

Maximizing Access to Justice Through Pro Bono Priorities

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Earlier this month, a [Law360](#) article explored a fundamental—yet often overlooked—question: whether the long-held standard practice of tallying pro bono hours remains “the best way to measure pro bono success.” Though attempting to approximate a firm’s commitment to pro bono through quantifiable metrics is laudable, hours alone do not tell the full story. Especially given that [half](#) of those seeking legal aid assistance are turned away due to a lack of resources, a firm should not lose sight of the fundamental (albeit less measurable) purpose of pro bono work, which is to maximize access to justice in under-served communities.

A growing body of empirical research aims to address the scarcity of legal services for the poor in the United States. For example, consider Professor Jim Greiner, a leading scholar in the space, who founded the [Access to Justice Lab](#) at Harvard Law School in 2016. [Unlike most research into the practice of law](#), Greiner employs [Randomized Control Trials](#) (“RCTs”)—the gold standard for research in other disciplines—to explore difficult issues, such as how severely limited legal aid resources might be more efficiently deployed. He has considered such questions as:

- How do legal outcomes differ based on the “level” of legal assistance provided (e.g., providing traditional attorney-client relationship versus a telephone consultation versus self-help materials)?
- How can self-help legal materials be written, illustrated, and designed to optimize their comprehensibility?
- How can legal aid providers optimize their intake and case-selection processes to ensure that they are accepting the cases in which they can “move the needle” the most, given that they can only pursue a fraction of the cases presented to them?
- Though the legal assistance available for low- and middle-income individuals is heavily focused on litigation, how might providers instead deploy resources to prevent litigation from occurring in the first place?

The overarching theme of these questions—how to maximize access to justice by optimizing the impact of necessarily limited resources—should guide a law firm’s pro bono policies. Stated differently, when a firm measures the success of its pro bono program solely by hours worked, input is prioritized over impact, minimizing the firm’s incentive to innovate and become more efficient. And though some might still advocate for hours-based metrics on practicality grounds, arguing that the “impact” of a firm’s pro bono work is immeasurable, Greiner’s research suggests otherwise. Indeed, [one of Greiner’s recent studies](#) found that divorce-seeking residents of Philadelphia County “who received legal representation were 87% more likely to achieve a divorce” than those who were merely referred to self-help materials and offered a chance to ask legal questions by telephone.

Another challenge for firms is determining how much influence secondary considerations should have over the case-intake screening process. For example, pro bono work provides excellent training opportunities, especially for junior lawyers. If a pro bono matter presented a great training opportunity without any real connection to access to justice, however, the resulting pro bono hours would not effectively serve the program’s underlying purpose. On the other hand, if there were an impactful opportunity that did not qualify as “pro bono” work, such as mentoring underprivileged high school students, a firm should still encourage its lawyers to participate, even if the hours do not “count” toward its (hours-based) pro bono ranking among firms.

Ultimately, because the cornerstone of a successful pro bono program is establishing clear goals, if the top priority is securing equal access to justice, a firm should select a matter because it aligns with this purpose, not simply because it would increase hours.

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