

PRO BONO, LOW BONO & DISCOUNTS

All,

I've been thinking about formalizing my currently pretty haphazard pro bono policy. How do you decide which clients to take on pro bono or low bono, or which clients get discounts? Are there any resources you recommend for putting together a policy?

Warm regards,

I take two types of pro bono: some, a few, very few, that are referred to me by legal aid; they've been checked out, had their financials verified by legal aid, and they need (for legal aid) fairly specialized work, i.e, probate or estate planning (most legal aid stuff is evictions, family law). If they send me a case I'll take it.

Second type is client asking for pro bono. I tend to eye these very skeptically; everyone wants pro bono work but I can't take on all, most, or even many of them, because I'd get no paying work done.

My general rule is, provided the person who is seeking my help did nothing wrong; this is NOT their fault in any sense, they were not stupid, foolish or trying to pull a fast one, if due to no fault of their own they got screwed, I'll help.

Examples: one woman's daughter, without her knowledge, forged a deed from mom to herself; she did very good job forging signature of mom, even forged notary signature and notary stamp and filed forged deed with clerk; at which point daughter took out a loan on property and didn't pay it back. House went into foreclosure. Mom didn't do anything to contribute to it.

Elderly man, legally blind, wife dies; stepgrandson flies in from Cali, takes "pops" to bank, has him sign paperwork purporting to take deceased wife's name off of account. Remember, my client is BLIND, I mean BLIND, does not know what he is signing; he trusts stepgrandkid, and the damn notary at bank doesn't say what he is signing. Two weeks later his granddaughter comes by house and says "pops, why's there a for sale sign out front" Pops is blind, doesn't see the damn sign. Anyhow, it transpires stepgrandson called bank, said "pops is upset over mom's death, he wants to sign the house over to me, can you notarize the deed? And, by the way, he is SO bereaved, please don't discuss this with him, it will only upset him". Guy didn't do anything wrong, I'll pro bono him

Just got a case now, boyfriend is dying in hospital, his mom had just died, literally in the bed next to him. His kids come and start pestering him about his inheritance from mom. He gets upset and says he wants to leave everything to his live-in girlfriend; she says, no, I don't want that, that should stay with family. He says, OK, how about I just leave you my house, the one I own outright; (this is lousy double wide trailer), so at least you got a roof over your head; she says, ok, if you really want to do that, I'd be OK with that. Hospital chaplain is there, calls notary, hospital chaplain writes out "I, name, want girlfriend's name to have the house, property and contents at address upon my death". He signs it, dates it, two witnesses and a notary all sign it and notary notarizes it. It's a will under Florida law; maybe not the greatest will but it's a will. It identifies him, her, property and directs that property to her at his death. After his death, GF deposits the will with the clerk of the court in Dec. 2016. They accept it and file it and index it as a will.

Three months later, daughter of decedent hires local attorney. He brings a petition for intestate administration, saying he died without a will. He also brings petition to determine heirs, listing three children, and a petition to determine homestead saying home passes to three children. Zero Notice to Girlfriend. Probate clerk indexes the will and puts it in the file. Submits file to judge, judge opens probate and enters orders of beneficiaries and order determining homestead. Once again, no notice, no copies to GF. Three months after that, GF contacts probate clerk and finds out about it. She's in shock, and asks what she can do. Probate clerk says you need to talk to a lawyer.

GF did nothing wrong. She deserves pro bono or in this case, low bono, she's agreed to pay me when she sells the house, though even if I don't get paid I'm not going to complain. Woman did nothing wrong and got screwed, I'm going to fix it.

Contrast this with, say, the person who in a fit of DIY estate planning, does deed transferring property to niece; then wants it back. I would have charged them extremely modest fee, either to draft will or even a ladybird deed and this would have been avoided; instead, they didn't seek legal advice and wound up with a really sticky case that is going to cost several thousand dollars. Nuh uh. No pro bono for you. Particularly since the property is worth a couple of hundred thousand dollars. It's not a matter of punishing them, it's a matter of I am not going to spend my time fixing a problem you created, which could have been easily avoided had you talked to a lawyer, on a property that's worth more than my office, just because you don't want to spend some money on this.

Ronald Jones, Florida

We are fortunate to have strong local programs here to assist individuals. I only accept individuals through clinics run by that program. With regard to nonprofits, either traditional or religious, I typically do not charge. I also typically don't advertise that issue, as it would lead to a line out the door.

After substantial experimentation, and poor results with alternate approaches, I try to stick to the above for pro bono work. I will occasionally make an exception in the elder law arena, but mostly that makes me wish I had stuck to the above policy. I will also occasionally take a client referred by a religious organization, but that too generally makes me wish I had stuck to the above policy.

