

**United States District of Columbia Circuit Judicial Conference
Standing Committee on *Pro Bono* Legal Services**

**REPORT
OF THE STANDING COMMITTEE
ON *PRO BONO* LEGAL SERVICES**

**to the
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The Judicial Conference
of the District of Columbia Circuit**

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I. INTRODUCTION

The number and plight of those in need of *pro bono* legal services in the District of Columbia remain dire.

As noted in the 2009 report, *Rationing Justice: the Effect of the Recession on Access to Justice in the District of Columbia*, issued jointly by the District of Columbia Access to Justice Commission and the D.C. Consortium of Legal Services Providers, “Even before the recession, there was not enough legal aid to meet the needs of low-income District residents. [Legal services] programs report losing more than 25% in revenue and have shed approximately 12.5% of their lawyers. As a result of these staff cuts, thousands of District residents who need legal help did not get served.”¹ Little has changed since the issuance of the *Rationing Justice* report. Indeed, poverty rates in the District continue to grow, with data from the U.S. Census Bureau showing that, since 2007, an additional 17,500 D.C. residents have fallen into poverty, jumping from 16.4% to 19.2% in 2010.² These rising poverty rates have inevitably resulted in increased demand for legal services.

In 2010, the District of Columbia Circuit Court Judicial Conference adopted a resolution recommending that each attorney admitted to the bars of the courts of the District of Columbia Circuit provide at least 50 hours of *pro bono* legal services a year³, accept one court appointment to provide *pro bono* representation, or contribute the lesser of 1% of earned income or \$750 to

¹ District of Columbia Access to Justice Commission and the D.C. Consortium of Legal Services Providers Joint Report, *Rationing Justice: the Effect of the Recession on Access to Justice in the District of Columbia* (November 2009) at 1.

² D.C. Fiscal Policy Institute, *New Census Data Show that One in Five DC Residents Lived in Poverty in 2010* (September 22, 2011), available at <http://www.dcfpi.org/new-census-data-show-that-one-in-five-dc-residents-lived-in-poverty-in-2010>.

³ In 1998, the D.C. Circuit Judicial Conference passed a resolution calling on all lawyers admitted to the bars of its courts to provide at least 50 hours of *pro bono* legal service to the poor. (Resolution on *Pro Bono* Legal Services by Members of the Bar of the Federal Courts of the District of Columbia at Appendix A.)

legal services organizations serving the D.C. community.⁴ The 2010 resolution reaffirmed a 1998 resolution regarding hours of pro bono service and increased the recommended alternative financial contribution from \$400 to \$750.

In 2003, the Chief Judges of the United States Court of Appeals for the District of Columbia Circuit and the United States District Court for the District of Columbia began hosting the annual *40 at 50* Breakfast, recognizing law firms at which at least 40% of the attorneys provided 50 hours of *pro bono* service in the prior year. The D.C. legal community answered the call. At the first breakfast, seven law firms qualified. Now, the event has become a springtime tradition, with 30 firms qualifying in 2011 (based on their 2010 performance) and 29 firms qualifying in 2012 (based on their 2011 performance). In 2011, the Committee also began recognizing those firms in which 50% or more of the lawyers performed 50 or more *pro bono* hours in the preceding calendar year. In 2011, 13 firms were recognized for reaching this benchmark, and, in 2012, 7 firms were recognized. In addition, in 2011 four firms were recognized for having 40 percent of their partners perform 50 hours of pro bono work; and in 2012, one firm was so recognized.

The Chief Judges of the D.C. Circuit and the United States District Court have also lent their support to numerous events and receptions aimed at highlighting the value of *pro bono* services and the genuine need in our community. In December 2011, U.S. District Court Chief Judge Royce Lamberth and the Standing Committee on Pro Bono Legal Services hosted a reception recognizing the 2011 *Daniel M. Gribbon Pro Bono Advocacy Award* recipient and honoring the more than 500 attorneys who have donated their time and talents in

⁴ Resolution Adopted June 9, 2010, by the Judicial Conference of the District of Columbia Circuit on Pro Bono Legal Services by Members of the Bar of the Federal Courts of the District of Columbia.

defense of the Guantanamo detainees over the last decade.

While the D.C. legal community continues to contribute millions of dollars worth of time and resources to underserved individuals in our community each year, since our last report to the Circuit in 2010, the number of attorneys doing *pro bono* nationwide has actually decreased. Accordingly to *The National Law Journal* and its affiliate *The American Lawyer*, the largest U.S. law firms reported an 8% decline in average *pro bono* hours in 2010⁵, despite reporting increases in both revenue and profits⁶. This trend is troubling given the continued drain on resources for legal service providers.

The D.C. Bar Foundation has seen a dramatic drop in its IOLTA (Interest on Lawyers Trust Account) grant funds since 2007, when it awarded \$2.1 million to civil legal services organizations. In comparison, in 2011, IOLTA grants totaled \$865,000.

Fortunately, for the last six years, the D.C. Access to Justice Commission has secured funding from the D.C. Council for civil legal services for underserved populations. Through a grant to the D.C. Bar Foundation, the District of Columbia government has provided approximately \$3 million each year for support of civil legal services.

The Standing Committee is committed to working cooperatively with other organizations in our Bar to meet the legal needs of those in our community through innovations and increased *pro bono* work by attorneys of this Circuit. In 1964, U.S. Supreme Court Justice Hugo Black declared, “There can be no equal justice where the kind of trial a man gets depends on the amount of money he has.” The Standing Committee agrees and hopes this

⁵ The National Law Journal, Pro Bono Hot List (January 2, 2012), available at http://www.law.com/jsp/nlj/PubArticleNLJ.jsp?id=1202537061531&PRO_BONO_HOTLIST.

⁶ The American Lawyers, *The Am Law 100 2012* (May 1, 2012), available at <http://www.americanlawyer.com/PubArticleTAL.jsp?id=1202489912232&slreturn=1>, and *The Am Law 100 2011* (May 1, 2011), available at <http://www.americanlawyer.com/PubArticleTAL.jsp?id=1202550268433>.

report reflects the seriousness with which we take the tradition and promise of *pro bono* service within the D.C. legal community.

II. PRO BONO LEGAL WORK IN PRIVATE LAW FIRMS

In January of 2012, the Standing Committee sent its biannual survey to the managing partners of 77 law firms with more than 25 attorneys in their District of Columbia offices to gather information about *pro bono* programs in the private sector. With this survey, the Standing Committee sought to learn whether firms were communicating the Judicial Conference *pro bono* standard to their lawyers and the extent to which lawyers were meeting that standard. In addition, the Committee sought information about the structure of firms' *pro bono* programs and the manner in which law firm lawyers are encouraged to meet the Judicial Conference *pro bono* standard, in an effort to better understand the elements of successful law firm programs. (The transmittal letter and survey are at Appendix B). As of May 3, 2012, the Committee had received responses from 64 firms, for a response rate of 83 percent—a substantial increase from the 2010 response rate of 41 percent.

The Circuit Resolution is unequivocal in its focus on the ethical obligation of each member of the Bar -- it is addressed to *individual* lawyers, not to law firms. For this reason, since 2002, the Standing Committee's annual survey has asked how many individual attorneys at each firm have met the Conference's 50 *pro bono* hours standard during the prior year. With the results of this year's survey, the Committee now has ten surveys' worth of information spanning ten years concerning individual attorney *pro bono* hours in the District of Columbia. Most of the 2012 respondents also participated in the 2002 through 2011 surveys, providing a useful

benchmark for observing trends in District of Columbia *pro bono* programs.⁷

A. Results of the Law Firm Survey

The survey results reflect only a segment of the several hundred law firms in the District of Columbia: All of the 64 responding firms in 2012 had at least 26 lawyers; most (50 firms) had 75 attorneys or more, with 18 firms reporting that they employed 200 or more attorneys in their District of Columbia office.⁸ Thus, as in prior years, the results reflect the state of *pro bono* programs at larger firms that, in general, have already made at least some level of commitment to *pro bono*.

All of the firms responding to the 2012 survey have a written policy covering *pro bono* legal work; almost two-thirds of the firms (41 firms) include a specific *pro bono* goal in their policy. Of the 41 firms having a written *pro bono* goal, 28 reported having goals that matched or exceeded the Judicial Conference standard of 50 annual *pro bono* hours. We believe it is safe to assume that the non-responding firms would not have reported markedly stronger or more active *pro bono* programs than those existing at the participating law firms.

There are many ways to measure the strength and depth of a firm's *pro bono* legal program. The Standing Committee has chosen to use the Judicial Conference standard of 50 annual hours of *pro bono* as a touchstone for its inquiry. Overall, the actual number of lawyers meeting the 50-hour annual target for *pro bono* legal service has not been high.

