



MAKING THE CASE FOR HUMANITY

***Pro Bono Handbook For
Volunteer Lawyers and Law Firms***

Pro Bono Work at The Legal Aid Society Policies and Procedures Handbook

I.	<i>The Legal Aid Pro Bono Practice</i>	1
II.	<i>Pro Bono Opportunities and Case Assignments</i>	1
	A. Law Firm Pro Bono Projects.....	1
	B. Individual Case Assignments	2
	C. Pro Bono Support.....	2
	D. Affirmative Litigation Cases	3
III.	<i>Law Firm Participation</i>	3
	A. Law Firm Approval	3
	B. Letter of Engagement; Costs	3
	C. Forma Pauperis Order	3
IV.	<i>Pro Bono Commitment to Legal Aid Clients</i>	4
V.	<i>Working on Your Pro Bono Case</i>	4
	A. Receiving Case Materials and Scheduling Initial Client Interview	4
	B. Initial Client Interview	4
	C. CLE Pro Bono Training Program.....	5
	D. Working Relationships with Legal Aid Staff	5
	E. Noting Appearances and other Practice Information.....	5
VI.	<i>Appreciation and Contact Information</i>	6
	Obtaining CLE Credit for Pro Bono Representation of Legal Aid Clients.....	6
	Contacting Legal Aid	6
	Helpful Internet Links.....	7



**The Legal Aid Society gratefully acknowledges
the contributions of:**

Debra Dandeneau of Weil, Gotshal & Manges LLP

Vilia Hayes of Hughes, Hubbard & Reed LLP

Stuart Gold of Cravath, Swaine & Moore LLP

in the preparation of this manual.

Policies and Procedures for Pro Bono Work

I The Legal Aid Pro Bono Practice

Welcome to the Pro Bono Practice of The Legal Aid Society, the nation's oldest and largest provider of legal services to low-income families and individuals. You are joining a distinguished group of law firms and volunteers who partner with Legal Aid in ensuring that poverty is not a barrier to obtaining legal justice in New York City. The current pro bono projects are described on the Legal Aid website at www.legal-aid.org. Developed by Legal Aid lawyers in conjunction with the Pro Bono Practice staff, these projects reflect the unique breadth and scope of Legal Aid's Civil, Criminal, and Juvenile Rights Practices as well as the integration of pro bono counsel in nearly every area of Legal Aid's representation. This dynamic collaboration delivers pro bono assistance to many of Legal Aid's most vulnerable groups of clients – young children, children and adults with disabilities, senior citizens, immigrants facing deportation, domestic violence survivors, inmates brutalized by prison staff, persons with HIV/AIDS, low-wage and unemployed workers, families on the brink of eviction, and others. The pro bono work embraces an extraordinary range of professional opportunities: trial and appellate, administrative law, corporate, civil, juvenile rights, and criminal.

This handbook contains important information for handling Legal Aid pro bono matters. It will assist you in the delivery of quality legal services and enrich your professional experience. Please read the manual carefully and refer to it, as necessary, while working on cases. We appreciate and look forward to your participation.

II. Pro Bono Opportunities and Case Assignments

A. Law Firm Pro Bono Projects. Legal Aid's Pro Bono Practice is organized around distinct legal projects established at participating law firms. Projects often originate in discussions where Legal Aid attorneys express the need to obtain pro bono assistance to fulfill critical legal needs of clients in the area of the lawyers' expertise. Formulating a pro bono project includes defining the scope of the pro bono representation, determining the kinds of cases for pro bono assignment, preparing a CLE training program and manual, and providing case mentoring and other support.

