

Pro Bono Toolkit

Talking Points

These talking points are intended for judges to use when speaking to groups of attorneys at events such as swearing-in ceremonies, local bar meetings, and pro bono recognition gatherings. We hope they are helpful to you in preparing your remarks and tailoring them to your audience and available time. You also can find more information in the online Pro Bono Toolkit at www.courtinfo.ca.gov/equalaccess/probono.htm.

Introductory remarks

- As lawyers, you are members of an honorable profession, with a proud history of pro bono legal services. This professional commitment is embodied in legislation acknowledging the special role of lawyers. With the privilege of law practice comes the obligation to ensure that our system is accessible to the most vulnerable among us.
- By doing pro bono work, you are not only helping the vulnerable, you are also improving the administration of justice.

The title of professional requires that in daily practice, an attorney strive to transcend the demands of the moment to consider the greater good. Lawyers are not simply representatives or employees of their clients—they are officers of the court. That denomination reminds us that a lawyer’s obligations flow not only to the client but to the courts and to the system of justice of which they are an integral part.

—Chief Justice Ronald M. George (October 2001)

- Systems have been put in place across the state to facilitate pro bono service. These systems—offered by pro bono organizations, legal services programs, local bar associations, and court-based self-help centers—make it easy for you to volunteer by:
 - Offering training;
 - Connecting you with individuals in need who have already been interviewed to determine their legal issues and financial eligibility; and
 - Helping with the necessary follow-up to ensure quality services for that client.

Who needs help?

- More than 6.7 million low-income Californians qualify for legal aid, representing 1 out of 5 children in the state. Nearly one-third of these families are working families, and one-fifth of them are of limited English proficiency, making it difficult for them to navigate the court system on their own.
- Judges constantly see vulnerable low-income families and seniors attempting to handle their own serious legal matters. We are pleased that all of our superior courts now have self-help centers to help with serious family law matters. But the centers

are understaffed, and there will always be individuals who need a lawyer who can provide more than self-help assistance.

- Here's how your services can help our community:
 - Every time a pro bono lawyer is able to help a domestic violence victim, it can prevent serious injury, save lives, prevent costly county medical expenses, and alleviate already clogged courts and overworked law enforcement agencies.
 - When a pro bono lawyer helps keep a family in their home, it prevents them from becoming homeless and from creating an additional demand on shelters and other charitable and municipal services.
 - When a pro bono lawyer helps prevent workers from wrongfully losing their jobs or from being denied earned wages, it allows for individuals to put food on their tables and pay their rent or mortgage.
 - When a pro bono lawyer helps keep a child in school, truancy and juvenile crime are reduced, saving court time and reducing the costs of incarceration.
 - When a pro bono lawyer helps a senior remain in his or her home with supportive care, the much higher cost associated with full nursing home care is avoided.
 - When a pro bono lawyer helps create a guardianship, it achieves the result of protecting the child, without the child going through the dependency system, thus easing the burden on both the courts and the county.

Limited capacity of legal aid

- Legal aid agencies in California must turn away more than two-thirds of eligible prospective clients who need assistance each year. The one-third who do get assistance do not necessarily receive the level of service they require, and many get only brief advice and counsel.
- In California, there are approximately 800 legal aid attorneys out of a total of more than 164,000 active attorneys. That makes a ratio of over 8,300 eligible indigent clients per legal aid attorney.
- In 2004, more than 4.3 million court users in California were self-represented.
- The justice gap—the gap between total resources available and what it would take to truly meet the legal needs of California's low-income population—is estimated at \$394.1 million.

Pro bono service is a lawyer's duty

- “Providing pro bono service is an important responsibility and obligation that attaches to the privilege of being an attorney.”
—Chief Justice Ronald M. George (October 2001)
- The American Bar Association’s Model Rule 6.1 states, “Every lawyer has a professional responsibility to provide legal services to those unable to pay.” This model rule creates an aspirational goal of 50 hours per year.
- The State Bar Board of Governors Pro Bono Resolution also urges all attorneys to provide at least 50 hours of pro bono services per year to the poor or nonprofit organizations.
- Legislation enacted in 2006 provides:

The private bar, acting on its own, cannot and should not be called upon to provide full civil representation for California’s poor. Nonetheless, the legal profession should play a lead role in the effort to improve the justice system, and each lawyer has a personal obligation as a member of the profession to ensure that all persons have equal access to the courts for redress of grievances and access to lawyers when legal services are necessary, including through the provision of pro bono services and through financial support to nonprofit organizations that provide free legal services to the poor.

(Assem. Bill 2301; Stats. 2006, ch. 165 – now Business & Professions Code Section 603)

Pro bono work serves the administration of justice

- Pro bono ensures meaningful access to justice to millions who need legal representation but cannot afford it.
- It improves public perception of the legal profession.
- It helps the courts operate more efficiently and effectively.

Pro bono service makes business sense for attorneys, from large firms to small firms and solo practitioners

- Law firm corporate clients are interested in evidence of their lawyers’ corporate social responsibility.
- Annual law firm rankings in publications such as *The American Lawyer* have had a positive impact on firms’ pro bono practices.

- New lawyers, smaller firms, and solo practitioners can benefit from pro bono work by developing skills and expertise and creating contacts in the community.
- Pro bono providers offer Minimum Continuing Legal Education (MCLE) trainings for prospective volunteers at little or no cost, as well as opportunities to network with other lawyers.
- Pro bono programs often provide mentoring and malpractice coverage for their volunteers.

