

PRO BONO WORK: THE VIEW FROM A SMALL(ER) FIRM

By Barbara Jorgenson and Nakia V. Gray



In 2000, when our firm's pro bono service began in an organized way, we were a firm of 22 lawyers. Today, we are a law firm of 42 lawyers, with two full-time offices. Are we a small firm? Are we a big small firm? Even an Internet search doesn't help with the definition, but this we know: We are big enough to have rules and policies regulating our pro bono service and small enough to have the flexibility to do pro bono work which attracts us.

However you describe Joseph, Greenwald & Laake, P.A., the firm can trace pro bono cases back to its beginning. JGL was founded more than 40 years ago by three then newly barred lawyers. One of those lawyers was the late Fred Joseph, who many may remember was a consummate trial lawyer who loved representing the little-guy underdog, most often for free. When you mention Fred's name, someone almost always tells the story about Fred representing the guy who sold ribs from a food truck on Route 1 in Beltsville when the local government tried to kick him off his spot. This was the pro bono tradition under which your authors were raised and now practice.

Prior to 2000, pro bono at Joseph, Greenwald & Laake was entirely self-directed. If you wanted to do it and could make the time, you did it. Then in 2000, things began changing.

In early 2000, co-author Barbara Jorgenson was talking with her partner, Steven Friedman, about the practice of family law in the firm's home county of Prince George's. Friedman mentioned that there had been a pro bono family law clinic in Prince George's County for many years but the mentor had left the county to practice elsewhere. "When he went, so did the clinic," said Friedman.

With that comment, a new pro bono clinic was about to be born.

But there were questions: How do you find pro bono clients? How do you decide among seemingly deserving pro bono clients? What kinds of cases should be included? How many should you take each year? Jorgenson consulted Neal Conway, the longtime executive director of Community Legal Services of Prince George's County (CLSPGC), whose organization had more family law clients in

need of representation than lawyers to provide that representation.

Fourteen years later, the Pro Bono Family Law Clinic has represented thousands of low-income clients in family law matters ranging from probate disputes to custody appeals, almost all referred by CLSPGC.

Here is how the Pro Bono Family Law Clinic works: CLSPGC screens clients, identifying those who meet income criteria set by the Maryland Legal Services Corporation (MLSC). This is extremely important so the Clinic doesn't have to pick and chose. Clinic participants know someone truly needs help and cannot afford to hire a lawyer because CLSPGC has said so. CLSPGC provides a short case summary and provides the summaries to the Clinic.

The Clinic mentor holds a monthly meeting with volunteer lawyers. The price of admission is the promise to take at least two pro bono cases initially and to have at least one pro bono case each time you attend a meeting. In return, the Clinic's lawyers are mentored. While there are occasional formal presentations, the format is usually a roundtable discussion with each lawyer presenting his or her case and asking questions. All participants are encouraged to join the discussion.

Running the Clinic is not a burden. The monthly meetings last about 90 minutes, either on a weeknight after work or on a weekend morning. The mentor sends an email reminding the volunteer participants of the meeting date and time, using a master email list readily created by Outlook. CLSPGC sends a representative with case summaries to most meetings to be distributed among the volunteers. CLSPGC keeps track of which lawyer takes which case. Questions to the mentor between meetings are generally restricted to emails. It is a relatively

easy, extremely rewarding way to provide pro bono services, says Jorgenson, who mentored the Clinic from its founding in 2000 through 2011.

Nor is the Clinic a burden to the sponsoring firm. All that's needed is a conference room once a month, an email list, and occasional staff support if there are hand-outs to be copied and distributed to Clinic members. "You don't need a budget," explains Jorgenson, "you just need a commitment."

And getting volunteer lawyers has never been a problem. "We started with a handful, and then word spread," explains Jorgenson. "When young lawyers learn that they will be getting hands-on mentoring, they are eager to volunteer." CLSPGC publicizes the Clinic, and also routinely contacts new lawyers to advise about CLSPGC programs and services, including the Clinic. Local judges and masters tell lawyers about the Clinic, too, as does the Maryland Professionalism Center in Annapolis.

