

Pro Bono: If You Don't Do It, No One Else Can

Only attorneys licensed in Wisconsin can provide pro bono legal services. It is both our privilege and responsibility to provide pro bono services as part of our law practice.

BY KATIE MERTZ

This is the second in a year-long series in *Wisconsin Lawyer* focused on the trends, challenges, and opportunities for Wisconsin lawyers to support access to justice. The first article, “Bridging the Justice Gap Amid Growing Challenges” (Jan. 2025), set the stage¹ describing Wisconsin’s legal aid crisis: the ever-widening gap between what legal aid organizations can provide and what their clients need. In this article, I explore the barriers that prevent more lawyers from contributing their time and expertise to pro bono service – and how we can overcome those, together.

Recognizing both the need for legal assistance and the lawyer’s duty to provide it, Wisconsin Supreme Court Rule 20:6.1 emphasizes that every lawyer has a professional responsibility to provide legal services to those who cannot afford it. The rules encourage lawyers to provide at least 50 hours of pro bono service each year. Fortunately, many lawyers are answering the call.

Who is Doing Pro Bono?

Recent surveys show that nearly 57% of attorneys are providing some form of pro bono service.² Many are motivated by a sense of duty, ethical obligation, and the simple desire to help those in need.³ Even with their involvement, the justice gap in Wisconsin continues to widen, perpetuating inequality and leaving many without the support they need.

Statewide, there is only one legal aid lawyer for every 4,300 people living at or below 125% of the federal poverty level.⁴ To help contextualize this number, the Wisconsin Trust Account Foundation calculated that if you filled Lambeau Field to its capacity (81,000 people), you would need 18 legal aid lawyers to serve them all.⁵

And, if the legal aid lawyers gave each client 30 minutes, it would take them more than three months, working around the clock, seven days a week, to meet with everyone. (By the way, Lambeau Field’s seating capacity could accommodate only 10% of Wisconsinites who are considered income eligible for legal aid, that is, 125% of the poverty level.)

Although pro bono work will not solve the justice gap, it is something every licensed attorney can and should do to make a difference. The extent to which we step up to this challenge will shape the future of legal services across the state, and it is essential to engage those who do not yet participate in pro bono work.

Interestingly, while 80% of surveyed attorneys agree that it is important for lawyers to offer pro bono services, only 52% said they were likely to do so in the next year.⁶ There’s a clear disconnect between recognizing the importance



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Legal Action of Wisconsin staff attorney Megan Sprecher (left) talks to a client during the 2021 Expungement Clinic in Kenosha. She is joined by State Bar of Wisconsin past president Kathy Brost (center) and Kenosha Bar Association past president Heather Iverson (right). Photo: Shannon Green

of pro bono and engaging in it.

Top barriers to providing pro bono work, as reported in the survey, include a lack of time due to balancing other obligations, perceived lack of expertise in the subject area, and uncertainty about how to get involved.⁷

As the director of Marquette Law School’s Office of Public Service, my role centers around engaging law students in pro bono efforts. After 10 years working with students, I’ve found they face the same barriers to pro bono engagement

as attorneys. A significant part of my work is demystifying what pro bono is and helping students learn how to make it part of their practice and professional brand. At the beginning of their law school career, students face uncertainty about where to start, how to balance time constraints from their competing academic and other obligations, and what resources and training are needed to be prepared. Let me share some of the lessons I’ve learned along the way in addressing the perceived barriers that

often keep both students and lawyers from fully embracing pro bono work.

Lack of Time

This is one with which we can all identify. For myself, it felt like just one more thing to add to a very full plate. But once I committed to adding a shift, then two, each month with Legal Action of Wisconsin’s Eviction Defense Project to my schedule, it became part of my routine to set aside a small amount of time to engage in pro bono work. Blocking the time in advance (scheduling occurs quarterly) and making it a nonnegotiable commitment made the routine easy to stick with. It has resulted in some of the most fulfilling experiences I have had as a lawyer.

In Wisconsin, we are fortunate to have a wealth of pro bono opportunities available to us. Many are only a two-hour time commitment each month – some are in person and others are available to do by Zoom. Those two hours of time can result in a life-changing experience for a client navigating a domestic dispute, eviction, or family law matter. For those looking for a smaller commitment, volunteering with Wisconsin Free Legal Answers (online) allows lawyers to easily answer one or more legal questions from their office or living room.

Lack of Expertise

Few of us specialize in landlord tenant, family law, or small claims matters. Yet, all of us have the skill and competency to navigate those cases, especially in a brief representation setting.

