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[Classifieds](#) | [Display Ads](#) | [Back to Contents](#)

Pro Bono Makes Cents: The Business Case For Pro Bono

By Roy S. Ginsburg

Pro bono service is frequently considered a selfless act, the “right thing to do.” But can a selfless act also be selfish? With respect to *pro bono* service, the answer is yes. While many attorneys volunteer legal services, few seem to recognize that performing *pro bono* work often yields substantial practical economic benefits for themselves, their organizations, and the profession as a whole. In short, when it comes to *pro bono* service, “it pays to be good.”

“*Pro bono*” means “for the public good.” Historically, a certain segment of the legal profession felt responsible to ensure equal access to the legal system in the hope that justice would not become a concept that was simply bought and sold. This responsibility is partially derived from a social contract between lawyers and society. Society provides an exclusive license to individuals who want to practice law, thereby offering lucrative career opportunities for many. In return, lawyers give something back to society; that “something” is *pro bono* service.

Minnesota’s Rules of Professional Conduct specifically remind Minnesota lawyers of their *pro bono* obligation. According to Rule 6.1, every lawyer should aspire to provide 50 hours of *pro bono* service annually because lawyers have a “responsibility to provide legal services to those unable to pay.” This service is not mandatory. While the rule provides no reporting or enforcement mechanism, it nevertheless underscores the importance of *pro bono* service to the organized bar.

DEBUNKING MYTHS

In any argument to establish the overall practical economic benefits of *pro bono* service, it helps to first debunk the myth that every *pro bono* hour is somehow a lost billable hour. Many attorneys instinctively believe handling a *pro bono* matter is a drag on the bottom line. In their view, time spent practicing law that is not being billed to someone can always be convertible to billable time. A closer examination of the myth suggests a more complex situation.

It is as logical to presume that *pro bono* hours are like time spent marketing, handling

administrative matters, or bar association activities. With rare exceptions, when lawyers spend time doing any of these, they are not billing less time for their paying clients. One never hears about lawyers turning away paying work because they were too busy doing *pro bono* service. Nevertheless, many find the time to make sure *pro bono* service is one of the things that “get done.”

Furthermore, it’s worth questioning the assumption that attorneys who perform *pro bono* work make significant financial sacrifices. Last year, the *American Lawyer* magazine ranked the *pro bono* efforts of the nations’ major law firms based on the average number of hours per lawyer and the percentage of lawyers who performed more than 20 hours of *pro bono* service per year. Of the ten firms ranked highest, all had very healthy profits per partner, most between \$500,000 and \$1 million or more.

The same is true locally. Dorsey & Whitney, Faegre & Benson, and Robins, Kaplan, Miller & Ciresi all averaged more than 50 hours of *pro bono* service per lawyer and all three had approximately half of their attorneys doing more than 20 hours per year. Lawyers at the three firms similarly did not seem to take any significant financial hit based on their exemplary *pro bono* record; profits per partner were well into six figures at all three.

ENHANCING SKILLS

On an individual basis, handling a *pro bono* matter provides a wide variety of benefits that can help build your practice. First, it enhances legal skills. One can either learn a new skill or sharpen an existing one. For example, in many *pro bono* cases, lawyers represent clients from more diverse backgrounds than their usual clientele. Dealing with individuals from different socioeconomic or cultural backgrounds can improve communication skills. Furthermore, *pro bono* service builds confidence for less experienced attorneys, especially those working in the shadow of senior partners. By regularly doing *pro bono* work, they quickly lose any feelings of inadequacy and grow in the realization that they can autonomously assist others with legal problems.

Some attorneys have even found that their *pro bono* service has enhanced their skill set to such a high degree that it attracts paying clients. For example, many lawyers in Minnesota know that Faegre & Benson’s Brian O’Neill has a lucrative environmental litigation practice. What many don’t know is that one of the ways that he was able to build that practice was by developing a reputation for success handling *pro bono* matters in environmental law.

