

ATTACHMENT B

PROPOSED AMENDMENT TO PRO BONO PRACTICE PROGRAM RULES 3.325-3.330
TO EXPAND ELIGIBILITY TO COURT-BASED SELF-HELP CENTERS

PUBLIC COMMENTS RECEIVED

May 14, 2012

"As a former legal services attorney and program director many years ago, an attorney for 39 years, and a pro bono attorney for the last 5 years, I urge adoption of the proposed rule changes to allow attorneys with three years of practice to participate pro bono with a qualified legal services program and/or a self-help center. The need for pro bono attorneys is overwhelming and the key is to have attorneys who want to do pro bono work."

Howard K. Watkins
SB# 056204
1785 W. Dovewood Lane
Fresno, CA 93711
Res. 559-435-1992
Cell 559-355-7040

May 23, 2012

"While I don't think it hurts anything to specifically include Self-Help and Family Law Facilitator programs under the pro bono program umbrella, I'm not sure it's really necessary, either. Comments:

1. If you include "court-based" self help and family law facilitator services in the identified programs through which retired members of the bar may serve, be sure you identify BOTH services by name as not all counties have combined offices (i.e., not all offices are "self-help"; some have separately identified "family law facilitator" offices).
2. Also, remember that some counties contract these services through a legal aid organization or the law library - so it should not be just "court-based" literally. It should be stated as services which are either "directly provided through the court or as contracted for by the court with a non-profit agency".
3. The reason this may be unnecessary is that neither Self-Help nor Family Law Facilitator offices provide legal advice - this is prohibited by statute. Neither our staff nor volunteers may provide legal advice (and we do monitor for this!). Therefore, the pro bono program strictures are not specifically relevant to nor determinative of these programs' use of volunteer services and resourcing. Taking this into account, we realize there are active attorneys and retirees who may nonetheless have concern about volunteering with Self-Help/Family Law Facilitator programs without the imprimatur of the State Bar. For this reason, and to avoid any confusion about limitations on service, I would support the inclusion of our Self-Help and Family Law Facilitator offices as identified programs with which someone applying through the Pro Bono Program could participate - with the *stated* understanding that one may volunteer directly with these programs without violating any State Bar rules, so long as no legal advice were provided.

NB: If the State Bar is concerned about attorney volunteers with our services, perhaps the Cal. Family Law Facilitator Assn. could discuss with you drafting an acknowledgement for attorneys to sign specifically stating that they understand and agree that no legal advice or representation can be provided when working with these offices?

If you have any questions about these comments, please feel free to contact me."

Candace Goldman, Esq.
(information below for I.D. purposes only):

Program Manager
Self-Help and Family Law Facilitator Services
Superior Court of California - Alameda County
1225 Fallon Street - Room 250
Oakland, Ca. 94612

June 4, 2012

"I have received a communication from the San Mateo Bar Association Family Law Section regarding a proposed amendment to the Pro Bono Practice Program Rules 3.325-3.330 which I understand would change certain rules to allow otherwise retired attorneys to provide pro bono services without having to pay Bar dues as an active member. As an attorney who has provided pro bono services in the family law area for his entire career, and an attorney who is approaching retirement age, I would wholeheartedly support a change and would anticipate taking part in such a program. If you have any questions, or any additional information from me would be helpful, please feel free to give me a call."

Mark Coby
Attorney at Law
80 Eureka Square, #149
Pacifica, CA 94044
(650) 355-5044 (phone and fax)

June 13, 2012

"I'm the Pro Bono Coordinator for the San Diego Volunteer Lawyer Program, and we would like to provide feedback on 3.325 - 3.330 - Proposed Revision to Expand Eligibility to Court-Based Self-Help Centers.

The "Proposed Revision to Expand Eligibility to Court-Based Self-Help Centers" is a good idea, however, our concern is about professional liability insurance coverage for work done at the self-help center. We would not want to be responsible for an attorney's work at a self-help center while that person was volunteering for our organization (and we were not running the self-help center)."