Under SCR 20:1.1, competent representation requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation. The competence rule does not require expert-level knowledge. It tells us to consider the level of legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation. Most pro bono opportunities are of a limited scope, which is a factor to

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determine just how much legal knowledge, skill, thoroughness, and preparation are necessary.

As lawyers, we have the unique ability to break down complex legal topics and navigate our legal system. This is something many of our pro bono clients may lack, and this is where you can be impactful. Even if you are not a subject-matter expert in a specific area of the law, you are a subject-matter expert in our legal system and know more than you realize.

You have access to a vocabulary and skillset that non-lawyers do not. Whether it's identifying the parties in a case, service of process steps, notice requirements, statutes of limitation, or other critical elements of navigating our legal system successfully, you can guide pro bono clients through these confusing processes. You can play a critical role in guiding pro bono clients through a legal system that was not built for people to successfully access without an attorney.

Benefits of Pro Bono

There is a strong business case for pro bono engagement by in-house teams and law firms, including better recruitment and retention, professional development, and improved teamwork. It enhances corporate social responsibility, strengthens inside-outside counsel relationships, supports the company's mission and values, and boosts reputation and diversity efforts.

For individual attorneys, pro bono work offers more than just the satisfaction of giving back to the community. It comes with practical perks like access to free continuing legal education (CLE), including ethics sessions, and up to

six CLE credits for pro bono hours (one credit for every five hours volunteered). It is a great way to build mentoring relationships with law students, increase access to justice, and network with other lawyers. Plus, attorneys who volunteer 50 hours per year earn a spot on the State Bar of Wisconsin Pro Bono Honor Roll.

Where to Get Started

If you are ready to start incorporating pro bono into your legal practice, the State Bar of Wisconsin's Paladin Pro Bono Portal has a plethora of offerings listed for attorneys to find the opportunity that matches their interest. These opportunities cover a wide variety of matters (transactional, litigation, and more), a range of time commitments (ongoing representation, limited scope, brief advice), a variety of practice areas and skills (tax, family law, real estate, employment, contract drafting, etc.), and are in service to many client groups (children, elderly, veterans, nonprofits, and others).

Another option is to check with your law firm to see if they already have pro bono initiatives or clinics they participate in. Many firms are involved in asylum cases or innocence project work, or volunteer with weekly or monthly brief legal advice clinics. Another avenue is to connect with legal services organizations like Legal Action of Wisconsin and Judicare Legal Aid, which offer brief advice services and limited-scope representation in areas such as eviction, bankruptcy, expungement, consumer defense, tax issues, and driver's license recovery.

Additionally, the Volunteer Lawyer Project through Legal Action of Wisconsin and the Private Attorney

Involvement Program with Judicare provide further opportunities for more extensive representation. Bar associations, like the State Bar of Wisconsin, offer resources such as Wisconsin Free Legal Answers online, and various county bar associations run brief legal advice clinics.

For those in the Milwaukee area, Marquette University Law School runs brief legal advice in person and remotely on Zoom that benefits from nearly 250 volunteer lawyers each year. Serving over 6,000 clients annually, volunteers help bridge a small part of the justice gap in civil and family brief advice clinics, small business and nonprofit clinics, estate planning clinics, and pardon application clinics. With so many options available, there's a path for every attorney to get involved and make a meaningful impact through pro bono work.

Later this year, the State Bar of Wisconsin Legal Assistance Committee will release a survey to better understand the barriers preventing Wisconsin lawyers from participating in pro bono work. In the meantime, take this as your invitation to join a robust cadre of volunteer lawyers engaged in pro bono work. We need you. **WL**

ENDNOTES

¹Megan E. Lee, *Bridging the Justice Gap Amid Growing Challenges*, 95 Wis. Law. 33 (January 2025).

²*Supporting Justice in Wisconsin: A Report on the Pro Bono Work of Wisconsin's Lawyers*, ABA Standing Comm. on Pro Bono & Pub. Serv. (July 2017); *Supporting Justice V: A Report on the Pro Bono Work of America's Lawyers*, ABA Standing Comm. on Pro Bono & Pub. Serv. (Nov. 2024).

³*Supporting Justice V*, *supra* note 2.

⁴*WisTAF Funding Update*, Rebecca L. Murray, Executive Director, Wisconsin Trust Account Foundation Inc. (May 2022).

⁵*Id.*

⁶*Supporting Justice V*, *supra* note 2.

⁷*Id.* **WL**