

**All Lawyers Have Great Skills to Offer Pro Bono**

Lawyers have great things to offer in the way of pro bono service at each stage of their careers. New lawyers have enthusiasm and a desire to earn client and courtroom experience. Mid-career lawyers are proud to “give back.” Seasoned lawyers have the wisdom and experience to skillfully handle particularly challenging matters. For the retired or transitioning lawyer, a keen desire to stay involved in the profession can be fulfilled through pro bono service.<sup>1</sup>

**The Perceived Barrier**

Carrying professional liability malpractice insurance is a best business practice but not mandatory for Michigan lawyers. Some lawyers cannot afford to maintain malpractice insurance coverage—a reality for many just entering practice on their own, those transitioning toward or in retirement,<sup>2</sup> and those who are unemployed. Lawyers in certain settings—including law schools—do not have access to coverage. How can they provide pro bono legal services and be assured that their exposure to a professional liability claim is covered?

**Three Ways to Access Malpractice Coverage for Pro Bono Cases**

There are three ways Michigan lawyers can access malpractice insurance coverage for their pro bono work. First, the 40 Access to Justice (ATJ) programs around the state (see sidebar) either carry their own malpractice insurance that extends to their pro bono lawyers or offer that coverage through a partnership with the State Bar of Michigan Pro Bono Initiative’s Michigan Litigation Assistance Partnership program (MI-LAPP).

Second, lawyers without malpractice coverage who want to provide pro bono services to clients they obtain on their own can contact an ATJ program and ask for a “reverse referral.” If a client is income- and asset- eligible under the program’s eligibility guidelines and the case fits within the program’s case priorities, most ATJ programs can add the client to the program’s docket and provide the program’s malpractice coverage to the pro bono lawyer. Additional benefits of working through many of the ATJ programs are that the programs screen

clients for income eligibility, assess the merits of the case, understand that the case meets community priorities, offer technical assistance, and have formal pro bono recognition programs.

Finally, if the client matter is not able to fit in an ATJ program through a reverse referral, the State Bar MI-LAPP program might be able to offer malpractice coverage. A request for coverage should be made if the client’s income is within 200 percent of federal poverty guidelines (<http://www.michbar.org/programs/ATJ/pdfs/povertyguidelines.pdf>), liquid assets do not exceed \$5,000, and the case is a meritorious civil matter that would not be handled by a private lawyer because there is no likelihood of a fee. Visit the State Bar website at [www.michbar.org](http://www.michbar.org) for details, an intake form, and process instructions.

MI-LAPP malpractice coverage extends only to the particular pro bono matter and the individual attorney.

The policy is secondary to any other coverage available to the lawyer. If there is no other coverage, then the policy is primary.

The policy is offered through the CIMA Liability Protection Program for Legal Services Professionals and Public Defenders. It provides up to \$250,000 of coverage for each claim and \$500,000 in aggregate for professional liability, and up to \$100,000 of coverage for each claim and \$300,000 in aggregate for personal injury liability. Coverage under this policy is not provided for any other case or activity beyond the MI-LAPP case. Coverage will cease at the conclusion of the matter referred. The CIMA policy is a claims-made policy, and coverage is conditioned upon immediate notification to the State Bar of any potential claim, defined broadly as any demand for money or services including any service of process or the institution of arbitration proceedings.

**Where to Go Next**

If you are a lawyer who has been reluctant to offer pro bono services because of lack of malpractice insurance, please contact an ATJ Fund program in your community, the State Bar at [pbi@mail.michbar.org](mailto:pbi@mail.michbar.org), or SBM Pro Bono Service Counsel Robert Mathis at [rmathis@mail.michbar.org](mailto:rmathis@mail.michbar.org). Your services will be put to use, with malpractice insurance coverage in place.

**Access to Justice Programs**

Below are the Access to Justice programs that can extend professional liability insurance coverage to lawyers accepting pro bono referrals or have partnered with the State Bar of Michigan to offer that coverage. They meet the Access to Justice Fund<sup>3</sup> criteria established by the Michigan State Bar

