

Pro Bono Partnerships: The Next Big Thing

By: Matthew D. Keenan

Mike Nichols was perhaps the most decorated movie director from the late 1960's and 70's. His craft included *Who's Afraid of Virginia Wolf*, *Silkwood* and *Working Girl*. But it was Nichols direction of the 1968 movie "The Graduate" that earn him the Oscar for Best Director.

No one needs to remind us how tumultuous 1968 was. But as often happens, social strife brought us great art. And in the world of cinema was rich with content that has stood the test of time. Consider for a moment that Nichols' work competed against a list of iconic movies: "Bonnie and Clyde", "Guess Who's Coming to Dinner", "In Cold Blood", and "In the Heat of the Night". The following year included "2001 A Space Odyssey", "Rosemary's Baby" and "Planet of the Apes".

But if you think you picked up Hollywood Today, prepare to be enlightened. You see, in "The Graduate" there is an exchange in the dialogue of 21-year-old Benjamin Braddock, aimless and drifting, is the subject of words of advice. One in particular remains forever frozen in cinematic history:

Mr. McGuire: I just want to say one word to you. Just one word.

Benjamin: Yes, sir.

Mr. McGuire: Are you listening?

Benjamin: Yes, I am.

Mr. McGuire: Plastics.

In the intervening fifty years, plastics went boom, and are still booming, but the wisdom of simple advice can be prescient. Like the words spoken by Mr. McGuire , I offer two words:

Pro bono Partnerships.

OK, three words. Pro bono partnerships -- collaborations with in-house legal departments, law firms, and public interest organizations are growing and making significant improvements in communities all around the country. And they are red hot. If your firm does not presently collaborate with a client on a shared initiative, then you can start one. This overview can help show you the way.

We all know the importance of pro bono initiatives. But some may not appreciate is the synergy that these partnerships create. Pro Bono can be an opportunity for lawyers to work hand-in-hand with great lawyers from other organizations with the ultimate goal of serving communities in ways no entity could ever do on its own.

Experience shows that clients who spend all day defending unpleasant lawsuits benefit from representing a client who has never had an advocate. Taking these cases makes us feel good. "The Happy Lawyer, Making a Good Life in the Law", written by Nancy Levit and Doug Linder noted that taking pro bono cases increase involvement with persons who are disadvantaged can increase the perspective that we all need.

What follows are the best practices, and partnerships that are highly successful.

1. The Cause. Often, but not always, the identified cause begins with the direction of the client, in some cases the General Counsel. Frequently partnerships identify multiple pro bono client initiatives.

2. Training is an important component. Training obviously helps lawyers take cases in what might be a new field of practice, and it empowers them to feel confident that they can serve the client effectively. Third party legal service organizations are often enlisted to help with training, malpractice coverage and most importantly, training can be a win win win.

3. Create a project manager. Attorneys with any new endeavor need a point person.

At this year's Mid-Year meeting, you will hear from three companies that are mastered the art of Pro Bono partnerships (PBP). They are Microsoft, Bank of America, and Federal Express.

There are three examples of partnerships:

Federal Express. They are one of the leaders of the Corporate Pro Bono (CBPO) Challenge. CBPO is the global partnership project of Pro Bono Institute (PBI) and the Association of Corporate Counsel (ACC). FedEx is among the 146 participating Challenge signatories.

Fed Ex programs include a Guardian Ad Litem Pro Bono Program, advocating for children who otherwise have no one to push for them. This includes attorneys who serve a two-year appointment during which they meet with the child(ren), gather records, conduct interviews, draft, and file legal pleadings if necessary, and make recommendations to the court upon request.

They also help run a Veterans Legal Clinic, which provides pro bono services to veterans who fall within 250% of the Federal Poverty Guidelines. The assistance includes veterans with VA disability benefits, county tax exemptions, landlord/tenant issues, driver's license restoration, employment-related issues and a wide variety of other legal problems.

The Name Change Project is another initiative. Hosted by the Transgender Legal Defense & Education Fund (TLDEF), this is part of a national effort which provides free legal name change services to low-income transgender people through partnerships with law firms and corporate law departments.

Microsoft is another leader in this area.

Like Fed Ex, Microsoft is a Charter Signatory to the Corporate Pro Bono Challenge. Microsoft's legal department established a formal pro bono program in 2003. In 2008, Microsoft helped establish Kids in Need of Defense (KIND) to provide pro bono representation to unaccompanied children in immigration proceedings.

Microsoft's mission is to empower every person and every organization on the planet to achieve more. As a legal department, we advance Microsoft's mission through pro bono

representation of individuals and non-profit organizations who cannot afford legal services as well as using our legal skills to advance the rule of law.

KIND is Microsoft's signature pro bono program, and Microsoft employees have contributed to KIND's important work by providing pro bono representation and translation services.

Bank of America is the third.

BOA was a charter signatory to the Corporate Pro Bono Challenge and their pro bono initiative has been going strong for over ten years.

Shortly after implementing the formal program, the Legal Department adopted a pro bono policy with the goal of encouraging the attorneys, paralegals, and administrative staff of the Legal Department to volunteer with or otherwise support organizations that provide legal services to those in need. The GC, David Leitch mandated pro bono participation and community service activities as a performance objective for every member of the Legal Department.

