



By Emily Kelchen

Pro Bono Pros Provide Insight on Volunteering and New Jersey's Pro Bono Requirement

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In October, the New Jersey State Bar Association celebrated *Pro Bono* Month by encouraging attorneys to volunteer to handle a matter for one of the state's many *pro bono* providers. *Dictum* Editor Emily Kelchen interviewed a couple of *pro bono* pros—Diane K. Smith, the executive director of Legal Services of Northwest Jersey, and Cathy Keenan, the deputy director at Volunteer Lawyers for Justice, about the benefits and how-tos of *pro bono* work.

Emily: *Can you start off by talking a little bit about your organizations and the work you do?*

Diane: Legal Services of Northwest Jersey provides free legal assistance in civil matters affecting essential basic needs. We work on things like affordable and stable housing, income necessary to meet basic needs, healthcare access, family law, and assisting people with living independently in their communities.

Cathy: At Volunteer Lawyers for Justice we do all different sorts of civil work.

We have a children's representation program, where lawyers help represent parents of disabled children who have been denied special education services to which they're entitled. They help them either negotiate with a school district or represent them in hearings against the school district, and then we help represent children who have been bullied in a school setting as well.

We run a Chapter 7 bankruptcy program where lawyers represent clients through discharge, in Chapter 7 bankruptcies, for the counties that file in Newark, which are the seven most northeastern counties in the state.

We have a consumer law clinic where we're helping clients, again, who are representing themselves in special civil court, with responding to cases that have been filed against them. So lawyers are helping people fill out answers, responses to motions for summary judgements, responding to interrogatories, things along those lines.

We have a program that's specifically geared towards the reentry population, called relief, where lawyers help with the criminal record expungements and also with driver's license restoration, which is a really big need in New Jersey because driver's licenses are so important in this state and it's a huge barrier for people.

We do a child support modification program as well, where lawyers are helping litigants draft motions at the clinic for clients that the clients then file *pro se*.

We have several programs that specifically serve veterans, so we've been doing a program helping veterans who have discharge upgrade issues, which is if they've been discharged from the military with less than honorable status. It means that they're not entitled to all the benefits that you would be otherwise. We have lawyers who are helping them



try to get upgrades. And then we help veterans on a variety of other issues, like child support, driver's licenses, and expungements.

Surprisingly, four years later, we still have a Superstorm Sandy presence in our office because there are still hundreds of people who are really displaced from their homes.

Our office offers, as you can see, a huge variety of programs.

Emily: *Wow, it sounds like both your organizations do a lot more than I was aware of. I had always sort of assumed that most pro bono work involves criminal law.*

Diane: I think that is a common misperception because our courts call *Madden* assignments, which are court assignments in areas related to criminal law, *pro bono*. It is not *pro bono*; it's an assignment. *Pro bono* to me, at least, is the voluntary giving of your time. People hear that, oh I got a *pro bono* assignment, and they're municipal court appeals, parole revocation hearings or domestic violence contempt cases.

Emily: *Can you talk a little bit more about New Jersey's Madden assignments and how they are impacted by the pro bono work attorneys do for organizations like yours?*

Diane: Sure. First of all, it's called a *Madden* assignment because that's the name of the case where the court determined that it was going to have to start appointing attorneys to represent people in cases where the Legislature has said the people have a right to an attorney but then hasn't funded any attorneys to represent people in those cases. *Madden* assignments are typically related to criminal law, although now you could also get assigned to represent a birth parent in a contested private adoption.

It does not matter if you have no experience doing the sort of work the court is asking you to do, and attorneys were, understandably, concerned about this. So, the court adopted a rule that says if you do 25 hours or more of *pro bono* assistance for a qualified *pro bono* organization, you are then, in the

following calendar year, no longer on the *Madden* assignment list. So, if you do 25 hours every year you'll never be on the *Madden* assignment list.

Cathy: Instead you can choose to work with a program where you actually have an interest in serving that client population, where you get trained in that area of law, where maybe the provider has malpractice insurance for you as well, versus having the court call you and having to take the case at whatever time. It doesn't matter, you could be involved in the busiest case or transaction of your career at that point in time, but if the court calls, too bad. This is your case.

Emily: *What advice would you give to a young attorney who wants to volunteer but doesn't think he or she has the right skill set?*

Diane: Get trained. There are a lot of training opportunities specifically for *pro bono* attorneys. If you sign up on the Pro Bono NJ website, they have a training calendar, and you can see all that's available.

Cathy: Yeah, I would definitely say that any young lawyers who are looking to get involved in the *pro bono* programs should look at what training programs are available and what level of support an organization is going to provide. You want to volunteer somewhere that's going to give you the substantive law training that you need.

And then the other key thing, too, is that you want to look for organizations that have staff people who have expertise in those areas and that you have accessibility to. For example, in our education law program, a new lawyer volunteering with that program automatically gets assigned a mentor on their first day. The idea is that the volunteer develops a relationship with a mentor, maybe leans more heavily on the mentor in the first case they take, but maybe the second case they call the mentor a couple of times, and then by the third case they don't need the mentor anymore. Or maybe they do, but they've got that relationship established.

And you should not be feeling in your *pro bono* program that you're in way over your head. We want you to be providing good services to the clients,



feeling like you're supported, like you know what you're doing. In lots of programs you can test out the program first.

Diane: Right, in our tenancy program, some people come and observe once, then they shadow or second chair, and then they're ready to go. I think all the programs try to encourage that kind of support for the volunteers.

Emily: *Is there anything else you would like members of the YLD to know about pro bono work?*

Diane: Give it a try!

Cathy: And if you don't like what you try, try again in something else.

Diane: I think invariably the volunteers who have found their niche just love the work. It feels so good, you're making a difference in people's lives, and so it's highly recommended by all of the volunteer attorneys that I've dealt with who have found their niche. Like Cathy says, if this isn't your niche, we don't take any offense. We send you off to somebody else who may be a better match.

Cathy: Yes, I would much rather have people doing pro bono with other organizations but doing it, and helping with the common mission of getting as much access to the legal system as we can. It doesn't help anyone to have someone volunteer for a program that isn't a good fit for them, right? Because what happens then is that they have a bad experience. They go tell their friends the program's terrible, you shouldn't volunteer there. No one wants that. It doesn't help the clients, and so it's really just all about finding exactly the program that works best for you.

Diane: Legal service organizations are only able to provide assistance to between one in three or one in five people who are low-income and need legal assistance, so there is a huge need. The other side of that is that litigants who are represented—having an attorney standing at their side as opposed to being totally on their own or having gotten legal information or even legal advice—are five times more likely to prevail. Having an attorney standing at your side makes a critical difference in whether you're going to have a place to live next week, whether you're going to have enough money to feed your kids, whether you're going to be able to access healthcare and get necessary medication. It makes a critical difference.

Cathy: I think we have both seen it first-hand. I mean it's really startling, quite honestly. I've had the experience where I've gone and observed court with law students who are interns in our office, and see *pro se* litigants who we had given advice to try to actually represent themselves in cases, and you can think that you're giving advice to a *pro se* litigant who has got it all down, is very articulate, understands it, and then you make that person stand up in a courtroom and they turn to rubber. I think that those of us who are lawyers don't realize how intimidating court is for non-lawyers. People are just afraid. They're afraid of judges; they're afraid of opposing attorneys. You can see the disastrous results in all of the ways that Diane just described. Where people lose all sorts of rights just because they fall apart when having to present everything on their own. *Pro bono* lawyers are really a critical piece to helping folks get real access to the legal system.