increasingly required/expected. Somewhere in this picture has to a recognition that a civil Gideon funded by tax dollars (not unlike public defenders) is required to ease the burden on the private bar.
- No, thank you.
- You people are completely out of touch with the needs of solos. My state bar association is plugged in better. The ABA has some benefits which keep me a member (for more than 25 years now), but it has nothing to do with what the organization itself does for me as a solo.
- This took more than 3 minutes.
- I left my employment to deal with various family issues that necessitated relatively frequent travel. Pro bono work keeps me connected to colleagues and court system, and keeps my skills from becoming rusty.
- Pro bono work takes several forms and I would like the Bar to recognize the value in helping in the bigger sense of community involvement as well as one on one. Lawyers are very talented people and can do amazing things when appointed to a board of directors. One lawyer can affect thousands by volunteering in leadership roles for the good of the community.
- No
- Helping to provide opportunities for youth to stay engaged in sports and in helping artists in the community is extremely rewarding, I recommend it for all.
- I would be interested in statistics of % pro bono time by solos/small firms versus large firm lawyers. Greater connectedness to community by solos and small firms = greater likelihood of volunteer and pro bono activities?
- No
- As solos, we charge less, we are more available to clients, we have higher expenses, we take cases larger firms will not take, and we often handle clients larger firms are unwilling to deal with. I'd say we're ALREADY doing some community service.
- Make all fees from the courts and bar associations' income based. Solo's and Small firm practitioners are paying too high a percentage of the cost of maintain the system.
- What do you plan to do with this info? I hope you actually follow up and implement that which you learn. The ABA should be in the forefront of this effort and should show lawyers how pro bono and community service helps the helper and enhances their

practice and skill set. Provide them the identity of the opportunities with a typical track to pursue in community service and the tools with which to do it.

- Nothing further.
- Most of the lawyers I know are engaged in performing pro bono services as well as being active in their community. Seems like the public just doesn't know it.
- The questions really did not address teaching at law school at very minor honorarium. I teach because it helps prepare better lawyers for the community.
- Isn't this why we went to law school? Lawyers make the rules and restrict who can represent people in legal matters. As long as that continues to be true, lawyers owe the poor their best efforts to ensure access to the judicial system.
- I don't think so.
- Thank you for this effort.
- No
- I am sure that most solo would do lots of pro bono and community service work if money was no issue. Pro bono work should not be an expense to the attorney. Combining family time and community service time helps.
- My experience has been that the small firm lawyers are doing their part in their community. It seems to me the more challenging issue is engaging the large firms and the eternal pressure to bill hours.
- My state mandates aspirational goals for pro bono work and mandatory reporting. I have mixed feelings about the efficacy of this.

