

PRO BONO FROM THE BENCH

How to get involved in your local community.

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Judges are an essential component of a flourishing pro bono culture. In fact, according to *Supporting Justice*,¹ a 2018 report by the American Bar Association based on a survey of lawyers in Texas and 23 other states, encouragement from the judiciary was the number one response to the question about what would increase pro bono participation.

Rule 3.7(B) of the American Bar Association Model Code of Judicial Conduct² states: “A judge may encourage lawyers to provide pro bono publico legal services.” Currently, five states have adopted identical language to Rule 3.7 and 29 states have similar language. Comment 5 on Rule 3.7³ explains that judges may encourage lawyers to participate in pro bono legal services as long as the judge does not employ coercion or abuse the prestige of judicial office. Judges may provide lists of pro bono programs, train lawyers to provide pro bono legal services, and participate in events recognizing lawyers who have provided pro bono legal services.

Furthermore, Texas Code of Judicial Conduct Canons 4B and 4C⁴ permit judges in limited circumstances to engage in extrajudicial activities to improve the law, the legal system, or the administration of justice. Texas Judicial Ethics Opinion No. 203 (1996)⁵ explains: “A judge who advertises the existence of a lawyer referral service is promoting meaningful access to our legal system for all persons, regardless of their economic condition.” It also states, “By informing the public of this bar sponsored service, the judge is improving the administration of justice, as permitted under the Code, not misusing the influence of her office.” Judges may also send a letter signed by all judges to all members of the local bar association requesting that they consider volunteering with pro bono legal service organizations to promote access to justice. Texas Judicial Ethics Opinion No. 258 (2000).⁶

Here are five simple ways Texas judges can help promote pro bono:

(1) Get to know your pro bono programs

The first thing any judge interested in access to justice might consider is to make sure you know your local legal aid providers. This includes any traditional legal aid organization as well as any other organization providing free legal services to people living in poverty. Free legal services are often

provided by bar associations and local or statewide nonprofit organizations. If you don't know who these organizations are in your area, please take the time to find out more about these helpful programs.

Once you know the organizations that serve your area, reach out to them. Find out what kind of services they provide and what kind of pro bono program they have, if any. Ask them how you can become a helpful resource.

(2) Support pro bono programs

Obviously, judges cannot represent pro bono clients, but that doesn't mean they cannot participate in pro bono programs. For example, with the help of volunteer judges, some pro bono programs offer clients the opportunity to finalize their case at an evening clinic rather than taking time off work to attend a court hearing during the workday.

Judges can also volunteer to help train volunteers. Let your local pro bono program know you are available to assist with continuing education, training, or developing materials such as forms or checklists for volunteers. There are also programs that offer free CLE to lawyers who agree to take on pro bono cases. If there isn't a similar program in your area, perhaps you could help start one. Similarly, if your local bar has a pro bono committee, consider joining it. If it doesn't have one, consider starting one.

If you're looking for a more direct way to support pro bono efforts in your community, make it a point to attend events put on by your local pro bono provider and encourage your colleagues to attend. Finally, pro bono providers happily accept donations from judges and other donors in your community.

(3) Encourage pro bono volunteerism

One of the best ways to support pro bono efforts in your area is to encourage lawyers, law students, paralegals, and court reporters to volunteer. One easy way is simply to talk about pro bono. Whenever you speak to lawyers, law students, and other groups at events, make pro bono one of your talking points. This topic is easily incorporated at CLE programs and visits to law schools. Encouraging lawyers who aren't already volunteering requires promoting pro bono to lawyers outside the litigation arena. Transactional lawyers and lawyers in many

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different practice settings can provide valuable advice and counsel to pro bono clients. Judges can highlight the importance of meaningful access to justice to those potential volunteers who are not already dedicated to access to justice. Otherwise, we will always be preaching to the choir.

Another way to help promote volunteerism is to post a sign or poster in your courtroom or your office encouraging lawyers to get involved in pro bono. Your local provider may have pro bono marketing materials for you or you may wish to create your own. It can be something as simple as, "Let us know if you're interested in pro bono." You or your staff can connect interested lawyers with the coordinator at your local pro bono provider. Some judges, particularly in rural areas where there are fewer pro bono organizations, keep lists of lawyers for pro bono referrals.

