



LAW WISE

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Greetings from the Kansas Bar Association (KBA).

Welcome to this edition of *Law Wise* and the second edition of the 2013-2014 school year.

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WELCOME

"... one nation, under God, with liberty and justice for all." This month, *Law Wise* focuses on Pro Bono Week, October 20-26, 2013. Pro bono work helps make justice available to all Americans. Find out what pro bono means and how attorneys doing pro bono work assist administrators, teachers, and students. *Law Wise* is pleased to present an interview with a Kansas attorney who shares how she got involved with pro bono, the many types of pro bono work, and how pro bono helps a community. Also, two great hands-on activities are highlighted which will enable your students to understand a little about poverty and to spread the joy about doing pro bono work. See what practical suggestion we have for one way in which teachers and students can help with pro bono work, and help make justice available to all.

Next month, *Law Wise* will revisit the topic of bullying in schools, to update you on revisions recently made by the Kansas legislature.



National Pro Bono Celebration
October 20 - 26, 2013

CALENDAR OF EVENTS

Oct. 20–26, 2013

National Pro Bono
Celebration Week



WHAT'S PRO BONO?

Pro bono means "for the public good." An attorney who takes a case "pro bono" is not compensated at all, or not fully, for the legal services performed.

The bar in this country has a long-standing tradition of service *pro bono publico* – legal services 'for the public good,' provided at no cost or a reduced fee. This concept encompasses a wide range of activities, including law reform efforts, participation in bar associations and civic organizations, and individual or group representation. Clients who receive such assistance also span a broad range including: poor people, nonprofit organizations, ideological or political causes, and friends, relatives, or employees of the lawyer." Deborah L. Rhode & Geoffrey C. Hazard, *Professional Responsibility* 162 (2002).

Black's Law Dictionary, 9th Edition, p. 1323.

(continued on next page)

In Kansas, many attorneys serve pro bono as guardians ad litem for children in need of care or for those caught in the middle of complex custody disputes between parents or other prospective caregivers. The guardian ad litem is appointed by the Court to represent the child's best interests throughout the duration of the legal proceedings.

Attorneys also serve pro bono attorneys while representing parents of children with special education needs that are not being addressed in the child's current educational environment. These cases may involve obtaining evaluations,

advocating for special education services, or challenging denial of services at a due process hearing

This year, approximately 150 Kansas attorneys will volunteer more than 3,500 hours to meet the legal needs of more than 700 low-income Kansans. Family law is the area of highest need.

Check out resources and other information about the National Pro Bono Celebration at <http://www.probono.net/celebrateprobono/> ■

FUN PRO BONO ACTIVITIES FOR STUDENTS

Sources: www.playspent.org; www.probono.net/celebrateprobono/just_stories/

1. WALK A MILE IN MY SHOES

Walk a mile in the shoes of a needy person. Students will be surprised at what they'll learn about the struggles needy clients face — and the choices you'd make if you, too, were living in poverty.

Even in the current economy, assumptions abound about poverty and homelessness such as "I'll never be in that situation" or "If I were struggling, I'd figure out something." These beliefs are challenged by SPENT, an online game that uses social media to educate people about poverty and homelessness.

Have your students try this poverty simulation exercise in honor of the ABA's 4th Annual National Celebration of Pro Bono Week.

1. Before October 25, go to www.playspent.org and play the poverty simulator game. See if you can survive a month on \$1,000. It only takes 15 minutes to play this fast-paced and engaging game.
2. Have students record their thoughts on the experience.
3. Discuss the results with your class.

2. STUDENT ROLE PLAY

They say the shortest distance between two people is a story. Advocacy stories have the potential to inspire and connect others to the essential work of providing legal assistance to those living on the social margins.

Have your students interview a local attorney about their pro bono work and then share the results with your class.

