

WCBA Pro Bono Report and Plan



EQUAL ACCESS PROJECT

The Wayne County Bar Association's Pro Bono Program

Partnering with North Penn Legal Services and the Judiciary in Providing

Equal Access to a Fair and Effective System of Justice for All¹

PRO BONO REPORT AND PLAN

Unanimously Adopted on November 22, 2017

¹ “The Mission of the Court of Common Pleas is to provide a fair, impartial, accessible and open judicial forum for the efficient resolution of Criminal, Civil, Family, Juvenile and Orphan Court matters. The Court is committed to: ... Provide equal access to a fair and effective system of justice for all without excess cost, inconvenience or delay, with sensitivity to an increasingly diverse society....”

[from the website of the 22nd Judicial District]

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Preface

Providing volunteer service to those in need has always been at the heart of the legal profession. It is in the nature of those called to the law to want to serve. Legal training, and experience with judges, juries and administrative systems, provide not just confidence but insight and wisdom. By the same token, those who are not regularly involved in the justice system find it to be impenetrable, daunting, and overwhelming. This is made all the worse for those whose education, language, physical ability and/or financial means are limited. And while lawyers' hearts may be large, they still need to charge for their time, to pay their bills and achieve the lifestyle for themselves and their families that are the expected returns from long hours of work and substantial financial investment.

In February 2017, the President of the Wayne County Bar Association announced that he wanted to reinvigorate the pro bono program with the objectives of having every WCBA member be able to participate in it, and sharing the work more evenly. The Bar immediately took up the challenge, setting an aggressive schedule that was informed by the unmet need for legal services as experienced by both North Penn Legal Services and by the Twenty-Second Judicial District (serving Wayne County). Working closely with them, drawing on the experiences of other county bar associations, and with the assistance of the Pennsylvania Bar Association Pro Bono Project, the WCBA Pro Bono Committee developed an extensive list of legal issues and practical concerns and options for addressing them.

This report, recommendation, and proposed plan was presented to the Wayne County Bar Association in segments over eight months as the ideas were developed. The Pro Bono Committee met monthly, circulating minutes promptly thereafter to all members of the Association. Beginning in March 2017, every monthly meeting of the Association as a whole included discussion of open questions, presentations of proposals, and votes. In July, the Association unanimously adopted a Pro Bono Mission Statement. In September, the Association approved the activation of a non-profit through which to raise and distribute money for the low-fee representation of indigent clients in custody and domestic violence cases – the largest area of unmet legal need in Wayne County. In October, the Association formally adopted 20 hours of pro bono service as the standard that it expects its attorneys to meet each year.

At its meeting on November 22, 2017, the Association unanimously approved this Report and its recommendations, intending that the Pro Bono Plan begin implementation in January 2018.

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INTRODUCTION

There are without question more low- and no-income people with significant legal problems – affecting their homes, families, health care, and income security – than there are lawyers ready and able to serve them. The most recent study (May 2017) conducted by the Pennsylvania Supreme Court, through its Interest on Lawyer Trust Account (IOLTA) Board, confirmed that for every income-eligible person who is able to obtain a lawyer, four more are not. This is commonly called the Justice Gap, invoking our national pledge to be “one nation, under God, indivisible, with liberty and *justice for all*.”

While lawyers are key to fulfilling that promise, this is *not* a “lawyer issue” to be solved by lawyers alone. “Equal Justice Under Law” (the words chiseled into the United States Supreme Court) is our *society’s* commitment to fundamental fairness. As such, any effort to close the Justice Gap must involve our whole community -- businesses, non-profit organizations, religious institutions, and individuals, each contributing what they can where they can.

“*Pro Bono*” is a Latin phrase, short for “*pro bono publico*,” which means “for the public good.” It refers to the volunteer service that individual lawyers contribute to society by providing their *legal* experience and expertise to people and groups without any fee or for a substantial discount. *Pro bono* is over and above what lawyers do as ordinary citizens – helping to clean up public spaces, providing meals to shut-ins, mentoring young adults, and serving on boards of hospitals, schools and cultural organizations. *Pro bono* legal service to the poor is performed even by lawyers who are themselves struggling to make ends meet.