The Pro Bono Committee is comprised of approximately 20 members of the Legal Department, and led by a Deputy General Counsel Executive Sponsor who reports to the Bank's Global General Counsel. The leadership structure also includes two co-chairs and 10 Regional Chairs (consisting of both attorneys and non-attorneys) around the country who actively seek and encourage pro bono opportunities for Legal Department colleagues in their respective jurisdictions. The co-chairs serve for a 2-year term, but no term limits are imposed on the Regional Chairs.

Representative programs include the Wills on Wheels clinic, a longtime Legal Department project held in coordination with Charlotte Center for Legal Advocacy's "Legal Services for the Elderly" initiative, is staffed by Bank of America lawyers, paralegals and administrative personnel. At the clinic, volunteers draft wills and healthcare documents for seniors, hospice patients, veterans and disabled people who might otherwise die intestate. The most recent clinic served 50 clients.

Another initiative is the Veteran's Legal Services Project. Founded in 2011, the Veterans Legal Services Project provides volunteer opportunities for Legal Department lawyers and staff to assist veterans with benefits claims and other issues. The Charlotte office works in conjunction with area law firms and the Military Support & Assistance Group to provide these services. Charlotte Center for Legal Advocacy provides crucial training and supervision to the Bank's lawyers to further their efforts.

Naturalization Clinics. Starting in the summer of 2017, Legal Department lawyers, administrative professionals and legal interns have staffed several naturalization clinics run by the Latin American Coalition of Charlotte. Volunteers assist immigrants with legal residency apply for permanent citizenship. And another clinic – the DACA clinic – where the attorneys helped staff a weekend clinic to assist immigrants seeking extensions under the Deferred Action from Childhood Arrival program.

Justice Bus in LA. Bank volunteers travelled with lawyers from Bryan Cave and Public Counsel to a rural part of Los Angeles County and provided an array of services and advice related to veterans benefits and expungements.

The importance of civility and professionalism.

Defending the rights of the underserved reminds us what we *should* do. Civility and professionalism, on the other hand, is what we *must* do.

Because our pro bono panel includes three in house attorneys, this offers the opportunity to hear from clients about how they value civility and professionalism in their outside counsel.

Let's face it, civility in our profession in many areas is in free fall. Yet, civility and professionalism is at the core of the ethical obligations of counsel. It is worth a quick review of the ethical rules.

From the Preamble of the ABA Model Rules:

A lawyer's responsibilities

[5] A lawyer's conduct should conform to the requirements of the law, both in professional service to clients and in the lawyer's business and personal affairs. *A lawyer should use the law's procedures only for legitimate purposes and not to harass or intimidate others. A lawyer should demonstrate respect for the legal system and for those who serve it, including judges, other lawyers and public officials.*"

[9] In the nature of law practice, however, conflicting responsibilities are encountered. Virtually all difficult ethical problems arise from conflict between a lawyer's responsibilities to clients, to the legal system and to the lawyer's own interest in remaining an ethical person while earning a satisfactory living.

These principles include the lawyer's obligation zealously to protect and pursue a client's legitimate interests, within the bounds of the law, while maintaining a professional, courteous and civil attitude toward all persons involved in the legal system.

From the Model Code:

Rule 3.5 Impartiality and Decorum of the Tribunal

A lawyer shall not:

(d) *Engage in undignified or discourteous conduct degrading to a tribunal*

Rule 4.4 Respect for Rights of Third Persons

In representing a client, a lawyer *shall not use means that have no substantial purpose other than to embarrass, delay, or burden a third person*, or use methods of obtaining evidence that violate the legal rights of such a person.

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Rule 8.4 Misconduct

It is professional misconduct for a lawyer to:

(d) Engage in conduct that is prejudicial to the administration of justice;

Robert Kraus, in a column in *Business Law Today*, May/June 2007. “Toward Civility in Civil Practice” offered this observation:

“Every lawyer handles multiple clients and matters (even in-house lawyers), and while many strive to make each client and matter be “number one” on the list, civility can be enhanced by recognizing that a counterparty’s time may be taken up by other equally pressing matters. Asking for unreasonable return times for documents, or scheduling of conferences, only adds to the stress of the transaction. Of course, there is nothing wrong with attempting to expedite matters and “keep the ball moving,” but such efforts should be framed as requests to, not demands of, the other side.”

All of us have examples of this in our practice. What impresses me is when an attorney whom I don’t know, and may never see again, shows courtesies, such as concluding the deposition so as to allow me to make my flight.

Ultimately, getting along not only is our obligation, but witnesses do better when they are not asked to testify in the middle of an argument between grown adults. Practicing civility and professionalism during the corporate witness deposition is critically important to achieving the client’s goals.

Conclusion.

The Mr. McGuire in *The Graduate* was right -- plastics were the future. Today some environmentalists would like to turn back that clock. In the universe of serving the underserved legal communities, on the other hand, attorneys are stepping into the void in countless ways to deliver badly needed help. And the private/public partnerships are the center of these initiatives.