# ORGANIZATIONAL HYBRIDITY AND THE PURSUIT OF CAUSE: INSIDE THE PRIVATE PUBLIC INTEREST LAW FIRM

Scott L. Cummings\*

INTRODUCTION.....	1
I. PRINCIPLE.....	<b>ERROR! BOOKMARK NOT DEFINED.</b>
A. Privatizing the Public Interest: A Historical Perspective .....	<b>Error! Bookmark not defined.</b>
1. "On the Shoulders of Giants": Margolis & McTernan as the Political Firm Paradigm.....	<b>Error! Bookmark not defined.</b>
2. A New Left Experiment: The Rise and Fall of Litt & Stormer.....	<b>Error! Bookmark not defined.</b>
3. A Pragmatic Partnership: The Creation of Hadsell & Stormer .....	<b>Error! Bookmark not defined.</b>
B. The Prismatic Firm: Consensus and Individualism in the Definition of Cause.....	<b>Error! Bookmark not defined.</b>
II. PROFESSIONALISM .....	<b>ERROR! BOOKMARK NOT DEFINED.</b>
A. Marginality .....	<b>Error! Bookmark not defined.</b>
B. Status.....	<b>Error! Bookmark not defined.</b>
C. Obligations.....	<b>Error! Bookmark not defined.</b>
D. Conflicts.....	<b>Error! Bookmark not defined.</b>
III. PROFIT.....	<b>ERROR! BOOKMARK NOT DEFINED.</b>
A. Case Selection: Portfolio Assembly and the Double Bottom Line .....	<b>Error! Bookmark not defined.</b>
1. Process.....	<b>Error! Bookmark not defined.</b>
2. Substance.....	<b>Error! Bookmark not defined.</b>
a. The Righteous Case.....	<b>Error! Bookmark not defined.</b>
b. The Bread-and-Butter Case.....	<b>Error! Bookmark not defined.</b>
c. The White Male Case.....	<b>Error! Bookmark not defined.</b>
e. The Massive Case .....	<b>Error! Bookmark not defined.</b>
B. Case Management: The Fusion of Hierarchy and Flexibility .....	<b>Error! Bookmark not defined.</b>
1. Vertical Hierarchy: Leveraging Commitment .....	<b>Error! Bookmark not defined.</b>
2. Horizontal Flexibility: The "Accordion" Firm and Collaborative Litigation.....	<b>Error! Bookmark not defined.</b>
a. When Does the Firm Co-Counsel? .....	<b>Error! Bookmark not defined.</b>
b. Why Does the Firm Co-Counsel? .....	<b>Error! Bookmark not defined.</b>
i. Risk Allocation.....	<b>Error! Bookmark not defined.</b>
ii. Value Enhancement and Reciprocity .....	<b>Error! Bookmark not defined.</b>
iii. Expertise and Resources .....	<b>Error! Bookmark not defined.</b>
iv. Cash Flow.....	<b>Error! Bookmark not defined.</b>
v. Collegiality and Teamwork .....	<b>Error! Bookmark not defined.</b>
vi. Mentoring.....	<b>Error! Bookmark not defined.</b>
c. How Does the Firm Co-Counsel? .....	<b>Error! Bookmark not defined.</b>
i. Team Assembly .....	<b>Error! Bookmark not defined.</b>
ii. Team Management .....	<b>Error! Bookmark not defined.</b>
iii. Division of Labor .....	<b>Error! Bookmark not defined.</b>
iv. Distribution of Risk, Reward, and Credit .....	<b>Error! Bookmark not defined.</b>
C. Case Resolution: Balancing Private Fees and Public Impact.....	<b>Error! Bookmark not defined.</b>
IV. POWER.....	<b>ERROR! BOOKMARK NOT DEFINED.</b>
A. Financial Structure.....	<b>Error! Bookmark not defined.</b>
1. High-Stakes Partners .....	<b>Error! Bookmark not defined.</b>
2. Risk-Adjusted Partners.....	<b>Error! Bookmark not defined.</b>
3. Lock-Step Associates .....	<b>Error! Bookmark not defined.</b>
B. Governance Structure .....	<b>Error! Bookmark not defined.</b>
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2. The Minder .....	<b>Error! Bookmark not defined.</b>
3. The Mediators.....	<b>Error! Bookmark not defined.</b>
4. The Grinders.....	<b>Error! Bookmark not defined.</b>
V. POLITICS.....	<b>ERROR! BOOKMARK NOT DEFINED.</b>
A. Effectiveness.....	<b>Error! Bookmark not defined.</b>
B. Accountability .....	<b>Error! Bookmark not defined.</b>
CONCLUSION .....	<b>ERROR! BOOKMARK NOT DEFINED.</b>

## INTRODUCTION

The law firm of Hadsell & Stormer occupies most of the top floor of a nondescript two-story store front building just a few blocks from a bustling upscale shopping district called Old Town in the historic center of Pasadena, California. Tucked away in this affluent suburb ten miles northeast of downtown Los Angeles, the firm has emerged over the past fifteen years as one of California's elite plaintiff-side civil rights litigation boutiques, specializing in labor and employment, police abuse, international human rights, consumer, and slum housing cases.<sup>1</sup> From its 1991 origins as an alliance between the two named

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<sup>1</sup> Hadsell & Stormer, Inc., Mission Statement, at <http://hadsellstormer.com/>.

