



October 12, 2010

Los Angeles

INNOVATIVE MENTORSHIP MODELS IN PRO BONO

3:00pm to 4:20pm

Moderator: Saralyn Cohen, Shearman & Sterling

AGENDA

- Welcome, Goals for the Session, and Identifying Audience Groups
- Framing the Conversation: Why do we care about mentorship in the pro bono setting?
- Large Group Brainstorming: Key Components of Great and Not-So-Great Mentoring
- Brief Overviews of Some Mentorship Models
- Small Group Discussions:
 - Expectations and Best Practices in Building Mentorship Models into Pro Bono Projects
 - Barriers to Effective Mentorship and How to Overcome Them
- Next Steps and Closing

NOTES FROM THE SESSION

I. Overview - Why Are We Talking About Mentorship?

- Charles Song of Howrey introduced the case for mentorship from the law firm perspective, focusing on the benefits in terms of risk management and the overall experience of volunteers.
- Liz Bluestein of Public Counsel then introduced the case for mentorship from the nonprofit perspective, including better services for clients. She also noted how many positive aspects of providing mentorship from the nonprofit perspective are closely related to the benefits from the law firm perspective.

II. A Sampling of Mentorship Models

After the group engaged in a brief discussion of some of the positive and less positive mentorship experiences they have had, Saralyn introduced a sampling of mentorship models. (Note: very brief descriptions are given below - see also the handouts prepared by each of the organizations about their models included as attachments.)

- Liz Bluestein, Public Counsel :
 - Staff attorney can be assigned to serve as the point person to answer questions and respond to requests for support. At the same time, we hope that this type of assistance will give the firm attorneys the resources and opportunity to develop additional expertise within the firm. This model is very common among nonprofits.
 - A Mentorship Coalition: This model is referenced in the handout. Public Counsel has set up a mentorship coalition of attorneys from different firms as part of their project on child care issues. In the Land Use Advocacy Coalition, various firms are helping Public Counsel advocate in different jurisdictions to remove barriers to child care. The firms are working on different jurisdictions, but working on very similar issues. They come together for regular phone calls and meet a couple of times per year. Working together, the group also identifies different experts or resources that they want to hear from to help on their issues.
- Genevieve Richardson, Bay Area Legal Aid
 - A collaboration of multiple legal services nonprofits in the Bay Area set up mentoring through a Yahoo listserv, which is then also staffed or supported by that same collaboration. Multiple firms are involved. The listserv came about after the nonprofits met with law firms about doing more pro bono U visas and VAWA cases. It is a relatively informal set-up, and is informally monitored by legal services to answer questions. Law firm volunteers also post answers. The listserv is set up to largely handle triage, and then the legal services providers also have additional mentors set up for the individual attorneys. So this model incorporates both a listserv and then more traditional one-on-one mentorship. There was then some group discussion of what to do if some law firms' IT systems block listserv emails.
- Mark Silverman, Immigrant Legal Resource Center (ILRC)
 - ILRC has an "Attorney of the Day" system for both staff at IOLTA-funded legal services nonprofits and pro bono attorneys working with those nonprofits. It is basically an email entry system for mentorship from experts at ILRC; although pro bono attorneys can also call in, email is much more common. Mark noted that both pro bono attorneys and Trust Fund Program staff should identify in the subject matter line that they are working with an IOLTA-funded nonprofit as that is the highest priority for the Attorney of the Day. The Attorney of the Day is focusing exclusively on replying to that day's inquiries, which is key to ensuring responsiveness. The assignment rotates between the ILRC staff attorneys, and having a dedicated person each day of the week is what makes the system effective, efficient and responsive. In addition, each attorney at ILRC has a particular area of expertise. If the Attorney of the Day gets an inquiry that they can tell needs additional expertise or consultation, they pass it on to the particular expert in that area with a guaranteed 48-hour response period. ILRC also uses the Attorney of

the Day system to point to particular resources that ILRC provides, including references to and cutting and pasting sections from their substantive manuals..

