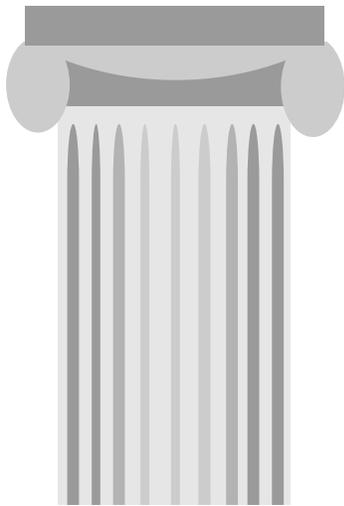


Pro Bono Guide

**An Introduction to Pro Bono Opportunities
in the Law Firm Setting**



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Table of Contents

- I. Introduction - 3**
 - The benefits of pro bono work
 - Trends

- II. Current Pro Bono models - 8**
 - The Importance of Structured Programs
 - Models of Effective Programs
 - Pro bono as a department group
 - Externships/Rotations
 - Signature/thematic projects
 - Partnerships between firms and service providers
 - Offices or clinics in underserved neighborhoods
 - Fellowships
 - Split Summer
 - Agencies that link firms with pro bono work
 - Pro bono in rural areas
 - Transactional pro bono
 - Corporate pro bono

- III. Evaluating an Employer's Commitment to Pro Bono - 17**
 - Do your research
 - The Interview
 - Sample interview questions
 - As a summer associate

- IV. On the Job - 22**
 - Making pro bono a reality

- V. Conclusion - 23**

- VI. Resources - 23**
 - Institutes, associations, websites and publications

Acknowledgments

There are a number of people to thank for their assistance with this updated Guide. First, thanks to Esther Lardent, President of the Pro Bono Institute for spending a great deal of time talking to both of us about national trends in pro bono. Without her assistance, it would have been difficult to stay up to date with the trends during these turbulent times. Thanks also to William Dean, Executive Director of Volunteer of Legal Services in New York City and Meg Connolly, Executive Director of the Volunteer Lawyer's Project of the Boston Bar Association for sharing their accumulated wisdom with us. We also wish to thank our friends at the Columbia University Law School's Center for Public Interest, Dean Ellen Chapnick and Assistant Director Harlene Katzman, for the ideas and inspiration we drew from the conference this past summer entitled "The Law School Pro Bono Challenge". Finally, thanks to Virginia Ralston, OPIA Associate, for ensuring that this updated Guide actually happened.

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Every lawyer, regardless of professional prominence or professional workload, has a responsibility to provide legal services to those unable to pay, and personal involvement in the problems of the disadvantaged can be one of the most rewarding experiences in the life of a lawyer.¹

I. Introduction

According to Model Rule 6.1 of Professional Conduct of the American Bar Association, “a lawyer should aspire to render at least fifty (50) hours of pro bono publico legal services per year.” Rule 6.1 further urges that lawyers provide a substantial majority of those hours without fee or expectation of fee to persons of limited means or charitable, religious, civic, community, governmental and educational organizations in matters designed primarily to address the needs of persons of limited means. Additionally, lawyers are encouraged to contribute financially to organizations that provide legal services to the poor.

Thousands of lawyers answer the call each year. According to *The American Lawyer* magazine, lawyers at the nation’s 100 biggest and most profitable law firms logged over 1.74 million hours of pro bono time in 1999, or the equivalent of over 900 full-time associates.² Lawyers assist clients in cases civil and criminal, with issues considered liberal and conservative, and in matters involving civil and human rights, immigration, housing, capital punishment defense, taxes, business development and more.

The sheer volume of pro bono hours logged, however, when viewed alone, can be a misleading statistic. While thousands of lawyers give generously of their time, bottom-line business concerns, heavy workloads, uncertainties about taking on cases and personal career considerations force some lawyers to eschew their pro bono obligation. Recent economic developments have put additional pressure on firms and associates dedicated to fulfilling their pro bono responsibilities. As business boomed in the late 1990s and associates’ salaries expanded dramatically, firms had more work than they could handle and needed the billable hours from paying clients to justify associates’ salaries. Many associates became pinched for time and, because of job pressures, were forced to cut back on the number of hours of pro bono work they provided. According to a survey by *American Lawyer* magazine, the lawyers at the nation’s 100 highest-grossing firms spent an average of 36 hours a year on pro bono cases in 1999, far short of the 50 hour ABA suggestion and down significantly from the 56 hour average in 1992.³ Even before the economic downturn of 2001 though, there were some signs that law firms were discovering that there were adverse affects to cutting pro bono hours,

¹ Model Rule 6.1 of Professional Conduct, American Bar Association, Comment #1.

² *The American Lawyer*, July 5, 2000.

³ Greg Winter, “Legal Firms Cutting Back on Free Services for Poor,” *New York Times*, Aug. 17, 2000, A1.

and some began to restore pro bono-friendly policies and practices that had been cut in the preceding months.

THE BENEFITS OF PRO BONO WORK

Why would a firm lawyer who is paid in the hundreds of dollars per hour for her services give away her time? And why would a law firm encourage an associate or a partner to do so?

First and foremost, pro bono work often benefits those who otherwise cannot afford to secure legal representation. Study after study has shown that poor Americans find it very difficult to secure quality representation in the costly legal system. At the same time, recent budget cutbacks in federal funding for legal services have made it increasingly difficult for not-for-profit agencies and legal services providers to meet their clients' needs. Financially strapped, they are forced to turn away clients every day because they lack the resources to take on every case. As a result, only about one in five low-income Americans get the free legal help for which they are eligible.⁴ Without the hundreds of thousands of pro bono hours provided by lawyers, countless more would go without the help they need.

Need alone does not explain why firms and lawyers provide pro bono service. According to Esther Lardent, president of the Pro Bono Institute, "supporters of pro bono service typically focus on the compelling need for such assistance. But," she continues, "research has shown that what makes good moral and ethical sense – happily – makes good business sense, too."⁵

Countless firms have discovered the benefits of pro bono work. It is an inexpensive and efficient way for the firm to professionally develop its young associates. The nature of many pro bono cases often puts young associates in new situations—conducting client interviews, questioning witnesses during a deposition, or even appearing in court—that give them a kind of hands-on training that firms often cannot provide. During these proceedings, attorneys gain invaluable advocacy experience on behalf of their pro bono clients that they otherwise would not be exposed to doing during their early years at the firm. This more quickly makes the associate a valuable attorney who can handle complicated matters with high-paying clients.

