



JUDGE CARNAROLI TAKES QUESTIONS FROM THE SKEPTICAL ATTORNEY

Happy New Year! The Idaho Pro Bono Commission encourages you to come on board and adopt a pro bono policy for yourself or your office. As the Commission has traveled the state talking to you about adopting pro bono policies, the reactions of the members of the Idaho State Bar have been understandably mixed. We have received enthusiastic acceptance and offers of assistance, and we've been met by healthy skepticism and concern. Those in the latter group have posed a number of good questions. Therefore, as a service to you, the members of the Idaho State Bar, the Commission offers one its own, Sixth District Magistrate Judge, Rick Carnaroli, to answer some of your questions.

The judge on the stand, under oath. Your witness, Mr. Skeptical Idaho Attorney:

Question: Isn't this pro bono policy thing just for the big Boise firms?

Answer: No. The Pro Bono Commission is reaching out to all sectors of the Idaho State Bar seeking participation from private firms big and small, government agencies and corporate legal departments. A written pro bono policy certainly seems to fit well with large firms because of their inherent organizational structure. However, we received policies from two and three person firms in both northern and southern Idaho. Corporate law departments are considering our model policies. Meanwhile, the Idaho Attorney Generals' Office, county prosecuting attorneys' offices, public defenders' offices and other government agencies either have or are considering pro bono policies.

Question: Isn't it a bit ridiculous for a solo practitioner to adopt a pro bono policy?

Answer: That depends on your point of view I guess. A policy is defined, among



Mr. Skeptical, Esq.



Honorable Rick Carnaroli

other definitions as, "a governing principle, plan or course of action". Most solo practitioners have policies for operation of their offices covering for example amounts required for a retainer, hourly rates or flat fee charges, types of cases accepted etc. even if they don't write them down. These policies help the practitioner manage the business side of the practice. Since pro bono work also impacts a solo practice, it makes sense for the attorney to develop a "governing principle, plan or course of action" for that work as well. But, if you are the kind of Idaho solo practitioner that prefers limited planning, a pro bono policy is not required. But it is something you might want to think about.

Question: I've taken pro bono cases for years. I never needed a policy. It's been my (our) unwritten policy to take on pro bono work. Why bother?

Answer: First of all, we appreciate all of the pro bono work you have done over the years and we thank you. Unfortunately, Idaho is no different than any other state in the respect that a small percentage of our members are shouldering the pro bono service load for the majority. The Commission would like to encourage a state-wide commitment of as many members of the Bar as possible to pro bono service this year and right now. Dean Donald Burnett of the University of Idaho College of Law sometimes

describes their pro bono program as a means of "creating a culture of young lawyers committed to pro bono service." Personally, I view pro bono service as a team approach. Remember when we took the oath? Most all of us took it in large groups. Pro bono service to meet the needs of the poor in Idaho requires a group effort. So if you are already doing the service, you can help encourage the culture of pro bono by adopting a policy that reflects your present commitment.

Question: Do we have to do our pro bono service through IVLP?

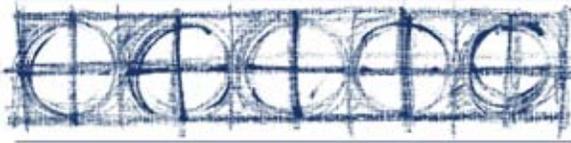
Answer: No. Many Idaho lawyers prefer to do their own intake with pro bono work. While there are advantages to having IVLP assist with case screening and the extension of legal malpractice coverage to you for those cases referred to you by IVLP, the Pro Bono Commission is not requiring a commitment to pro bono work through IVLP. To the extent that you advise IVLP of your good work, IVLP can let the news media and others know how much time and effort the members of the Idaho State Bar together commit to pro bono service to the poor of Idaho.

Question: I'm not doing pro bono for recognition, awards or plaques, so can I keep my commitment to myself and not make it a "public" commitment?

Answer: Certainly. Adopt the policy and do your part. That is all we are really asking of you. But if you are willing to go "just a little public," you can encourage others in your community to follow your lead. That's up to you.

Question: Do we have to commit to doing a certain number of hours or cases?

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Answer: Absolutely not. Give until it feels good. If you can devote a certain amount of hours, or fit one or more cases into your busy schedule, the amount of time and number of cases you take on is entirely up to you. Your pro bono policy need not state any commitment to any specific number of hours or cases.

Question: If we adopt a policy, do we have to share it with the Commission, the Bar, or the public?

Answer: No. We would like to know if you or your office has adopted a policy to gauge the response to the efforts of the Pro Bono Commission. We'd love to see your policy and perhaps use it to improve upon the model policies, but you do not have to share the text of your policy with the Commission, the Bar, or the public if you do not want to.

Question: What happens if we don't follow our policy after we adopt it?

Answer: No penalty. We will not be inquiring into the compliance, or lack of compliance with your policy. As in many aspects of your life and your practice, you will be left to police yourself.

Question: What is in it for me, my firm or office to have a policy?

Answer: If you are willing to be recognized and thanked, we have lots of ways to do that. Otherwise, we can't promise you much of anything other than the hope that the work is its own reward. The knowledge that you are fulfilling your promise, honoring your professional oath, and that you are helping someone in need is big. Hopefully that combined with the knowledge that your commitment might inspire others to make the same commitment is big enough.

Question: Any other reason to adopt a pro bono policy?

Answer: Adopt a policy as a reminder to you to take a case every now and then. The days, the months, the years all seem to fly by too fast. A promise to take a case next week, next month, or even next year might not be a promise you keep to yourself without a small reminder to do so. Don't we all use reminders in one form or another to help us remember to get certain things done? Together, we made joint and individual commitments,

among other things, to "never reject, from any consideration personal to (ourselves), the cause of the defenseless or oppressed...." Why not respond to the call for a policy, a commitment on paper to yourself and your office, as a reminder to each of us, to simply fulfill our oath and do the right thing for someone who needs legal help and cannot afford it? Idaho law has long required that "every person, before receiving license to practice law, shall take the oath prescribed by law." I.C. 3-102. Fulfill your promise and join us with a renewed commitment.

Question: Easy for you to say. You're a judge. You cannot practice law and join us.

Answer: True. But, frankly I would if I could. As a member of the Commission along with many others in the judiciary who are serving on local pro bono subcommittees, we are putting our time into trying to assess the local needs in our districts and filling those needs with pro bono lawyers. Many in the judiciary devote time to mediation as well. We are trying to do our part too.

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