partners, Barbara Hadsell and Dan Stormer, the firm has grown to a ten-lawyer office with a well-deserved reputation as a litigation powerhouse,<sup>2</sup> one of the few small public interest firms nationwide with the resources and expertise to meet the challenge of litigating against large corporate defense firms.<sup>3</sup> In what is the most prominent measure of its stature in this regard, the firm is currently co-lead counsel for plaintiffs in the massive human rights case of *Bowoto v. Chevron*,<sup>4</sup> which challenges the oil giant for human rights abuses related to its support of the Nigerian military in the shooting of protestors on a Chevron oil platform and the destruction of two villages in the Niger Delta.<sup>5</sup>

As a highly successful “private public interest law firm”—organized as a for-profit corporation that generates income through attorney’s fees rather than a grant-funded nonprofit group—Hadsell & Stormer presents a study in contrasts: progressive in its political aims yet traditional in its methodology, democratic in its governance style yet in many ways hierarchical in firm structure, located on the fringe of the profession yet (perhaps because of this distinction) one of the prestige jobs in the California public interest market and a place where even wealthy plaintiffs sometimes turn to have their employment disputes resolved.<sup>6</sup> These contrasts are woven together in an organizational fabric that merges political radicalism with business acumen, a countercultural ethos with corporate norms, and a movement spirit with a mastery of litigation. The firm’s composition is a product of its unique historical lineage, the personalities and political commitments of its leadership, and the demands of litigating in the public interest while running a successful legal practice.

As a private public interest law firm, Hadsell & Stormer is, quite literally, in the *business* of pursuing *justice*. This Article is a study of how this business functions, what type of justice it aspires to, and what it is able to achieve. Its aims are twofold. At one level, it seeks to provide a detailed case study of the firm itself, analyzing its organizational history, mission, governance structure, case selection mechanisms, and litigation method. Toward this end, qualitative data on the firm was collected through semi-structured interviews with firm members, supplemented by ethnographic observations of firm culture, an analysis of firm documents and case materials, and news accounts of firm practice. The Hadsell & Stormer law firm was chosen for study based on its reputation as the premier civil rights firm in the Los Angeles area. It was therefore not selected as representative of a typical firm in the private public interest firm category. To the contrary, the firm’s high-profile success in achieving both political relevance and economic viability make it in many ways a unique case.<sup>7</sup>

Yet, because of its uniqueness, the firm is a rich site for pursuing the second aim of the Article, which is to offer a perspective on the larger question of what role *organizational hybridity*<sup>8</sup>—the fusion of the “private” firm with “public” goals<sup>9</sup>—plays in lawyers’ pursuit of social justice causes. The concept of melding public and private forms to address social problems in new ways has gained recent scholarly interest across a variety of fields.<sup>10</sup> The private public interest firm, of course, is not a recent innovation: such firms have existed since at least the early part of the Twentieth Century, with some playing important roles in the civil rights struggle.<sup>11</sup> However, they have generally been given little attention in the public interest law literature,<sup>12</sup> which has focused, with some exceptions,<sup>13</sup> on the work of nonprofit

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<sup>2</sup> Hadsell & Stormer, Inc., Southern California Super Lawyers, Feb. 2005, at 59.

<sup>3</sup> See Mark Thompson, For Abusive Employers, the Dai Has Been Cast, Southern California Super Lawyers 2007 – Rising Stars Edition 14 (2007).

<sup>4</sup> See Barbara Enloe Hadsell, Hadsell & Stormer, Inc., at <http://hadsellstormer.com/bhadsell.html>.

<sup>5</sup> *Bowoto v. Chevron Corp*, Sixth Amended Complaint for Damages and Injunctive and Declaratory Relief, Case No. C-99-02506 SI (N.D. Cal., July 23, 2004), available at <http://www.earthrights.org/files/Legal%20Docs/Chevron/6th.am.cmp.FINAL.pdf>.

<sup>6</sup> See Interview with Barbara Hadsell, Partner, Hadsell & Stormer, Inc., in Pasadena, Cal. (July 17, 2007).

<sup>7</sup> See Robert E. Stake, *The Art of Case Study Research* 4 (1995).

<sup>8</sup> See William H. Simon, *The Community Economic Development Movement: Law, Business, and the New Social Policy* 195 (2001).

<sup>9</sup> See Jody Freeman, *Extending Public Law Norms Through Privatization*, 116 *Harv. L. Rev.* 1285 (2003).

