

Pro Bono – Law Firms

Proskauer Rose: Taking A Program To The Next Level

The Editor interviews Scott Harshbarger, Senior Counsel to the Firm, Proskauer Rose LLP.

Editor: Your public service record speaks for itself, but I think it is fitting that you should continue in such a role as chairman of Proskauer Rose's national Pro Bono Initiative. For starters, would you tell us something on the history of pro bono activities at Proskauer?

Harshbarger: Proskauer has had a long history of public interest, public service and pro bono going back to its earliest days. In recent years this has translated to something between 35,000 to 40,000 hours per year, and in order to maximize this impact a number of people at the firm were asked to see what kind of focus could be imposed on its pro bono activities. That is the origin of the national Pro Bono Initiative.

In the past, much of this work was in the litigation area and reflected the firm's relationship with a variety of legal service organizations, including the New York Legal Aid Society. This involved representation of indigent clients in criminal court, family court, and so on, and extended to a great variety of issues. As the firm expanded to other cities, similar arrangements with legal service entities ensued – the Greater Boston Legal Services Program here in Boston and several different undertakings through the District of Columbia Bar Association, for example – but litigation on behalf of the poor was the general rule. That meant that many of our corporate and transactional lawyers did not have the same opportunity to engage in pro bono activities that our litigators enjoyed.

Nevertheless, a great many lawyers at Proskauer have served, and continue to serve, on the governing boards of non-profit organizations, including hospitals and healthcare organizations, educational institutions and museums, charities, foundations, social welfare organizations, and the like. Very often a commitment to help in organizing, incorporating and obtaining tax-exempt status for some community or other non-profit would lead legal services for the organization on a pro bono basis, and that tradition continues today.

Editor: With the growth of the firm, have the various offices developed their own autonomous pro bono cultures or has there been an overall firm umbrella for this work?

Harshbarger: In terms of a commitment to the concept of pro bono service, there was a firm umbrella, but it was up to each office to determine how to implement that commitment. Implementation was not coordinated among the different offices, and issues were perceived as New York issues or Los Angeles issues, not as a firm-wide, national commitment.

Editor: Would you share with us the thinking behind the national Pro Bono Initiative?

Harshbarger: The Initiative was established in April of 2006. Our Chairman, Allen Fagin, felt strongly that, given the firm's national focus, we needed a focus in

our pro bono undertakings to ensure that this commitment was real and not something that we just talked about. If we were to take a national approach to pro bono, he said, we had to establish priorities. I was asked to chair the national Pro Bono Initiative Committee in light of my background in the non-profit and public sectors. In setting up the committee, we drew upon representatives from all the major practice groups and from all of the firm's offices. A particularly important step for us was to ask one of our lawyers, Stacey Fahey, to give up her practice and become our first full-time pro bono counsel. This was meant to inject discipline and focus into the program, on a national as opposed to an office-by-office basis, and to enable us to achieve maximum impact in the delivery of services. We also created the position of pro bono coordinator. In addition, we saw the Initiative as an empowerment tool in the provision of development and training for our associates and for the enhancement of firm morale. In meeting the challenge of the Pro Bono Institute – which constitutes a real external scorecard – the Initiative was also perceived as a marketing tool for our new office locations. And, finally, we looked to the Initiative as a means of finding issues that were national in scope and suitable for our status as a national firm.

Editor: Are there high profile issues that you will address that will have an impact on all of the firm's offices?

Harshbarger: We hope so. This is a challenge. Allen did not wish to eliminate local office autonomy – local priorities will continue to be addressed by each of the firm's offices – but since we are a national firm, we want to ensure uniformity and consistency in quality and performance at every level, and we propose to take on pro bono projects of national importance, drawing upon the resources of all of our offices.

We identified three priorities. In the first, we seek to address the impact of Hurricane Katrina, an obvious need with national importance. Proskauer resides in major urban areas, and a second priority is to address the issues that seem to be endemic to these areas, including such things as access to justice, crime and violence, economic revitalization, and so on. A third priority is to affiliate with national partners. The National Association on Teaching Entrepreneurship, for example, conducts programs in entrepreneurship in inner city communities directed at high school students. We believe this is an important vehicle for economic development in these communities and that it offers hope for the future to a group of young people who might otherwise not have much to be hopeful about. We wish to help make this happen.

Editor: How do you bring young associates into the pipeline?