The trend over the past ten years suggests, however, that *pro bono* work is on the increase

⁷ Forty-two of the firms responding to the 2010 survey also responded to at least one of the surveys sent in 2002, 2004, 2006 and 2008. Eleven of this year's responding firms are new respondents, or firms that did not respond to the 2002, 2004, 2006 or 2008 surveys. Fourteen law firms have responded to all five of the Committee's surveys. A list of the firms that responded to the 2010 survey is attached at Appendix C.

⁸ The Committee sent surveys to all firms listed on the National Association of Law Placement (NALP) directory and categorized as having 26 lawyers or more in the DC office. See <http://www.nalpdirectory.com>.

and that *pro bono* programs are firmly anchored in more firms. When first surveyed on this issue, most firms reported that only 25 percent or fewer of their attorneys met the 50 hour goal in 2001.⁹ One-third of the firms responding to that earlier survey had not even communicated the 50-hour standard to their lawyers.

The *pro bono* practice of the District of Columbia's larger law firms appears to have shifted in the past ten years. Since the Committee began conducting its survey of individual attorney performance in law firms in 2002, incremental but steady gains have been made in the number of private sector lawyers doing *pro bono* legal work. Most notably, for ten years the number of top *pro bono*-performing firms has been on the increase, while the number of low-performing law firms has been decreasing.

In response to the 2002 survey (seeking information on law firms' *pro bono* performance for 2001), 27 firms were on the low end of the scale, reporting that fewer than 20 percent of their lawyers met the 50-hour mark. Only six firms were on the other end of the scale, with more than 35 percent of their lawyers performing at least 50 hours of *pro bono*. The 2004 survey saw an improvement of *pro bono* performance: 19 firms reported relatively low rates of *pro bono* service, and 15 law firms reported relatively high rates of *pro bono* service. Responses to the 2006 survey continued this trend, with 17 firms performing *pro bono* at relatively low rates, and 19 law firms reporting higher rates of *pro bono* service. For the 2008 survey, again, the number of law firms performing *pro bono* service at low rates dropped, and the number of high performers rose -- 10 low performers and 23 high performers. The 2010 survey nearly reversed

⁹ Standing Committee on Pro Bono Legal Services of the Judicial Conference of the District of Columbia Circuit, Report to June 2002 Meeting of the Judicial Conference of the District of Columbia Circuit, p. 5 (June 2002). It is likely that higher percentages of attorneys at the law firms responding to each of the Standing Committee's surveys fulfilled at least one of the prongs of the standard recommended in the Conference Resolution, which includes, in addition to 50 hours of *pro bono* service, the alternatives of taking on one *pro bono* case or making a monetary contribution to legal services provider organizations in the District of Columbia. All of the Standing Committee's Reports can be found at <http://www.cadc.uscourts.gov/internet/home.nsf/Content/Pro+Bono>.

the 2002 numbers, 8 firms reported *pro bono* service rates on the lower end of the scale, while a record 34 law firms reported rates of higher than 35 percent.

In this year's survey, the Standing Committee again asked firms to report the percentage of lawyers in their D.C. office who had personally performed at least 50 hours of *pro bono* in the past year. All 64 firms responding to the survey provided this information. The results of the 2012 survey show the numbers generally holding steady: thirty-two law firms were at the higher end of the scale, with more than 35% of their attorneys at or above the 50-hour mark, while just 13 firms reported numbers at the lower end of the scale, with less than 20% of their attorneys hitting the mark. Though this is a slight setback after 2010's record numbers, it is nonetheless a dramatic improvement over the course of the decade.

Although the Committee's surveys have identified a positive trend in *pro bono* service over the past ten years, this year's survey also identified an area of inaction among law firms. Only a single law firm monitors its attorneys' compliance with the monetary contribution alternative urged by the D.C. Court of Appeals Judicial Conference. In 2010, the Committee added a new inquiry to its survey: "Does your firm monitor whether its attorneys who do not meet the 50 hour standard are contributing at least \$750 for *pro bono* legal services as urged by the D.C. Court of Appeals Judicial Conference?" All but one of the responding firms answered "no."

The Standing Committee also inquired about law firms' *pro bono* policies and practices. Here, in summary, is a statistical portrait of aspects of law firm *pro bono* policies and programs, drawn from responses to the 2012 survey:¹⁰

□ *Written pro bono policies.* All of the responding firms (64) have written policies

¹⁰ Not all firms responded to all survey questions. Thus, the totals presented in each summary may not necessarily equal the total number of responding firms.

covering *pro bono* legal work, and 41 of these firms include a specific *pro bono* goal in terms of an “expected” number of *pro bono* service hours. Most firms setting an hourly goal set it at or above 50 hours per year (28 firms), and all firms apply their policy regarding “expected” hours equally to partners, associates, and counsel. Three firms actually set a much higher bar, with 100 hours of *pro bono* expected from partners, associates, and counsel.

- *Associate, counsel and partner pro bono credit.* Over 60% of the responding firms (39 firms) report crediting associate *pro bono* hours the same as hours spent on commercial cases; 13 treat them differently. Fewer firms provide equal credit for *pro bono* and commercial hours for partners (27 firms) or counsel (31 firms).
- *Compensation and pro bono.* Of the 64 responding firms, 54 firms report that *pro bono* work is compensated through the firm’s bonus policy; 14 of these firms place limits on the number of *pro bono* hours that can be taken into account in determining associate bonuses.
- *Billable hours and pro bono caps.* Of the responding firms, 48 have a minimum billable target for associates, 36 apply a billable target to counsel and 31 apply a billable target to partners. Twelve firms reported having a cap with respect to the number of *pro bono* hours for which attorneys can receive billable hours credit, ranging from 50 to 150 hours annually.¹¹ There appears to be a trend with a decreasing number of firms reporting a cap on the number of credited *pro bono* hours.
- *Coordinating pro bono service.* A majority of the responding firms (51)

¹¹ In response to the 2002 survey, 20 firms reported having caps on creditable *pro bono* work. Similarly, in response to the 2004 survey, 23 firms reported having caps. In 2006, 17 firms reported having caps on creditable *pro bono* work. In 2008, 15 firms reported having caps. In 2010, 12 firms had caps.

reported that they have an individual designated full-time to manage or coordinate their *pro bono* programs, while six firms have a part-time coordinator. Of those with a full-time coordinator, 47 use an attorney to manage their programs, while four use a non-attorney. Twenty-two of the 47 full time *pro bono* coordinators are partners in their firms. All of the part-time coordinators are attorneys, with four partner coordinators and two counsel coordinators. Six firms reported that staffing in their *pro bono* programs had changed in the past two years. In all instances, the programs had added staff.

B. Recognizing Top Law Firm *Pro Bono* Performers

Each year since 2003, in order to recognize the law firms ranking highest in *pro bono* performance, the Chief Judges of the Circuit and District Court have hosted the “40 at 50” *Judicial Pro Bono Recognition Breakfast*. The Chief Judges invite to this breakfast those firms at which at least 40 percent of the lawyers have met the 50-hour mark for *pro bono* performance. From 2003 through 2011, the number of firms qualifying for the event in each year were seven (2003), twelve (2004), eight (2005), fourteen (2006), seventeen (2007), twenty-one (2008), twenty-six (2009), thirty (2010), and twenty-nine (2011).

In addition, in 2010, the Committee began to give special recognition to the qualifying firms with at least 40% of their *partners* contributing 50 or more *pro bono* hours. In 2010, five firms were given this special recognition at the 40 at 50 Breakfast; in 2011, four firms were given this recognition; and in 2012, one firm was honored for hitting this mark.

In 2011, the Committee also began providing recognition to those firms that had at least

50 percent of their lawyers meet the 50-hour mark for *pro bono* services. Thirteen firms qualified for this honor in 2011. In 2012, seven firms qualified. The Committee is hopeful that providing this recognition will spur more firms to reach “50 at 50.”

On March 29, 2012, the “40 at 50” *Breakfast* was well-attended, with each of the 29 firms honored sending at least one representative. It is encouraging to note that what was once a relatively intimate event has transformed into a larger celebration of *pro bono* service in the District of Columbia. Informal conversations at each of these breakfasts indicate that the attention given to the 50-hour standard by the “40 at 50” *Breakfast* has contributed to the increase in the number of law firms reaching this mark. Attached at Appendix D are the lists of the law firms that have qualified for this distinguishing recognition for the past two years.

C. Notable Trends and Associations in Law Firm *Pro Bono* Data

The Standing Committee observed some trends in the survey data that merit mention. Since 2001, there appears to be a steady shift towards more law firm attorneys performing *pro bono* service at the level contemplated by the Judicial Conference Standard.