Marisa Rastetter, Esq.
Pro Bono Coordinator
San Diego Volunteer Lawyer Program, Inc.
707 Broadway, Suite 1400 / San Diego, CA 92101
T: (619) 235-5656 x 107 / F: (619) 235-5668
mrastetter@sdvlp.org / www.sdvlp.org

June 13, 2012

This letter is in response to the notice of proposed revisions to Pro Bono Practice Program Rules 3.325 - 3.330 ("Proposed Revision to Expand Eligibility to Court-Based Self-Help Centers").

The Proposed Revision to Expand Eligibility to Court-Based Self-Help Centers would change the Pro Bono Practice Program so that eligible attorneys would be allowed to volunteer with court-based self-help centers (in addition to qualified legal services providers and State Bar-certified Lawyer Referral Services, as currently permitted by the Pro Bono Practice Program Rules).

The Southern California Pro Bono Managers—a group composed of pro bono coordinators at legal services organizations in Southern California—support the Proposed Revisions because, by allowing more lawyers to participate in the Pro Bono Practice Program and by expanding the number of opportunities for lawyers to participate in the Program, the Proposed Revisions would help reduce the “Justice Gap” plaguing California’s most vulnerable individuals.

As Need Grows, Resources Dwindle, Resulting in the “Justice Gap”

More and more Americans are in need of free legal services. In 2010, the United States Census Bureau reported a fourth consecutive annual increase in the number of people living in poverty in the United States, bringing the total to 46.2 million. As poverty rates increase, so too does the number of individuals in need of legal services to help them access basic life necessities like food, medical care, and shelter.

The economic recession, however, not only increases poverty, it decreases funding for the programs aimed at helping low-income people. In California, revenue from Interest on Lawyers Trust Accounts dropped from \$22 million in 2008 to less than \$8 million in subsequent years,² leaving legal services organizations thinly staffed and unable to serve the increasing amount of people in need. We refer to this widening chasm, between increased need and decreased capacity to meet this need, as the “Justice Gap.”

The Southern California Pro Bono Managers Believe that Pro Bono Lawyers Are Heroes

One effective way of relieving the effects of the Justice Gap is to encourage lawyers to provide pro bono support to organizations serving those in need. As pro bono coordinators at legal services organizations in Southern California, we know that pro bono attorneys can be heroes for our clients. That is why we work every day to draw pro bono support for our organizations, helping us to provide more underserved Californians with the legal services they need.

The Southern California Pro Bono Managers support measures, including the Proposed Revisions, which engage more pro bono attorneys in the effort to close the Justice Gap.

The Proposed Revisions Expand Pro Bono Service, Helping More People in Need

Currently, attorneys participating in the Pro Bono Practice Program are limited to volunteering with qualified legal services providers or State Bar-certified Lawyer Referral Services. The Proposed Revision to Expand Eligibility to Court-Based Self-Help Centers would expand the Pro Bono Practice Program to include court-based self-help centers as eligible programs with which participants may volunteer. This proposed revision would allow volunteer attorneys to help court-based self-help centers that have endured major budget cuts and, in some cases, complete closure of centers. Including court-based self-help centers in the Pro Bono Practice Program will help court-based self-help centers keep their doors open and will allow them to provide increased assistance to underserved populations.

The Southern California Pro Bono Managers support the Proposed Revisions because they will allow more attorneys to be heroes in their communities. We appreciate the opportunity to comment on such an important topic in our legal community, and would happily provide further materials in support of the Proposed Revisions at your request.

Sincerely,

Ted Farley *Alliance for
Children’s Rights*

Anthony Roh *Asian Pacific
American Legal Center*

Diego Cartagena *Bet Tzedek*

Vicky Barker *California
Women’s Law Center*

Carmen Chavez *Casa
Cornelia Law Center*

Melinda Bird
Disability Rights California

Lani Woltmann *Disability
Rights Legal Center*

Nicola Kennedy *Harriett Buhai
Center for Family Law*

Lisa Mead
Inner City Law Center

Pamela Marx *Mental Health
Advocacy Services*

Jacqueline Hall
*Legal Aid Foundation of Santa
Barbara County*

Diamond Tran
Public Law Center

June 13, 2012

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The below-listed legal services organizations—each a member of the Bay Area Pro Bono Managers Group, which convenes Bay Area legal services nonprofits to coordinate and discuss pro bono programs—support the Proposed Revisions because, by allowing more lawyers to participate in the Pro Bono Practice Program and by expanding the number of opportunities for lawyers to participate in the Program, the Proposed Revisions would help reduce the "Justice Gap" plaguing California's most vulnerable individuals.