Harshbarger: We recognize the challenge that everyone, associates and partners, face in meeting the demands of their billable practices and a strong commitment to pro bono service. Pro bono time counts as equal to billable time with no ceiling, and pro bono activities are

included in the annual evaluation process that our associates undergo. That is a process that assesses the quality of work that has gone into a pro bono project, and we expect the same commitment and diligence for pro bono work as we do for efforts on behalf of a paying client. In addition, we ensure that everyone understands that meeting 50 hours of pro bono legal services per year per attorney is a firm imperative. Needless to say, we are committed to identifying meaningful projects for our associates, things that they will embrace, and one of Stacey Fahey's responsibilities as pro bono counsel is connecting people to the undertakings that are right for them. In addition to screening projects, Stacey will monitor them on an ongoing basis and build partnering arrangements that will ensure the continuing flow of cases to the firm.

Editor: What are the high points of the Initiative?

Harshbarger: Over the past 16 months, we have implemented several major policies and procedures that we think have both strengthened the Initiative but also laid the foundation for moving to the next level. These include institutionalizing a firm-wide pro bono initiative committee that meets regularly, serves as a practice group as well as resource for pro bono counsel and as an internal advocate in each office and department; having a specific Initiative budget allocation; enhancing the recognition of our pro bono projects and cases and the Initiative in every office; initiating efforts to ensure that the partners and senior attorneys provide "lead the way — from the top" on pro bono hours; and we have incorporated pro bono performance into specific firm wide accountability, monitoring and evaluation processes. But we have also given a great deal of attention to trying to find projects that would have a major impact and, at the same time, mobilize as many people as possible from as many offices as possible. This has resulted, so far in several major projects.

Senior Counsel Jennifer Scullion leads a major election protection project in Ohio which involved as many as 60 or 70 lawyers from all of our offices. We worked in partnership with the Lawyers Committee for Civil Rights and the Ohio League of Women Voters, and we are hopeful that our efforts will result in significant reforms in Ohio and, indeed, nationally.

The second undertaking is the Iraqi Immigration Project led by Eric Blinderman, recently returned from serving as pro bono counsel to the Iraqi justice system in connection with the prosecution of Saddam Hussein. Working with Holland & Knight, we are providing legal services to a group of Iraqi translators who are seeking to immigrate to the U.S. These are just a few of the Iraqi people in some danger in their own country as a consequence of having worked with U.S. forces.

In New York we work with the Neighborhood Defender's Services of Harlem, where we defend clients charged with crime. This is a project we hope to replicate in several offices because, among other things, it provides opportunities for young lawyers to engage in courtroom

work. It is also an undertaking that we think will have a very positive impact on some of our most difficult urban neighborhoods.

Since February of 2007 we have taken on six NCRIC (National Center for Refugee and Immigrant Children) matters. The NCRIC provides pro bono legal services to unaccompanied children released from detention in the United States. NCRIC matters are staffed by seven attorneys from our New York, DC, Boca Raton and Los Angeles offices.

One of the most important initiatives came from our Boston office in establishing in December of 2005 the pro bono/legal charity committee, a majority of whose members are associates, which actually selected our first set of Boston organizational partners for legal referrals and charitable contributions, a model that expanded our reach, recognition, and impact in the public interest community, and which Allen cited, along with Los Angeles, as the model for the Pro Bono Initiative itself.

Finally, we have taken on an initiative to determine whether communities particularly plagued with violence – Washington, DC is a good example – have the power to impose gun regulation. This is a major issue which Congress and many states have failed to address. The effort is being led by Bert Deixler and Beverly Frank of our Los Angeles office.

Editor: Would you share your thoughts on what a strong pro bono program means to a firm's morale?

Harshbarger: In my case, a focus on pro bono work has given me the opportunity to blend my professional skills with my personal values. I use this as an example of how personally rewarding pro bono work and public service can be in speaking about our program, both within the firm and outside. I do not believe that anyone who has been privileged to help someone in need – in a guardianship proceeding, in obtaining an order in a domestic violence case, or in any matter where someone is otherwise unable to obtain legal representation – feels anything but the greatest satisfaction in having reached out to that person. The satisfaction is even greater when it is done collegially on behalf of a cause that specifically seeks to benefit those who without us would have no advocate, power or hope. This is something that contributes to high morale, and if the pro bono commitment is part of a firm's culture, then the firm itself is going to enjoy high morale – and, I believe, demonstrate to all that you can do well by doing good.

The personal reward, though, is the real payoff. Many of my colleagues look back to their pro bono work as the most satisfying aspect of their careers, and I think this is one of the reasons that people stay in our profession. This kind of thing is catching: young lawyers just starting out in the law look up to and try to emulate those who have preceded them, and if they see a strong commitment to quality, challenging pro bono service they are going to value it as well and, in time, pass on the commitment to the next generation. And, together, we believe, we can and will make a difference in the quality of justice for all.

Please email the interviewee at sharshbarger@proskauer.com with questions about this interview.