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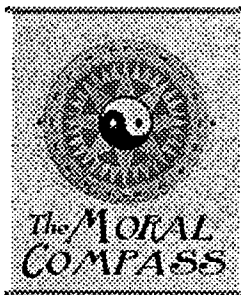
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What Is the Moral Compass?

The Moral Compass

Who's afraid of pro bono? Lots of people

By Carol M. Langford and Richard Zitrin

Who's afraid of pro bono? Seems like almost everybody in the legal profession. Many lawyers consider pro bono work indentured servitude and claim it violates the thirteenth amendment. Others imply there's often too much access to justice, rather than not enough. "If people don't pay their rent," wrote Open Court contributor George M. Kraw a few weeks ago, "they're going to get evicted no matter how many wealthy lawyers trying to avoid false gods on the path to lawyer-nirvana show up to defend them." ("Pro Malo Publico," *S.F. Recorder*, August 25, 1999.)

Law schools, where it all ought to start, argue that pro bono work is simply too expensive. Solos argue they have their hands full trying to scratch out a living. And many big firms, slaves to the billable hour, publicly extol the virtues of providing free legal services, while simultaneously discouraging their own attorneys from performing them.

Those big firms that do their share of pro bono often leave young associates to bear the brunt of the work. Unlike some of their older, more cynical colleagues, most associates seem to enjoy, even relish, this work. But no one in the firm has explained to them how they can continue to provide free legal services and still make partner.

After all, how much pro bono work can a lawyer manage when she or he works for a law firm that expects 1900 hours or more of billable time, and whose commitment to pro bono clearly takes a back seat to the bottom line? To attorneys committed to pro bono, but faced with trying to reconcile apparently conflicting ends, we offer the following advice, gained from years of both playing the pro bono shell game ourselves and talking to others in the same predicament. Herewith, a brief associates' guide to the art of doing pro bono (without committing political suicide in your firm.)

First, be upbeat and positive when presenting the proposed pro bono assignment to your boss or managing partner. Don't apologize! A mule with bells on may still be a mule, but why advertise it as such? Remind the partner in charge that you and your good deed are a reflection of the firm's values. Don't forget to mention that every time you appear in court for someone who needs your help, that someone has friends and family members--not to mention judges and other members of the legal community--who will remember who you are, the good work you are doing, and (this is a biggie) what firm you represent. Tell the boss you'll hoist the firm flag at every conceivable opportunity. And remind that the work is an easy way to hone much-needed litigation skills that will serve you and the firm well in the

future.

Second, trumpet your victories, no matter how small, to your partner, your associates, your friends and personal clients. Any publicity is good publicity, and any victory, including a pro bono one, counts as a notch on your gun. Besides, pro bono victories are "value added": they're more likely than the average commercial litigation to get you (and your firm) noticed in the legal community, mentioned in the legal press and appreciated by the court. Come to think of it, add this to the list of those bells you put on the mule when explaining the benefits of pro bono to your boss.

Third, never underestimate the importance of feeding that boss' ego. Remind your boss that in addition to casting the firm in a good light, he or she will also bask in that glow. Make sure you emphasize how much you appreciate the firm's generosity and virtue--after all, it is a truly good thing that you have been allowed to spend some time helping others--and unwavering support. Although such work is considered non-billable in the vast majority of firms, statements like "You're a great mentor, and one day I'm going to help an associate help the disadvantaged just like your helping me" will go a long way towards your being able to do pro bono work even if your hours wind up a little lower than last year.

Does this sound cynical? Not as cynical as the partner who puts you down if you express the desire to do pro bono work. Is it manipulative? Of course! But isn't that what lawyers are all about? Think of it this way: Learning to present a potentially unfavorable idea in a favorable way, emphasizing its merits while overcoming less appealing points, is our stock in trade. Associates who want to take on a pro bono case and simply go into their boss' office saying "I want to do a week or two of free work" are not likely to win friends and influence partners. Few people like office politics, but it comes with the territory at every law firm.

Finally, and most important, don't worry if no one else in your firm is doing pro bono work.

No matter how much we'd like to, we can't force others to do good deeds. But we can set an example by our own behavior. In an era where lawyers' moral fiber has come under increasing fire from the public, the example of the large firm associate who takes on a pro bono case flies in the face of that charge and sets an example for others to follow.

Speaking of setting an example for others, our law schools have the best opportunity to do this. Pro bono and clinical programs should be required of every student. A few schools have already instituted this policy, but most schools object, arguing that running these programs is too expensive.

Clearly, the training and oversight required for each student is far more labor-intensive than herding them into large lecture halls. But if schools cooperated with the profession to place students in practice situations, much of the training and oversight could be done by those engaged in practice. They'd be placed where they are needed the most--in legal services programs, law offices and clinics that take low-fee clients, plus public defender's offices, and other settings serving the needs of the under-represented. Students will get a double benefit: the gratification of doing pro bono work and a chance to develop their practical skills.

Who's afraid of pro bono? Only the short-sighted and narrow-minded. This is one significant area in which the profession can learn an important lesson from its youngsters--the students and associates who are most likely to lead the way.

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