While the Committee’s efforts to inform law firms of the Judicial Conference’s 50 annual *pro bono* hour standard may have contributed to this apparent increase in *pro bono* awareness and performance, other factors likely have contributed as well. The uptick in *pro bono* performance in the most recent years may be attributed partially to the recession—beginning in late 2007—as it is typically speculated that decreases in available billable work result in increases in *pro bono* work. In 2011, as the economy picked up, reported *pro bono* hours decreased somewhat. Smaller incoming associate classes in the past few years may also account for the lower *pro bono* hours reported in 2011 than in prior years. Other factors affecting the long-term increase in *pro bono* hours may include the “A-List” ranking of U.S.

law firms published by *American Lawyer* – a ranking that was initiated in September 2003 and which places significant weight on *pro bono* work – which has encouraged law firms to revisit and reenergize their *pro bono* programs. Another possible motivation for the upward long-term upward trajectory in *pro bono* service at law firms includes the Corporate Pro Bono Challenge, which was instituted by the Pro Bono Institute in 2006. This challenge asks the chief legal officers of U.S. corporations to sign a voluntary statement to commit to *pro bono* service by their legal department staff. Notably, signatories to the Corporate Pro Bono Challenge also commit to encourage the law firms with whom they work to become signatories to the Pro Bono Institute’s Law Firm Pro Bono Challenge, thereby committing to perform *pro bono* service amounting to either (a) five percent of the firm's total billable hours or 100 hours per attorney to *pro bono* work or (b) three percent of the firm's total billable hours or 60 hours per attorney to *pro bono* work.¹²

Yet another possible contributing factor to the increase in law firms’ *pro bono* performance is the DC Bar’s Pro Bono Initiative, which, in 2001, saw forty-one of the District's largest law firms committing to provide *pro bono* legal services at specified levels (either 3% or 5% of total billable hours, or 60 or 100 hours for every lawyer in the firm), and to report annually to the D.C. Bar Pro Bono Program on their progress. Since 2001, an additional 21 law firms have joined the Initiative.

Irrespective of the possible incentives behind the overall increase in law firm *pro bono* performance in the District of Columbia, responses to the survey suggest that certain organizational or management factors may have a hand in this trend. First, firms with written *pro bono* policies tended to report that more lawyers met the Judicial Conference Standard of

¹² See *Corporate Pro Bono*, <http://www.cpbo.org/challenge/>; *Pro Bono Institute at Georgetown University Law Center, Law Firm Pro Bono Challenge*, <http://www.probonoinst.org/challenge.text.php>.

50 hours. Among the group of 64 firms that reported in 2012 on lawyers' progress in meeting the 50-hour standard, 62 had a written *pro bono* policy. Of these 62 firms, the average percentage of lawyers meeting the 50-hour standard was 34 percent. The average percentage of lawyers meeting the 50-hour standard at the 2 firms with no written *pro bono* policy was five percent.

Also of note is the distinction in *pro bono* performance between law firms at which *pro bono* programs are managed by full-time *pro bono* coordinators who exclusively handle *pro bono* matters (“*exclusive pro bono coordinators*”) and law firms that have *pro bono* coordinators who work full-time but handle duties other than *pro bono* matters. Of the 52 law firms responding to the most recent survey that have exclusive *pro bono* coordinators, the average percentage of attorneys meeting the Judicial Conference Standard was 33 percent. In addition, 27 of the 32 top *pro bono* performers (with more than 35 percent of attorneys meeting the Judicial Conference Standard) from this survey were firms with exclusive *pro bono* coordinators. The 20 law firms having *pro bono* coordinators who address other legal or administrative matters averaged a lower percentage of attorneys meeting the Judicial Conference Standard (24 percent).

There appears to be a correlation between higher rates of *pro bono* performance in law firms and *pro bono* management practices that generally favor *pro bono* service. Looking at the 32 firms responding to the 2012 survey where greater numbers of lawyers (more than 35 percent) met the Judicial Conference 50-hour standard, the Committee observed that they tended, overall, to have policies that favored *pro bono*. Twenty have written policies that express an “expected” number of *pro bono* hours to be contributed annually by each attorney. Nineteen of the top-performing firms have minimum billable requirements, with all of them

crediting *pro bono* hours towards this minimum, and all treating *pro bono* hours the same as hours billed to paying clients. Nineteen of the 32 top performing firms have *pro bono* coordinators who only handle *pro bono* matters. Finally, only ten of the 34 top-performing firms reported setting a cap on creditable *pro bono* hours.

These numbers strongly suggest that a firms' *pro bono* policies can increase a firm's *pro bono* performance. These policies are not always determinative of performance, however, as some firms that appeared to have strong policies showed relatively low rates of *pro bono* performance, while several firms that lacked core *pro bono* policies—such as written goals, billable hour credit for *pro bono*, or dispensing with creditable *pro bono* caps—nonetheless had significant numbers of lawyers performing *pro bono* work.

The Standing Committee believes that the efforts described above have been constructive, informative, and motivational. The Committee will continue to identify ways to build upon the information developed in its survey, to ensure that lawyers practicing in the D.C. Circuit are aware of the Judicial Conference Resolution standards, and to facilitate access to *pro bono* opportunities.

III. PRO BONO WORK IN FEDERAL GOVERNMENT AGENCIES

A. Overview

This year the Federal Government Pro Bono Program celebrates its 15th Anniversary and its 10th Pro Bono Week initiative. We are pleased to report another steady increase in federal government lawyers participating in *pro bono* work as reflected in the responses to our questionnaires. Thirty-three agencies responded to the Standing Committee's questionnaire this

year, an 80% return rate. A list of all responding agencies is set forth in Appendix E.

Executive Order 12988 directs agencies to “develop appropriate programs to encourage and facilitate *pro bono* legal service by government employees,” and the Standing Committee has made this a high priority. The efforts of the D.C. Bar Pro Bono Program and the outstanding work of the federal government’s Interagency Pro Bono Working Group has resulted in significant growth in virtually all areas of government *pro bono* work.

For the past few years, the Federal Government Pro Bono Program has worked diligently to develop *pro bono* programs outside Washington, first in Chicago (July 2008), then in New York City (June 2010) and San Francisco (July 2012), and now in Denver and Boston. The work done by government agencies in the District has motivated the spread of similar efforts in other cities. Each of these new programs aims to connect federal government lawyers with *pro bono* opportunities by creating relationships with the legal services organizations and providing lawyers with information and points of contact about the issues facing government lawyers engaged in *pro bono* work.

Since 2010, the number of agencies that have adopted *pro bono* policies granting administrative leave to federal government lawyers performing *pro bono* legal work has grown dramatically. Twenty-two agencies or components of those agencies (69% responding to the survey) report that they now grant administrative leave under defined circumstances, from one day per year to as many as one day per month. Nine of these twenty-two agencies have formal written policies delineating the circumstances under which administrative leave will be granted for *pro bono* legal work. These policies typically provide for administrative leave where a court appearance or some other *pro bono*-related activity can only be performed within working hours and where the experience will enhance the professional development and skills

of the government lawyer. In his remarks to volunteer federal government attorneys and the General Counsels of federal agencies at last year's judicial reception honoring the *pro bono* service of these lawyers, Chief Judge David B. Sentelle of the United States Court of Appeals for the District of Columbia Circuit discussed the unique statutory, regulatory, and ethical challenges that government lawyers face when volunteering their legal skills to perform *pro bono* work. Chief Judge Sentelle noted that many of the benefits upon which private sector attorneys rely when doing *pro bono* work are not available to government attorneys, such as malpractice insurance, support staff assistance, reimbursement for expenses, and promotional credit. Chief Judge Sentelle emphasized that government attorneys must do *pro bono* work "on their own personal time, not during office hours. Yet, despite these obstacles, many government attorneys are performing *pro bono* work. Their contributions are particularly notable for the challenges they face in doing so."

Addressing senior agency officials representing dozens of federal agencies at the award presentation, Chief Judge Sentelle emphasized the importance of senior level support in the success of any government *pro bono* effort. He made the point that without support from agency leadership, efforts to promote *pro bono* work among federal government attorneys and staff do not succeed. "Even the most enthusiastic agency *pro bono* coordinator cannot accomplish much without leadership support. This support can come in a variety of forms: Issuing a *pro bono* policy or reissuing the policy with a message promoting *pro bono* work, volunteering with agency attorneys at a clinic or assisting on a *pro bono* case, creating a policy to allow for the use of administrative leave for *pro bono* court appearances, attending *pro bono* events held at your agency, instructing your management staff to approve requests to do *pro bono* work and to support their attorneys who do *pro bono* work, or holding a recognition

program to honor attorneys who have volunteered.” Acknowledging that many of those present at the ceremony had already taken these steps, Chief Judge Sentelle expressed his appreciation for their efforts and expressed his hope that they would “continue to set an example for your attorneys and for other agency officials.”