- | Firm benefits |
|---|
| • Lawyering skills development |
| • Help recruit and retain new associates |
| • Improve firm-wide morale |
| • Enhance firm's reputation |
| • Community connections |

A clear and strong pro bono culture within a firm provides benefits beyond practical training skills. Pro bono activity can build relationships between firm partners and the Board members of local community agencies. These Board members are often

⁴ Elizabeth Amon, "Bush Holds the Line on Legal Aid for Poor – for Now," *The National Law Journal*, April 20, 2001.

⁵ Esther F. Lardent, "Pro Bono Work is Good for Business," *The National Law Journal*, March 7, 2001.

important community members who may refer clients and cases to the firm in the future. Further, pro bono work improves morale firm-wide, enhances the firm's reputation, both within the legal community and in the public spotlight, and strengthens the firm's ability to attract and serve its commercial clients. Firms such as Hogan and Hartson, Holland and Knight, and Skadden, Arps, Slate, Meagher and Flom have earned a national reputation for their commitment to pro bono work. Conversely, many firms have discovered that the lack of a demonstrated commitment to pro bono or a formalized pro bono program hurts their ability to recruit and retain associates. Indeed, a respected pro bono program serves as a powerful enticement for prospective associates who have made it clear that they want to work in an environment that embraces pro bono service.

Pro bono work benefits the lawyer providing it as well. Despite the lucrative salaries and prestige of private practice, a large number of lawyers report being unhappy in their work. According to the ABA Young Lawyers Division Career Satisfaction Survey (2000), 25 percent of the respondents reported that they were either somewhat dissatisfied or very dissatisfied with the practice of law.⁶ Further, a 1998 National Association of Law Placement survey revealed that 43% of new associates departed their firms within three years of being hired.⁷

“For a lot of first-, second-, and third-year associates, one key thing that pro bono offers is relief from the stunning tedium of their paying work: relief from endless hours of discovery and 'due diligence,' from the mind-numbing frustration of researching codes and producing the first drafts of motions, oppositions, answers, briefs, memos, replies, and surreplies. It offers the chance to have a live, red-blooded client, a 'real person' with real problems.”

Liza Mundy, “The Pro Bono Hustle,”
Washington Monthly, Sept. 1989 at 12.

Pro bono work may provide a partial answer to the career fatigue of law firm associates. Supreme Court Justice Ruth Bader Ginsburg remarked that “a lawyer will gain large satisfaction when he or she is not simply a fee-charging artisan, but a contributor to the public good.”⁸ Representing or assisting needy clients with important legal matters gives lawyers a sense of connectedness and purpose, assuring them that their efforts matter, that they make a difference in their community. Attorneys often work

closely with individual clients one-on-one. In contrast to the often impersonal nature of some complex litigation and business practice, this experience often proves deeply satisfying. Pro bono work also affords associates as well as partners the opportunity to work on cases involving diverse legal issues and develop a wide array of lawyering skills.

Steven Schulman, National Pro Bono Counsel for the firm of Latham and Watkins, said that “Pro bono work is a win-win for the firm. We have the opportunity to provide legal

⁶ *ABA Young Lawyers Division Survey: Career Satisfaction, 2000.* The survey report can be found on the American Bar Association's website at www.abanet.org.

⁷ “Keeping the Keepers: Strategies for Associate Retention,” NALP, 1998. For an executive summary of the report, see the NALP website at www.nalp.org.

⁸ Ruth Bader Ginsburg, April 9, 2001 speech at the David A. Clarke School of Law, University of the District of Columbia.

services to those in our community most desperately in need, and our attorneys get hands-on experience on a variety of significant legal matters.”⁹ Add to that a good reputation, recruiting advantages and potential client connections, and the benefits of pro bono work are incontrovertible.

TRENDS

Over the past decade, just as firms have come to operate more like businesses with increasingly formalized structures and procedures, many firms have changed the way they handle pro bono work. Whereas previously pro bono cases were frequently handled on an ad hoc basis that put much of the burden on the individual associate or partner involved in the case, pro bono matters are now more often handled much like regular matters. Most larger law firms have a written pro bono policy. These policies define what constitutes pro bono service, include criteria for approval of new pro bono matters and outline procedures for handling pro bono matters. In the boom times of late 1999 and early 2000, some of the policies were changed; particularly with respect to how pro bono was treated with respect to billable hours, compensation and bonuses. Some of the new policies were unclear; others obviously cut back on treating pro bono hours as favorably as before. Recently, however, pro bono policies have stabilized a bit, especially as firms have discovered how important pro bono is for recruitment and retention. Students, however, are cautioned to exam policies carefully in light of recent upheaval.

In addition to formal pro bono policies, many firms have developed structures and staff devoted exclusively to pro bono matters. Some law firms have a committee, often headed by a partner, to set policy on pro bono matters. Some have a full-time coordinator, usually a lawyer, to assign and coordinate cases. Others have both. Providing this kind of substance and commitment to pro bono generally speaks well for a firm. Some firms though, do very well with just a committee of volunteers. Many firms publish annual reports detailing the firm’s pro bono activities, generate pro bono newsletters and have instituted recognition programs for pro bono work.

The formalization has moved outside the walls of the individual firms and spread among Bar associations, lawyering institutions and organizations nationwide. One notable effort has been the Law Firm Pro Bono Project. Sponsored by the Pro Bono Institute at Georgetown University Law Center in cooperation with the American Bar Association’s Fund for Justice and Education Standing Committee on Pro Bono and Public Service, it developed the Law Firm Pro Bono Challenge[©] in 1993.¹⁰ In enlisting in the Challenge, major law firms commit to an aspirational goal of pro bono work constituting either 3 or 5 percent of their total billable hours annually or an average of 60 to 100 hours per attorney. The Challenge uses a broad definition of what constitutes pro bono work which

⁹ As quoted in “Latham and Watkins Named Pro Bono Law Firm of the Year,” press release from Latham and Watkins, available at www.lw.com/news/pressRels/probono2001.htm.

¹⁰ *The Path to Pro Bono, An Interviewing Tool for Law Students*, (American Bar Association Standing Committee on Pro Bono and Public Service and Center for Pro Bono), pg. 4. A current list of signatories and the full text of the Challenge are available on the Pro Bono Institute’s website at www.probonoinst.org. The Challenge is copyrighted by the Pro Bono Institute; all rights reserved.

includes, but is not limited to, the provision of free legal assistance to persons of limited means. So far, over 150 firms have signed up.