We believe – and probably see more clearly than most – that it is essential to the whole community’s well-being that every person knows they can be protected by the law. In the pages that follow, we lay out what our motivations are, where we believe private lawyers can add real value as volunteers in our system of justice, and where we need others to help.

Our goal is equal access to justice. This is our Bar Association’s plan for Wayne County. Join us.

Ronald M. Bugaj, President
Wayne County Bar Association

November 22, 2017

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Executive Summary

For every low- or no-income person who is able to receive free legal services from North Penn Legal Services, two are turned away, and two more give up before even trying to get help.

In a society where law defines our most important relationships, this is a very big problem. It is made all the worse by the immutable facts of Wayne County: a “flat” economy with very few large employers and high unemployment; rural; very large distances to travel; and a very small bar association, primarily solo practitioners, many of whose members do not practice in Honesdale, or in the areas of law of greatest unmet need.

Help is not on its way from Harrisburg, or Washington. Our entire community, not just our lawyers, needs to work together to reduce the “justice gap” if we are to come anywhere near meeting our national pledge of promising “justice for all.”

For our part, every member of the Wayne County Bar Association will be asked to take on two new low-income clients or otherwise donate twenty hours of legal service each year – this in addition to what we already do as volunteers in our communities. Beyond that, our Bar Association will contribute \$20,000 each year to pay lawyers who are willing to deeply discount their standard hourly rates to help families where the unmet need for legal assistance is greatest: disputes over children (custody) and domestic violence (abuse).

To increase access to justice, we will work very closely with our two partners: North Penn Legal Services (NPLS) and the Judges, court officials and staff of the Twenty-Second Judicial District. We will look for ways to accept from NPLS responsibility for more cases in areas of law where our lawyers know they are competent, leaving NPLS able to take more clients in areas where expertise in poverty law is needed. We will work with court staff to rewrite legal forms to make them more understandable, to utilize computer-generated forms whenever possible, and to schedule hearings to make it easier for volunteer lawyers to participate. And we will work with the Judges to make sure that when one side has a lawyer, inability to pay won’t stop the other side from having a lawyer, too.

We make these commitments – as individual attorneys, and as a professional association – with the explicit expectation that businesses, foundations, local governments, and community leaders will also do their part, matching our money and our volunteer efforts. Together, but only together, we can ensure that the law will be there to protect and help the least among us when they need it most.

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Summary of Recommendations

[These Recommendations appear in the text of the following Report]

The WCBA's Plan For Reducing The Justice Gap In Wayne County

Pro Bono Commitment

As part of a commitment by the entire Wayne County community to provide equal access to justice, and within the framework set forth above, **every member of the Wayne County Bar Association agrees each year to accept two pro bono case referrals from the Association or otherwise provide twenty hours of pro bono legal service (as that term is defined in the Pro Bono Plan).**

The explicit objective of this Pro Bono Plan is to come up with enough ways to contribute to the cause of Equal Access to Justice that *every* member of the Wayne County Bar Association can participate.

- Every member will be asked to indicate what types of cases or services the attorney is most willing to provide, and not willing accept. Those preferences will be honored.
- The Judiciary is encouraged to develop ways to recognize the contributions of attorneys who make and meet the pro bono commitment.
- Business and civic leadership will be asked to partner with the WCBA and contribute to these efforts.

Recommendations for Specific WCBA "Access to Justice" Initiatives

- **Child Custody and Domestic Abuse**

Without question, and by far, custody and abuse are the greatest areas of unmet legal need in Wayne County which cannot be met by pro bono attorneys alone. To supplement those attorneys willing to provide such representation pro bono, the WCBA Pro Bono Plan proposes to utilize a non-profit corporation to raise money to pay "judicare" (steeply discounted) rates by contract with one or more attorneys who will take on substantial numbers of these cases, in a "public defender" model. The Bar Association will contribute \$20,000 to this effort, and seek to have that contribution be matched by state funding through IOLTA, and will solicit tax-deductible contributions from other funders and the public to make it sustainable. The Bar Association will provide all back-office support, including bookkeeping, financial management, and auditing.