Throughout the year, Legal Aid meets with Pro Bono Committees and Pro Bono Liaisons at participating law firms to learn more about their current pro bono activities and discuss the broad range of Legal Aid's pro bono projects and cases. Firms also invite Legal Aid to meetings with associates and partners who are interested in asking questions and learning about the Legal Aid pro bono program. Legal Aid lawyers describe pro bono opportunities in their fields of practice, often highlighting the pro bono areas the firm has recognized as being of particular interest. We meet as well with the leadership of several new firms each year, identifying pro

bono projects with Legal Aid that strengthen the firms' overall programs – for example, establishing a First Year Associate Program, concentrating on cases for non-litigators, and so on. We would be happy to meet with your firm.

A law firm interested in establishing a new project makes a commitment to Legal Aid to organize a critical mass of its attorneys, to represent a specific number of Legal Aid clients annually, and to provide partner leadership. The Legal Aid lawyers who developed the model become the mentors for the firm's new project. They customize a CLE training program and assign cases in consultation with the coordinating partner. Their continuity in mentoring aids the volunteer attorneys in learning the practice and developing effective case strategies – valuable training and skill-building that also benefit Legal Aid clients. The Pro Bono Practice of the Legal Aid Society continues in a collaborative role with the Pro Bono Liaison in establishing the new project, supporting existing projects, and strengthening the panoply of the firm's pro bono activities with Legal Aid.

B. Individual Case Assignments. Cases that do not lend themselves to a law firm pro bono project usually are assigned through Legal Aid's liaison network. Descriptions of available pro bono cases are compiled on a monthly basis. These case lists are emailed to the Pro Bono Liaisons at law firms actively participating in Legal Aid's pro bono program. Training materials relevant to the types of cases that may be assigned individually as discussed above can be found in the Library section of the [NYC Pro Bono Center](http://www.probono.net/nyc/nyc/library) website, <http://www.probono.net/nyc/nyc/library>. Co-hosted by Legal Aid and the City Bar Justice Center (the legal services arm of the New York City bar), the NYC Pro Bono Center site was launched as part of Pro Bono.Net in order to provide volunteer lawyers throughout New York with access to pro bono practice materials, information about volunteer opportunities, CLE training programs, and related pro bono information. The site requires registration; it provides a brief application form to submit in order to receive full online access.

C. Pro Bono Support. All pro bono referrals are made on behalf of Legal Aid's clients, who have been screened by our attorneys for legal merit and financial eligibility. In the overwhelming majority of cases, Legal Aid continues as Attorney of Record, and law firms and their attorneys serve as Of Counsel. The "Of Counsel" arrangement means that the law firm does not formally appear on papers as counsel of record. That, however, does not affect the status of responsibility of the Participating Attorney as attorney for the client, and the Participating Attorney is subject to all the ethical obligations owed to that client. Other arrangements may be used in particular cases, including affirmative litigation matters in which Co-Counsel arrangements are in place. A Legal Aid attorney remains on the case as a mentor until final disposition. All volunteers handling Legal Aid cases are covered by Legal Aid's professional liability coverage.

D. Affirmative Litigation Cases. Complex affirmation litigation, which develops professional skill sets and serves the public good, is a highly sought-after pro bono opportunity. Legal Aid co-counsels new cases with a participating firm, which assumes responsibility for the expenses of the litigation. The agreement between Legal Aid and the participating law firm addresses this and other issues governing the co-counsel relationship.

III. Law Firm Participation

A. Law Firm Approval. Before accepting a case, Participating Attorneys must first check for conflicts with firm clients and may need to prepare a new matter memo or take other internal steps. If there is a Pro Bono Liaison with Legal Aid at the firm, please contact that person about how to proceed.