Many ways to do pro bono work

- Pro bono opportunities are available for litigators, transactional attorneys, and mediators—for both new and experienced attorneys.
- There are varying levels of time commitments and opportunities for limited scope representation.
- Pro bono opportunities exist in all areas of civil law:
 - Advice and counsel clinics and hotlines, and provision of legal information at court self-help centers;
 - Impact litigation and policy advocacy;
 - Community education and outreach;
 - Mediation of legal disputes; and
 - Transactional legal assistance to nonprofit organizations.

Get involved

- Join your local bar association’s pro bono program.
- Contact local legal aid and other legal services agencies.
- Work with your firm’s pro bono manager/partner.
- Contact your court’s self-help center.
- Visit CaliforniaProBono.org (www.probono.net/CA) to find opportunities in your location and areas of interest.

Closing remarks

Speaking for myself and my judicial colleagues, we thank you sincerely for your help. We know that you have incredible demands on your time, and your commitment to the profession and to the courts is truly appreciated.

Inspirational Quotations

“The title of professional requires that in daily practice, an attorney strive to transcend the demands of the moment to consider the greater good. Lawyers are not simply representatives or employees of their clients—they are officers of the court. That denomination reminds us that a lawyer’s obligations flow not only to the client but to the courts and to the system of justice of which they are an integral part.”

—Chief Justice Ronald M. George (October 2001)

“The pro bono contributions made by these attorneys—and thousands like them across California—beneficially affect not only the individuals they assist, but also the rule of law and the administration of justice in our state. . . .

“Something very different also threatens to undercut our court system’s ability to administer justice. We all recognize that our system must afford meaningful access to the courts to all those who need it. Such access necessarily includes the ability to participate effectively in the proceedings. And often that is dependent on whether one does or does not have legal representation.

“For many individuals, going ahead without counsel is unthinkable. Many things—language and cultural barriers, complex legal issues, unfamiliarity with legal proceedings—can serve as an insurmountable obstacle. But a major barrier, of course, is cost.”

—Chief Justice George, Pro Bono Awards, Bench/Bar/Judicial Administration Convention, Anaheim, California (September 28, 2007)

“We must act to increase the number of pro bono attorneys assisting indigent clients. . . . Many lawyers across the state and the nation have already heeded the call for pro bono services. Still, we need a larger pool of volunteer lawyers. This need is especially acute in California because of our growing diverse population of immigrants, low-wage workers, seniors, and other vulnerable groups who face enormous difficulties in accessing the justice system.” (emphasis in original)

—Chief Justice George, letter to California bar leaders (2004)

“Certainly, life as a lawyer is a bit more complex today than it was a century ago. The ever-increasing pressures of the legal marketplace, the need to bill hours, to market to clients, and to attend to the bottom line, have made fulfilling the responsibilities of community service quite difficult. But public service marks the difference between a business and a profession. While a business can afford to focus solely on profits, a profession cannot. It must devote itself first to the community it is responsible to serve. I can imagine no greater duty than fulfilling this obligation. And I can imagine no greater pleasure.”

—Justice Sandra Day O’Connor, 78 Or. L. Rev. 385, 391 (1999)

“Except for the few that legal services lawyers can represent, poor people have access to American courts in the same sense that the Christians had access to the lions when they were dragged, unarmed, into a Roman arena.”

—Justice Earl Johnson, Jr., quoted in Becker and Gibberman, *On Trial!* (1987)

“There can be no equal justice where the kind of trial a man gets depends on the amount of money he has.”

—Justice Hugo L. Black, *Griffin v. Illinois* (1956) 351 U.S. 12, 19

“We are here on earth to do good to others. What the others are here for, I don’t know.”

—W. H. Auden

“Where justice is denied, where poverty is enforced, where ignorance prevails, and where any one class is made to feel that society is an organized conspiracy to oppress, rob, and degrade them, neither persons nor property will be safe.”

—Fredrick Douglass, speech (April 1886)

“True peace is not merely the absence of tension; it is the presence of justice.”

—Dr. Martin Luther King, Jr.

“Equal justice under law is not merely a caption on the facade of the Supreme Court building, it is perhaps the most inspiring ideal of our society. It is one of the ends for which our entire legal system exists . . . it is fundamental that justice should be the same, in substance and availability, without regard to economic status.”

—Justice Lewis F. Powell, Jr., U.S. Supreme Court Justice (Ret.), during his tenure as president of the American Bar Association

Examples of Pro Bono Cases

- Luis's mother died in a car crash, his father is not around and has never met Luis. The boy's grandparents must get guardianship of Luis in order to provide the care he needs. They are retired seniors and cannot afford an attorney.
- Malcolm and Tonya have two children and bought a house in 2006. Malcolm lost his job, and they can no longer afford the mortgage. They've received a foreclosure notice and have nowhere to go if they are evicted.
- Lucy has two young children and is pregnant. They all live with her boyfriend, who has been increasingly violent toward her. She has no family or friends, as he has succeeded in isolating her. She's afraid that if she leaves with the children, he'll come after them. She doesn't know where to go where she and the children will be safe.
- A car crash left an eight-year-old boy with severe brain damage. His school repeatedly failed to provide learning services and support as required by federal and state law. His parents are legal immigrants and do not understand the system, and their English proficiency is limited. They need an advocate to help the boy get transportation, physical therapy, and a classroom aide so that he can stay in school.