

Bending Toward Justice

by Karen A. Gould, 2006–2007 VSB President



In preparing a column reflective of the history of legal services described in this issue of *Virginia Lawyer*, I must first disclaim any personal knowledge of pro bono work.

Although I have represented clients without expecting to be paid, as we all do, I have never participated in a program designed to represent clients who need legal services but cannot afford to pay for them.

I have lots of excuses: I'm a small-firm medical-malpractice defense lawyer. I don't practice family law, housing law, criminal defense or in any other area in which pro bono representation is needed. My "free" professional time has been spent doing significant volunteer work for the Virginia State Bar.

Yet, I believe that we have a duty, as officers of the court, to make sure that both sides in a contested matter have adequate representation. I try to fulfill the suggestions of Rule of Professional Conduct 6.1 by giving direct financial support to programs that deliver legal services.

What can we—the Virginia State Bar and the profession—do to motivate lawyers such as I to do pro bono work?

Other than doing pro bono, how can individual lawyers such as I support a system to provide legal services to people who can't afford them?

Many dedicated people offered their ideas and experiences as I was preparing this column. Here are some thoughts:

Training—You who practice in solo and small-firm general practices, I suspect, are the unsung heroes of the pro bono effort, in that you frequently represent uncounted clients who cannot afford to pay. You represent them because you know they need your help.

Lawyers such as I, who practice in a niche that doesn't address the vast majority of legal services needs, require training in specific areas of law. Training programs are free or low-cost and available on a flexible schedule, through legal aid clinics, local bar associations and projects designed for clients in need of targeted services (for example, domestic violence projects provide training in obtaining restraining and emergency custody orders).

Client Management—Legal services programs absorb much office overhead required for pro bono clients. Many programs provide intake, scheduling assistance, secretarial services and malpractice insurance for pro bono cases.

Firm Incentives—A few medium-size and large law firms encourage pro bono participation by giving credit to associates for pro bono hours. At least one firm requires that each lawyer provide fifty hours of pro bono service annually. I was told that when the requirement was first imposed, lawyers were reluctant to embrace the program. But the firm persisted, and now pro bono is accepted as part of the firm culture. Attorneys who go beyond the fifty-hour requirement are formally recognized.

Catch 'em young—Clinical programs for third-year law students use an enticing lure to get young advocates involved in public interest law: They promise early experience trying cases and representing clients before administrative tribunals. Clinics help black lung victims (at Washington and Lee University); juveniles and people with mental disabilities (at the University of Richmond); and low-income members of the military and their dependants (at George Mason University)—just to name a few.

If you find that your practice does not allow time or opportunity for personal pro bono work, checkbook pro bono is perfectly appropriate under Rule 6.1(c). And the boards of pro bono programs are always in search of community leaders, including lawyers, to serve as directors and advocates. Participation by active citizen-lawyers is essential to the effort of making sure justice is equitably distributed.

Scan the legal services horizon. You will find exciting, innovative programs worthy of your time and money.

Martin Luther King Jr. assured us that "the arc of the moral universe is long, but it bends toward justice." The legal services leaders profiled in this magazine dedicated their careers to that concept. Now many are on the cusp of retirement. What are we doing to nurture the arc toward justice? What are we doing to put feet on the promises of the Constitution?