With the increasing formalization, diversification and sophistication of pro bono programs at law firms, there is pro bono work of all shapes and sizes for anyone who wants to do it. Following is an explanation of various models of pro bono programs, suggestions for evaluating a firm's commitment to pro bono and a listing of resources to help you research a prospective employer.

Law Firm Pro Bono Challenge Statement of Principles (excerpt)

Recognizing the growing severity of the unmet legal needs of the poor and disadvantaged in the communities we serve, and mindful that major law firms must--in the finest traditions of our profession--play a leading role in addressing these unmet needs, our firm is pleased to join with other firms across the country in subscribing to the following statement of principles and in pledging our best efforts to achieve the voluntary goals described below.

Our firm recognizes its institutional obligation to encourage and support the participation by all of its attorneys in pro bono publico activities. We agree to promulgate and maintain a clearly articulated and commonly understood firm policy which unequivocally states the firm's commitment to pro bono work.

To underscore our institutional commitment to pro bono activities, we agree to use our best efforts to ensure that our firm will either:

- (a) annually contribute, at a minimum, an amount of time equal to 5 percent of the firm's total billable hours to pro bono work;
- or
- (b) annually contribute, at a minimum, an amount of time equal to 3 percent of the firm's total billable hours to pro bono work.

Recognizing that broad-based participation in pro bono activities is desirable, our firm agrees that, in meeting the minimum goals described above, we will use our best efforts to ensure that a majority of both partners and associates in the firm participate annually in pro bono activities.

In furtherance of these principles, our firm also agrees to provide a broad range of pro bono opportunities, training, and supervision to attorneys in the firm, to ensure that all of our attorneys can avail themselves of the opportunity to do pro bono work.

II. Current Pro Bono Models

THE IMPORTANCE OF STRUCTURED PROGRAMS

As firms increased in size and adopted more business-like operations in the 1990s, they likewise turned to structured programs to manage the pro bono work done by partners and associates. Management efficiencies weren't the only impetus, however, for this change. The demand among recent law school graduates for a clear and strong commitment to pro bono at prospective firms encouraged many firms to turn their pro bono rhetoric into a demonstrable commitment. The judicious tracking of billable hours may have also (albeit unintentionally) contributed to the formalization of pro bono work. When the end of the year billable hours totals came in, it was quite easy to determine the number of hours spent by the firm on pro bono matters, and easy to calculate the percentage of those hours to total billables. When firms came up short on the pro bono end, they responded by instituting structured programs that helped guarantee a minimum number of pro bono hours.

Structured programs offer many advantages for firms seriously committed to fulfilling their pro bono obligations. Without formalized procedures, individual attorneys are often left to fend for themselves, making pro bono work inefficient and exasperating. Associates may feel discouraged from taking on pro bono cases, especially if the firm has high billable hour requirements and pro bono work does not count toward total billables.

Through structured support and supervision, firms can ensure that pro bono clients receive the same high quality representation as paying clients. By marshaling the firm's resources, formalized programs enable firms to provide more effective, efficient assistance to a greater number of pro bono clients. A coordinating structure provides a contact point within the firm for partners and associates who are interested in taking on a pro bono case. It also links community legal services and non-profit law offices with lawyers ready to take on a case, thus decreasing referral time. If the firm has a case review process for pro bono matters, associates need not worry that a pro bono matter present a conflict of interest with other firm cases.

Although firms have developed a wide variety of programs to meet their individual and regional needs, most programs share certain basic components, such as a written pro bono policy and clear structures and procedures for handling pro bono matters. From there, however, a plethora of models exist. Check out those presented below to get an

The demand among recent law school graduates for a clear and strong commitment to pro bono at prospective firms encouraged many to turn their pro bono rhetoric into a demonstrable commitment.

idea of the various methods and programs implemented by firms to facilitate and promote pro bono work. You may find that one model particularly appeals to you.

MODELS OF EFFECTIVE PRO BONO PROGRAMS

The models in this section have been drawn from firms with strong, well-established pro bono programs. These models illustrate a variety of approaches to coordinating pro bono work at a law firm. They demonstrate not only how different firms distribute pro bono cases among partners and associates, but also how firms ensure that the pro bono work they undertake receives adequate support. The models included are intended to be illustrative in nature, and by no means represent an exhaustive list or reflect the comparative merits of programs not mentioned. Our categorization should not be understood to be mutually exclusive, either – programs listed under one model may also incorporate components from other models.

The names of some firms have been noted either with their permission or based on public information gathered about their program; others have been described anonymously. To help you evaluate the options, we have tried to indicate each firm's geographic setting and size.

Pro bono as a department group

Some firms have established practice groups devoted exclusively to pro bono matters, staffed full-time, year-round by partners, associates, paralegals and administrative support. At these firms, pro bono is on par with commercial matters.

In 1970, Hogan and Hartson became the first major firm to establish a separate practice group devoted exclusively to providing pro bono legal services. The Community Services Department (CSD) is composed of a partner who works full-time heading the department, a senior associate assigned to CSD full-time for eighteen months and two full-time legal assistants. The primary purpose of the CSD is to encourage firm attorneys to get involved in pro bono matters and to help attorneys outside the CSD in handling pro bono matters. Attorneys who are not assigned to the CSD are still encouraged to do pro bono work and, in fact, contribute the great majority of Hogan and Hartson's pro bono hours. Among the impact cases handled by the CSD were the class action lawsuit concerning race discrimination in Denny's restaurants; representing the Grand Canyon Trust and the Wilderness Society in efforts to restore and preserve the Canyon; and several death penalty cases.

Based on Hogan and Hartson's model, the firm of Holland and Knight created a firmwide Community Services Team (CST) in 1990. The CST provides legal representation to people, groups and causes that could not otherwise afford it, concentrating its efforts on cases with significant issues affecting large numbers of people. A partner who devotes her entire efforts to pro bono work heads the CST. In addition, one full-time associate rotates through the CST on a multi-year basis. At each of the firm's 22 offices there is a pro bono partner who is in charge of the approval, budgeting and case management for the office's pro bono work.

Externship/Rotation

Many firms have developed rotation models, sometimes called externships or fellowships, that lend an associate for a period of weeks or months to community non-profit group or legal services provider. Rotations typically range from 2 months to a year. During that time, the associate works full-time for the non-profit or legal services agency while remaining an employee of the firm and receiving her full salary, benefits and retaining her office and administrative support. Rotations allow externs to handle several cases at once and develop expertise in a particular field. The benefits for the participating agency include eliminating the need to hire junior staff attorneys and reducing training time.