In 2007, the Interagency Pro Bono Working Group, the steering committee for the Federal Government Pro Bono Program, created the Federal Agency Pro Bono Leadership Award to recognize the federal agency that has demonstrated the most significant growth in and commitment to encouraging and facilitating *pro bono* work among its employees during the last two years. The biannual award is given to an agency that has made notable progress and that exemplifies a successful *pro bono* program. This year, the award was renamed the John C. Cruden Federal Agency Pro Bono Leadership Award to recognize John’s leading role in developing the Federal Government’s Pro Bono Program. John is a past President of the District of Columbia Bar, a member of the Standing Committee, and a former government lawyer.

The first recipient of the award in 2007 was the Securities and Exchange Commission. In 2009, the Department of Labor was selected for this recognition. Last year, the National Labor Relations Board was selected for this award.

Over the last two years, federal government *pro bono* efforts in DC have continued to grow. The Interagency Pro Bono Working Group now has 40 agencies officially participating and a handful of others that participate in an observational capacity. Seventeen federal agencies are scheduled to staff the D.C. Bar Advice and Referral Clinic in 2012. Federal government lawyers staff the clinic every month of the year, often at both of its locations, making them the most significant source of volunteers for that clinic. In addition, federal lawyers accept more

cases from the D.C. Bar Pro Bono Program's Advocacy and Justice Clinic than any single law firm. Federal government lawyers have already accepted over 20 cases from the Advocacy and Justice Clinic in 2012 alone, and are on pace to place 40 more this year. Since June 2010, 169 federal government lawyers have been trained by the District of Columbia Volunteer Lawyers Project to handle *guardian ad litem* and civil protection order cases, and at least 31 federal government lawyers have handled cases for this program. Since 2008, hundreds of federal lawyers have been trained to draft wills for the Legal Counsel for the Elderly and the Neighborhood Legal Services Program's Free Wills Clinic.

B. Survey Response Summary

Earlier this year, the Standing Committee surveyed federal agencies about their participation in *pro bono* work. The Committee received responses from 80 percent of the agencies surveyed. All of the responding agencies reported that they are active members of the Interagency Pro Bono Working Group and that they are aware that D.C. Court of Appeals Rule 49 permits non-D.C. Bar members to provide *pro bono* legal services in the District. Ninety-one percent stated that they had electronically disseminated information about *pro bono* opportunities in the prior year, and 47 percent reported that they have *pro bono* information available on a web site. Seventy-eight percent indicated that they have a written *pro bono* policy, but most (84 percent) of the responding agencies indicated that their policies do not state a recommended number of *pro bono* hours for attorneys. Ninety-four percent had a designated *pro bono* coordinator.

Significantly, 22 agencies, or 69 percent of the respondents, reported that they (or a component) grant administrative leave for *pro bono* legal work. Further, nearly two-thirds (63 percent) organized or supported specific *pro bono* opportunities for their lawyers in the last year, such as staffing the D.C. Bar Pro Bono Advice and Referral Clinic or holding an onsite legal

training with a local service provider. Nineteen of 22 federal agencies with field offices (86%) indicated that they either regularly disseminated *pro bono* information to their field offices or had active programs in their field offices to promote and facilitate *pro bono* legal work by their lawyers. Finally, 22% of responding agencies stated that they held a recognition event in the past year to acknowledge the *pro bono* work of their lawyers and legal staff.

C. Examples of Agency *Pro Bono* Work

- U.S. Agency for International Development (AID) lawyers provided staffing for the D.C. Bar Pro Bono Program's Advice and Referral Clinic at least three times a year for the past two years, including several managers and a former Assistant General Counsel who represented clients in family law cases.
- U.S. Department of Defense lawyers participated in both the D.C. Bar Pro Bono Program's Advice and Referral Clinic and the Advocacy and Justice Clinic in 2011 and 2012.
- U.S. Department of Education lawyers helped support the launch of *pro bono* programs for department employees in New York City, Chicago, and San Francisco.
- The U.S. Department of Energy hosted a "Pro Bono Road Show" at which the Department of Justice Pro Bono Program Manager explained how federal lawyers can provide *pro bono* legal services in Washington, D.C.
- The Federal Communications Commission has, since 2005, provided volunteers to the D.C. Bar Pro Bono Program's Advice and Referral Clinic in Anacostia on three Saturdays during the year, and hosted the Department of Justice Pro Bono Program Manager for a "Do's and Don't's of Pro Bono Work" presentation in 2011.
- Federal Deposit Insurance Corporation lawyers staffed the D.C. Bar Pro Bono Program's Advice and Referral Clinic four times per year and hosted a *pro bono* CLE program in October 2010 that was available via teleconference at its Arlington, San Francisco, and New York City offices.
- Federal Election Commission lawyers staffed the Advice and Referral Clinic three times in both 2010 and 2011. The FEC also hosted a training session in 2011 to prepare lawyers for the Advice and Referral Clinic. In October 2011, in conjunction with federal *pro bono* week, the FEC held a *pro bono* information session where its general counsel encouraged FEC lawyers to do *pro bono* work and offered to assist lawyers with their *pro*

bono cases.

- The Federal Labor Relations Authority hosted a “Pro Bono Road Show” featuring Federal Pro Bono Program Manager Laura Klein, and one of its managers staffed Washington Empowered Against Domestic Violence (WEAVE) clinics for approximately 20 hours last year.
- The Federal Mine Safety and Health Review Commission hosted a WEAVE training session for federal government lawyers in 2011.
- The Federal Trade Commission had several lawyers in the past two years staff the Advice and Referral Clinic, including General Counsel Will Tom, and restructured its internal website describing its ethics policy, guidelines concerning outside employment, and information about local *pro bono* opportunities. Commission lawyers from the Chicago and San Francisco offices strongly supported local efforts to staff legal clinics and participate in *pro bono* training programs.
- The U.S. Office of Government Ethics had two of its lawyers help staff the Advice and Referral Clinic in 2011.
- General Services Administration lawyers worked with the Federal Government Pro Bono Program in the past few years to help set up *pro bono* programs in Chicago and San Francisco.
- United States International Trade Commission lawyers staffed the Advice and Referral Clinic in 2011 and are scheduled to staff the clinic twice in 2012. In addition, the Commission hosted the Pro Bono Appreciation Luncheon and two *guardian ad litem* trainings in 2011.
- The U.S. Department of Justice, working with other federal agencies through the Federal Government Pro Bono Program, led efforts to create and support *pro bono* programs in Chicago, New York City, and San Francisco. DOJ lawyers staffed 10 Advice and Referral Clinics in 2011 and will do so again in 2012; staffed three Advocacy and Justice Clinics in 2011; staffed four A & J Clinics in 2010; and will staff four A & J Clinics in 2012. DOJ also hosted a wills training with Neighborhood Legal Services Program of D.C., and its Program Manager held a training for the Advice and Referral Clinic, in November 2010; hosted Vytas Vergeer, the Legal Director of Bread for the City, for a discussion of the issues facing *pro bono* clients, in October 2011; held a training for Street Law’s Community Works Program in January 2012; and its Program Manager regularly holds briefings and other informational sessions on *pro bono* topics.
- U.S. Department of Labor lawyers staffed the Advice and Referral Clinic five times in the past two years.
- National Labor Relations Board lawyers staffed the Advocacy and Justice Clinic three times in the last two years and helped spearhead the development of *pro bono*

programs for federal government lawyers in Chicago, Denver, and San Francisco (the NLRB's San Francisco regional office hosted numerous organizational meetings and trainings, and sent volunteers to staff a domestic violence legal clinic even before the program officially launched in July 2011). The NLRB also hosted a free CLE course about the statutes and regulations governing federal government attorneys' *pro bono* activity that took place in D.C. in October 2011 and was broadcast to NLRB offices in Chicago and San Francisco (and was open to all federal government attorneys in those cities).

- The Pension Benefit Guaranty Corporation hosted a training program for *pro bono* adoption cases through the D.C. Volunteer Lawyers Project, and its General Counsel worked on the D.C. Public Schools' Street Law Program in 2011.
- U.S. Security and Exchange Commission lawyers volunteered to help staff the Advocacy and Justice Clinic in 2011, and the Commission has attorneys in Chicago, New York City, and Denver promoting *pro bono* programs in those cities.
- The U.S. Office of Special Counsel held a brown-bag meeting in late 2011 where the Federal Government Pro Bono Program Manager outlined rules and *pro bono* opportunities for federal government lawyers.
- U.S. Department of State lawyers, including Legal Adviser Harold Koh and several Assistant Legal Advisers, participated in the Advice and Referral Clinic in both 2011 and 2012, staffing three clinics each year.
- U.S. Department of Transportation lawyers staffed the Advice and Referral Clinic three times in 2010 and 2011 and will staff the Clinic three times in 2012. The Department also hosted a wills training for federal government lawyers with the Legal Counsel for the Elderly in 2011.
- U.S. Department of the Treasury lawyers, in both 2010 and 2011, staffed the Advice and Referral Clinic and volunteered at the Washington Legal Clinic for the Homeless.

D. Summary

Under the leadership of Laura Klein, Pro Bono Program Manager for the U.S.