You can help encourage volunteer participation among lawyers by writing about pro bono in your local bar association newsletter or a local newspaper, magazine, or blog. Highlight attempts in your community to create a culture of volunteerism. Organize the judges in your area to sign a letter encouraging attorneys to volunteer. Mail it annually to all the newly licensed lawyers in your area, publish it in your local bar newsletter, or enlarge it and post it in the courthouse.

Also, judges can encourage other legal professionals, such as stenographers or interpreters, to volunteer. These types of volunteers help reduce costs for pro bono lawyers, which makes them more likely to participate. If you know a court reporter or other professional who might be willing to volunteer or offer reduced rates, talk to them about working with pro bono lawyers in your area or connect them with your local pro bono provider.

(4) Accommodate pro bono volunteers

Some courts get creative when it comes to encouraging pro bono by accommodating pro bono lawyers whenever possible. For example, some courts will call pro bono cases first or allow volunteer lawyers to schedule hearings close to when they have to appear on other cases to avoid a separate trip to the courthouse or prolonged waiting time. Some courts allow pro bono lawyers to attend routine hearings by phone or set aside a specific time each week for pro bono matters. Habitual volunteers or your local pro bono provider may have ideas about policies or procedures you can create in your court to accommodate pro bono volunteers.

(5) Recognize pro bono volunteers

Judges have a special role to play when it comes to recognizing volunteers. First, whenever possible acknowledge pro bono volunteers in open court when their colleagues are present. This serves the dual purpose of rewarding the volunteer and emphasizing the importance of pro bono service.

Try organizing your local judges to take turns calling pro bono lawyers and thanking them for volunteering or publish a

note from the local judges thanking and listing all the volunteers in the local bar newsletter. Younger lawyers may especially appreciate a letter of appreciation to the senior partners of the firm where they work, with special appreciation to the firm if it allows the attorney to count some amount of pro bono as billable hours or underwrite the expenses.

If you don't already, host an annual reception with your colleagues just for attorneys who have volunteered for pro bono service. Some courts even have a reserved parking spot for the pro bono volunteer of the month or quarter. You could randomly select a winner from a list of all the volunteers or ask your local pro bono programs to nominate a winner.

The bottom line is that when judges send the message that pro bono is important, it elevates pro bono in the eyes of the attorneys who appear before them. Think about what you can do that will resonate in your community.

Lawyers and judges can help enhance the public perception of the legal profession by participating in pro bono activities. We all have a role to play!

If you need additional information or assistance with talking points or other tools, contact the Legal Access Division of the State Bar of Texas at probonotx@texasbar.com or your local provider. **TBJ**

NOTES

1. *Supporting Justice: A Report on the Pro Bono Work of America's Lawyers*, A.B.A. Standing Committee on Pro Bono & Public Service and the Center for Pro Bono (Apr. 2018), https://www.americanbar.org/content/dam/aba/administrative/probono_public_service/ls_pb_supporting_justice_iv_final.authcheckdam.pdf.
2. Model Code of Jud. Conduct r. 3.7 (Am. Bar Ass'n 2020), https://www.americanbar.org/groups/professional_responsibility/publications/model_code_of_judicial_conduct/model_code_of_judicial_conduct_canon_3/rule3_7participationineducational/.
3. Model Code of Jud. Conduct r. 3.7 cmt. 5 (Am. Bar Ass'n 2020), https://www.americanbar.org/groups/professional_responsibility/publications/model_code_of_judicial_conduct/model_code_of_judicial_conduct_canon_3/rule3_7participationineducational/commentonrRule3_7/.
4. Tex. Code Jud. Conduct, Canons 4B and 4C, <https://www.txcourts.gov/media/1444424/texas-code-of-judicial-conduct.pdf>.
5. Tex. Jud. Ethics, Op. 203 (1996), <https://www.txcourts.gov/media/678096/JudicialEthicsOpinions.pdf>.
6. Tex. Jud. Ethics, Op. 258 (2000), <https://www.txcourts.gov/media/678096/JudicialEthicsOpinions.pdf>.



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