<sup>10</sup> See Martha Minow, *Partners, Not Rivals: Privatization and the Public Good* (2002); Jody Freeman, *Collaborative Governance in the Administrative State*, 45 *UCLA L. Rev.* 1 (2000); Orly Lobel, *The Renew Deal*, 89 *Minn. L. Rev.* 342 (2004); William H. Simon, *Solving Problems vs. Claiming Rights: The Pragmatist Challenge to Legal Liberalism*, 46 *William & Mary L. Rev.* 127 (2004).

<sup>11</sup> See Aaron Porter, Norris, Schmidt, Green, Harris, Higginbotham & Associates: *The Sociological Import of Philadelphia Cause Lawyers*, in *Cause Lawyering: Political Commitments and Professional Responsibilities* 151 (Austin Sarat & Stuart Scheingold eds., 1998).

<sup>12</sup> See Austin Sarat & Stuart Scheingold, *The World Cause Lawyers Make: Structure and Agency in Legal Practice* 12 (2005) (noting the paucity of research on small-firm cause lawyering).

organizations—such as the NAACP Legal Defense and Educational Fund and the ACLU—as the vanguard of legal reform. This focus reflects the public-private divide within the field, where nonprofit groups have grown into a major advocacy force sustained by governmental funding and private philanthropy,<sup>14</sup> while for-profit firms have often been viewed suspiciously as driven more by the pursuit of fees than social justice.<sup>15</sup> Yet this division (which was never complete) has increasingly come under stress from a number of directions. The resource constraints of nonprofit public interest organizations have driven collaborations with large-firm pro bono lawyers,<sup>16</sup> while restrictions on federal legal services programs has meant that cases involving class actions, attorney’s fees, and undocumented immigrants have been increasingly pushed into the private sector.<sup>17</sup> At the same time, the expansion of the low-wage workforce and the increase in global outsourcing has placed greater emphasis within the public interest law field on issues of corporate abuse that private plaintiff-side firms have both the expertise and financial incentive to redress. In this context, the private public interest firm holds out renewed promise as an alternative site for lawyers to possibly “do well” and “do good”:<sup>18</sup> able to take on public interest cases where other nonprofit groups are constrained, devote substantial resources to large-scale social change litigation, and address other deficits associated with nonprofit practice, such as low salaries, lack of training, and high turnover.

This Article uses Hadsell & Stormer as a window on small firm practice, shedding light on the possibilities and tradeoffs in fusing a public interest cause with the private sector form. It begins from the premise that organizations matter—both because they institutionalize the goals of members and influence how those goals are articulated and executed.<sup>19</sup> Organizations thus structure the relationship between members and the outside world,<sup>20</sup> while also shaping the nature of interaction and authority within the group itself.<sup>21</sup> The question this Article asks is what role the private firm structure plays in how notions of the public interest are constructed, managed, and contested at Hadsell & Stormer?

The Article proceeds in five parts, which examine the five central questions about small firm public interest practice raised by organizational theory. It begins, in Part I, by asking how public interest principles are institutionalized and interpreted within the small firm setting. Part II evaluates how firm lawyers relate to the notion of professionalism, suggesting that they occupy a dual status as both outsiders to the professional mainstream by virtue of their identification with radical causes and insiders by virtue of their litigation skill and approach to client representation. Part III analyzes how the firm balances their political commitments with the business goal of generating a profit, looking at how it selects, manages, and resolves cases from a business perspective. This Part raises a central tension of hybridity: the firm’s

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<sup>13</sup> See Michael J. Kelly, *Lives of Lawyers Revisited: Transformation and Resilience in the Organizations of Practice* 162 (2007); Brenda Bratton Blom, *Cause Lawyering and Social Movements: Can Solo and Small Firm Practitioners Anchor Social Movements?*, 39 *Stud. L. Pol. & Soc’y* 119 (2006); Debra S. Katz & Lynne Bernabei, *Practicing Public Interest Law in a Private Public Interest Law Firm: The Ideal Setting to Challenge the Power*, 96 *W. Va. L. Rev.* 293 (1994); John Kilwein, *Still Trying: Cause Lawyering for the Poor and Disadvantaged in Pittsburgh, Pennsylvania*, in *Cause Lawyering: Political Commitments and Professional Responsibilities* 201; Stuart Scheingold & Anne Bloom, *Transgressive Cause Lawyering: Practice Sites and the Politicization of the Professional*, 5 *Int’l J. Legal Prof.* 209 (1998); Ann Southworth, *Professional Identity and Political Commitment Among Lawyers for Conservative Causes*, in *The World Cause Lawyers Make*, *supra* note, at 83; Louise Trubek & M. Elizabeth Kransberger, *Critical Lawyers: Social Justice and the Structures of Private Practice*, in *Cause Lawyering: Political Commitments and Professional Responsibilities* 201.