Access to Bankruptcy Court, Detroit	Legal Assistance Program of Macomb County, Clinton Township
American Civil Liberties Union Fund of Michigan, Detroit	Legal Services of Eastern Michigan, Flint
Bay Area Women's Center, Bay City	Legal Services of Northern Michigan, Escanaba
Center for Civil Justice, Saginaw	Legal Services of South Central Michigan, Inc., Ann Arbor
Community Legal Resources, Detroit	Michigan Immigrant Rights Center, Kalamazoo
Counsel & Advocacy Law Line, Southfield	Michigan Indian Legal Services, Traverse City
Detroit Metropolitan Bar Association Foundation, Access to Justice Programs, Detroit	Michigan Legal Services, Detroit
Diocese of Kalamazoo Immigration Assistance Program, Kalamazoo	Michigan Migrant Legal Assistance Project, Grand Rapids
Elder Law of Michigan, Lansing	Michigan Poverty Law Program, Ann Arbor
Farmworker Legal Services, Kalamazoo	Michigan Protection & Advocacy Services, Lansing
First Step Legal Advocacy Project, Taylor	MSU College of Law Clinical Law Programs, East Lansing
Free Legal Aid Clinic, Detroit	Neighborhood Legal Services Michigan, Detroit
Freedom House, Detroit	Salvation Army William Booth Legal Aid Clinic, Detroit
Guild/Sugar Law Center, Detroit	Sixty Plus, Inc.—Elder Law Clinic, Lansing
HAVEN, Pontiac	Student Advocacy Center of Michigan, Ann Arbor
International Institute of Metropolitan Detroit, Inc., Detroit	Underground Railroad Civil Legal Aid Program, Saginaw
Lakeshore Legal Aid, Port Huron	University of Detroit Mercy School of Law Clinical Law Programs, Detroit
Legal Aid & Defender Association Civil Law Group, Detroit	University of Michigan Law School Clinical Law Programs, Ann Arbor
Legal Aid of Western Michigan, Grand Rapids	Washtenaw County/EMU Legal Resource Center, Ypsilanti
Legal Assistance Center, Grand Rapids	Wayne State University Law School Clinical Law Programs, Detroit

1 Section 6.1 of the Michigan Rules of Professional Conduct encourages lawyers to “render public interest legal service.” The rule further states that [a] lawyer may discharge this responsibility by providing professional services at no fee or a reduced fee to persons of limited means, or to public service or charitable groups or organizations. A lawyer may also discharge this responsibility by service in activities for improving the law, the legal system, or the legal profession, and by financial support for organizations that provide legal services to persons of limited means.”

The State Bar of Michigan Representative Assembly has adopted a Voluntary Pro Bono Standard, which provides guidance on how a lawyer can fulfill the goals of MRPC 6.1. This standard encourages all active members of the State Bar of Michigan to participate in the delivery of the legal services to the poor annually by:

- (1) Providing representation without charge to a minimum of three low income individuals; or
- (2) Providing a minimum of 30 hours of representation or services, without charge to low income individuals or organizations; or
- (3) Providing a minimum of 30 hours of professional services at no fee to persons of limited means or to public service or charitable groups or organizations; or
- (4) Contributing a minimum of \$300 to not-for-profit programs organized for the purpose of delivering civil legal services to low-income individuals or organizations. The minimum recommended contribution level is \$500 per year for those lawyers whose income allows a higher contribution.

2 A retired attorney with malpractice insurance tail coverage may be precluded by that coverage from participating in the programs described in this brochure.

3 See [www.atjfund.org](http://www.atjfund.org) for information about the ATJ Fund. The Access to Justice Campaign is a partnership of the State Bar of Michigan, the Michigan State Bar Foundation, and Michigan’s civil legal aid programs to increase resources for civil legal aid to the poor.

Pro Bono Opportunities

The Pro Bono Initiative (PBI) is responsible for encouraging and coordinating the delivery of pro bono legal services. The PBI also helps the State Bar of Michigan play a constructive role in promoting policies and mechanisms to support lawyers in their effort to fulfill their ethical responsibility to assist in the provision of civil legal services to the poor.

To carry out its mission, the PBI supports numerous projects, including:

- A Lawyer Helps Program
- Circle of Excellence
- Documenting the Justice Gap in Michigan Report
- Homelessness Workgroup
- John W. Cumiskey Pro Bono Award
- Michigan Litigation Assistance Partnership Program (MI-LAPP)
  - o Patent Pro Bono Project
  - o Pro Bono Malpractice Insurance Coverage Program
  - o Qualified Domestic Relations Order (QDRO) Pro Bono Program
  - o Tax Pro Bono Program
- Pro Bono Menu of Opportunities
- Pro Bono Month
- Pro Bono Reference Manual
- Spring Pro Bono Workshop
- Statewide Pro Bono Assessment
- Veterans Resources Workgroup

Contact Information for Pro Bono Service

For more information on MI-LAPP insurance coverage or how you can get involved with pro bono please contact:

Robert Mathis  
State Bar of Michigan  
Pro Bono Service Counsel  
(517) 346-6412  
[rmathis@mail.michbar.org](mailto:rmathis@mail.michbar.org)



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