The benefits to the volunteer attorneys are numerous. They learn how to interview clients; how to draft pleadings; how to answer pleadings; how to draft and respond to discovery; how to prepare their cases for trial; how to ask questions at trial; how to make an objection at trial; and how to get documents and other evidence introduced at trial. "They get a taste of the practical side of the law -everything from the first day you meet the client through the trial through the time the judge's order becomes final - all the stuff you don't get taught in law school," says coauthor Nakia Gray, who joined the Clinic in 2006 and succeeded Jorgenson as Clinic mentor in 2011.

But the volunteers get more than that. They get confidence. They learn how to articulate an argument. They learn how to identify an issue. They

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learn how to sort the relevant from the irrelevant. And they learn how to deal with client expectations.

"To a paying client, you can explain the limits of the law and also explain that to pursue relief to which the client is not entitled would not be cost-effective," says Jorgenson. "Simply put, you tell the client it will cost more to pursue the relief than he or she is likely to be awarded."

"With a pro bono client, however, this argument doesn't always work. You have to be able to painstakingly explain each step of the legal analysis and show the client how and why pursuing certain kinds of relief may not be possible or even reasonable. Some clients decline to give up their demands, and the pro bono attorney has to valiantly present the best case he or she can given the evidence. I always remind the volunteer attorneys that we don't make the facts of the case, we just have to deal with them."

The volunteers also learn good negotiation skills, according to Jorgenson. "When I first started practicing law, a more experienced attorney told me, 'Small cases have small margins,' meaning that they are many times harder to settle," she explains. This is certainly true of many pro bono cases where a few hundred dollars might make the difference between someone agreeing to settle and going to trial. Clinic participants learn to be sensitive to such issues.

There are other intangible benefits of the Clinic experience. "The Clinic provides excellent information and an opportunity to learn family law from skilled, experienced practitioners who are in the trenches every day," said K. Lawson Wellington, a new Clinic participant. "At the same time, you can follow the progress of an attorney who is new to the area. It is an asset to the legal community. I highly recommend it to my colleagues," continues Wellington.

Cherie King, a Clinic member since its inception 14 years ago, says "The law clinic has not only given me practical experience, but it has also given me an opportunity to share with colleagues over the years, and now I am a long-term member who has the opportunity to give back to my colleagues and the community as well. I thank Joseph, Greenwald & Laake for hosting us and for the great mentoring relationship I developed with Barbara and now Nakia. This group is invaluable to a solo practitioner!"

There is another extremely important benefit of taking a pro bono referral from CLSPGC: It covers each volunteer attorney under its umbrella malpractice policy for the cases referred. "This is a major benefit, especially to solo practitioners," explained Jorgenson. Pro bono attorneys are not immune to malpractice cases and solo practitioners are especially wary of taking any case for which they might be sued. This benefit is also extend-

