

ABA Committee Reports On Pro Bono Services

BY LAZAR EMANUEL

In a major study conducted over a one-year period among 1,100 lawyers nationwide, the ABA's Standing Committee on Pro Bono and Public Service has studied and reported on the amount of pro bono work being done by lawyers. The report, entitled "Supporting Justice," was issued in August and reflects the result of telephone conversations with lawyers in private practice (81%), as well as those serving as corporate counsel (9%), in government (8%) and as academics (1%). The participants were selected at random in an effort to measure a representative sample of full-time practitioners in all 50 states. The survey was conducted by Calo Research Services, Inc. of Cincinnati, Ohio.

"This is the first survey ever to poll lawyers in every state, in every practice area, and of every age and experience level about their pro bono activity," said Debbie Siegel, committee chair. "It will be a powerful tool in devising new approaches to encourage pro bono work and reduce inequalities in access to justice."

Rule 6.1 of the ABA's Model Rules of Professional Conduct provides in part:

Every lawyer has a professional responsibility to provide legal services to those unable to pay. A lawyer should aspire to render at least (50) hours of pro bono publico legal services per year.

The Rule instructs lawyers to devote a "substantial majority" of the 50 hours to services "without fee or expectation of fee" to persons of limited means and to organizations "designed primarily to address the needs of persons of limited means." There is no rule in the New York Code of Professional Responsibility comparable to Rule 6.1, although DR 5-103(B)(2) provides:

Unless prohibited by law or rule of court, a lawyer representing an indigent client on a pro bono basis may pay court costs and legal expenses on behalf of the client.

Study's Findings

The Committee's Report lists the following findings:

- 66% of lawyers surveyed satisfied the instructions of Rule 6.1 by providing "some level" of free services to people of limited means or to organizations serving their needs.
- The average lawyer provides about 39 hours per year of free services to the poor and to organizations serving their needs. Private practitioners are more likely to provide these services than corporate counsel or lawyers in government.

- The average lawyer provides 38 additional hours of free service to individuals or groups dedicated to protecting civil rights, or to non-profit community organizations, or to the goal of improving the legal system.
- 46% of the participants in the survey met Rule 6.1's target of devoting at least 50 hours per year to free pro bono services. (According to the Committee, voluntary surveys conducted by the NYSBA in 2002 showed that 46% of New York lawyers met this target as well.)
- The survey showed a direct correlation between age and the provision of pro bono services: older lawyers reported more pro bono activity than younger lawyers (in a footnote, the Committee noted that there was no significant difference in pro bono activity between men and women except among older lawyers, who are "predominantly male").
- The most significant factor motivating lawyers to provide pro bono services is personal fulfillment and a sense of duty (70%). This is followed by a recognition of need by the poor and answering a specific request for help (43%).
- Respondents ranked the following as principal inducements to increased pro bono work: free training and CLE credits, and free malpractice coverage for pro bono services.