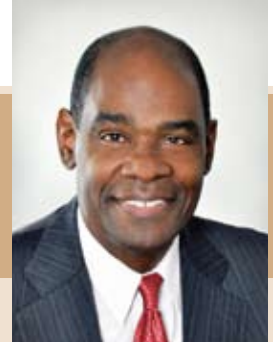


Winning in the Pro Bono League



W. Anthony Jenkins

The Warm-Up

During my professional basketball career, pre-season training and tryouts by those aspiring to become members of the team were always interesting episodes. The coaching staff would assess the talent of our returning players and evaluate newcomers with a view toward improving the performance of our team. The assessments and evaluations considered not only how players' individual talents and personalities complemented one another, but also how those talents and personalities fit within the coach's philosophy of how the game of basketball should be played. The most fundamental question was whether the team's prospects for success would be improved by adding new players to the roster.

During my first few months as president of the State Bar of Michigan, I have been reminded of my basketball experience when thinking about the many teams of veteran lawyers and organizations providing pro bono legal representation to low-income families, individuals, and nonprofit organizations, and the promise of improving the menu of offerings based on a couple of new teams joining the league.

The Opening Tip: The Pro Bono Standard

The SBM Voluntary Pro Bono Standard is aspirational and calls for lawyers to annually take three pro bono cases, devote at least 30 hours of pro bono service, or contribute \$300 to a legal aid provider organization.¹ Legal services are to be provided "at no fee or a reduced fee to persons of limited means" or devoted "to activities for improving the law," and gifts are to be made in "financial support of organizations that provide legal services to persons of limited means."²

The most recent SBM pro bono report indicates that Michigan lawyers take seriously their obligation to provide significant pro bono legal services or contribute to legal aid programs or both. Sixty-six percent reported doing some pro bono work, 30 percent reported making donations to legal aid programs, and some reported doing both. They reported doing so for a broad range of reasons including personal satisfaction, assuring access to justice, and connecting with local legal aid programs. However, that report also indicates that lawyers are not applying a uniform definition of pro bono work and that the definition of pro bono work followed by some lawyers does not match the SBM Voluntary Pro Bono Standard. That is to say, while the SBM standard focuses on legal help for low-income persons, some lawyers count work for friends or family members who are not low income or clients who did not pay for legal services but were expected to do so.³

Moreover, the report indicates that a great deal of pro bono work is being done outside of recognized networks through which civil legal aid programs, bar associations, or other nonprofit agencies refer and support pro bono cases. Getting a pro bono case from an agency that has such systems has a number of advantages, including assuring that the case meets SBM Voluntary Pro Bono Standard criteria. While pro bono le-

gal assistance for low-income persons is the first priority of the organized bar, the other good work being done by lawyers in the name and spirit of helping the public at large should also be applauded (see sidebar on next page).

What's the Score?

As we all know, the need for pro bono legal representation and financial support is greater than ever. Today, more than one-third of Michigan's population qualifies for free help from legal aid programs because they live below 200 percent of the federal poverty limit, but nearly 50 percent of those who qualify are turned away because of lack of resources. There are many innovative new pro bono efforts every year. Here I will highlight just two new players in Michigan's pro bono community that I hope will help make a positive difference.

The New Players

Under the leadership of its president, Jennifer Grieco, the Oakland County Bar Association (OCBA), in partnership with the Family Law Association Program (FLAP) and the Legal Aid and Defender Association (LADA), have established a Pro Bono Mentor Match Program to support new lawyers and to serve the community.

While the SBM standard focuses on legal help for low-income persons, some lawyers count work for friends or family members who are not low income...

The Traditional Roster

The veteran players in Michigan's pro bono community include 25 or so of the largest law firms; two statewide organizations (Community Legal Resources and the State Bar QDRO program); a few special-purpose statewide providers (including the Michigan Immigrant Rights Center and Elder Law of Michigan's Pension Rights Project); the Michigan State Bar Foundation (MSBF)⁴ and its partners in the Access to Justice Campaign (ATJ); six programs funded by the Legal Services Corporation (LSC); multiple non-LSC programs, some 42 of which are recipients of ATJ Fund donations; and numerous pro bono panels administered by local bar associations, local legal services programs, or courts, including five pro se assistance centers.⁵

To our veteran players, I offer a big thanks for and congratulations on your great work! I offer a special thanks to our legal aid organizations for providing free and discounted training for attorneys who do pro bono work, providing unbundled legal services to attract pro bono help and to serve clients, screening pro bono cases for volunteers, and much more. Special thanks also go to the Pro Bono Initiative of the SBM Justice Initiatives Committee for its continuing efforts in promoting free and discounted training and materials; providing information to lawyers on how they can fulfill their pro bono obligations and how to partner with legal aid programs; partnering with the MSBF to raise contributions for the ATJ Fund; and recognizing law firms, legal aid providers, and volunteers for the great work that they do. Special thanks also goes to the MSBF for its leadership in improving access to justice, including support for civil legal aid to the poor, and to the many local bar associations, legal aid programs, and courts for your great work in this area. All of you are members of our all-state team!

Here's how it works: Lawyers who have less than five years in practice and who are either unemployed or are beginning their own practice enroll as mentees. The mentees agree to be primarily responsible on referred cases, i.e., to review the file, conduct legal research, and prepare pleadings on the case before meeting with the mentor. The mentor, a lawyer with seven or more years of experience, agrees to provide advice to and act as a sounding board for the mentee on the case.