As Need Grows, Resources Dwindle, Resulting in the "Justice Gap"

More and more Americans are in need of free legal services. In 2010, the United States Census Bureau reported a fourth consecutive annual increase in the number of people living in poverty in the United States, bringing the total to 46.2 million.¹ As poverty rates increase, so too does the number of individuals in need of legal services to help them access basic life necessities like food, medical care, and shelter.

The economic recession, however, not only increases poverty, it decreases funding for the programs aimed at helping low-income people. In California, revenue from Interest on Lawyers Trust Accounts dropped from \$22 million in 2008 to less than \$8 million in subsequent years,² leaving legal services organizations thinly staffed and unable to serve the increasing amount of people in need. We refer to this widening chasm, between increased need and decreased capacity to meet this need, as the "Justice Gap."

The Bay Area Pro Bono Managers Group Believes that Pro Bono Lawyers Are Heroes

One effective way of relieving the effects of the Justice Gap is to encourage lawyers to provide pro bono support to organizations serving those in need. As Bay Area legal services organizations that rely heavily on the support of our pro bono volunteers, we know that pro bono attorneys can be heroes for our clients. That is why we work every day to draw pro bono support for our organizations, helping us to provide more underserved Californians with the legal services they need.

The below-listed Bay Area Pro Bono Managers Group members support measures, including the Proposed Revisions, which engage more pro bono attorneys in the effort to close the Justice Gap.

The Proposed Revisions Expand Pro Bono Service, Helping More People in Need

Currently, attorneys participating in the Pro Bono Practice Program are limited to volunteering with qualified legal services providers or State Bar-certified Lawyer Referral Services. The Proposed Revision to Expand Eligibility to Court-Based Self-Help Centers would expand the Pro Bono Practice Program to include court-based self-help centers as eligible programs with which participants may volunteer. This proposed revision would allow volunteer attorneys to help court-based self-help centers that have endured major budget cuts and, in some cases, complete closure of centers. Including court-based self-help centers in the Pro Bono Practice Program will help court-based self-help centers keep their doors open and will allow them to provide increased assistance to underserved populations.

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Sincerely,

Bill Hirsh
AIDS Legal Referral Panel

Richard Konda
Asian Law Alliance

Layma Ahmadzai
Asian Law Caucus

Jose Padilla
California Rural Legal Assistance

Allison Barnum
Law Foundation of Silicon Valley

Paul Chavez *Lawyers’ Committee for Civil Rights*

Nancy Murphy
Legal Aid of Marin

Stacey Hawver
Legal Aid Society of San Mateo County

Catherine McKee
Legal Services for Prisoners with Children

Sharon Bashan
Pro Bono Project Silicon Valley

Jamienne Studley
Public Advocates Inc.

June 14, 2012

The Judicial Council’s Task Force on Self-Represented Litigants supports proposed Rules 3.325 through 3.330 allowing pro bono practice attorneys to provide assistance to self-represented litigants at court-based self-help centers as part of the State Bar’s Pro Bono Practice Program. The Task Force on Self-Represented Litigants appreciates the State Bar’s consideration of this amendment as this rule will be of great assistance to courts as they continue their efforts to serve self-represented litigants.

The Task Force recognizes the critical importance of pro bono attorneys providing desperately needed legal assistance to low and moderate income individuals. The Judicial Council’s Statewide Action Plan for Serving Self-Represented Litigants calls for continuing support from the judicial branch of the State Bar’s Pro Bono Program. Allowing pro bono practice attorneys to provide assistance in court-self-help centers is an excellent addition to the varying levels of legal assistance required to meet the needs of the public.

The Task Force notes that, as a judicial branch function, the assistance provided by court-based self-help centers differs from services provided by qualified legal services or lawyer referral services. Any volunteer serving in a court-based self-help center must comply with the ethical rules set out in the *Guidelines for the Operation of Self-Help Centers in California Trial Courts*. These rules address the special requirements of an attorney serving in a court setting who must provide neutral services to all parties, avoiding establishing an attorney-client relationship.

Hon. Kathleen O’Leary, Chair
Judicial Council’s Task Force on Self-Represented Litigants