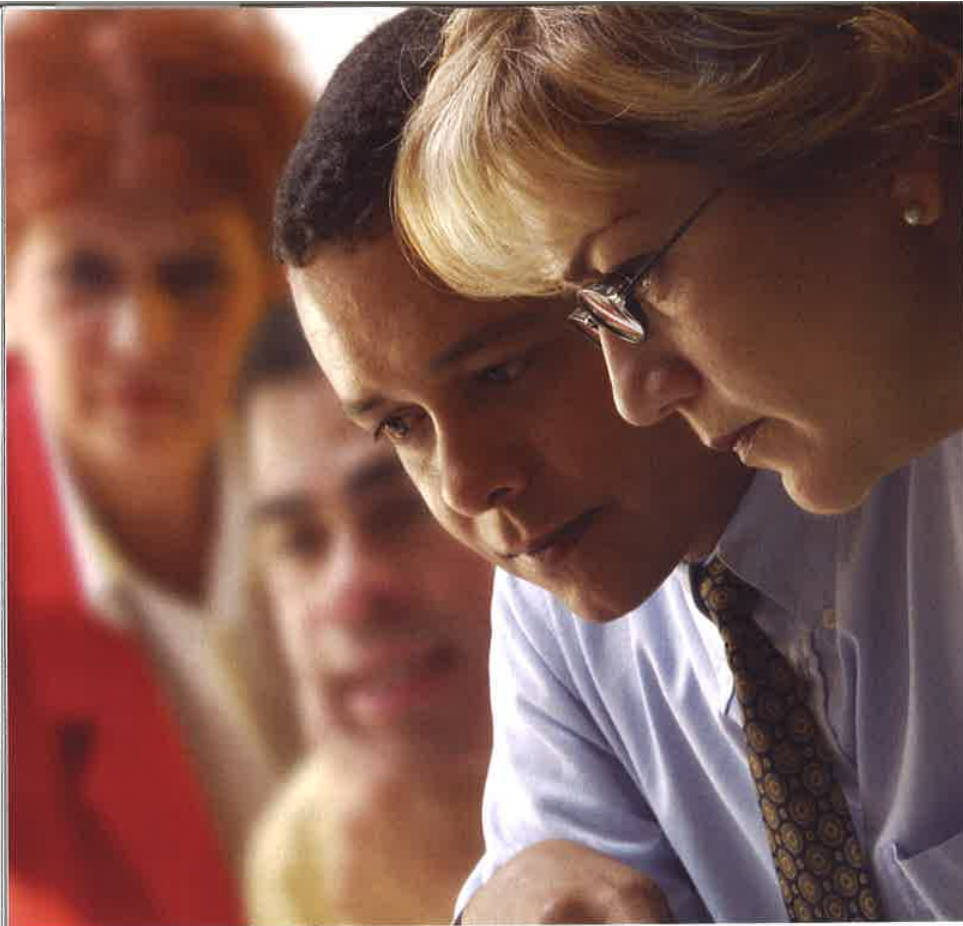
ed by Maryland Volunteer Lawyers Service and other publicly funded referral agencies such as Mid-Shore Pro Bono, LLC, in Easton, Maryland, which places a variety of cases in five counties on Maryland's Eastern Shore.

Another advantage of taking pro bono cases through these referral agencies is that they have a wide variety of case subjects. These are not just family law cases. The cases referred include foreclosure prevention, bankruptcy, domestic violence, adult guardianships, landlord-tenant, and small claims. Some, like Mid-Shore Pro Bono, offer regular clinics in which voluntary attorneys meet with clients for consultations, which provide another opportunity for pro bono service without a long-term commitment of time.

These referral agencies also place cases under the Judicare Program, which pays a maximum reduced fee – usually \$1,600 – for certain litigation cases. While these are not true pro bono cases, they are cases for clients who would otherwise not be able to afford representation.

Pro Bono Service at the Firm Level

In 2002, after the Pro Bono Family Law Clinic was already successfully underway, the Court of Appeals mandated pro bono service reporting for



each member of the Maryland bar. The aspirational goal was 50 hours annually. Within a year, JGL moved to define for the first time how pro bono cases were to be handled by its attorneys. "We went from a system under which any attorney could do anything to a slightly more organized system requiring any associate to get approval from his or her managing partner and to keep up his or her billable hours," explained JGL managing director Burt Kahn. "We talked about having a system like larger firms do with a partner assigned to approving and managing all the pro bono cases, but we opted for a simpler, more direct model of having the managing attorney keep track of the associates' pro bono cases. Shareholders, of course, remained able to take whatever pro bono cases they pleased," says Kahn.

