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FIRST-YEAR ASSOCIATES

Do Pro Bono Work? *Are You Crazy?*

There are good reasons not to do it, but a lot better ones why you should.

BY ERIC M. KRAUS

Wrong answer. Yes, you have just begun your career as a lawyer. In fact, it's your first professional employment anywhere. And yes, you have just been plunked down in the middle of a busy, even chaotic, work environment. You have chosen a profession that is competitive, overwhelming and all-consuming. You are experiencing sleepless nights and anxiety about your career choice, and you are worried about your student loans.

It's no wonder that most young associates feel like you do when it comes to pro bono publico: "Pro bono publico?! What about pro bono me?" It seems as though committing to that most time-honored tradition of the bar, pro bono activities, at this point in your life is a bad idea. But you couldn't be more wrong.

The Romans Did It

Let's start with some background on the topic.

The origins of pro bono work date back to ancient Rome. Roman "jurisconsults" were "the men of rank, wealth and distinction who gave legal advice without charge."¹ Indeed, lawyering was less a profession for these noblemen than a "'gentlemen's hobby' related to their aristocratic leadership and as part of their training for higher political office."²

Our English jurisprudential forebears recognized the obligation of lawyers to provide service to the poor. This obligation was codified under the 1275 First Statute of Westminster, which required advocates to serve the poor for free.³

In the earliest days of the American colonies, pro bono work was already deemed important. A 1645 Virginia statute established a mandatory pro bono rule that forbade lawyers from charging a fee for their services—apparently to

Memo: To File

From: First-Year Associate

Re: Request from loopy senior partner who wants me to participate in the firm's pro bono activities.

Issue: Whether there is any conceivable reason to participate in pro bono activities before I have even gotten my feet wet as a lawyer?

Short Answer: Are you crazy???? No, I cannot even begin to imagine taking on pro bono work as a first-year associate. I don't know what I'm doing. I don't have time. I can't handle the extra work. No one would care if I did it anyway. Besides, I doubt it would be any fun!

anyone! (One observer thinks this was more likely intended to drive all lawyers out of business rather than a nod in the direction of social conscience.)⁴

More reasonable views later prevailed that allowed lawyers to charge for their services, but throughout the colonial period and the earliest years of the United States, the duty to provide legal services to those who could not afford to pay for them remained a critical corollary of the privilege of being permitted to practice law.

Today, the Model Rules of Professional Conduct require that lawyers "aspire to render at least (50)

hours of pro bono publico legal services per year."⁵ Some local bar associations are even more emphatic about the need for lawyers to devote some of their time to pro bono work. New York, for example, perhaps echoing the Westminster model, makes it an "obligation to render public interest and pro bono legal services."⁶

But Why Me, Now?

So history tells us we should do it, and the laws governing our profession tell us we should do it. But no one says you have to do it now, in the vortex of the first-year experience. So, why should you?

First, pro bono opportunities allow young lawyers to go where they may not otherwise get a chance for years: the courtroom. Pro bono can give you real client contact, valuable lessons in plotting case strategy, and as Sally Friedman, Legal Director of the Legal Action Center, says, "opportunities to learn skills that they do not get to learn their first year in a big law firm."⁷

Stephen Kang, Program Associate of the Pro Bono Clearinghouse for New York Lawyers for the Public Interest (NYLPI), notes that many young lawyers who work with NYLPI do so motivated, among other reasons, "by the notion of taking charge of a case and making it their own."⁸ These associates, says Kang, get "access to skill-building experiences they may not otherwise have until later in their careers."⁹

Some pro bono programs are specifically geared toward lawyers without

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much experience. For example, Advocates for Children (AFC), which seeks to obtain appropriate educational opportunities for students who are not getting proper services in the city public schools, has in-house litigators familiar with the nuances of education law available to assist the volunteering lawyers at every turn. This allows even first-year associates to take on cases that are likely to be tried, complete with openings, closings and cross-examination, all the while knowing that they have the safety net of an AFC lawyer by their side.¹⁰

Second, the impressions that such volunteerism can make on senior lawyers in the firm never hurts.

"People who work the hardest are people who do pro bono work and become partners," said David Weschler, Attorney-in-Charge of Pro Bono Practice at the Legal Aid Society.¹¹

Indeed, Joseph Powers, a senior partner at this author's firm and head of its New York office, says of the lawyers who do pro bono:

"We realize that associates who undertake pro bono work are going above and beyond the commitment of time and effort they have already made to the firm. We appreciate that those associates must work incredibly hard to be great lawyers for the firm as well as for their pro bono clients, and those efforts do not go unnoticed. We take these efforts into account in our reviews of associates and even in our discussions of partner candidates."¹²

Taking on pro bono work on top of your firm obligations identifies you as a self-starter. Firms are eager and willing to promote hardworking and motivated individuals.

OK, It's Not All Noble

Enthusiastic support of pro bono efforts is not exclusively borne of noble instincts.

Pro bono has become important to corporate clients, and law firms know this. Corporations considering which lawyers to hire often ask about pro bono activities, and law firms have realized that pro bono can be an important tool in their efforts to develop new business. The Web sites of many of the top Fortune 500 companies have sections devoted to their own public service and community service work.

Moreover, some companies now utilize detailed and sophisticated "Requests for Proposals" (RFPs) to solicit law firms interested in being selected to undertake legal work for these corporations. Many of these RFPs contain entire sections devoted to inquiries about the responding law firm's pro bono work, and the answers can be a significant aspect of the prospective firm's chances of success.