Some rotations are continuous, meaning that the relationship between the firm and participating agency is permanent. For a four month rotation, three different firm associates would work a rotation in one calendar year. Ideally, a short overlap period is included to maintain the flow of casework from one extern to the next. Other rotations are episodic, meaning that a firm provides an associate for three months out of the year to an agency. Frequently, participants in rotations are asked to present mid-term reports to the firm and write up a report at the conclusion. Rotations are typically available to second through fourth year associates.

Since 1969, the 450-attorney firm of Covington and Burling has sent over 135 lawyers on full-time, six month stints to represent indigent clients through the District of Columbia's Neighborhood Legal Services Program (NLSP). In addition to two lawyers each six months, Covington and Burling sends a paralegal and a secretary to work at NLSP full-time. The firm also funds four summer positions for law students to work in NLSP offices. Another of the firm's rotation programs lends one lawyer and one paralegal full-time for six months to the D.C. Office of Corporation Counsel to prosecute cases of child abuse and neglect. A third rotation sends an associate to work 50 percent of her time at the Zacchaeus Free Legal Clinic for six months.

The firm of Kramer, Levin, Naftalis and Frankel launched an externship in 1998 with South Brooklyn Legal Services. Three associates from the firm spend four months each working full-time for South Brooklyn Legal Services, taking direct responsibility for a full docket of Housing Court cases. Externs remain Kramer Levin employees with full pay and the time spent is fully credited at the firm.

Not all pro bono work or pro bono externships are for litigators. Since upwards of two-thirds of a firm's attorneys can be transactional attorneys, many firms have explored pro bono opportunities for their transactional lawyers. The 600-attorney firm of Cleary, Gottlieb, Steen and Hamilton of New York City is such a firm. One of Cleary's two externships is with Lawyers Alliance for New York (LANY), a leading provider of corporate legal services to not-for-profit organizations in New York City. The externship is a four-month paid leave of absence during which the extern works full-time as a staff attorney for the legal service organization. The Cleary extern with LANY represents a variety of tenant and community-based organizations and non-profits in sophisticated financial, corporate and real estate transactions designed to acquire, rehabilitate and

develop low-income housing and to support community-base economic development projects throughout New York City.

Another firm putting transactional attorneys to work on pro bono matters is Fredrickson and Byron in the Twin Cities of Minnesota. Fredrickson and Byron lawyers work with the Metropolitan Economic Development Association, a non-profit that provides consulting and technical assistance to minority businesses. In addition, firm lawyers assist businesses in the Mercado Central, a Latino marketplace cooperative in South Minneapolis, with a host of matters including employment advice, incorporation, immigration and intellectual property.

Signature/Thematic project

Many firms have chosen to focus their pro bono work either thematically or geographically, selecting an issue, client group or a neighborhood of need and dedicating significant efforts to it. This approach offers several advantages for the firm. By involving—or making involvement available to—all firm lawyers on common project, everyone can share in its progress, struggles and accomplishments. Attorneys work together developing strategies for cases and sharing knowledge. Marshaling the firm's resources in a neighborhood clinic or toward a particular issue also maximizes efficiency, allowing the firm and its attorneys to make a larger impact.

In Minneapolis, Minnesota, the 150-attorney firm of Leonard, Street and Deinard has focused its pro bono efforts geographically, representing Legal Clinic clients at the Community-University Health Care Center (CUHCC) in the Phillips neighborhood of southeast Minneapolis, an demographically diverse, urban area of concentrated poverty and unemployment. Summer associates, associates and partners participate in a variety of ways in the Legal Clinic. They assist clients with the immigration process, including citizenship and asylum, as well as handle requests in family law, housing, government benefits and other matters. One lawyer is working with and on behalf of students at El Colegio, a charter school that serves a large number of undocumented aliens. Many are unable to continue their education beyond high school because of their immigration status. Leonard, Street and Deinard attorneys also write "know your rights" articles for local newspapers, collaborate with neighborhood non-profit agencies and perform policy advocacy on matters important to local residents.

In San Francisco, lawyers from the firm of Heller, Erhman, White and McAuliffe have worked on several matters involving individuals with HIV/AIDS. The firm works on an ongoing basis with the AIDS Legal Referral Panel of the Bar Association of San Francisco and the Bay Area Lawyers for Individual Freedom. Heller Erhman lawyers have prepared wills and powers of attorney, represented individuals with AIDS in disability and SSI hearings and handled cases related to patients' duties to disclose their HIV status to doctors. In addition, firm lawyers have provided tax and corporate counseling to the Caregivers Program, an organization that supports AIDS caregivers.

Partnerships between firms and service providers

A recent trend in pro bono casework that has proven effective is the formation of public-private partnerships between law firms and non-profit agencies or service providers. In this model, a law firm establishes a regular relationship with a particular agency and pledges to provide legal services and resources to the agency at no fee. Lawyers from the firm can choose to work on a variety of matters that the agency handles, so it provides options for litigators and transactional attorneys alike. The public organizations have found this model beneficial because the law firm, with its greater resources, can more easily absorb much of the costs of handling cases. The lawyers from the firm gain valuable experience and, over time, develop practice area expertise. In the long run, this allows the partnership to handle increasingly challenging cases with improved efficiency.

One successful public-private partnership has been that between the non-profit New York Lawyers for the Public Interest (NYLPI) and the commercial law firm of Stroock and Stroock and Lavan. NYLPI's Disability Law Center works to enable people with disabilities to participate fully in the mainstream of American society. The core of the Center's work is impact litigation. Stroock lawyers first began working on isolated special-education cases. The relationship, however, has become a comprehensive partnership with improved service for clients. To ensure the continuation of the relationship, Stroock encourages participation in this area of pro bono practice among its summer associates. During the summer of 2001, for example, nine summer associates received basic training in special education law and practice, and all nine will work on special-education cases during their time at the firm.¹¹

Firms with offices or clinics in underserved neighborhoods

Several large firms have approached the pro bono obligation by establishing offices or clinics in underserved areas. These clinics often provide a variety of legal services to those who cannot afford them. Some clinics are open full-time and staffed with several attorneys, while others are staffed on a volunteer basis at certain times throughout the week. Eligibility for services typically is determined by the client's residence and income level.