- **Six Other Specific Pro Bono Panels (Teams)**

Six other areas of high demand by the poor or near poor were identified, where private attorneys can provide very important service in limited engagements. Specialty panels ("Teams") will be created to respond to requests for assistance in those areas, and each Team will have its own Leader responsible for finding a volunteer:

1. **Landlord-Tenant (Eviction and Replevin)**
2. **Credit Card Debt**
3. **Appeals from District Courts**
4. **Driver's License (Suspension and Revocation)**
5. **Criminal Record Expungements**
6. **Wills, Advance Directives, Powers of Attorney**

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Over time, these Teams will develop the best ways to provide pro bono legal service within their particular areas.

- **Pro Bono Committee**

The Team Leaders from these seven specialty areas, plus the leader of an eighth team (“general”), will comprise the Bar Association’s Pro Bono Committee. It will meet at least twice each year (joined by NPLS, the Judiciary and court staff when possible) to discuss what the different Teams are doing, share best practices, and otherwise support each other. The Committee will be supported by WCBA staff, and will issue an annual report to the WCBA and the public.

Sources of Pro Bono Clients

The WCBA pro bono program will, whenever possible, have the client go through the NPLS intake system, either before referral to the Bar Association or as soon as possible after the representation has started. This approach has the following benefits:

- Screening of income and assets to make sure the client qualifies for free legal services under federal legal criteria, which is subject to federal audit;
- Initial “merits” review (in cases in which NPLS has no conflict), assessing whether or not the client has a facially cognizable, legally- supportable interest, claim or defense;
- Collection of data about the client and the claim at intake that can be shared electronically with private counsel;
- Professional liability insurance for all referrals of eligible clients that come from NPLS, as long as the attorney provides periodic reports as required;
- Computerized documents (“HotDOCS”) that and can be utilized in a wide variety of legal matters (e.g., divorce, custody, mortgage foreclosure, eviction), on any matter, not just the pro bono referral;
- Access to NPLS expertise through its Managing Attorney in Honesdale;
- Access to extensive online library available to legal aid attorneys statewide;
- Potential for reduced compensation (“low-bono”) in certain areas of representation; and,
- Improved countywide data on the need for civil legal services by the poor.

The WCBA pro bono program will also accept clients certified *in forma pauperis* by the Court and/or referred by the Custody Masters of Wayne County, where one parent already has an attorney, or has demonstrated an inability to represent his- or herself.

Individual pro bono: Attorneys do not need to go through the WCBA pro bono program before they can provide pro bono service. But if that service is to “count” towards satisfying the WCBA Pro Bono Commitment, the attorney must certify that the client was financially unable to pay for the legal services the attorney provided.

Reducing the Cost of Pro Bono

Volunteer lawyers must have the confidence that they will only have to do what they have agreed to do; otherwise, they won’t agree to take on the representation in the first place. The Court and the Bar must work together to make sure the pro bono attorneys can perform their service in an efficient, effective, and expeditious way.

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- Clear understanding by the client (and the Court) about what the lawyer is going to do. This Plan includes:
 - sample engagement letters and “client responsibility” agreements that are written in Plain English that are very clear in saying what the attorney will and won’t do, what the client must do, and when the attorney is allowed to terminate her/his representation,
 - forms for “Limited Entry of Appearance” and “Withdrawal of Appearance” by Pro Bono Plan participants, and
 - An example of an Administrative Order that the Court could enter to effectuate the above.
- Ability to reschedule an existing court date easily and administratively if the newly-assigned pro bono lawyer has a scheduling conflict.
- Scheduling judicial hearings to facilitate pro bono service, especially in the magisterial district courts where a “lawyer of the day” could be retained by fee-paying as well as pro bono clients before hearings on particular matters (e.g., credit card debt, evictions), and enabling lawyers to be “on call” when appeal deadlines arrive.
- Use of Alternative Dispute Resolution (ADR) whenever appropriate.
- Encouraging lawyers to do pro bono where they live and work, not just in Honesdale; in educational programs and advice-only clinics that are sponsored and organized by churches, community service organizations, and others.

Reducing the Need for Pro Bono Lawyers

- Judicial Involvement in Narrowing and Clarifying the Areas of Disagreement. When the Court is directly involved, the parties tend to concentrate on what is honestly important to them, and agreements tend to come more readily. Once the issues have been narrowed, pro bono lawyers can provide more targeted service.
- Non-Lawyer Partners. The WCBA should partner with community-focused programs to train volunteers in income-eligibility screening and how court and other legal forms can be completed; and then lawyers can be “on call” to answer specific legal questions that arise.
- “Advice Only” Clinics. General advice about how court works, how to work with lawyers, and what clients need to do to prepare can be provided in programs jointly sponsored by NPLA and organized by community organizations (churches, hospitals, libraries, schools) that serve low income people.
- Financial Literacy Education. The WCBA should work with community partners in providing opportunities for clients to learn about personal finances so that they can better understand the consequences of the financial choices they make.