- Julie Park, Fenwick & West (offering a law firm perspective)
 - Julie noted that law firms tend to rely heavily on legal services programs for the mentorship, and within the firm it can be easier to place cases when the nonprofit ensures mentoring.
 - Internally at firms, it can be difficult to build that internal expertise, particularly if newer associates are the ones building the relationship and then they leave the firm. Even when the firm builds some internal expertise, it may not be a permanent resource.
 - Julie noted that firms hope that their volunteer attorneys will be proactive about accessing the resources available to them. Being a mentee also means reaching out the possible mentors, as mentorship works best when both mentors and mentees are playing their roles.

III. Group Discussion: How to Build Better Mentorship Models and Overcome Barriers to Mentorship.

What are the expectations for mentoring (attorneys, nonprofits, and firms)?

- It is important to clarify who has what role in the relationship. The group discussed the idea of creating a retainer agreement to clarify the nonprofit attorney's role as mentor as opposed to co-counsel.
- It is also important to orient new staff at the nonprofit about their role in being mentors. Be clear that it is part of their job responsibilities from the onset, including that they might sometime screen great cases that go to pro bono attorneys.
- Law firm expectations: While there is always a supervising partner on all pro bono matters, the amount of their involvement may vary. Therefore, it is important for the law firms to know what resources are available and whether they can send associates to the nonprofits for resources, technical assistance and advice, etc., and what exactly associates can expect if they reach out for assistance and mentoring. From a risk management perspective, pro bono matters need a mentor. It is helpful for the firm attorneys to have someone at the non-profit with whom they can check in, receive training, and access for expertise. At the same time, the firm attorneys are supposed to be accountable for the work, and they should be encouraged to communicate what they do not know or their questions.
- Nonprofit expectations: While some nonprofits don't have dedicated mentors assigned to the cases, they do want the firms and associates to know that resources and support are available. The group also discussed questions about how proactive the nonprofits should be in contacting the volunteer attorney assigned to the case.
- Expectations around timeliness: The group discussed that support should be provided in a

timely manner (which likely means within a 24 to 48 hour period).

- Benefits of mentorship: The group discussed the fact that quality and timely mentorship can be an incentive to entice new pro bono volunteers. Mentorship can also add to a quality of the assistance to the clients, as well as the clients' total experience. Nonprofits are also well-positioned to provide counseling and advice on sensitive client issues, such as working with clients with mental health disabilities, clients who have experienced trauma or violence, etc.
- The group also discussed that in order to balance the demand on nonprofit resources, the law firms should be encouraged to rely on internal firm expertise for routine matters and to exhaust internal resources before relying on the nonprofits. The group discussed the possibility of firms - or even a group of firms working together - developing pro bono areas of expertise and matching more experienced attorney volunteers with new volunteers in those areas.
- The group started to consider the flip side of mentoring, which is communication from the law firm to the nonprofit with status updates about the case. While this can involve ethical issues, the group discussed when law firm volunteers could provide some type of case status report backs to the nonprofit. These types of status reports can help inform mentoring and ensure that the nonprofit can respond in a more timely and targeted manner.
- Mentors should take into account the experience level of the volunteer attorney. Some mentorship expectations may depend on the subject matters area. In particular, whether the non-profit should actively check in with the volunteer attorney may depend on the subject matter in the case.

What models of mentorship exist that help to meet these expectations?

- Nonprofits assign attorney to an agency or practicing attorney mentor.
- If the pro bono attorney contacts an additional resource, think about copying the mentor on the email so as to not duplicate resources or run the risk of inconsistent advice.
- Increase the use of private attorney practitioners with expertise in the relevant subject matter and bring them in as volunteer mentors.
- Trainings as part of mentorship, including trainings on how to do a case from beginning to end.
- Provide substantive resources (like manuals, videos, etc) and make them easily accessible.
- Build internal pro bono expertise within the firm over time. First send out pro bono cases that are relatively simple, particularly at the beginning of a pro bono relationship. Then build the internal experience and over time provide additionally more complex cases.
- Enlist professionals who can assist with cases as a resource and can also serve on a mentorship panel.
- Create a google group or google site to make resources, materials, Q&A more widely available.

How can pro bono administrators and mentors ensure a balance between a pro bono attorney "owning" the case but still accessing mentorship and support?