OR

Have your students visit the video quilt at http://www.probono.net/celebrateprobono/just_stories/ to review a few of the numerous video stories posted by attorneys who do pro bono work on a regular basis. Students who know a pro bono attorney could assist the attorney in preparing a two-minute video to include on the site. ■

THE LAW RELATED EDUCATION COLLECTION @ THE TEACHERS COLLEGE RESOURCE CENTER

There has been more than a Hornet "buzz" here at Emporia State University's Teachers College Resource Center! To contribute to Constitution Day and Freedom Week, we had Law-Related Education displays of several of the varieties of educational materials available. The displays and the *Law Wise* publication attracted some good attention to the wonders of this collection. Students are commenting, and teachers are emailing or calling. We love the business generated for the Center.

We would also like to invite readers to look into materials in the Law Related Education Collection that support the Branches of Government, the Constitution, and more. Some recent purchases of the Kansas Bar Association follow:

- ***The Making of the Constitution***, a DVD that puts people and events into time/order perspective.
- ***The History of the Supreme Court***, a 3 DVD set that chronicles the cases and decisions through our American history.
- ***The Election Process in America***, a DVD that works from the right to vote to the Electoral College.

We have print materials beyond those listed, as well as many items in a lesson-type format. Take a few minutes to peruse this collection for the wonders it contains. You may access it at www.emporia.edu/rescenter or call us at 620-341-5292.

The hours of operation here at the Center are 9-6, Monday through Thursday, and 9-5 on Fridays.

Janice Romeiser, jromeise@emporia.edu.

PRO BONO IN KANSAS

Most of us know that in many criminal cases, indigent defendants are entitled to be represented by competent defense counsel at no cost to themselves. The taxpayers foot the bill for many of these persons here in Kansas every year. Attorneys who take on such cases do so at a greatly reduced rate. And as noted above, many attorneys take on family law or other issues at a free or reduced rate in state court.

But did you know that in Kansas federal court, some plaintiffs may receive the same benefit of being represented pro bono by a competent attorney in their civil case? When an indigent person brings a civil rights case (such as one claiming employment or housing discrimination based on age, race, sex, disability, religion, color or national origin), the Judge handling the case assures that it is not frivolous, then may appoint a local attorney knowledgeable of such matters to represent the indigent civil client throughout his case. Names of attorneys who have expertise in those types of cases are maintained on a list and are contacted to see if they are able to take on such cases, much as attorneys are on the criminal defendant representation list. But these attorneys do so at no charge either to the client or to the public. Their service is pro bono.

Law Wise interviewed one Kansas attorney who served pro bono in federal civil rights cases.

Law Wise: How did you start serving pro bono in civil rights cases in Kansas?

Attorney: I believe I was contacted by an employee in the federal clerk's office who asked if I would be willing to take such cases occasionally. The clerk's office keeps an appointments list of attorneys who have agreed to take on civil rights cases, and my name must have been next on the list. I had tried several civil rights cases in federal court, so they probably thought I liked those cases and was competent to handle them.

LW: Where were you working at the time, and what did your employer think of your doing that kind of pro bono work?

A: I was working at a law firm which employed approximately 35 attorneys and did only civil work. This firm encouraged its attorneys to take pro bono cases, but did not require them to do so. Some firms require every attorney to do a fixed number of pro bono hours each year.

LW: Why would a private law firm encourage its attorneys to do pro bono work?

A: Well, probably for several reasons. 1. Doing pro bono work in a field an attorney is interested in is a good way to get more experience and expertise in that area of law. So it benefits the attorney's professional development. Many lawyers view pro bono work as an essential part of their professional lives. 2. Also, pro bono work provides a great service to the community, by providing legal services to those who otherwise could not receive them. Ensuring justice for everyone is pretty important stuff. 3. It's a service to the courts and justice system as well, because it helps ensure justice, save time, court

system resources, and taxpayer dollars. Also, having a competent attorney to represent a person is much better than having that person represent themselves, as they have a right to do in civil cases. I've seen several pro se civil cases go to trial, and they are never pretty. They add layers of challenge and difficulty for the opposing counsel, for the judge, and for everyone involved. 4. Lastly, pro bono work obviously assists the individual who believes their rights have been violated, and this is particularly important in civil rights matters.

LW: Tell us more about the cases you handled.