The firm of Hunton and Williams has started two such offices. The first was started in June 1990 in the Church Hill neighborhood of Richmond, Virginia. For a modest fee (which the firm donates to charity), Hunton and Williams attorneys provide legal services in the areas of family law, housing and real estate and guardianships. The office accepts without fee all uncontested divorce case clients from the general Richmond area who are referred to the office by the Central Virginia Legal Aid Society. The Atlanta Hunton and Williams office started the Southside Legal Center in September, 1995, which offers legal services in the areas of adoptions, business law, child custody and support, divorce, domestic violence, guardianship, landlord-tenant disputes and residential real estate closings.

¹¹ This model and the example given were lifted from Columbia Law School's Public Interest Law Center's conference, the *Pro Bono Challenge for Law Students (June 2001)*, and the conference booklet.

Latham and Watkins attorneys are involved in a number of clinic projects, including a monthly intake sessions at the Community Center for Non-Violence in Washington, DC and as general counsel for the East of the River Community Development Corporation, representing ERCDC in a host of matters relating to the economic and social development of Southeastern DC's Ward 8 community. The Los Angeles office of Latham and Watkins has recently started an Immigration Detention pro bono project where lawyers assist detained immigrant children.

Fellowships

Several large firms sponsor a fellow to perform public interest work for a period of one to two years. The Fellowships are different from traditional pro bono work in that the Fellow is selected in advance and is typically allowed to engage in full-time public service work at the firm's expense. Sometimes the Fellow does not ever work at the sponsoring law firm; other Fellowships employ the Fellow at the firm for all or part of the Fellowship. The number of fellowships has grown dramatically in recent years. Each is different in duration, issue focus, compensation and relationship of the fellow to the firm.

A brief survey of prominent fellowships would include:

- the Skadden Fellowship program, offered by Skadden, Arps, Slate, Meagher and Flom, which has placed 340 people in the field doing all sorts of public interest work since its inception in 1988. Fellows are not considered firm employees but receive all of their funding from the firm. They spend two years at a non-profit providing primarily direct legal services to an indigent population;
- the NAACP Legal Defense and Educational Fund (LDF) and Mexican American Legal Defense and Educational Fund (MALDEF) Fellowship Programs of Fried, Frank, Harris, Shriver and Jacobson, where fellows spend two years working at the firm and the two years with the NAACP LDF or with MALDEF;
- the Chesterfield Smith Scholarship sponsored by Holland and Knight where the Fellows are housed at the law firm but allowed to work full-time for discrete nonprofits with the expectation that the Fellow will stay with the firm at the end of the Fellowship; and
- the Gibbons Fellowship in Public Interest and Constitutional Law sponsored by Gibbons, Del Deo, Dolan, Griffinger and Vecchione of New Jersey where the Fellow litigates civil rights/constitutional cases for the duration of his/her Fellowship with the option of staying on at the firm.

Please check with a firm individually for more specific information on a fellowship.

Split summer

Some firms allow summer associates to work part of their time doing public interest work. The amount of time varies from two to six weeks. Usually, firms pay participants the full summer associate salary while the associate works with the public interest agency. The Philadelphia firm of Morgan, Lewis and Bockius offered a split summer

program to all of its 124 summer associates in 2001. Summer associates could spend six of their twelve weeks working with an agency from a long and diverse list of participating agencies. Participating in a split summer program does not negatively affect an associates' evaluation by the firm.

Some firms offer split summers to associates but stipulate where the associates must work for their public interest half of the summer. Other firms will offer their associates more freedom in choosing where they spend their public interest portion. If a firm doesn't offer a formalized split summer program, it may be amenable to it. If you are interested in such an experience, ask the firm about it. The more specific you can be with your plans, the better.

One caveat about the split summer: some law students will pick a firm simply because it offers the split summer option and they think they will have the best of both worlds getting both the firm and public service experience in one summer. This approach is fine for the student who knows he or she is going into public interest work upon graduation and simply wants to make a large sum of money over the summer. However, for the law student who is actually trying to evaluate whether law firm work is right for him or her and/or which firm is right, it is important to look beyond merely whether the firm offers a split summer. This student should make sure the firm offers the kind of substantive work and environment that the student wants. And the student seriously looking at law firms should look at the overall pro bono offerings of the firms he or she is considering, to make sure that as a whole the firm is committed to pro bono work.

Agencies that link firms with pro bono work

A variety of non-profit agencies have appeared across the nation dedicated to making it easier for firms and firm lawyers to find pro bono cases that suit their preferences. Rather than provide legal services themselves, these agencies frequently operate as an intermediary between the client and the legal services provider. Typically, the agency meets with the client, gains an understanding of the nature of the issue and estimates the amount of time that the matter will probably require. This information is made available to firms and lawyers who are seeking pro bono work. Some of these programs are funded by Bar associations.

The Volunteer Lawyers Project (VLP) of the Boston Bar Association was established in 1977 to facilitate the delivery of pro bono services by linking eligible clients with representation. VLP screens clients and then recruits lawyers to handle the cases. VLP uses mailings to lawyers, presentations at law firms and diligent communication with pro bono coordinators to make the links. VLP recently instituted an online sign-up option where lawyers may view brief case descriptions on the VLP website and select a case they would like to work on. In addition to these services, VLP also offers training and mentoring to lawyers, makes its resources and facilities available for lawyers working on a pro bono case, and runs a popular Housing Court Attorney of the Day program that provides two to four volunteer lawyers every Thursday at the Housing Court.

Volunteers of Legal Service (VOLS), a non-profit agency in New York City, has implemented a slightly different model. VOLS identifies areas of legal need, develops programs to meet those needs, and then recruits and trains volunteer lawyers and firms to provide the necessary legal services. For example, VOLS developed a MicroEnterprise Project that links 14 firms with 14 economic development corporations that help microentrepreneurs start small businesses. The work includes transactional matters such as selecting and reviewing business structures, forming legal business entities, negotiating loans and leases and protecting intellectual property rights. VOLS also organizes legal clinics focused on specific issues such as Elder Law, and recruits lawyers to staff the clinics. Motivated by the desire to have lawyers serve their neighbors, VOLS makes a concerted effort to find lawyers from the area where the programs are run.

Not all cities or regions have separate pro bono referral programs. In some areas, the local legal services program may have well-developed pro bono referral programs. One example is Legal Services of Eastern Missouri (LSEM) which offers private attorneys many diverse pro bono opportunities. Through LSEM's Volunteer Lawyers Program, pro bono lawyers can handle their own cases, serve as co-counsel with LSEM staff in cases, participate in outreach programs and make community education presentations. The issues that volunteer lawyers can work on are also extremely diverse.