Department of Justice, the federal government continues to develop and support *pro bono* legal work by a growing number of federal government lawyers. With the rapid increase of written agency policies providing for administrative leave for *pro bono* work under defined criteria, the development of new *pro bono* legal programs for federal government lawyers in New York

City, San Francisco, Denver, and Boston, and with the support and encouragement of our federal judges, we are optimistic that the number of federal government lawyers performing *pro bono* legal work, both in Washington, D.C. and throughout the country, will continue to grow.

IV. ACTIVITIES OF THE ORGANIZED BAR TO SUPPORT AND ENCOURAGE *PRO BONO* SERVICE BY LAWYERS

The District of Columbia's legal community has a long-standing culture of supporting *pro bono* service. The legal services providers, voluntary bar associations, the courts and others work in close collaboration to expand and encourage *pro bono* service. In this section, the Standing Committee highlights a few of the significant developments over the past two years.

A. D.C. Access to Justice Commission

In February 2005, the District of Columbia Court of Appeals created the D.C. Access to Justice Commission ("the Commission") at the request of the D.C. Bar Foundation, the D.C. Consortium of Legal Services Providers, and the D.C. Bar. The Commission, chaired by Professor Peter Edelman of the Georgetown University Law Center, has achieved a number of significant results, most notably securing public funding for civil legal services from the District of Columbia. Funding levels have fluctuated between 3.2 million and 3.6 million since the program's inception in 2006, except for 2010 when budget pressures yielded significant cuts to this grant.

Despite securing critical public funding in recent years, overall funding for legal services has fallen significantly since 2009. To meet the urgent need for increased funding for legal services, the Commission formally launched the *Raising the Bar in D.C. Campaign* in December 2010, with the endorsement of the D.C. Bar Foundation and the

D.C. Bar. The Campaign's goal is to substantially increase financial support for the District's legal services community by establishing benchmarks for law firm contributions. Those law firms that have donated at benchmark levels are celebrated and recognized annually. Benchmark levels are set based on a percentage of revenue generated by firms' D.C. offices, thus making participation accessible to firms of any size.

Based on their 2011 contributions, firms in the platinum circle included Delaney McKinney; Jones Day; Kirkland & Ellis; Klein Hornig; the Law Offices of Gary N. Horlick; Morrison & Foerster; Sutherland Asbill & Brennan; and Zuckerman Spaeder. Gold level donors were Arnold & Porter; Covington & Burling; Crowell & Moring; Mayer Brown; McKenna Long & Aldridge; and Wilmer Cutler Pickering Hale and Dorr. Silver level donors included Akin Gump Strauss Hauer & Feld; Arent Fox; Banner & Witcoff; BuckleySandler; DLA Piper; Jenner & Block; McDermott Will & Emery; Sidley Austin; and Steptoe & Johnson.

These 23 participating firms contributed over \$3 million to legal services organizations in the District in 2011. This is a \$500,000 increase from those firms' 2010 contribution levels.

B. Senior Attorneys Initiative for Legal Services (SAILS) Project

In October 2010, the D.C. Access to Justice Commission and the D.C. Bar Pro Bono Program joined with eleven leading law firms to launch the SAILS Project. This innovative project, which is chaired by Marc Fleischaker, Chair Emeritus of Arent Fox, LLP, aims to infuse critical *pro bono* resources into the public interest legal community by harnessing the experience of the many talented senior lawyers in the District. The eleven Founding Partner firms have agreed to institutionalize a senior lawyers program at their firms, through which senior attorneys

will undertake substantial *pro bono* work as the a next phase of their careers or as a component of their retirement. Founding Partner firms are: Arent Fox LLP, Arnold & Porter LLP, Covington & Burling LLP, Crowell & Moring LLP, Dickstein Shapiro LLP, DLA Piper, Hogan Lovells LLP, McDermott Will & Emery LLP, Skadden, Arps, Meagher, Slate & Flom LLP, Steptoe & Johnson LLP, and Zuckerman Spaeder LLP.

The SAILS Project's goal is to have participating law firms build a structure and culture that not only encourages but supports senior lawyers in undertaking *pro bono* work. Law firms affiliated with the SAILS Project provide senior lawyers with the ability to stay connected to their firm and tap into firm resources to carry out *pro bono* service. Though each firm will establish a paradigm that is appropriate to its individual setting, the goal is to reduce barriers and create incentives for senior lawyers to consider a "*pro bono* path" as they transition from full-time billable work.

In 2012, the Access to Justice Commission and D.C. Bar Pro Bono Program will launch a website to profile the *pro bono* contributions of senior lawyers working at SAILS' partner law firms.

C. Capital *Pro Bono* Honor Roll

As part of the 2011 National Celebration of Pro Bono, the District of Columbia Court of Appeals and the Superior Court established the *Capital Pro Bono Honor Roll*. The Honor Roll, which is supported by the D.C. Access to Justice Commission and the D.C. Bar Pro Bono Program, recognizes attorneys who provide 50 or more hours of *pro bono* service and, for a higher recognition category, 100 or more hours of service, per year. Rule 6.1 of the D.C. Rules

of Professional Conduct calls on members of the D.C. Bar to provide 50 hours or more of *pro bono* service per year. Participating attorneys are listed on the Courts' website.

In March 2012, the Chief Judges of the D.C. Court of Appeals and the D.C. Superior Court jointly published the inaugural Capital Pro Bono Honor Roll on the Courts' website (<http://www.dccourts.gov/internet/about/probonohonorroll/main.jsf>). Through a self-nomination process, over three thousand D.C. Bar members and others authorized to perform *pro bono* work in the District reported providing over fifty hours or more of *pro bono* service in 2011; over two thousand of those attorneys reported providing over one hundred hours or more of service, thereby qualifying for the High Honor Roll. The Honor Roll includes attorneys from over eighty D.C. law firms as well as lawyers representing all segments of the Bar.

The Capital Pro Bono Honor Roll is the first local initiative to recognize the *pro bono* contributions of individual attorneys.

D. The D.C. Bar Pro Bono Initiative

In 2001, the D.C. Bar and Chief Judges of the U.S. Court of Appeals for the District of Columbia Circuit, the U.S. District Court for the District of Columbia, the District of Columbia Court of Appeals, and the Superior Court of the District of Columbia jointly undertook the D.C. Bar Pro Bono Initiative. The Initiative called on the 50 largest law offices in the District to renew their commitment to *pro bono* service by setting specific annual *pro bono* hours goals of either 3% or 5% of billable hours, and by adopting management practices designed to ensure that the goals were met. In response, 42 law firms made those commitments and agreed to report annually to the D.C. Bar on their progress toward these goals.

In June 2007, the D.C. Access to Justice Commission joined with the D.C. Bar and the four chief judges to convene a breakfast meeting of law firm managing partners to expand the reach of the D.C. Bar Pro Bono Initiative to the next 50 largest law offices – that is to those ranked 50- 100 by size. By July 2008, 24 additional law firms had joined, bringing the total number to 66 firms participating in the Pro Bono Initiative.

For 2009, 62 of the 64 eligible firms reported on their total number of *pro bono* hours. Combined, the 62 firms contributed approximately 984,000 *pro bono* hours, a significant increase from 2008. This is an average of 97 hours per attorney, compared to 95 per attorney for the group reporting in 2008. With the dissolution of Howrey LLP, the number of firms participating in the Initiative decreased from 64 to 63.

For 2010, 62 of the 63 participating firms reported their total number of *pro bono* hours. Combined, the 62 firms contributed approximately 877,775 *pro bono* hours through 10,103 participating full-time attorneys. The 61 firms that responded both for 2009 and 2010 and that provided their total number of *pro bono* hours reported 936,150 *pro bono* hours in 2009 and 871,737 in 2010. The 61 firms that responded both for 2009 and 2010 and that provided the number of attorneys in their offices had 10,103 full-time attorneys in 2009 and 9,946 full-time attorneys in 2010. Average *pro bono* hours per attorney were 87.7 for 2010, compared to 92.7 hours per attorney for the group reporting in 2009, a decline of approximately 5% .

As this report is being prepared, the D.C. Bar Pro Bono Program is compiling its report on the 2011 results, including a list of reporting law firms, which will be submitted to the four Chief Judges, distributed to the participating law firms, and posted on the D.C. Bar's website.

V. UPDATE ON THE DANIEL M. GRIBBON PRO BONO ADVOCACY AWARD

In our 2010 report to the Circuit, we reviewed the successful implementation and first five years of the annual Daniel M. Gribbon Pro Bono Advocacy Award, which was established in 2005 by the United States District Court for the District of Columbia in concert with the family and friends of Daniel M. Gribbon. The Standing Committee on Pro Bono Legal Services was asked to manage the nomination and selection process on behalf of the District Court and has been honored to do so since the award was created. The Gribbon Award is now firmly ensconced as an annual fixture in the D.C. legal community as we celebrate the seventh year of bestowing this honor.