Discounts here are ad hoc credits to bills, or I give a flat fee quote. I do my best not to take on low bono anymore, other than recognizing a low effective billing rate when the retainer runs out and work continues.

Darrell G. Stewart, Texas

My pro bono representations are done only through clients from pro bono agencies in Philadelphia. I don't decide that an existing client who isn't paying will "become" any kind of bono client after the fact, because they aren't in any way "bono" which means good. The agencies vet the clients, based on income eligibility, and also provide support with respect to practice areas, since the agencies have a greater depth of knowledge and experience, and resources, in dealing with the types of matters that the indigent clients run into than most of us would. So, this provides a comfort level to the volunteer lawyers who take on these matters, knowing that there's someone to turn to when we hit an issue or a situation that we can't break through. Some of the mentors have handled ground-breaking matters, and/r are the clinic professors at the local law schools, and I also volunteer as a mentor in some matters.

Miriam Jacobson, Pennsylvania

I keep it simple. The only pro bono cases I take are from the local legal services. They even provide the malpractice coverage.

Low Bono: They came from the bar association from their referral program. The bar association screens their financials.

Everybody else gets the current rate. At least that's the theory. I know what Foonberg says. Personally, the most appropriate book title for lawyers is "In God We Trust. All Others Pay Cash.

John Davidson, Pennsylvania

I only do pro bono from local legal services referrals. If someone comes in wanting pro bono, I refer them to a local legal clinic or similar. If it's someone I think I would like to help, I will refer to one of the clinics I volunteer at and then coordinate with the clinic to evaluate for services and refer back to me if they qualify.

Jen Lee, California

I take a different approach. I will not help someone pro bono if they call me asking for pro bono help. If they have a good case and I know there are money issues, then I will offer pro bono help. I will also reduce my fee for certain clients.

Our legal aid clinic provides a lot of help to people who cannot afford an attorney. Our local law school does as well. I will refer them there.

Jonathan Stein, California

Well, it's my firm; I get to decide who I take on as clients and how much I charge them. I also give the other attorneys at my office a fair amount of leeway in fees as well as discounts. I don't feel the need to have a policy for that. However, if we do the work, we do have a policy that all of the steps to opening and handling a file are fulfilled, just as with a paying client. This is true even for certain work I do for myself and my spouse.

But...I also tend to limit my no fee pro bono work to referrals from the local legal aid. I don't have time for vetting that. If someone calls my office, pleading for free legal services, we refer them to the legal aid organization. If they happen to catch me, and it is the type of case that is right up my alley, then I often refer them to the legal aid organization for vetting, with the added, "Tell the person who you are dealing with

there to have X (the lawyer coordinator) call me and that I will take this case pro bono if and only if it qualifies and they refer it back to me."

This actually rarely happens - I don't know if folks say they can't afford a lawyer but don't bother to go through the qualifications, or if the legal aid organization handles it in-house, or what. I only recall getting such a case back once in the past 5 years. And I'm my county's pro bono coordinator with the legal aid organization, so X knows me quite well. It also helps the local legal aid organization with funding - they get some funding if it truly is a qualified situation. And I'd like them to get as much funding as possible.

Cynthia V. Hall, Florida

What Jen Lee said. If they come in and I think they would qualify and I think they truly need my services, I will send them to Georgia Legal Services Program and have them prequalified.

Sheila L. Rambeck, Georgia

I developed a pro bono policy for my firm that gives me a lot of flexibility. Each quarter I set a dollar and hour amount of time to invest in causes/non-profits that I want to support or who ask for my support.

I feel much better about saying no and asking the group to re-apply for the next quarter when the quota is used up. This policy allows me to be generous without going broke or weighing 900 pounds. Hope it helps

Dina Eisenberg

The majority of my pro bono work is through legal organizations. I will on rare occasions accept a case directly pro bono. Usually through a pre-existing relationship or it is something short and sweet (and I know by now what will really be short and sweet and what just LOOKS that way).

However, I also offer a sliding fee scale based on income. I know what the cost of living around here is, I know what the pro bono requirements are. I draw a line at a

certain income. Below that amount, it is one fee. Above it, it is full freight. I may offer other discounts such as domestic violence victims and military. I also take payment plans on ALL levels because even full freight folks might be living paycheck to paycheck and need some help. Most of the time, I get the payments. Only withdrawn twice due to not making the payments in the years I have offered plans.

Elizabeth Pugliese, Maryland

Many thanks to everyone for the ideas! It sounds like the lowest-risk method is to find a good local referral program. I appreciate all of the feedback!

Warm regards,

Kelcey Patrick-Ferree, Iowa