Pro bono in rural areas

While much of the focus of pro bono work is on large, urban firms helping city clients, an increasing number of opportunities to address the legal needs of rural clients are appearing. Efforts include programs that recruit lawyers from the city and regional programs aimed at facilitating pro bono work in rural areas.

The American Bar Association has started a Rural Pro Bono Project that helps build models for effective rural legal services delivery and creates systems for sharing information with rural clients.¹² One grant recipient is West Tennessee Legal Services. Its Pro Bono project links rural needs in 17 rural counties with urban resources. In addition, the project uses volunteers to conduct Continuing Legal Education events, teach community education workshops and to draft informational brochures.

Transactional pro bono

As noted above, pro bono is no longer just for litigators. Opportunities to provide pro bono assistance in real estate, tax, mergers and acquisitions and a whole host of transactional matters have increased in recent years. There are much fewer formalized programs, but many are being developed as firms experiment with transactional pro bono models.

The Seattle-based law firm of Stoel Rives serves as counsel to Cascadia Revolving Fund. The Fund is a not-for-profit community loan fund that makes loans to women and minority-owned businesses that have been turned down by conventional lenders,

¹² Elizabeth Amon, "Reaching Out to Rural Communities," *National Law Journal* (March 7, 2001).

businesses engaged in certain favored activities (*e.g.*, recycling and organic farming), and businesses that provide employment in depressed communities (principally timber communities). The firm also provides pro bono counsel to Pioneer Courthouse Square, Inc., a nonprofit that has responsibility for managing the square, a downtown Portland, Oregon landmark. Stoel Rives has handled its contracts, including licenses for food carts, special events and a brick-purchase promotion, as well as leases with various retailers and minor collections matters.

Corporate Pro bono

In-house legal counsel at corporations perform thousands of hours of pro bono work as well. Bouyed by the combination of lawyers answering their professional call and businesses encouraging voluntarism among their employees, corporate pro bono work has grown significantly in the past few years. Companies are developing pro bono policies and committees and implementing programs to help their lawyers find pro bono work that appeals to them.

BellSouth Corporation's Atlanta legal department has teamed up with the firm of Kilpatrick Stockton and the Atlanta Legal Aid Society to tackle uncontested grandparent adoptions. The Grandparent Adoption Project pairs BellSouth and Kilpatrick attorneys to jointly undertake the cases. Each case typically requires a court appearance before a judge in chambers. Volunteer attorneys are equipped with a comprehensive manual containing all of the form documents, including client correspondence and checklists, both necessary to make the adoptions go smoothly.

Since McDonald's legal department adopted its pro bono policy in October 2000, the Pro Bono Committee and Litigation Practice Group have taken on a wide variety of projects with their local community in Oak Brook, Illinois, including programs with the Constitutional Rights Foundation, Chicago Lawyers Committee for Civil Rights Under the Law, and the Chicago-based Center for Disability and Elder Law. The global food service retailer will soon begin working with the Midwest Immigrant and Human Rights Center to assist immigrants seeking asylum in the United States.

III. Evaluating an Employer's Commitment to Pro Bono

LIKE A GOOD LAWYER, DO YOUR RESEARCH

The recent formalization of pro bono activities affords you an excellent opportunity to review a law firm's statistics on the amount and type of pro bono work done by attorneys at the firm. Most firms keep such statistics and provide it at the request of law school placement offices and interviewees. In the least, a firm should be able to provide you with an estimate of pro bono hours and some examples of pro bono matters that staff attorneys have worked on. If a firm doesn't keep such statistics, this may indicate its commitment level to pro bono work.

Assuming that you acquire the information, be a critical consumer of the statistics the firm provides. Make sure you are able to determine both the number of pro bono hours and the percentage of pro bono hours to regular hours. Since pro bono work can be defined quite broadly, you should also find out what categories of work are included in the firm statistics on the numbers of hours spent on pro bono cases. For example, does work for a bar committee constitute pro bono work? What if an associate represents a family member in a traffic case? If this sort of volunteer activity is defined as pro bono, the firm's claim that attorneys spend 4 percent of their time on pro bono matters takes

on a different meaning. In some firms, only the representation of indigent clients is considered pro bono work. Most, however, define pro bono more broadly and include, for example, representation of charitable organizations or impact litigation at the request of public interest organizations such as the ACLU. If you have a strong sense of how you define pro bono, it is worth finding out the types of cases the firm has handled in the past.

Research Resources

- Firm website
- The firm's pro bono manual and policy
- Employment sites such as www.Vault.com and www.Infirmation.com.
- *The Law Firm Pro Bono Research Guide* published by the Pro Bono Institute.
- *American Lawyer* magazine
- ABA website (www.abanet.org)

Further, a firm's willingness to take on major cases on a pro bono basis can be an indicator of its commitment level. Class action law suits and controversial issues such as the death penalty, the environment, gender discrimination or international human rights are examples. Cases involving these matters are complex and time consuming. Sticking its neck out politically and financially on major, controversial matters is a bright signal that a firm takes its commitment to pro bono seriously.

This information can also be valuable in helping you determine if the firm will let you pursue the types of matters you wish to pursue. If you really want to work on a death penalty case, for example, and all of the firm's pro bono work deals with landlord-tenant matters or is confined solely to representing charities in tax matters, you should raise the issue. It is possible that the firm would allow you to pursue the kind of cases you

wish to pursue. On the other hand, the firm may not be receptive to taking on new areas of pro bono work. Recently two large firm associates tried to bring a death penalty case to the firm. They provided the firm with compelling details about the dire need for representation in the case and worked up a formal proposal. However, the firm turned the associate's proposal down, claiming the firm lacked expertise in death penalty cases. However, as one of the associates pointed out, "the firm takes cases all the time in areas where they don't have expertise if it's for a paying client." Again, it is worth doing your homework about whether the firm you are looking at really will take on new and complex cases.

Another tool for evaluating a firm's commitment to pro bono is its written pro bono policy statement. Most firms will say that they recognize the importance and merit of pro bono work and that they value their attorney's pro bono commitments. Ask for it in writing. According to a survey by The Federalist Society, 88 of the leading 100 law firms have general statements outlining the goals and commitments of their pro bono program.¹³ Check for strong language and substantive definitions of the firm's support for pro bono. The more detailed and comprehensive, the better your understanding of the situation before you arrive. The best policies cover such issues as the pro bono budget, procedures for approval and handling of pro bono matters, staffing and supervision details, oversight, and call for regular reports to partners from the Pro Bono Committee.