B. Pro Bono Retainer; Costs. Acceptance of a Legal Aid pro bono matter establishes an attorney-client relationship with the Legal Aid client. For representation of individuals (other than juveniles) in civil matters, the terms of the relationship are set forth in the Legal Aid Pro Bono Retainer. To avoid the need for a law firm to send its own form of engagement letter to a Legal Aid pro bono client, Legal Aid designed the Pro Bono retainer to address concerns of law firms in accepting pro bono matters by prescribing a defined scope of legal services, the payment of reasonable costs, and the right to terminate the relationship for cause. The retainer also articulates the confidential nature of the attorney-client relationship and the law firm's ability to represent adverse parties and interests consistent with ethical principles. The Pro Bono Retainer endeavors to express these complex issues in plain English as well in Spanish and other languages spoken by our clients. Because an individual client may engage Legal Aid before a law firm is assigned to such matter, the Pro Bono retainer is written to cover any law firm that may become involved with the matter. Once a law firm is involved, Legal Aid informs the client and an initial client meeting is scheduled and the retainer is signed with an acknowledgement of the law firm's participation in his or her matter. The costs that typically would be incurred in a matter, including publication costs in an adoption or matrimonial case or the fees for taking a deposition, are the responsibility of the law firm. In accepting a Legal Aid matter, the law firm is agreeing to the above provisions and to the Pro Bono retainer serving as the sole retainer agreement for the matter.

C. *Forma Pauperis* Order. Most of Legal Aid's clients are eligible to proceed as poor persons, eliminating some litigation costs. In an unusual case, potential costs may arise that are not covered by a *Forma Pauperis* order and are substantially higher than what might be considered reasonable expenses for a matter of that nature. If the law firm is unwilling to be responsible for such expenses, please contact the Pro Bono Practice to discuss the issue before incurring such expenses.

IV. Pro Bono Commitment to Legal Aid Clients

The Participating Attorney assumes the primary role in developing the case, drafting necessary documents, and conducting any hearing or trial. The attorney's responsibility is to serve a pro bono client with the same dignity and respect shown to any other client of the firm while providing zealous representation as required by the Code of Professional Responsibility. This should entail the Participating Attorney seeking the advice and guidance of a partner or counsel at his or her firm on significant strategic decisions, as well as before filing papers with the court or arguing the matter in court. Legal Aid expects that the Participating Attorney's firm will treat the client's matter as a firm matter. Withdrawal from a case prior to completion seriously compromises the representation. A client shares aspects of his/her personal life and depends upon the Participating Attorney for consistent counsel. Finding substitute volunteer counsel mid-stream is often difficult, and Legal Aid does not have the resources to handle previously assigned cases. If withdrawal becomes necessary, please notify your firm's Pro Bono Liaison so that re-assignment can be done within the firm, and notify the supervising Legal Aid attorney and the Pro Bono Practice as soon as possible.

V. Working on Your Pro Bono Case

A. Receiving Case Materials and Scheduling Initial Client Interview. When a case is assigned, the case file containing client information, case facts, and relevant papers collected at the screening interview is duplicated and sent to the Participating Attorney. The Participating Attorney also is sent a copy of this Handbook and contact information for the Legal Aid mentor for the case. Training materials in many of the substantive areas of our practice also are available on Pro Bono.Net, <http://www.probono.net/ny/nyc/library/>. After reviewing the case file, the Participating Attorney will contact the Legal Aid mentoring attorney, who is indicated in the assignment materials, regarding the case. Together, they will coordinate scheduling the initial interview between the Participating Attorney and the client and will discuss additional materials that will assist the volunteer in learning the subject area, including online access to relevant CLE training manuals.

B. Initial Client Interview. The interview is generally conducted at the originating Legal Aid office, which is the place most accessible to the client, has available interpreters, and offers the Participating Attorney and Legal Aid staff an opportunity to meet and discuss case strategy prior to, or immediately following, the interview. A list of Legal Aid offices including addresses, telephone numbers, and directions can be found at <http://www.legal-aid.org/en/findus/locations.aspx>. The Participating Attorney should seek to establish an appropriate attorney-client relationship, listening generously and learning as much as possible about the matter before advising the client about the applicable law and proposed actions. Often there are new facts or additional

papers that Participating Attorneys will want to share with their Legal Aid counterparts before finalizing case strategy and advising their clients about next steps. With the attorney-client relationship now established, Participating Attorneys schedule subsequent meetings directly with their clients. These may be held at the Legal Aid office (provided the Legal Aid mentor is notified beforehand to insure the availability of office space and presence of an interpreter) or at the law firm. Participating Attorneys must provide their clients with their name, firm address, and telephone number, and should confirm the best way to communicate with the client.