FLAP and LADA provide substantial administrative and case support for the program. These organizations screen clients, prepare an initial intake memo summarizing the facts as well as initial issue spotting and citations to applicable authorities, and match the case with a mentee and mentor based on the mentor's experience and availability. FLAP and LADA remain available as resources to the mentee/mentor team; this backup role includes malpractice insurance coverage for the case and a willingness to

fully support the case, including taking back the client if a problem arises in the case or the mentee/mentor relationship. The OCBA also supports the program by hosting extra training sessions for the attorneys involved.

Another exciting partnership is one between the Detroit Metropolitan Bar Association (DMBA), Thomas M. Cooley Law School, and several legal aid programs—including LADA, Michigan Legal Services, the United Community Housing Coalition, Neighborhood Legal Services of Michigan, the American Civil Liberties Union, and Elder Law of

Michigan—to establish a new Pro Bono Mentoring Program. Through this initiative, law students partner with senior lawyers to provide pro bono legal services to clients. Cases are screened and assigned by the legal aid programs, and experienced attorneys serve as the attorneys of record and mentor law students. The law students gain valuable experience, and legal aid programs get legal help for their clients.

Playing to Win: The Role of the SBM

The OCBA and DMBA programs are promising, if still untested, prospects as players in the pro bono big leagues. As they grow over the coming months, we can learn from their experiences and identify successes or possible improvements that may help others who want to undertake similar efforts in the future. My hope is that they overcome any challenges and difficulties that might arise and that they, like many other successful pro bono programs across Michigan, will provide valuable lessons about how our community of volunteers, law schools, legal aid programs, bar associations, courts, and others can creatively expand the menu of pro bono offerings for those in need. I am pleased that so many volunteers, including immediate past SBM President Charles Toy and Cooley Law School Associate Dean John Nussbaumer, are standing by to help with this effort.

The work of our players, whether veterans or newcomers, not only helps lawyers meet ethical obligations, but also improves the public's perception of lawyers, promotes access to justice, enhances the quality of life for needy individuals and families, and improves the quality of life in our communities. In short, what our players do is good work and important work!

The work of our players, whether veterans or newcomers, not only helps lawyers meet ethical obligations, but also improves the public's perception of lawyers...

What I would really like to learn is what else we can do to improve your experience as a player in Michigan's pro bono legal services community. I invite all who are interested to reach out to Robert Mathis, our new SBM pro bono service counsel, at rmathis@mail.michbar.org. Share with us the challenges and opportunities you face and tell us what the SBM can do to make you more successful in your efforts to help those without the means to pay for legal services. If you have pro bono success stories, please submit them to the "A Lawyer Helps" website at www.alawyerhelps.org, which offers recognition and tools to lawyers who give their services to those in need. Each year, the State Bar's Circle of Excellence recognizes firms that meet the Voluntary Pro Bono Standard (<http://www.michbar.org/programs/atj/pdfs/CircleOfExcellence.pdf>). Let us know how we can best support, promote, and recognize pro bono efforts and contributions

so that our pro bono league can help assure access to justice for all.

Thanks again, one and all! ■

Note: A figure was inadvertently misrepresented in my January column, "Diversity Matters: Here and Now." The relevant portion should have read: "Between 1993 and 2008, the number of first-year students admitted to U.S. law schools increased by approximately 3,000, but the percentages and numbers of African-American and Mexican-American students declined during that period despite the fact that both groups improved their respective college grade point averages and LSAT scores." The 3,000 figure is not the number of first-year students admitted during that period.

FOOTNOTES

1. State Bar of Michigan, Justice Initiatives, Voluntary Pro Bono Standards <<http://www.michbar.org/programs/atj/voluntarystds.cfm>>. These standards are not yet part of MRPC 6.1, which presently governs Michigan's pro
2. MRPC 6.1.
3. For a more in-depth discussion of the survey results, see Judge Victoria Roberts' excellent article, *Where has the pro bono passport taken us in 10 years?*, 89 Mich B J 48 (June 2010).
4. The mission, purposes, and activities of the MSBF can be found in the 2010 President's Report; see <<http://www.msbf.org/2010PresidentsReport.pdf>>. The ATJ Campaign is a partnership of the State Bar of Michigan, the Michigan State Bar Foundation, and the state's nonprofit civil legal aid programs to raise private donations to increase resources for civil legal aid for the poor. The MSBF receives and manages such donations in the ATJ Fund. Approximately \$10 million has been raised since the ATJ Fund's inception in 1997.
5. For a fuller discussion of the players and their activities, see the article by Bob Gillett, *The bar and pro bono: Structure and spontaneity*, 85 Mich B J 33 (May 2006).



Lawyers make a difference for people and society. They solve problems, provide free legal help to the poor, and give time to many other community efforts.

how lawyers can and do help...

LAWYERS GIVE SERVICES



PRO BONO SERVICES

Lawyers volunteer to provide free legal services to low-income families or nonprofit agencies who serve those in need. It is one way to fulfill the duties in the Voluntary Pro Bono Standard.

LAWYERS GIVE MONEY



ACCESS TO JUSTICE FUND

Lawyers make donations to the Access to Justice Fund to support civil legal aid for the poor. It is one way to meet obligations under the Voluntary Pro Bono Standard.

LAWYERS GIVE TIME



COMMUNITY SERVICE

In addition to giving pro bono legal services to the poor and monetary donations for legal aid, many lawyers also give time to other community efforts.

www.alawyerhelps.org