Daniel M. Gribbon, who died in 2005, practiced law for more than 50 years with the law firm of Covington & Burling LLP, where he was instrumental in establishing many strong pro bono initiatives. The family and friends of Mr. Gribbon graciously endowed this award in honor of Mr. Gribbon's lifetime commitment to and strong support of pro bono legal services. The endowment is managed by the Historical Society of the District of Columbia Circuit. The award recognizes an individual attorney or law firm that has demonstrated distinguished advocacy in a pro bono matter before the United States District Court for the District of Columbia in the 18 months prior to the nomination date.

The Daniel M. Gribbon Pro Bono Advocacy Award has continued to increase in prominence within the local pro bono community as we approach the seventh anniversary of the award, and the nominations process has yielded inspiring accounts of pro bono advocacy in the District Court. The Standing Committee uses many methods each year to publicize the award and to solicit nominations from the pro bono community. The qualifying nominations are

assembled by the Standing Committee and presented to the Chief Judge of the District Court, who notifies the winner.

The 2011 Daniel M. Gribbon Pro Bono Advocacy Award honored William J. Murphy and John J. Connolly for their representation of Guantanamo detainee Dr. Ayman Saeed Batarfi in protracted proceedings from 2005 to 2010, with their advocacy leading to his release from Guantánamo. The 2011 Gribbon Award presentation was made at a reception hosted on December 6, 2011 by Chief Judge Royce C. Lamberth of the United States District Court for the District of Columbia and the Standing Committee on Pro Bono Legal Services of the Judicial Conference of the District of Columbia Circuit honoring attorneys who have provided pro bono representation for Guantánamo Bay detainees.

In keeping with tradition, the Seventh Annual Daniel M. Gribbon Pro Bono Advocacy Award will be presented at the 2012 Judicial Conference. This year's award recipient is the law firm of Sullivan & Cromwell LLP, which is being honored for its extraordinary pro bono service in massive Freedom of Information Act ("FOIA") litigation to obtain documents from the Department of Homeland Security regarding deaths of immigrants held in detention.

VI. CONCLUSION

Issuance of this Report comes at a time of transition. Both Chief Judges David Sentelle and Royce Lamberth will be ending their terms of service as Chief Judges within the year and will leave a strong legacy of progress in the *pro bono* efforts of the Bar in the D.C. Circuit. The Standing Committee is particularly grateful to Chief Judges David Sentelle and Royce Lamberth for their unwavering support, enthusiasm and dedication to increasing *pro bono* work among our Bar members, as well as their engaging senses of humor. During 2011, we also bade farewell to

U.S. District Judge Rosemary M. Collyer as the judicial liaison for the Standing Committee after many years of service. The Standing Committee is indebted to Judge Collyer for her unflagging encouragement, diplomacy, wise counsel and wit throughout the course of the Committee's efforts. In 2011, Judge Collyer passed the baton to Judge Robert Wilkins who assumed the liaison role with a solid sense of purpose and a history of his own *pro bono* service before taking the bench. The Standing Committee thanks Judge Wilkins and the other Judges of the Circuit and District Courts for their encouragement of *pro bono* service – a commitment that sets the Bar in the District of Columbia apart from those across the country.

The Standing Committee intends to continue its efforts in each of the areas described in this report, with the goal of increasing and improving the effectiveness of *pro bono* legal services in the District of Columbia. We welcome comments on any of the subjects addressed herein, as well as suggestions for areas to which the Committee could turn its attention.

Respectfully submitted

for the Standing Committee on
Pro Bono Legal Services

Jessica Ring Amunson
Brian M. Castro
Daniel F. Collopy
John C. Cruden
Melvina C. Ford
Addie D. Hailstorks,
Ex Officio
Christopher J. Herrling
Anthony Herman
Alan B. Morrison
Monika K. Varma,
Ex Officio

Co-Chairs:
Susan M. Hoffman
James J. Sandman

Appendix A

RESOLUTION
ADOPTED JUNE 9, 2010, BY THE
JUDICIAL CONFERENCE
OF THE DISTRICT OF COLUMBIA CIRCUIT

ON

PRO BONO LEGAL SERVICES
BY MEMBERS OF THE BAR OF THE FEDERAL COURTS
OF THE DISTRICT OF COLUMBIA

Whereas this Judicial Conference and the Judicial Conference of the District of Columbia have traditionally and consistently encouraged members of the bar to provide *pro bono* legal services to the economically disadvantaged, as reflected in this Conference's 1981 Resolution setting a recommended standard for *pro bono* service that was updated in 1998; and

Whereas Rule 6.1 of the District of Columbia Rules of Professional Conduct, including the official comments thereto referencing the 1998 Resolution of this Judicial Conference, and Rule 6.1 of the American Bar Association's Model Rules of Professional Conduct, both have recognized the professional duty of lawyers to devote their own time to providing *pro bono* legal representation for the disadvantaged; and

Whereas a persistent crisis exists in the delivery of legal services to the economically disadvantaged, as demonstrated by studies of communities throughout the United States showing that less than 20 percent of the legal needs of such persons are being met; and

Whereas the District of Columbia had nearly 20 percent of its population with incomes below the federal poverty line in 2006 and the highest percentage of children under 18 living below the poverty level of any state in the country, with recent reports indicating no decrease in that poverty rate; and

Whereas the inability of economically disadvantaged persons to obtain counsel impedes access to the federal courts and leads to increases in *pro se* filings, with attendant burdens on the courts and on the administration of justice; and

Whereas the number of *pro se* filings in the United States District Court for the District of Columbia is substantial, exceeding 850 cases per year in every year since 2005 and constituting 35 percent of the civil docket filings in 2009; and

Whereas government and private funding for legal services provided in the District of Columbia, including Legal Service Corporation grants, IOLTA funds, local appropriations, foundation grants and corporate contributions are necessary but not sufficient to meet the needs of these programs; and

Whereas a 2008 Report of the District of Columbia Access to Justice Commission, *Justice for All? An Examination of the Civil Legal Needs of the District of Columbia's Low-Income Community*, recommends that funding for civil legal services be substantially increased and that use of *pro bono* lawyers be expanded; and

Whereas on June 19, 2007, the Chief Judges of the United States Court of Appeals for the District of Columbia Circuit and the United States District Court for the District of Columbia, together with the Chief Judges of the District of Columbia Court of Appeals and the District of Columbia Superior Court, the District of Columbia Bar, and the District of Columbia Access to Justice Commission convened a breakfast meeting of managing partners of the District's largest law firms to enlist their firms' participation in the D.C. Bar Pro Bono Initiative, in which participating firms agree to devote either 3% or 5% of client hours to *pro bono* work and to take on specific new *pro bono* projects; and

Whereas government attorneys have been encouraged to expand their *pro bono* participation through the leadership of the Interagency Pro Bono Working Group and facilitated by Executive Orders 12988 and 13401 with more than 20 departments and agencies having adopted *pro bono* policy statements and established *pro bono* programs; and

Whereas on June 19, 2009, the Judicial Conference of the District of Columbia adopted a resolution reaffirming and updating the recommended standard for *pro bono* service by lawyers admitted to practice in the District of Columbia so as to increase the recommended financial contribution to legal services providers by lawyers for whom personal *pro bono* representation is not feasible; and

Whereas attorneys who are members of the Judicial Conference of the District of Columbia Circuit have traditionally been among the leaders of the bar in supporting the efforts of legal service provider organizations to meet the legal needs of the economically disadvantaged members of our community who are otherwise unable to afford legal representation;

THEREFORE, BE IT RESOLVED, that the Judicial Conference of the District of Columbia Circuit:

1. Commends the Judges of the federal and local courts in the District of Columbia for their efforts to promote *pro bono* work among the private bar and

federal government attorneys to address the need for legal services for the economically disadvantaged; and

2. Commends the Attorney General of the United States, the Interagency Pro Bono Working Group led by the Department of Justice, and all of the many departments and agencies that have issued policies encouraging and facilitating pro bono service by all attorneys and that are providing such service on a regular basis; and

3. Reaffirms and updates the recommended standard for *pro bono* service adopted by this Conference in 1981 and updated in 1998, so as to now provide as follows:

Every lawyer admitted to practice in the Federal Courts of the District of Columbia should each year, at a minimum, undertake to fulfill his or her responsibility under Rule 6.1 of the District of Columbia Rules of Professional Conduct, by:

(1) accepting one court appointment to provide *pro bono* representation for an indigent or disadvantaged client; or

(2) providing 50 hours of *pro bono* legal service in his or her field of practice or through other *pro bono* cases or programs; or

(3) contributing the lesser of 1% of earned income or \$750 to the funding of one or more legal service provider organizations which serve the economically disadvantaged members of the District of Columbia community.