C. CLE Pro Bono Training Program. Legal Aid annually presents training sessions for attorneys interested in volunteering in Legal Aid's pro bono program. More than 20 sessions, hosted by participating firms, cover diverse aspects of the pro bono program. Each session typically provides two hours of Mandatory Continuing Legal Education Credit (CLE), including transitional credit. While these sessions – conducted by an outstanding faculty from Legal Aid and the private bar – offer valuable training, they are not prerequisites to accepting a pro bono matter from Legal Aid. There is no charge for the trainings. The expectation is that those attending will accept a pro bono case within the following months. For your reference, manuals as well as an increasing number of webcasts of the training sessions are available on the NYC Pro Bono Center website, <http://www.probono.net/ny/nyc/library/>.

D. Working Relationships with Legal Aid Staff. The Legal Aid mentor is generally the lawyer who initially screened the case. The attorney is experienced in the relevant field of practice and can aid the volunteer in becoming a more knowledgeable advocate. Participating Attorneys are expected to provide the Legal Aid mentor with copies of all pertinent Court papers and to check with the mentor on major strategy decisions before resolving cases. Unless there is a specific understanding to do so, Legal Aid attorneys generally do not participate in Participating Attorneys' interviews with clients or make court appearances.

E. Noting Appearances and Other Practice Information.

Appearances should be noted as follows:

Steven Banks, Attorney-in-Chief of The Legal Aid Society

Name of Legal Aid Attorney, Esq., Of Counsel.

Name of Participating Attorney, Esq., Of Counsel

The Legal Aid Society

Name of Legal Aid Office

Office Address

On court papers and correspondence, it is advisable to add:

Please address correspondence to:

Name of Participating Attorney, Esq.

Firm Name

Firm Address

Firm Tel. No.

Court papers are filed on Legal Aid's blue backs or on plain backs with the above appearance. Correspondence should be either on Legal Aid or law firm stationery. Volunteers are also required to conform to their law firm's procedures for tracking pro bono hours.

VI. Appreciation & Contact Information

Clients are truly appreciative of your providing them critically needed legal counsel when their homes, livelihoods, family stability, health, and basic rights are at stake. You join nearly 3,000 Participating Attorneys who annually deliver legal services on behalf of Legal Aid's low-income clients – an important civic contribution to all New Yorkers and to maintaining trust and confidence in the legal system.

As an accredited Pro Bono CLE Provider, Legal Aid is pleased to offer volunteers the opportunity to receive CLE credit for representation of Legal Aid clients. CLE regulations regarding CLE credit for pro bono work can be found at <http://www.nycourts.gov/attorneys/cle> (click on Pro Bono Information).

Contact Information:

Louis S. Sartori
Director, Pro Bono Practice
The Legal Aid Society
Address: 199 Water Street
New York, New York 10038
Phone: (212) 577-3383
Email: LSSartori@legal-aid.org

Emily Bormann
Pro Bono Administrator
The Legal Aid Society
Address: 199 Water Street
New York, New York 10038
Phone: (212) 577-3919
Email: EBormann@legal-aid.org

Rosemary Hare-Bey
Pro Bono Coordinator
The Legal Aid Society
Address: 199 Water Street
New York, New York 10038
Phone: (212) 577-3358
Email: RHarebey@legal-aid.org

Helpful Internet Links:

<http://www/legal-aid.org> (Legal Aid's website)

<http://www.probono.net/nycprobono> (NYC Pro Bono Center's website)

<http://www.nycourts.gov/attorneys/cle> (information about obtaining CLE credit for pro bono activities)