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The Justice Gap

The Legal Services Corporation (LSC²) is a nonprofit established by Congress in 1974 to provide financial support for civil legal aid to low-income Americans.³ In 2009, the LSC released a national report entitled **Documenting the Justice Gap in America** which found that for every client served by LSC programs across the country, one other person who was seeking help and was eligible for services was turned away. The report cautioned that it was providing data only on the experience of those who had tried to obtain legal services, not those who had never even tried. It then cited numerous other studies finding that legal aid programs were actually meeting only about 20% of the need – a finding that the Pennsylvania Bar Association’s Task Force on Legal Services to the Needy had documented in December 1990.⁴

In the spring of 2017, the LSC studied the Justice Gap again, directing all of the legal aid programs it funds across the country (including North Penn Legal Services, our region’s legal aid program) to track for six weeks (March 6 through April 14, 2017) the intake determination and level of service of each person seeking assistance. The results were shocking: the gap had more than doubled in size. A staggering 71 percent of low-income households experienced at least one civil legal problem, such as an eviction notice, being wrongly denied benefits, or a family court suit resulting from domestic violence. Of the Americans facing such problems, 86 percent received inadequate or no legal help because they couldn’t afford it. Nationally, that means 61% of those needing legal services were denied meaningful assistance.⁵

A similar study of the unmet legal needs of the poor was conducted in Pennsylvania by the Pennsylvania IOLTA Board⁶ and the Pennsylvania Legal Aid Network (PLAN). Over the same six-week period studied by the LSC, intake staff at 64 offices covering PLAN’s nine regions and six specialty statewide legal aid programs documented whether an applicant was accepted or not

² For more information about the Legal Services Corporation, visit www.lsc.gov.

³ LSC-funded legal aid programs are only allowed to serve clients whose incomes do not exceed federal poverty guidelines. By way of example, the maximum *gross* income under the federal poverty guidelines that an individual may have in 2017 and qualify for free legal help is \$12,060 a year; and it’s \$24,600 a year for a family of four.³ NPLS is authorized to take into account some expenses (for example, employment-related expenses, child support paid out, and unusually high medical or transportation expenses), but because it is a national program where the need for lawyers far outstrips the supply, there is little discretion, and it is closely audited for compliance. See <http://www.northpennlegal.org/about/eligibility-requirements>

⁴ As explained by the Pennsylvania IOLTA Board in its recent report on the justice gap in Pennsylvania, “Many people do not seek help from a legal aid office because they do not know about legal aid, they do not realize their problem has a legal solution, they have learned that their neighborhood civil legal aid program is not able to handle their type of case, or for other reasons.” See below, footnotes 7,8.

⁵ The 2017 LSC Justice Gap Report, issued June 14, 2017, may be found at: <http://www.lsc.gov/mediacenter/publications/2017-justice-gap-report>.

⁶ The Interest on Lawyer Trust Accounts (IOLTA) Board is a not-for-profit organization that operates under the jurisdiction of the Supreme Court of Pennsylvania. Its core mission is to support the provision of civil legal services to the Commonwealth’s poor and disadvantaged. For more information about IOLTA, visit <https://www.paiolta.org>.

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accepted for service. If the applicant was not accepted, the reason was documented. If they were accepted for service, the level of service was documented. The data were then rolled up into a statewide Pennsylvania Justice Gap Report that was issued by IOLTA in June 2017.⁷ Its findings are equally alarming:

- For every person represented by a Pennsylvania Legal Aid Network program, 2.4 people asked for help and were eligible for services, but received inadequate or no assistance.
- Of the 12,313 people who applied for services and were eligible, only 3,612, or 29%, were provided with representation that fully resolved their case.

