

## **MENTORSHIP PROGRAM FACILITATES PRO BONO PARTICIPATION**

By: [Kandice Giurintano](#)

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In my experience, both as coordinator of my firm's pro bono activities and in conversations with colleagues, nearly every attorney wants, in his heart, to take a pro bono case. Despite the lawyer jokes that abound depicting avarice in the profession, most of us welcome an opportunity to provide service to those who could not otherwise afford it.

The reward and self-satisfaction in providing free access to the justice system for the underprivileged is not unrecognized by our colleagues. However, it is also my experience that, despite this general desire to perform pro bono work, most attorneys do not accept pro bono cases.

### **THE PROBLEM**

What causes this disconnect between spirit and action? There are numerous reasons given for the inability to handle a pro bono matter when the opportunity arises, but two predominate. The first is the claim that the attorney has no experience in the specific area of law for which assistance is needed. The standard line is something along the lines of "I would love to help, but I know nothing about (divorce, unemployment compensation, bankruptcy, etc.). Really, I'd help if I could, but it would verge on malpractice for me to handle this kind of matter." The concern is sincere; the attorney truly feels he doesn't have the necessary experience to represent the client effectively. This response is heard particularly frequently from the experienced and specialized attorney, who has so long been an expert in his field that he has forgotten the experience of learning the nuts and bolts of a practice area and not having every answer at his fingertips.

The other frequently expressed reservation that prevents attorneys from taking a pro bono cases is the fear that the pro bono case will expand into a huge matter that eats their time and prevents them from addressing their workload for paying clients. This concern is also legitimate. While pro bono work is an obligation under the Rules of Professional Conduct, work that generates fees is also a necessity and the thing that gives the attorney the ability to devote a portion of his professional time to service to the underprivileged.

It seems, then, that pro bono programs that address both these concerns, i.e., that allow an attorney to take a case knowing that his knowledge (or lack thereof) of a particular subject area will not prevent him from effective representation and that guarantee that the pro bono matter will not turn into something resembling "A Civil Action," will be most effective in obtaining attorney volunteers.

### **A SOLUTION**

Recently, the Dauphin County Bar Association created just such a new program, the Custody Attorney Mentorship Program. The program was created to respond to the overwhelming number of custody cases in Dauphin County for which low-income litigants were seeking assistance, and is one of many innovative

initiatives of the association's pro bono coordinator, Sandy Ballard.

The basic premise is that, in order to encourage more attorneys to accept pro bono custody cases, the area in which there is the greatest need for pro bono attorneys, the volunteer attorney would be paired with an experienced custody law attorney to handle one custody case jointly.

The volunteer attorney, while "new" to the area of custody law, would not necessarily be new to the profession. Similarly, the mentor, while experienced in custody cases, need not be an elder statesman of the profession. The "mentor" and "mentee" designation in the program related strictly to experience in custody cases. Once the mentor and mentee had handled a case together, the mentee must agree to take another custody case, with the mentor remaining available for consultation and assistance on this second matter.

The ultimate goal of the program is to have the mentee attorney continue to accept custody cases, having learned the essentials of the practice through the experience with the mentoring attorney. Since the attorney was working with the mentor throughout the first two cases, any concern regarding unfamiliarity with law and procedure of custody matters should be alleviated.

The second significant component of the Custody Mentorship Program was the limited time commitment required of the mentee attorney. In Dauphin County, all custody cases must go to a conciliation conference, similar to a mediation, with a custody officer. The vast majority of custody cases, in excess of 85 percent, settle at the custody conciliation. If the case does not settle at that stage, pro bono custody cases are eligible for the county's pro bono mediation program, which provides a second chance at a negotiated settlement. Only if the parties fail to resolve their issues at both the conciliation and the mediation, does the matter go to hearing.

In the Mentorship Program, the mentee attorney agrees to see the matter through conciliation and, if necessary, mediation, but, if the matter should proceed to a hearing, the mentor promises to take responsibility for that proceeding. Thus, the parameters of the mentee's representation are well-defined.

### **HOW IT WORKED IN PRACTICE**

In the spring of 2009, I volunteered to be the first mentee for the Custody Mentorship Program. As a commercial litigator, I certainly knew my way to the courthouse, but my experience in custody matters was nonexistent. The mentorship program began with my introduction to my mentor, a gentleman well-versed in custody matters and a former county pro bono lawyer of the year.

Our introduction occurred shortly before our joint meeting with our client. My mentor explained the general track that custody matters followed in the county and the key facts to elicit from the client to develop his position in the proceeding. He also reviewed many of the concerns that custody clients often have about the process. When we met with the client, my mentor allowed me to conduct the interview and respond to the client's concerns. I left that initial meeting feeling I had learned much, but that I had also provided much to the client.

After some further phone interviews, discussions with opposing counsel, and a client preparation meeting, the client, my mentor and I attended the conciliation conference with the opposing party. The matter settled, with the parties agreeing to a custody schedule that was beneficial to their child and to each parent's peace of mind. My entire time investment in the matter was approximately 12 hours; yet, I had accomplished something of (hopefully) lasting significance for that family.

Per the terms of the program, I then accepted a second custody case. Although the mentor was also available for assistance on that matter, I had learned so much from the first proceeding that his involvement in the second matter was much more limited. The second case also was resolved at the conciliation, in less than eight hours.

The program proved the old adage that there is no substitute for learning by doing. Having handled two custody cases, I feel capable of handling another and have agreed to accept additional cases through the pro bono referral program.

Through the Mentorship Program, I handled two cases competently without a sacrifice of time detrimental to other cases. The twin dragons preventing attorneys from taking pro bono cases have been slayed by this program.

### **A PLUS SUM GAME**

The most obvious success of the Dauphin County Custody Mentorship program is that legal representation was provided to individuals who would not otherwise have been able to afford it. But there are other successes as well. Feedback on the program has been uniformly positive, as both mentors and mentees value the experiences.

The less-experienced mentees have, obviously, been exposed to a new area of law. For more senior attorneys, those most likely to offer the lack of expertise in the field as the reason for declining a pro bono matter, it is a chance to experience again the thrill of something new.

It is also a reminder that many legal skills transfer from one area of law to the other. The business attorney used to closing deals knows how to negotiate effectively with the other side, an important skill in a custody resolution. The patent litigator knows how to articulate his client's position clearly, whether that position is before the U.S. Patent Office or a custody conciliator. There is value in testing one's skills in a new area and broadening one's horizons.

There is also value to the mentor. She gets a chance to transfer her knowledge to another member of the profession and feel the satisfaction of knowing she has aided in someone's development as a lawyer.

Both the mentor and the mentee have expanded their networks of professional acquaintances. My mentor and I now regularly say hello to each other at bar association events. (The benefits of networking are, of course, well-known and the subject of many other articles.) Both attorneys also achieve the professional fulfillment that comes with any pro bono case, and which each of us, in our hearts, would like to be able to feel.

The Dauphin County Bar Association has already begun to put the mentor/mentee framework to use in other types of cases. As my firm celebrates its 75th anniversary with an increased commitment to pro bono services, I have also tried to find ways to employ the mentorship idea among pro bono cases handled by the firm.

Given the benefits to all involved, anyone looking for creative ways to manage pro bono cases should consider implementing a mentorship program.

*[Kandice J. Giurintano](#) is a member of McNees Wallace & Nurick in Harrisburg. She is co-chair of the firm's appellate and post-trial group and is part of the litigation and transportation, distribution and logistics practice groups. Giurintano also serves as the firm's pro bono coordinator.*

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