

A Call to Pro Bono

By Hon. Damon J. Keith



“Mere access to the courthouse doors does not by itself assure a proper functioning of the adversary process.”

This brief quotation by my friend and mentor, Thurgood Marshall, compels me to share my thoughts on the importance of providing pro bono legal services. I consider pro bono an integral component of equal justice. My life experiences under racial segregation spurred me to fight for justice. I have doggedly pursued equal justice since I began one of my earliest legal jobs in 1953 as the first African-American friend of the court for the Wayne County (Third Judicial) Circuit Court. Seeing these litigants in challenging domestic situations impressed upon me early in my career the value of competent counsel. Over the years, I have come to believe in the necessity of competent counsel for all persons—regardless of their race, gender, class, religion, or immigration status.

Following my tenure as friend of the court, I joined a law firm and practiced law for several years before receiving my federal judicial appointments. I am perpetually grateful to have had the unique opportunity, before serving on the federal bench, to join my desire for equality with my legal acumen in providing pro bono counsel to the Detroit branch of the NAACP throughout the 1950s and 1960s. My legal training was paired with old-fashioned elbow grease as I aided the Detroit branch in vindicating rights in court and raising funds from individuals and groups in the community to support such important legal and social work. While lawyers need not dedicate their service efforts to a specific organization or a sole cause like I did, each lawyer has not only the unique opportunity but the responsibility to truly effectuate justice.

A 2008 State Bar of Michigan survey reported that 66 percent of all nonretired attorneys in the state provided pro bono services in the preceding year. We can, should, and must do better. I view pro bono not as a polite gesture but as an essential requirement of our profession. Pro bono work serves the administration of justice by allowing the poor or the oppressed to receive competent legal representation. Based on my judicial experience, legal representatives can skillfully aid litigants far beyond what those litigants might have been able to achieve on their own.

Currently, one in three Michigan residents qualifies for free legal aid; that is, their income is below 200 percent of the federal poverty limit—\$29,420 for a family of two. With our state's ongoing economic struggles, it's likely even more litigants will need help.

Members of the bar play a vital role in ensuring equal justice for all under the law. Years of practice may provide an attorney with insight into the shortcomings of our legal system. Those shortcomings can be addressed by advocating for improvements in the law through pro bono work. Pivotal cases concerning human



rights and regulatory actions, for example, may affect individuals, local communities, or millions of people at a time. Impact litigation has led to significant advances in each decade, but more remains to be done. By tackling such challenges, advocates can generally create a more perfect union.

Understandably, not all lawyers may be able to devote their careers to such efforts on a full-time basis. For new lawyers in particular, it may seem difficult to accept a case without payment since it does not immediately add to the financial bottom line. But for those with fewer than 10 years of experience, a pro bono case may serve to quickly expand their knowledge base and skills and diversify their practice. It can also lead to recognition for delivering exceptional legal service. Taking pro bono cases can expose lawyers to a practice area that ultimately becomes a new specialty. Taking the time to review contracts for a nonprofit artist's collection, for example, could provide a trial lawyer with the basis to establish a transactional practice.

Additionally, through pro bono work, lawyers can use and develop skills, such as a foreign language, that they may not employ in their daily practices. An intense interest in developing social media might lead a lawyer to take a pro bono case addressing privacy rights or free speech. Attorneys immersed in pro bono cases may be reminded of the necessary balance between supporting themselves and their ongoing duty to serve justice through the profession. After all, payment of law school loans cannot be the sole dispositive factor in fashioning a legal career.

With the vital need for pro bono work in mind, I urge all lawyers to seek out pro bono opportunities in whatever capacity available—hotlines, advice and counsel clinics, in court, individual representation, mediation, or community education and outreach. Use the State Bar of Michigan's resources to find the opportunity that is right for you. Let's all continue to ensure that the legal process functions fairly and provides equal justice under the law. ■



Damon J. Keith has served as a judge on the United States Court of Appeals for the Sixth Circuit since 1977. Before his appointment to the court, he served as chief judge of the United States District Court for the Eastern District of Michigan. Judge Keith is a graduate of Howard University Law School (JD 1949) and Wayne State University Law School (LLM 1956). He is the recipient of numerous awards, including the NAACP's highest award, the Spingarn Medal.