Sticking its neck out politically and financially on major, controversial matters is a bright signal that a firm takes it commitment to pro bono seriously.

If a firm does not have a written policy, that does not necessarily mean that it discourages pro bono work. Many firms, especially smaller ones, handle matters informally. Because of their size, they do not need a formal, written policy.

It is also important to know how the firm considers pro bono hours. The rising tide of billable hours to pay for the large salaries has put a lot of pressure on associates who wish to spend time on pro bono cases. Some firms that in the past counted pro bono work towards billable hours and treated it the same as billable work for purposes of compensation and bonuses no longer have as generous policies. One solution that several firms have come up with to allow pro bono work while ensuring their associates bill sufficient hours is to give credit for pro bono hours only after the associate has logged a certain amount of billable hours. For example, an associate will get credit for her 200 pro bono hours only after she has billed 1900 billable hours. At that point, the associate will be credited will 2100 hours.

¹³ "Pro Bon Activity at the AmLaw 100," The Federalist Society, Spring 2000, text available at <http://www.fed-soc.org/probono.htm>.

THE INTERVIEW

As you speak with prospective employers, do not underestimate the importance of asking about pro bono opportunities. If pro bono work is important to you, it is critical that you understand a potential employer's commitment to pro bono. You will want the employer to know your professional desires and expectations and you will want to have a clear understanding of what will be expected of you.

If you do not feel comfortable asking about pro bono opportunities during your interview, do not hesitate to ask once you have received an offer. If you do not ask at all, recruiters and firms may conclude that pro bono is not important. As a result, they may decrease their commitment to pro bono work.

In any event, try to get a good number of these questions listed below answered. You want to get the overall picture of the pro bono environment at the firms you are considering. A firm may have a flashy pro bono program but still log few hours overall. So make sure you look at the whole picture.

Sample interview questions¹⁴

Does the firm have a written pro bono policy?

- If so, when was the policy established?
- Has it been changed recently? If so, why?
- How comprehensive is the policy?
- Is it specific or vague?

Does the firm have a structured pro bono program?

Does the firm have a pro bono committee?

- If so, how is the committee structured?
- Who participates on the committee – partners, associates, non-lawyers?
- Are committee members appointed or do they volunteer to serve?
- How many non-litigators serve on the committee?
- How does the committee screen pro bono cases?

Is the firm a signatory of the ABA Pro Bono Challenge?

- Has the firm met the Challenge's goals in the last few years?

Does the firm have a pro bono coordinator?

- If so, is that person full-time or part-time?
- Is the coordinator an attorney?
- What are the coordinator's responsibilities?

¹⁴ These questions were drawn in part from *The Path to Pro Bono: An Interviewing Tool for Law Students*, a publication by the American Bar Association Standing Committee on Pro Bono and Public Service and the Center for Pro Bono.

If there is no committee or coordinator, is there any formalized mechanism for disseminating information about, assigning and handling pro bono cases?

- If not, how do associates and partners decide what pro bono cases to accept?
 - Judicial requests?
 - Societal impact?
 - Individual need?
 - Available resources?
 - Individual attorney preferences? Do individuals have any discretion in bringing in their own matters? Is the firm willing to allow associates to bring in cases that involve issues that are new to the firm?
 - Are individually referred cases treated differently from cases which go through the firm's screening process – and do attorneys have access to firm resources regardless of whether they brought in the cases themselves?
 - Other criteria?

Does the firm expect its attorneys to devote a minimum number of hours to pro bono work?

- Has the firm established any set goals, or does the firm formally track the number of hours spent on pro bono service?

How do pro bono hours count toward total billables?

- Is there a maximum number of pro bono hours which may be applied toward the billable figure? Often firms will cap the number of pro bono hours for which an associate can receive credit; a fairly benign cap is about 200 hours.
- Does an associate have to log a certain number of billable hours before he or she can start counting pro bono toward the ultimate billable goal?
- Is there a separate, billable hours requirement for non-pro bono work?
- If pro bono work does not count toward billable hours, is the billable hours requirement at the firm low enough that you can potentially do pro bono work in your non-billable time? Some firms that don't credit pro bono toward billables have lower billable hour requirements so that associates find they have the time to do pro bono work.

How is pro bono work treated when calculating compensation or bonuses?

Is pro bono work weighted equally with billable work in evaluating associates?

Is pro bono work supervised by partners?

- Do partners take pro bono cases?

What percentage of those who made partner this past year handled pro bono matters and how many pro bono hours did the average new partner log?

INSIDE THE WALLS: WHAT TO DO AS A SUMMER ASSOCIATE

Your first opportunity at the firm to see how pro bono work is handled will probably be as a summer associate. During your ten to twelve weeks, you will have the opportunity to evaluate the firm's commitment to pro bono firsthand. Below are several strategies that will help you get the fullest understanding of the pro bono opportunities available within the firm.

- Ask to work on a pro bono matter with an associate. Demonstrate your interest and get a chance to develop skills.
- On the other hand, don't rely only on your experience. Being a hired "permanent" associate is much different from being a summer associate. Pro bono work can be overemphasized during your summer stint, especially if the firm has realized that public service is important to you and is hoping to bring you back permanently. You may do 50 percent or more pro bono work during your summer. Don't expect that to last once you join the firm as an associate. You will be expected to bill hours to paying clients.
- Ask questions. You've got paralegals, associates, partners, secretaries—all sorts of people who work for the firm all around you. Take advantage of their knowledge and ask them questions.
- Get a feel for the type of pro bono work done, who is doing it, and how much time associates and partners devote to it throughout the firm.
- Get a sense for how broad is the participation in pro bono? Are the partners doing pro bono? The obligation to provide pro bono assistance is not for young attorneys only. Look for strong, partner leadership at the firm. Also, find out what percentage of lawyers at the firm are doing pro bono work and what is the average number of hours associates and partners have logged?
- Is the firm positively interested in your public service history? If the firm asks you about past work, it is a good indication that it is looking for lawyers who value public service.
- Look for infrastructure and resources that are committed to the firm. Do they actually manage their pro bono cases? How do cases get to summer associates and lawyers and what kind of cases are they bringing in? Do they provide training and supervision on pro bono cases? Are they flexible in terms of both being proactive about bringing cases to their lawyers yet still letting their lawyers bring new cases to them?
- See if the range of pro bono cases is broad enough for your taste. If you are going to be a corporate lawyer, are there really transactional opportunities available to you? If you are hoping to do impact cases look to see if the associates are taking on impact cases

IV. On the Job

Once you have received an offer, accepted it, and headed to the firm to start your new career as an attorney, putting your pro bono aspirations into practice will depend on your initiative and how well you take advantage of the opportunities afforded you.