A: The typical cases I handled had been filed by a client without an attorney and alleged race or religious discrimination. I suspect the court had determined that the case was not facially frivolous. I would agree to take the case pro bono, then would handle the case through discovery and pretrial, representing the indigent client in the same way I would represent a paying client. All of these cases I handled settled before trial, if I recall correctly. We were able to resolve these cases in a manner agreeable to both parties without the need for a jury trial. Often the settlements paid to my clients were for a relatively small amount of money, but this seemed to satisfy my clients because they felt they had been vindicated and had received some payment for it. That was enough for them.

LW: Are you still doing pro bono work?

A: Yes, but now I work for the government and have strict restrictions on the nature of that work I am permitted to do. For example, I cannot represent indigent clients in court anymore.

LW: What kind of pro bono work can you do?

A: I can serve on the governing boards for various community organizations, or teach, or speak to community groups. For example, I served on a school board for years, and used my legal abilities in many different capacities: establishing policy, drafting or revising employment manuals, reviewing student disciplinary matters, responding to complaints about administrators, teachers and staff, overseeing real estate or other contractual transactions, advising administrators about various issues, making sure the board was acting within its authority, etc.

LW: What kinds of pro bono work do other attorneys routinely handle?

A: Many pro bono cases involve helping persons in state court in divorce, child custody agreements or property divisions, assisting families facing foreclosures, supporting victims of domestic violence, or assisting the elderly. But many attorneys also take some criminal matters pro bono.

LW: Why do attorneys take cases pro bono?

A: For various reasons, I suppose. As I mentioned before, some firms require it. Other attorneys understand its value to our nation and do it as a duty to the legal profession. But those who have done it often know how great the rewards are to the attorney. Rendering legal service to someone who otherwise might not have received it is its own reward, but in many

of these cases, the attorney is also subtly helping needy individuals in other issues that underlie the legal matter – a need for affirmation, for personal contact with someone who will listen, for an advocate, for self-confidence, etc. Meeting personal needs like those can be as valuable to the attorney as to the client. Like the good book says, “It is better to give than to receive.”

LW: Are there any famous cases that were tried pro bono?

A: Most pro bono cases receive little attention and, like most other cases these days, rarely go to trial. Plus attorneys generally do not publicize that a particular case they are handling is being done pro bono. I do have personal knowledge of one published Kansas civil case that was pro bono – *State v. Ruebke*, 259 Kan. 599 (1996). In that case, a lay midwife who served the Mennonite community was sued by the Kansas Board of Nursing and the Kansas Board of Healing Arts. The Kansas Supreme Court decided that lay midwifery (assisting in home births without being a nurse or physician) did not constitute the practice of nursing or the practice of medicine. That was a civil case in which the lay midwife, defendant Ruebke, was represented pro bono.

A criminal case that reportedly was done partially pro bono and received national media attention is *State of Florida v.*

Casey Anthony. After a lengthy trial, the jury found Ms. Anthony not guilty of murdering her two-year old daughter. They did, however, find her guilty of lesser charges of providing false information to law enforcement officers. There, the lead defense attorney was allegedly paid a small fee at one point but later worked for over three years on the case pro-bono, along with several other lawyers. Expert witnesses for the defense also worked pro-bono or were compensated by the state, since Ms. Anthony was ruled indigent.

LW: Is there anything teachers or students can do to help with pro bono legal work?

A: Well sure! They could go to law school, develop unique skills and become lawyers who view pro bono service an essential in making justice available to all.

But everyone can do something much simpler and much less costly. Every time you find yourself talking to an attorney, ask if they’ve handled any interesting pro bono cases lately. Although they might not tell you many details due to the attorney-client privilege, you might hear some wonderful stories about their work for others in Kansas. Plus, your question may inspire or motivate that attorney to get out there and do more pro bono work, so the next time they’re asked, they’ll have interesting stories of their own to share. ■



Did you know that Kansans across the state will be wearing jeans to work during Oct. 20–26 for **National Celebrate Pro Bono Week**? They will be participating in Jeans for Justice, a program designed to raise money to support pro bono programs at Kansas Legal Services.

Even when attorneys donate their time, there is still a need for money that will help with operating pro bono programs. If you know a law firm, bank, or other workplace that might like to participate, please direct them to <http://www.ksbar.org/?page=jeansforjustice>.

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