- The nonprofit and law firm pro bono leader should explain the process and options for mentorship so they know they can seek assistance and the process for doing so. When appropriate, this should include clarifying whether or not the nonprofit mentor is or is not attorney of record on the matter.
- Create a targeted attorney-client retainer agreement clarifying the agency's on-going mentor role and relationship.
- Nonprofit can orient new staff to the role of providing mentorship to volunteers.

How can firms and nonprofits work to overcome the following barriers to effective mentorship?

Concerns about Attorney-Client Privilege

- Make sure there is a waiver in the file, use forms that specifically address these issues, and make sure there is always a copy of them form in the case file.
- Nonprofit case assignment process can include having the client sign a waiver of confidentiality. Firms can address this in their retainer agreement with the client with a provision that notes the firm has the client's permission to continue to communicate with the referring agency. This ensures that it is handled upfront and clearly. Some firms will also go back and get a waiver from the client subsequently if it isn't covered in the retainer agreement.
- FAQ that can be sent out regularly explaining the ethical issues involved and how to handle them.

Timing Issues - Responsiveness of Mentors and Mentees

- Timing: First, make it clear what the time frame will be for responses. Second, important that the firms let the nonprofits know if the responses aren't being received and mentorship isn't taking place. Third, nonprofits should let firms know if they aren't getting requested case updates timely.
- Both firms and nonprofits can try to have an "open door" policy. Some nonprofits have a weekly "call in" for volunteers, like a weekly case review just on pro bono matters.
- Apply a "triage" approach to requests for mentorship and support.
- Make sure pro bono attorneys are using IOLTA-funded support centers when possible.
- Clarify with volunteers in advance what the likely response timeframes will be.
- Firms should communicate with the nonprofits if they are not receiving timely responses to

requests for assistance and mentorship, and nonprofits should communicate to the law firm pro bono leaders if they are not receiving updates on the cases or are receiving inappropriate requests for assistance/mentoring.

Limited Resources on the Part of the Nonprofits

- Nonprofits make efficient use of their manuals and/or training guides. Attorneys should be very knowledgeable about the nonprofit's own manuals so they can refer volunteers directly to those sections. Importance of developing resources, training videos, letting volunteer how to access those resources (online if possible?). Create and use FAQ for certain case types or subject matter areas. Set clear expectations that volunteers are expected to first access manuals and/or FAQ resource before contacting the nonprofit.
- Consider how much hand-holding the nonprofits should do. Nonprofits want to help the volunteer attorneys, but the firms also want to have their new attorneys trained, so shouldn't spoon-feed them. Need to balance the need to help them with the need for them to try on their own to research and answer questions, etc.
- When working with specific populations of clients, that have particular nuances to the representation (homeless, persons with disabilities, language access issues) can develop and send out TIPS on how to work with those particular populations. Example: clients purchase pay-as-you-go minutes for their cell phones, the minutes run out at the end of the month, and the attorneys think that the clients are unresponsive
- Some nonprofits and firms work out an apprenticeship model.
- Some nonprofits could a model more like law school clinical programs - meet every week to do case "rounds," answer questions, in a group setting.
- Idea of listservs on different substantive areas to coordinate and collaborate on providing those resources when possible. Sharing between nonprofits can help reduce the burden on individual nonprofits. Example: Holocaust Network does a weekly call-in with a mentor - so everyone hears all of the questions and the mentor can handle them all in one time period. This type of system can ensure efficiency with non-urgent questions. Use of google groups and google docs for sharing resources.
- Recruit experienced volunteers to serve as pro bono mentors to pro bono attorneys. Involve local bar associations and law schools as resources - for training and mentorship, or how to do case reviews.
- Use reflective learning - approach mentorship with a coaching model - posing questions to the pro bono volunteers, rather than directive responses that just answer the questions. Encourage the pro bono attorneys to tackle the questions and then give advice/feedback.
- Have nonprofits collaborate and coordinate with joint production and maintenance of resources on subject matter areas.

- **Next Steps and Closing**

- The notes from the session will be shared with all conference attendees at www.CAProBono.org.
- The Public Interest Clearinghouse will incorporate the substantive content of the discussions in the *California Pro Bono Best Practices Guide*, as it is being written.