If the pro bono infrastructure is there, pro bono work will probably come to you, a lot easier than you may expect. During your first week at the firm, the pro bono coordinator or a member of the pro bono committee will call you, have you fill out a survey to determine your interests and link you with agencies and opportunities to follow through. Still, there will be plenty of resources available to help you find pro bono opportunities.

- Firm intranet and newsletters. Check the latest issues out to see what is happening.
- Pro bono manual – Ask for it. It will probably list approved organizations with which you can work. It will also explain the policies, parameters, and procedures for pro bono work. Knowing the answers to your questions—such as what type of credit you get for your time, and whether you need a sign-off to take a case—will help you get more done quickly.
- Make sure someone in authority knows what you're doing. It is a business, and you are new.
- If you see a need or have an idea, find out how you could propose it to the firm. Do your homework and bring in facts about the case you want to handle or the issue you want to tackle. Make your presentation and hope for the best.
- Get on a pro bono committee and make your voice heard.

Ultimately, it will be up to you to make your pro bono aspirations happen. If you have chosen your firm wisely, the pro bono opportunities will be there but you will have to seize them. Some recent graduates find that when they get to the firm, they allow the pressures to bill overwhelm them and they pass up the opportunity to do pro bono work. Even some law graduates who know that they eventually want to leave the firm to do public service work find that they expect themselves to meet the predominant measure of success – bringing in the billable hours – because that is what they have always measured success by the standards set for them. So, even in law firms that have good pro bono policies, some young lawyers find that it takes self-discipline to stick to their game plan of taking on pro bono work. In a recent article, Cameron Stracher, author of *Double Billing: A Young Lawyer's tale of Greed, Sex, Lies and the Pursuit of the Swivel Chair* wrote:

But as firms pump up the hourly minimums and let the gas out of pro bono credits, we should ask ourselves whether associates really have cause to gripe. The limits placed on pro bono will affect few of them, if any, because they weren't billing the time to pro bono in the first place. Consider that only two Am Law 100 firms cracked 100 pro bono hours per lawyer and only by five hours (Covington & Burling and Jenner & Block). So although firms may be sending the wrong message in limiting credit for pro bono hours, at least (for the most part) they're counting. It's the associates who aren't...But what about criticizing the associates? Instead of finding the time, they're shuffling it, avoiding their obligations like a piece of bad

cheese. Volunteering has always meant sacrificing, forgoing part of the weekend to ladle soup at a homeless shelter. Taking on an indigent's appeal for asylum is no different.¹⁵

V. Conclusion

In the last few years, the law firm market has been very volatile with huge increases in salaries, a boom in hiring and, more recently a slow down in hiring. As a result of this changing landscape, pro bono policies have changed and may still be in a state of flux. The *American Lawyer* recently asked: "Why, once again, has the record increase in Am Law 100 revenue been accompanied by a per capita decline in pro bono commitment?"¹⁶ Despite the changes, if you are interested in doing public service work while working in a private law firm, you can if you do your homework in advance and pick the right firm. Then, seize the pro bono opportunities that come your way. We hope that this Guide will help.

VI. Resources

INSTITUTES AND ORGANIZATIONS

ABA Standing Committee on Pro Bono and Public Service

Since its creation in 1973, the Standing Committee on Pro Bono and Public Service has led the ABA's efforts to promote pro bono work within all segments of the legal community. The Pro Bono Committee seeks to encourage, activate, expand and improve pro bono activities and programs through policy, programmatic and support initiatives. The committee works with state and local bar associations, law firms, corporate counsel, the judiciary, law schools, government attorneys, and diversity and specialty bar associations in developing model programs and policies to assist them in the implementation of pro bono initiatives. For pro bono opportunities for lawyers, visit the website at: <http://www.abanet.org/legalservices/probono.html>.

Pro Bono Institute

Housed at Georgetown University Law Center, the Pro Bono Institute is mandated to explore and identify new approaches to—and resources for—the provision of legal services to the poor, disadvantaged, and other individuals or groups unable to secure legal assistance to address critical problems. In doing so, the Institute researches innovative programs and models. The Institute undertakes evaluation to ensure that the proposals and methods identified are workable in the real world of legal services delivery. The Institute operates the Law Firm Pro Bono Project, which also receives support and guidance from the American Bar Association Fund for Justice and Education. For more detailed information, visit <http://www.probonoinst.org> or call 202.662.9699.

¹⁵ Cameron Stracher, "Go Go Bono" in *The American Lawyer*, December 5, 2000.

¹⁶ "The Dismal Decline Continues" in *The American Lawyer*, July 2001

Public Service Law Network Worldwide

Public Service Law Network Worldwide (PSLawNet) is a global network of some 120 law schools and 10,000 law-related public service organizations working to foster law student community service and to encourage future lawyers to incorporate public service into their careers. PSLawNet focuses its efforts on two core groups: law students and law schools. PSLawNet maintains an internet-based database listing current positions so law students and law graduates can search for pro bono legal opportunities, summer internships, and post-graduate job and fellowship opportunities in the public service sector. The PSLawNet Global Center, located at New York University School of Law, can be reached at 212.998.6222 and on the web at <http://www.pslawnet.org>.

Probono.net

Probono.Net uses information technology to increase the amount and quality of legal services to low-income communities and individuals. Public interest lawyers are invited to join the online community that ProBono.net has created to take advantage of the powers of information and communication technologies. For more information, visit <http://www.probono.net>.

Corporateprobono.org

Check this site out for information about pro bono opportunities in the corporate setting.

PUBLICATIONS

- *THE PATH TO PRO BONO: AN INTERVIEWING TOOL FOR LAW STUDENTS*, THE AMERICAN BAR ASSOCIATION STANDING COMMITTEE ON PRO BONO AND PUBLIC SERVICE, AND THE CENTER FOR PRO BONO
- *American Lawyer* magazine
- *The Law Firm Pro Bono Research Guide* published by the Pro Bono Institute
- *The Great Firm Escape: Harvard Law School's Guide to Breaking Out of Private Practice and into Public Service*
- *ABA Directory of Pro Bono Programs* published by the American Bar Association's Center for Pro Bono

EMPLOYMENT WEBSITES

- www.vault.com
- www.infirmation.com