BUILDING RELATIONSHIPS

For attorneys in private practice, *pro bono* service can be strategically used for client development. For example, business law *pro bono* is a relatively new and growing area where business lawyers donate their time to assist eligible nonprofit organizations and microenterprises. Here in Minnesota, LegalCORPS, (www.LegalCORPS.org) was recently created with help from the Minnesota State Bar Association to match business lawyers with nonprofits and microenterprises with legal needs. For attorneys who take advantage of such *pro bono* opportunities, there can be collateral benefits. On occasion, a client organization may reach a level of financial security that obviates their need for free legal services. If that time ever comes, whom do you think that organization is going to call on to perform services for

a fee? Alternatively, business law *pro bono* volunteers frequently establish relationships with nonprofit board members who belong to organizations that frequently hire attorneys or are asked for attorney referrals. Here, the *pro bono* lawyer is well-positioned to get that work because of a preexisting relationship.

At first glance, some may be offended by such opportunism. But if you talk to *pro bono* leaders in the bar, many find nothing wrong with this form of “enlightened self-interest.”

Besides establishing new relationships, *pro bono* service can strengthen existing ones. Lawyers from Lindquist & Vennum and Valspar Corporation partner at a shelter connected with Sharing and Caring Hands (Mary’s Place) in downtown Minneapolis. Similarly, attorneys from Dorsey & Whitney and U.S. Bancorp work together handling *pro bono* matters at the Brian Coyle Legal Clinic in the Cedar Riverside neighborhood. The latter collaborative effort recently won the *Pro Bono* Partner Award from Washington D.C.-based CorporateProBono.org (CPBO — a national outreach program designed to enhance the participation of in-house lawyers in *pro bono* service).

For inhouse and public sector attorneys, *pro bono* service is a means to expand their personal network. The bigger the network, the easier it will be for lawyers who may become dissatisfied in their current jobs to seek out more promising new opportunities. For those who find themselves unexpectedly unemployed, the job search will be an easier one with these existing relationships already in place.

Finally, individual attorneys, wherever they work, will find that conducting *pro bono* service enhances the lawyer’s reputation within the firm or organization, within the profession, and within the extended community. After all, what’s there not to like about one who gives back to their community?

BUILDING THE FIRM

Law firms with a strong *pro bono* culture, as a whole, also benefit economically. Morale improves when a large number of attorneys and staff are similarly devoted to a particular matter or cause. The firm’s cohesiveness may increase as *pro bono* service draws together individuals who do not ordinarily work together. Certain relationships could even develop into genuine mentoring opportunities.

A commitment to *pro bono* service is also often advantageous to the firm in hiring and retaining talented attorneys. Many talented lawyers in private practice have a public service orientation. This pool of attorneys is attracted only to law firms with a strong *pro bono* focus. Not only do these firms have a competitive edge in recruiting, they also retain *pro bono*-oriented lawyers and avoid turnover and its accompanying costs.

Just as *pro bono* service enhances an attorney’s personal reputation it similarly enhances a law firm’s reputation. In the post Sarbanes-Oxley world, many corporate clients want to retain law firms with a broader social agenda than simply billing the most hours at the highest possible hourly rate. Locally based Target Corporation has earned an excellent reputation based in large part on its history of giving back to the communities it serves. Companies with such a strong culture of volunteerism want to hire law firms similarly committed. Firms that do not will frequently lose out on business.

CONCLUSION

Finally, *pro bono* service benefits the entire legal profession. The public's confidence in the legal system remains low. Many lawyers fail to appreciate how good they really have it. Society grants them a monopoly to provide a service that enables many to gain powerful positions and wealth in their communities, subject only to self-regulation of the profession. The legitimacy of our legal system is largely dependent upon the meaningful participation of all citizens. *Pro bono* service ensures such participation, thereby preserving the system's legitimacy.

In sum, *pro bono* service provides a multitude of practical economic benefits for attorneys, their organizations, and their communities. Not only will you feel better because you helped someone less fortunate, but you will also feel better because you helped yourself. c

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