And JGL did something else which underscored founder Joseph's commitment to pro bono service and made truly meaningful pro bono service pos-

sible for its associate attorneys. JGL adopted a plan under which associates may bill up to 100 hours of pro bono service and have those 100 hours count towards their requirement to bill 1,900 hours each year. This was not only almost twice the aspirational goal set by the Court of Appeals but a more accurate reflection of what a typical case might actually entail. For example, a typical pro bono case in the Pro Bono Family Law Clinic, which is reflective of almost any litigation case, can take 40-60 hours from initial client interview through trial. The 100 hours allotted not only permit JGL attorneys to take pro bono cases but also allows them to take more than one case each year.

Why did JGL do this? JGL partner Timothy Maloney remembers why. "We are showing our associates that the practice of law isn't very meaningful if it is just about making money. This is about serving the community and advancing important public interests," said Maloney.

And it has worked. "Our pro bono policy has become a positive recruiting tool," according to Jorgenson. "Our partners tell young attorneys in the first interview that they can take on an interesting pro bono case and that we don't have restrictions on subject matter or a complicated system of approval like larger firms do." While JGL does not keep track its pro bono cases by subject matter, an unscientific poll of pro bono cases undertaken by JGL attorneys in 2012-2013 revealed these subjects:

- handling employment matters for a local non-profit mental health association;
- defending a domestic violence victim in federal court who was fighting deportation;
- finding a less restrictive care program for two adult disabled children when their elderly mother was hospitalized;
- running an informal legal hotline for mental health therapists with legal questions;
- revising the bylaws for a non-profit civic association;
- writing a contract for a non-profit association;
- preparing a handbook for board members of a non-profit association;
- researching easement restrictions on the sale of real property by a non-profit association; and
- preparing wills, advance directives, and powers of attorney for first responders under the Wills for Heroes Foundation.

In 2009, JGL made an even stronger commitment to pro bono service when it created the firm-wide Thousand Hours Project. Under the Thousand

Hours project, the firm committed to spend 1,000 hours providing assisting homeowners facing foreclosure.

Created in response to the housing crisis in Maryland due to the record number of foreclosures, attorneys at JGL joined the statewide efforts of the Pro Bono Resource Center of Maryland, and Civil Justice, Inc. and, by attending trainings, participated in clinics, meeting with homeowners, reviewing loan documents for predatory lending practices, and representing homeowners in applying for loan modifications. "I was a new attorney at JGL when the Thousand Hours Project was started, and I was ecstatic to be a part of a firm that valued pro bono service and encouraged me to get involved with helping those who could not afford representation," says co-author Nakia Gray, now Senior Counsel at JGL.

can make the time needed for the pro bono case."

Finally, it's all about how you feel when you finish the pro bono case. "For me, it's about returning something to the community. Being a lawyer is a privilege. Helping that person or that family who would not have had legal help but for your efforts is truly rewarding. Knowing that you made a difference in someone's life, even if small in the grand scheme of things, is something money cannot buy," said Jorgenson.

Ms. Jorgenson, now Of Counsel, was the first female full equity partner in Joseph, Greenwald & Laake, P.A., and the 2009 recipient of the Maryland Pro Bono Service Herbert S. Garten Special Project Award from the Pro Bono Resource Center of Maryland. Ms. Gray is Senior Counsel at Joseph, Greenwald & Laake, P.A., and the 2013 recipient of the Fred R. Joseph Pro Bono Award, presented by Community Legal Services of Prince George's County.

Balancing Pro Bono and Billable Hours

Pro bono representation demands the same level of attention and care as other matters. "I pursue each pro bono case with all of the attention to detail and energy that I provide in my cases where the client is paying," says Gray. "Pro bono cases are truly no different. The 100 hours allows us to take on more than one case each year and also provides me the ability to get billable hour credit for the time I spend mentoring the attorneys in the Pro Bono Family Law Clinic."

That said, it's still a juggle sometimes with the billable hour requirement and the demands of a pro bono client. "The key difference," explained Jorgenson, "is timing. With a pro bono client, you choose when you can take a case that interests you. You already know your schedule. You know if you

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