<sup>14</sup> See Nan Aron, *Liberty and Justice For All: Public Interest Law in the 1980s and Beyond* (1989); Laura Beth Nielsen & Catherine R. Albiston, *The Organizational Environment of Public Interest Law 1975 – 2000*, 84 *North Carolina L. Rev.* 1592 (2006).

<sup>15</sup> See Trubek & Kransberger, *supra* note, at 202. In addition, what we know of the attitudes of small-firm lawyers generally has placed them at odds with the ideology of the public interest lawyer. To be sure, plaintiff’s lawyers view themselves as fighting on behalf of the “little guy” versus the big corporation, but beyond that have not been closely identified with social movements. See Carroll Seron, *The Business of Practicing Law: The Work Lives of Solo and Small-Firm Attorneys* (1996).

<sup>16</sup> See Scott L. Cummings, *The Politics of Pro Bono*, 52 *UCLA L. Rev.* 1 (2004).

<sup>17</sup> See Alan W. Houseman, *The Future of Civil Legal Aid: A National Perspective*, 10 *U.D.C. L. Rev.* 35 (2007).

<sup>18</sup> See David B. Wilkins, *Doing Well by Doing Good? The Role of Public Service in the Careers of Black Corporate Lawyers*, 41 *Hous. L. Rev.* 1 (2004); see also Bill Blum & Gina Lobaco, *For Love & Money: The Contradictions of For-Profit Public Interest Law*, *California Lawyer*, Dec. 1, 1988, at 48 (discussing challenges private firms face in balancing the desire to do public interest work with economic realities); Stephen C. Yeazell, *Re-Financing Civil Litigation*, 51 *DePaul L. Rev.* 183 (2001-2002) (describing the transformation of the plaintiff’s bar to one of greater parity with the defense bar because of: (1) increase in liability insurance; (2) changes in products liability law and discovery and settlement processes; and (3) insurance controls on defendant’s litigation budgets).

<sup>19</sup> See Kelly, *supra* note *Lives of Lawyers Revisited*, at 261-64.

<sup>20</sup> See Joel F. Handler, *Down from Bureaucracy: The Ambiguity of Privatization and Empowerment* 19-25 (1996).

<sup>21</sup> See Robert L. Nelson, *Partners with Power: The Social Transformation of the Large Law Firm* (1988); Stuart Scheingold & Austin Sarat, *Something to Believe In: Politics, Professionalism, and Cause Lawyering* 72 (2004).

“publicness” pushes it to pursue the righteous path, while its “privateness” requires that it keep an eye on how to pay the bills. How is this balance managed and maintained? As one would expect, the firm’s attention to bottom line considerations causes it to emphasize particular types of “bread-and-butter” cases, particularly employment discrimination, and to even take on a limited number of non-public interest cases involving high net worth plaintiffs, typically white men, engaged in disputes over the terms of their employment contracts. However, its ability to collect fees, combined with its reputation for litigation power, has also allowed it spearhead litigation on issues of significant social import. To do this, the structure that has developed to facilitate the firm’s litigation agenda both challenges and reinforces traditional conceptions of the firm by strategically incorporating flexibility and hierarchy: the firm operates across markets in collaboration with teams of lawyers to co-counsel large-scale cases, but can do so precisely because internal hierarchy allows cases to be staffed in an efficient manner. In Part IV, the analysis shifts from economics to governance, with the question being how decisions are made and power exercised within the firm structure. Part V concludes by examining the role of Hadsell & Stormer as a political actor in the progressive movement.