

Ethical Issues in California Pro Bono Representation 2013

September 12, 2013

9:00 a.m. – 12:30 p.m.

Why You Should Attend

While the ethical obligations of Pro Bono legal practice are no different than a commercial law practice, there are practical considerations regarding eligibility of clients, challenging clients, challenging pro bono attorneys, conflicts (similar in theory, different in practice settings), expectations on both sides, case management responsibility, and different delivery models, such as limited scope representation, that cause many professionals to hesitate offering pro bono legal services. This program is designed to answer questions regarding the professional responsibility obligations of pro bono legal service, encourage attorneys to engage in this professionally rewarding aspect of law practice, and remove ambiguities that are barriers to engaging in pro bono legal services.

What You Will Learn

Experts in professional responsibility and in pro bono service from government practice, private practice, legal services, and in-house corporate law departments will discuss:

- Application of the California Rules of Professional Conduct
- ABA Model Rules of Professional Conduct
- Proposed California Rules of Professional Conduct
- ABA Standards for Programs Providing Civil Pro Bono Legal Services to Persons of Limited Means
- Basics of Pro Bono, Including the Definition of “Pro Bono”
- Why Pro Bono is Considered an Important Part of the Profession
- Professional Responsibility Concerns Unique to Pro Bono

The faculty will discuss hypothetical fact patterns and illustrate the application of the rules.

Who Should Attend

Law firm pro bono coordinators and partners, law firm associates, government attorneys, registered in-house and corporate counsel, legal services pro bono coordinators, solo practitioners, small and medium firm attorneys engaged in pro bono legal services, judges, and everyone interested in increasing access to justice.

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Program Schedule

9:00

Program Overview and Introductions

Robert A. Hawley

9:15

Commencing the Representation

A. Pro Bono Service

- What Qualifies as “Real” Pro Bono
- The Need
- History/Background
- Duty
- Preparation to Engage

B. Commencing the Representation

- Be Admitted and in Good Standing: Avoiding Unauthorized Practice of Law, Multijurisdictional Practice
- Pro Bono as a Loss Leader for Future Pecuniary Gain
- Working Through a Pro Bono Program To Select and Vet the “Right” Pro Bono Cases
- Creating the Pro Bono Relationship
- Pro Bono – Limited Scope Representation
- Representation via Remote Access

C. Checking for Conflicts of Interest

- Types of Conflicts: Legal, Positional, Personal
- Conflicts Between Clients
- Conflicts Between Attorney and Client
- Conflict Imputation and Screening
- Conflict Waivers
- Conflicts in Limited Scope Legal Service Programs

Conducting the Representation

A. No Self Interest

- Who is the Client- Be Clear on This BEFORE Representation Begins
- Duties to the Pro Bono Client
 - o Competence
 - o Confidentiality
 - o Communication
 - o Safekeeping Property
 - o No Frivolous Actions
 - o Fairness
 - o Unmeritorious Claims
 - o No Sex

B. The Difficult Client

- Termination of Employment
- Confidentiality, Death and Imminent Bodily Injury Exception
- Client With Diminished Capacity
- Advising Violation of Law

C. The Difficult Pro Bono Attorney

- Breach of Duty
- Termination
- Responsibility of Pro Bono Coordinator
- Responsibility of Other Volunteers

D. Fees, Costs & Sanction Awards

- Financial Arrangements With Non Lawyers
- Financial Arrangements With Lawyers
- Costs and Expenses
- Fee Awards
- Lawyer Referral Services
- The Self Represented Litigant
 - Opposing Party
- Gifts for Services

Elizabeth Bluestein, Janice Cho, Amy J. Fitzpatrick, Robert A. Hawley, Bruce Ives, Toby J. Rothschild, Jean M. Wilkinson

10:45

Networking Break

11:00

Pro Bono Models: Specific Application of Pro Bono in Various Practice Settings

- Pro Bono and Solo Practice
- Pro Bono and Government Practice
- Pro Bono for the Difficult Client
- Pro Bono “Fees and Costs”
- Pro Bono through Corporate In-House Counsel
- Pro Bono in Partnerships/Different Areas of Law
- Pro Bono and Limited Scope Representation

Elizabeth Bluestein, Janice Cho, Amy J. Fitzpatrick, Robert A. Hawley, Bruce Ives, Toby J. Rothschild, Jean M. Wilkinson

12:30

Adjourn

Faculty

Chairperson

Robert A. Hawley

Deputy Executive Director
The State Bar of California
San Francisco, California

Elizabeth Bluestein

General Counsel
Public Counsel
Los Angeles, California

Janice Cho

Founder
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