ATTEST:



Elizabeth H. Paret, Secretary
Judicial Conference of the District of Columbia Circuit

Appendix B

Judicial Conference of the District of Columbia Circuit
Standing Committee on Pro Bono Legal Services

E. Barrett Prettyman United States Court House
333 Constitution Ave., N.W., Room 4826
Washington, DC 20001

(202) 216-7340

January 17, 2012

Dear Managing Partner:

We write on behalf of the Standing Committee on Pro Bono Legal Services of the Judicial Conference of the District of Columbia Circuit ("the Judicial Conference") with three purposes: to provide your firm a copy of the D.C. Circuit Judicial Conference Resolution on *pro bono* by lawyers, which was revised in June 2010; to urge you to incorporate the Resolution's *pro bono* goals in your firm's *pro bono* policy; and to survey the level of *pro bono* participation in your firm in 2011.

In June 2010, the D.C. Circuit Judicial Conference adopted a new Resolution reiterating the recommendation that attorneys contribute at least 50 hours of *pro bono* work annually to fulfill their professional ethical obligation under Rule 6.1 of the District of Columbia Rules of Professional Responsibility and raising to \$750.00 the level of financial contribution individual lawyers should make when not able to provide *pro bono* legal work.

In addition to completing the attached survey, we also ask that you take this opportunity to review your firm's *pro bono* program. If you are among the minority of firms that does not already have a written *pro bono* policy, we urge you to develop one. And if you do have a written policy covering *pro bono*, we urge you to review it to ensure that it articulates annual goals consistent with the Circuit's Resolution.

Finally, we want to let you know that Chief Judges David Sentelle and Royce Lamberth and their colleagues will be hosting the D.C. Circuit's annual *40 at 50: Judicial Pro Bono Recognition Breakfast* on March 29, 2012, recognizing firms at which a significant number of lawyers have personally met the 50 hour annual *pro bono* goal. Invitation is limited to firms in which at least 40% of the lawyers in their D.C. office (including partners, associates, and counsel) performed at least 50 hours of qualifying *pro bono* legal service in 2011. In addition, special recognition will be given to those firms in which at least 50% or more of the attorneys have contributed 50 or more *pro bono* hours and those firms in which at least 50% of the partners have contributed 50 or more hours. Please complete the attached form and return it by **February 17, 2012** to Committee member Christopher Herrling of WilmerHale, LLP.

Thank you for your attention to these requests. We look forward to hearing from you soon. If you have any questions, please feel free to contact us.

Sincerely,



Susan M. Hoffman (202) 624-2591
and James J. Sandman
Co-Chairs, Standing Committee on Pro Bono Legal Services

**SURVEY OF LAW FIRM POLICIES AND ACTIVITIES IMPLEMENTING
THE D.C. CIRCUIT JUDICIAL CONFERENCE *PRO BONO* SERVICE STANDARD**

Please return this survey by February 17, 2012

Name and DC Address of Firm:

Size of D.C. Office as of December 31st (headcount, not FTE):

Number of Partners:

Number of Counsel:

Number of Associates:

For purposes of this survey, "pro bono legal work" is defined in accordance with the generally accepted definition established by the Pro Bono Institute

Pro Bono at Your Law Firm

1. Does your firm have a written *pro bono* policy? Yes No
2. Does your firm differentiate between associates and staff attorneys with respect to *pro bono* legal services policies? Yes No

If so, please explain how:

Regardless of whether your firm differentiates between associates and staff attorneys, please include staff attorney data within the "Associates" category for all further responses.

3. If your firm has a written or stated policy concerning provision of *pro bono* legal services, does that policy express an "expected" number of *pro bono* hours to be contributed annually by each attorney? If yes, how many hours is the stated goal?

For associates? Yes No Hours ___

For counsel? Yes No Hours ___

For partners? Yes No Hours ___

4. Does your firm have a minimum billable hours target?

For associates? Yes No

For counsel? Yes No

For partners? Yes No

- (a) If your firm does have a minimum billable hours target:
- (i) Does your firm provide billable hour credit or equivalency for *pro bono* work?
- For associates? Yes No
- For counsel? Yes No
- For partners? Yes No
- (ii) If so, are all *pro bono* hours credited the same as hours for commercial clients?
- For associates? Yes No
- For counsel? Yes No
- For partners? Yes No
- (iii) Does your firm have a maximum number of *pro bono* hours for which attorneys can receive billable hours credit per year?
- Yes No If yes, number of hours per year? _____

5. (a) Are the hours an associate spends on *pro bono* work compensated through the firm's bonus policy?
- Yes No
- (b) If so, is there any limit on the number of *pro bono* hours utilized in the bonus decision?
- Yes No

6. Looking at each individual attorney (partner/counsel, associate, etc.) in the **DC office** of your firm, and not aggregating or averaging hours across the firm, how many attorneys in your **DC office** individually performed 50 or more hours of ***pro bono* legal work** during 2011?

- (a) Number of **DC-based** partners that performed 50 or more hours of *pro bono* legal work in 2011: _____
- (b) Number of **DC-based** counsel that performed 50 or more hours of *pro bono* legal work in 2011: _____
- (c) Number of **DC-based** associates that performed 50 or more hours of *pro bono* legal work in 2011: _____

7. Please check the appropriate items (a) – (e) below, that best describe the coordination and management of your *pro bono* program. If (e) “None of the above” is checked, please provide a brief description.

(a) Our *pro bono* program is coordinated and managed by a

- (i) full-time OR part-time person, who is an
- (ii) attorney OR non-attorney, who is a
- (iii) partner OR counsel or other, who handles
- (iv) other legal/administrative responsibilities OR
 only *pro bono* program duties
- (v) None of the above (Please describe.)

(b) (i) Has the number of individuals or the category of professional coordinating your program changed during the past two years?

Yes No

(ii) If so, please describe the change in *pro bono* staffing.

8. Does your firm publicize the 50 *pro bono* hour standard incorporated in D.C. Rule of Professional Responsibility 6.1 and the recommendation that those who do not meet this standard contribute at least \$750 for *pro bono* legal services? Yes No

9. (a) Does your firm monitor whether its attorneys who do not meet the 50 hour standard are contributing at least \$750 for *pro bono* legal services as urged by the D.C. Circuit and D.C. Court of Appeals Judicial Conferences? Yes No

(b) If yes, how many individual attorneys made a contribution of \$750 or more to legal services providers?

PLEASE RETURN BY FEBRUARY 17, 2012 TO:

Christopher J. Herrling

WilmerHale

1875 Pennsylvania Avenue N.W.

Washington DC 20006

Email: christopher.herrling@wilmerhale.com

Phone: 202-663-6000

RESOLUTION
ADOPTED JUNE 9, 2010, BY THE
JUDICIAL CONFERENCE
OF THE DISTRICT OF COLUMBIA CIRCUIT

ON

PRO BONO LEGAL SERVICES
BY MEMBERS OF THE BAR OF THE FEDERAL COURTS
OF THE DISTRICT OF COLUMBIA

Whereas this Judicial Conference and the Judicial Conference of the District of Columbia have traditionally and consistently encouraged members of the bar to provide *pro bono* legal services to the economically disadvantaged, as reflected in this Conference's 1981 Resolution setting a recommended standard for *pro bono* service that was updated in 1998; and

Whereas Rule 6.1 of the District of Columbia Rules of Professional Conduct, including the official comments thereto referencing the 1998 Resolution of this Judicial Conference, and Rule 6.1 of the American Bar Association's Model Rules of Professional Conduct, both have recognized the professional duty of lawyers to devote their own time to providing *pro bono* legal representation for the disadvantaged; and

Whereas a persistent crisis exists in the delivery of legal services to the economically disadvantaged, as demonstrated by studies of communities throughout the United States showing that less than 20 percent of the legal needs of such persons are being met; and

Whereas the District of Columbia had nearly 20 percent of its population with incomes below the federal poverty line in 2006 and the highest percentage of children under 18 living below the poverty level of any state in the country, with recent reports indicating no decrease in that poverty rate; and

Whereas the inability of economically disadvantaged persons to obtain counsel impedes access to the federal courts and leads to increases in *pro se* filings, with attendant burdens on the courts and on the administration of justice; and

Whereas the number of *pro se* filings in the United States District Court for the District of Columbia is substantial, exceeding 850 cases per year in every year since 2005 and constituting 35 percent of the civil docket filings in 2009; and

Whereas government and private funding for legal services provided in the District of Columbia, including Legal Service Corporation grants, IOLTA funds, local appropriations, foundation grants and corporate contributions are necessary but not sufficient to meet the needs of these programs; and

Whereas a 2008 Report of the District of Columbia Access to Justice Commission, *Justice for All? An Examination of the Civil Legal Needs of the District of Columbia's Low-Income Community*, recommends that funding for civil legal services be substantially increased and that use of *pro bono* lawyers be expanded; and