For example, Pfizer, the world's largest pharmaceutical company (and a client of the author's firm), has moved toward reshaping its relationships with outside counsel through what it has termed its "P3" initiative. In a recent implementation of this process, Pfizer selected outside counsel for a wide array of its legal needs, ranging from employment litigation to products liability defense, after soliciting copious information about its prospective outside law firms, including detailed information about the

pro bono experience of each one competing for Pfizer's business.

Pro bono achievements are also increasingly used as tools for recruiting lawyers. Firms' pro bono commitments are reflected in surveys of associate contentment such as the widely read Vault Survey.¹³ Firm rankings, such as The American Lawyer's "A-List," rate law firms with a significant emphasis on pro bono commitment.¹⁴

If you don't believe the significant place that pro bono work has for law firms, take a look at virtually any large firm's Web site. More and more, law firms feature their pro bono prowess in their marketing efforts.

Most will feature content on the pro bono work of the firm and its individual lawyers. Some tout their work for asylum seekers and human rights, some their efforts in the realm of environmental law, elder law or death penalty cases. Others note their work in advising nonprofits.¹⁵ Medium-sized law firms¹⁶ and even many small ones¹⁷ are getting in on the act as the entire profession begins to recognize that pro bono is not only valuable for its own sake but for marketing purposes and client relations.

But let's not minimize the most fundamental reason for doing pro bono work: It's needed. As Sean Morehead of Advocates for Children points out,

"The need for lawyers to do pro bono work is overwhelming. There are simply too many people whose needs are not adequately served. More lawyers volunteering their time are required to make sure that legal services get to those in our society who cannot readily access such services on their own."¹⁸

When a first-year associate gets a taste of how powerful the law can be in effecting positive changes in an individual's life, it helps, says Morehead, "foster a lifelong commitment to pro bono work and meeting the needs of people who need help."¹⁹

Other Benefits for You

It is no surprise that getting involved with pro bono work can be personally rewarding and even fun.

Your other law firm commitments may require hours in the library doing research the significance of which may be hard to discern, working on document reviews that may seem tedious at best or drafting provisions for agreements—all of which may seem light years removed from the reasons that motivated you to go to law school in the first place.

Pro bono work, on the other hand, may introduce you to unforgettable people who need you and count on you, to issues that are meaningful to you, and to exciting lawyering experiences—such as trials on behalf of your clients or arguing your motions in your cases before real judges—that you thought you could have only after many more years in the practice of law.

All the reasons that probably come to mind as to why it would be very difficult to engage in pro bono work now as a first-year will continue to be impediments as time passes. Indeed, it gets harder

and harder to do it as the years go by. With experience comes greater work responsibilities, and outside obligations mount as well.

There will never be enough hours in the day and you will always have tons of work. But, like anything else, if you get into the habit of committing yourself to pro bono work now, it will grow to become a part of your routine. You will no longer see it as extra work because it will become part of your regular work day.

So, why don't you rewrite the conclusion of the memo that started this article to read:

"There really is no time like the present, even for first-year lawyers, to become involved in pro bono activities. They can provide you with invaluable lawyering lessons, make you feel good about yourself and your decision to become a lawyer, allow others to see you in a different light and help burnish your and your firm's reputation."

Yes, it may be hard and may add to the already stressful life of a new lawyer. But the rewards—well, they're priceless. •

1. Judith L. Maute, "Changing Conceptions of Lawyers' Pro Bono Responsibilities: From Change Noblesse Oblige to Stated Expectations," 77 Tul. L. Rev. 91, 96 (2002) (citations omitted).

2. *Id.*

3. *Id.* at 97.

4. *Id.* at 98.

5. Model Rules of Prof'l Conduct R. 6.1 (2003).

6. N.Y. Code of Prof'l Responsibility EC 2-25 (2005).

7. Tel. interview by Stephanie Coste (June 02, 2006).

8. Tel. interview by Stephanie Coste (June 16, 2006).

9. *Id.*

10. See <http://www.advocatesforchildren.org/probonoops.php>.

11. Tel. interview by Stephanie Coste (June 5, 2006).

12. Tel. interview (July 6, 2006).

13. http://www.vault.com/nr/lawrankings.jsp?law2006=1&ch_id=242

14. Brenda Sandberg, "Taking the High Road to the A-List: Hogan & Hartson Charts a Course Onto the A-List by Renewing its Commitment to Pro Bono Work," *The American Lawyer*, July 5, 2006, at <http://www.law.com/jsp/article.jsp?id=1151571924056>

15. See, e.g., White & Case, at <http://www.white-case.com/About/Community.aspx>; Sullivan & Cromwell, at <http://www.sullcrom.com/community>

16. See, e.g., Sedgwick, Detert, Moran & Arnold LLP, at <http://www.sdma.com/firm/culture/>; Cahill Gordon & Reindel LLP, at http://www.cahill.com/who_prc6.htm; Darby & Darby P.C., at <http://www.darbylaw.com/recruiting/compensation.asp>; Morgan & Finnegan, LLP, at http://www.morganfinnegan.com/career/attorneys/pro_bono.html

17. See, e.g., Sive, Paget & Riesel, P.C., at <http://www.sprlaw.com/careers/index.html>

18. Tel. interview (July 6, 2006).

19. *Id.*