

The Year Ahead In Pro Bono

Law360, New York (January 01, 2014, 3:16 PM ET) -- Pro bono activity should continue to be vigorous in 2014, as the pro bono commitment by large law firms remains markedly above the norm just a decade ago. According to data from the American Lawyer, the largest 200 law firms in the United States have for the past five years reported devoting in excess of 4.8 million hours to pro bono service in the aggregate, well above the 3.3 million hours reported in 2003 (the high-water mark at the time). Despite the economic changes in the legal market, there is every reason to believe that this level of pro bono work is sustainable.

But the numbers are not the whole story. Five million hours of pro bono cannot fill the justice gap. Though law firm pro bono hours have increased over the last five years, the estimated percentage of legal needs for low-income Americans that remains unmet has held steady at 80 percent. As such, real progress will evolve through more creative delivery of legal services to the most vulnerable members of our communities.

So in 2014, expect the continuation of a small but significant shift from the traditional model of one firm or one lawyer helping one client at a time, toward more resourceful, sustainable, efficient interventions that do more with less. This shift involves rethinking our traditional roles and abandoning the idea of legal help alone solving the poverty trap or closing the justice gap. Innovative approaches will require multiple law firms, legal services organizations, corporate legal departments, bar associations, law schools and the judiciary working together with a single blueprint to tackle multiple issues at once. It will also require more effective involvement of nonlawyers — that is, other professionals with valuable, but under-utilized, expertise to fight the multiple debilitating effects of poverty.

This shift is illustrated by one project already underway. Throughout the United States, law firm members of the Association of Pro Bono Counsel (APBCo) are working closely with various legal and nonlegal stakeholders to address unmet needs in our communities. The APBCo IMPACT (Involving More Pro bono Attorneys in our Communities Together) projects are intended to be long-term, self-perpetuating and individually tailored to a specific community or population with ingrained challenges.

For example, there are currently 3.9 million people in Illinois who have criminal records, either as a result of an arrest or conviction. The APBCo IMPACT Chicago project has launched a series of clinics designed to assist individuals in Chicago who are facing barriers to employment because of past criminal records. "By providing relief from this major barrier to employment, we'll not only be improving their prospects for employment and financial independence but also significantly decreasing the likelihood that they will break the law again," says Gretchen Slusser, executive director at Cabrini Green Legal Aid. "This program is about focusing on the future by offering these men and women a second chance."

Similarly, in New York the APBCo IMPACT project is supporting entrepreneurs and small businesses through a unique Small Business Legal Academy (SBLA). In 2013, the SBLA was held at the iconic Apollo Theater in Harlem during which more than 250 small businesses and nonprofit organizations were provided on a pro bono basis one-on-one legal counseling, financial services advice and business and legal workshops tailored to their needs. This innovative approach leverages lawyers, technology experts, financial consultants, marketers, paralegals and many other professionals.

Other APBCo IMPACT projects, also involving multiple partners with diverse expertise to address overlapping legal and nonlegal needs, are tackling issues of domestic violence, immigration, housing, education and public benefits. And 2014 will bring a new wave of innovative approaches to the delivery of services to address these critical needs.

Of course, pro bono is by no means the exclusive domain of large law firm lawyers. A recent trend in pro bono, one that should continue to accelerate in 2014, is the growing interest in pro bono among lawyers who work for major corporations. These in-house counsel, many of whom came from law firms that had robust pro bono practices, are seeking to use their expertise to help their communities. Major companies with household names like AT&T, Caterpillar, Citibank, Exelon, Exxon, HP, McDonald's, MetLife, Microsoft, Walmart and Yahoo — just to name a few — have established pro bono programs within their legal departments and are working on issues ranging from immigration to special education to juvenile justice. This trend may be further accelerated if more states, like New York, allow in-house counsel to provide pro bono legal services even if they are not admitted to the bar of the state in which they are located.

As law schools are now under increasing pressure to adequately train law students to become practitioners, law schools will continue in 2014 to more actively use pro bono clinical programs as springboards to partner with firms, corporations and public interest organizations on joint projects.

Moreover, the trend toward pro bono mandates by bar associations is likely to accelerate in 2014. New York became the first state in 2013 to adopt a pro bono requirement for new bar members, mandating that every new lawyer certify that he or she has provided at least 50 hours of pro bono legal services prior to admission. This new requirement will go into effect on Jan. 1, 2015, meaning that 2014 law graduates taking the New York bar exam will be the first class of applicants who need to comply with this requirement. New York State Bar members now also need to report their annual pro bono hours, pursuant to a mandatory rule that went into effect in 2013. Other states exploring either mandatory pro bono or mandatory reporting include California, Indiana, Montana and New Jersey.

Innovative pro bono approaches are surely not limited to lawyers and law students. One multidisciplinary trend that is sure to continue into 2014 is the growth of medical-legal partnerships (MLPs). An MLP is an innovative delivery system that teams doctors, nurses, social workers and other health care professionals with lawyers to identify whether a patient has legal needs affecting their health care. An MLP can, for example, help identify children who suffer from asthma or respiratory illnesses as a result of poor housing conditions that may be rectified through legal assistance. Though this model started in Boston in 1993, its recent expansion is explosive, with more than 125 hospitals across the country hosting MLPs according to the National Center for Medical Legal Partnership.

The good news in pro bono legal services is that these innovations create more opportunities for anyone interested to play a part in 2014.

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