Whereas on June 19, 2007, the Chief Judges of the United States Court of Appeals for the District of Columbia Circuit and the United States District Court for the District of Columbia, together with the Chief Judges of the District of Columbia Court of Appeals and the District of Columbia Superior Court, the District of Columbia Bar, and the District of Columbia Access to Justice Commission convened a breakfast meeting of managing partners of the District's largest law firms to enlist their firms' participation in the D.C. Bar Pro Bono Initiative, in which participating firms agree to devote either 3% or 5% of client hours to *pro bono* work and to take on specific new *pro bono* projects; and

Whereas government attorneys have been encouraged to expand their *pro bono* participation through the leadership of the Interagency Pro Bono Working Group and facilitated by Executive Orders 12988 and 13401 with more than 20 departments and agencies having adopted *pro bono* policy statements and established *pro bono* programs; and

Whereas on June 19, 2009, the Judicial Conference of the District of Columbia adopted a resolution reaffirming and updating the recommended standard for *pro bono* service by lawyers admitted to practice in the District of Columbia so as to increase the recommended financial contribution to legal services providers by lawyers for whom personal *pro bono* representation is not feasible; and

Whereas attorneys who are members of the Judicial Conference of the District of Columbia Circuit have traditionally been among the leaders of the bar in supporting the efforts of legal service provider organizations to meet the legal needs of the economically disadvantaged members of our community who are otherwise unable to afford legal representation;

THEREFORE, BE IT RESOLVED, that the Judicial Conference of the District of Columbia Circuit:

1. Commends the Judges of the federal and local courts in the District of Columbia for their efforts to promote *pro bono* work among the private bar and

federal government attorneys to address the need for legal services for the economically disadvantaged; and

2. Commends the Attorney General of the United States, the Interagency Pro Bono Working Group led by the Department of Justice, and all of the many departments and agencies that have issued policies encouraging and facilitating pro bono service by all attorneys and that are providing such service on a regular basis; and

3. Reaffirms and updates the recommended standard for *pro bono* service adopted by this Conference in 1981 and updated in 1998, so as to now provide as follows:


Every lawyer admitted to practice in the Federal Courts of the District of Columbia should each year, at a minimum, undertake to fulfill his or her responsibility under Rule 6.1 of the District of Columbia Rules of Professional Conduct, by:

(1) accepting one court appointment to provide *pro bono* representation for an indigent or disadvantaged client; or

(2) providing 50 hours of *pro bono* legal service in his or her field of practice or through other *pro bono* cases or programs; or

(3) contributing the lesser of 1% of earned income or \$750 to the funding of one or more legal service provider organizations which serve the economically disadvantaged members of the District of Columbia community.

ATTEST:



Elizabeth H. Paret, Secretary
Judicial Conference of the District of Columbia Circuit

Appendix C

D.C. CIRCUIT JUDICIAL CONFERENCE
2011 40 @ 50 SURVEY
List of Responding Firms

Firm Name
Akin Gump
Arnold & Porter LLP
Baker Botts LLP
Ballard Spahr LLP
Bingham McCutchen LLP
Blank Rome LLP
Bryan Cave LLP
Cadwalader Wickersham & Taft LLP
Cleary Gottlieb Steen & Hamilton
Cooley LLP
Covington & Burling LLP
Crowell & Moring LLP
Davis Wright Tremaine LLP
Debevoise & Plimpton LLP
Dechert LLP
Dewey & LeBoeuf LLP
Dickstein Shapiro LLP
DLA Piper LLP (US)
Fish & Richardson
Foley & Lardner LLP
Gibson, Dunn & Crutcher LLP
Gilbert LLP
Goodwin Procter LLP
Hogan Lovells US LLP
Hughes Hubbard & Reed LLP
Jenner & Block LLP
Jones Day
K&L Gates LLP
Katten Machin Rosenman LLP
Keller and Heckman
King & Spalding
Kirkland & Ellis LLP
Latham Watkins
Mayer Brown LLP
McDermott Will & Emery LLP
McKenna Long & Aldridge
Miller & Chevalier Chtd
Morgan Lewis & Bockius LLP

Firm Name
Morrison & Foerster LLP
Nixon Peabody LLP
Orrick, Herrington & Sutcliffe LLP
Patton Boggs LLP
Paul Hastings
Perkins Coie LLP
Pillsbury Winthrop Shaw Pittman LLP
Reed Smith LLP
Ropes & Gray
Shearman & Sterling LLP
Sidley Austin LLP
Skadden, Arps, Slate, Meagher & Flom LLP)
SNR Denton US LLP
Squire, Sanders & Dempsey
Steptoe & Johnson LLP
Sutherland Asbill & Brennan LLP
Thompson Hine LLP
Troutman Sanders LLP
Venable LLP
Vinson & Elkins
Whiteford, Taylor & Preston LLP
Wiley Rein LLP
Williams & Connolly LLP
Wilmer Cutler Pickering Hale and Dorr LLP
Winston & Strawn LLP
Zuckerman Spaeder LLP

Appendix D

**D.C. CIRCUIT JUDICIAL CONFERENCE
40 @ 50 SURVEY**

Firms Meeting 40 @ 50 Overall in 2010 (30 firms)

Akin Gum Strauss Hauer & Feld LLP
Arnold & Porter LLP*
Cleary Gottlieb Steen & Hamilton
Covington & Burling LLP*
Crowell & Moring LLP*
Debevoise & Plimpton LLP
Dewey & LeBoeuf LLP
DLA Piper LLP (US)* #
Foley & Lardner LLP*
Gibson, Dunn & Crutcher LLP
Hogan Lovells US LLP #
Hughes Hubbard & Reed LLP*
Jenner & Block LLP* #
Jones Day
Kirkland & Ellis LLP
Mayer Brown LLP
McDermott Will & Emery LLP
Miller & Chevalier Chtd.
Morrison & Foerster LLP
O'Melveny & Myers LLP*
Orrick, Herrington & Sutcliffe LLP*
Patton Boggs LLP
Reed Smith LLP
Shearman & Sterling LLP*
Sidley Austin LLP
Skadden, Arps, Slate, Meagher & Flom LLP*
Sonnenschein Nath & Rosenthal LLP* #
Steptoe & Johnson LLP
Williams & Connolly LLP*
Wilmer Hale LLP

*Firms in which 50% or more of the attorneys contributed 50 or more *pro bono* hours in 2010.

#Firms in which 40% or more of its partners contributed 50 or more *pro bono* hours in 2010.

Appendix D

**D.C. CIRCUIT JUDICIAL CONFERENCE
40 @ 50 SURVEY**

Firms Meeting 40 @ 50 Overall in 2011 (29 firms)

Akin Gump Strauss Hauer & Feld LLP
Arnold & Porter LLP*
Bryan Cave LLP
Covington & Burling LLP*
Crowell & Moring LLP
Debevoise & Plimpton LLP
Dewey & LeBoeuf LLP
DLA Piper LLP (US)
Foley & Lardner LLP
Gilbert LLP
Hogan Lovells US LLP
Hughes Hubbard & Reed LLP*
Jenner & Block LLP* #
Jones Day
King & Spalding
Mayer Brown LLP
McDermott Will & Emery LLP
Miller & Chevalier Chtd.
Morrison & Foerster LLP
Orrick, Herrington & Sutcliffe LLP
Patton Boggs LLP
Paul Hastings*
Ropes & Gray*
Shearman & Sterling LLP*
Sidley Austin LLP
Skadden, Arps, Slate, Meagher & Flom LLP
SNR Denton US LLP
Steptoe & Johnson LLP
Wilmer Hale LLP

*Firms in which 50% or more of the attorneys contributed 50 or more *pro bono* hours in 2011.

#Firm in which 40% or more of its partners contributed 50 or more *pro bono* hours in 2011.

Appendix E

Appendix E

List of Federal Government Agencies Responding to 2011-2012 Pro Bono Survey

U.S. Department of Agriculture
U.S. Agency for International Development
U.S. Air Force Judge Advocate General's Corps
U.S. Coast Guard
U.S. Department of Commerce
U.S. Department of Defense
U.S. Department of Education
U.S. Department of Energy
U.S. Environmental Protection Agency
Export-Import Bank of the United States
Federal Communications Commission
Federal Deposit Insurance Corporation
Federal Election Commission
Federal Reserve
Federal Labor Relations Authority
Federal Mine Safety and Health Review Commission
Federal Trade Commission
U.S. Office of Government Ethics
General Services Administration
Internal Revenue Service
U.S. International Trade Commission
U.S. Department of Justice
U.S. Department of Labor
Merit Systems Protection Board
National Labor Relations Board
Pension Benefit Guaranty Corporation
U.S. Postal Service
U.S. Securities and Exchange Commission
U.S. Office of Special Counsel
U.S. Department of State
U.S. Department of Transportation
U.S. Department of Treasury