In a word, *in less than 10 years, the Justice Gap has doubled.*

Today, for every client whom legal aid can help, more than two are turned away. That's the unmet demand for legal service experienced by North Penn Legal Services, Wayne County's LSC-funded legal aid office. That statistic doesn't take into account anyone who has a legal problem but has not found his or her way to NPLS in the basement of the Wayne County Courthouse, or online, to ask for help.

That is the reality that the lawyers of the Wayne County Bar Association are trying to help address through this Pro Bono Plan.

⁷ The June 2017 IOLTA report may be found at <https://www.paiolta.org/wp-content/uploads/2017/06/Documenting-the-Justice-Gap-in-Pennsylvania-June-2017.pdf>.

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The Very Real Limits On

What The Wayne County Bar Association Can Do By Itself

The Wayne County Bar Association has approximately 60 members. Some of us work for the courts, others for the county or state government. Some of us work “in-house,” providing very specialized assistance to corporate clients. Others of us work in non-legal careers, but have kept our licenses active. Others still are semi- or fully retired from the practice of law. Of those who are in active day-to-day private practice, most are solo practitioners or work in offices with only one other attorney. Wayne County has no law firms of any size.

A significant number of attorneys practicing in Wayne County also practice in other counties as well as in the federal courts, and are subject to the expectations of those other courts and bar associations to contribute pro bono there. Moreover, very, very few attorneys in the WCBA have significant much less extensive experience in the areas of greatest unmet legal need of the poor of Wayne County: custody disputes and spousal abuse – areas of practice that saw substantial increases when the local economy floundered more than ten years ago, and in which the demand for legal assistance remains the highest.⁸

What service is actually required of a pro bono attorney will also vary significantly depending on the nature of the legal matter. A simple will or power of attorney can be completed at a single, short meeting, while custody disputes can last more than a decade, until the child attains majority.

And finally, Wayne County covers a very large geographic area. It encompasses more than 725 square miles, and its courthouse (in Honesdale) is almost one hour by car (more than 30 back-road miles) from where some of its citizens live (Susquehanna in the north, Gouldsboro in the south). For many residents, Scranton (the county seat of Lackawanna County) or Stroudsburg (that of Monroe County) are closer than Honesdale. Many lawyers do not come to Honesdale all that often.

If it is to succeed, a pro bono plan for Wayne County needs to allow lawyers to volunteer efficiently and effectively in a variety of legal areas and in a wide geographic area, not alone but with the support and partnership of the non-legal community. Success will require a range of approaches: community education, limited representations, alternative dispute resolution, hands-on judicial involvement, a very tight relationship between NPLS and WCBA, and active engagement by community leaders, businesses and foundations, with time, talent, *and* treasure.

Even so, the solution must begin with lawyers, who have training and experience in the law, who use words and are articulate, and who are not afraid of standing up and advocating for others.

This is our plan.

⁸ In fiscal year 2017 (year ending 6/30/17), 36% of all matters accepted by the Wayne County office of NPLS were for custody, and 21% were for abuse. The number of cases accepted by NPLS-Wayne County are included at Appendix

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Wayne County Bar Association

Pro Bono Mission Statement

Adopted Unanimously July 10, 2017

WCBA's Pro Bono Policy arises out of two core values: our profession's calling to help other people, and basic human kindness. Lawyers have special knowledge and skills which can assist people in need of that knowledge and those skills. These are people who are confused, in fear, anxious, and confronted by situations, procedures and outcomes that are beyond their control and their understanding. The members of our Bar Association have agreed to provide *pro bono* (volunteer) legal service to those in our community who do not have the financial resources necessary to hire a lawyer: those who have been allowed by the Court to proceed *in forma pauperis* without having to pay court costs, and those who have been determined by North Penn Legal Services as being eligible to receive free legal services. Relatively modest amounts of a lawyer's time can assist them, ease their misery, and materially improve the quality of life of all who are involved in the matter. At the same time, by assisting them, the lawyer creates the opportunity for personal satisfaction from serving someone with nowhere else to turn, while helping to fulfill the profession's mission to make justice available for all people, regardless of their ability to pay. It is and must remain a priority of the Wayne County Bar Association that all of its members contribute to this mission in all ways that they can.

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WCBA Pro Bono Policy and Individual Member Commitment

Adopted October 4, 2017

As part of a commitment by the entire Wayne County community to provide equal access to justice, **every member of the Wayne County Bar Association agrees each year to accept two pro bono case referrals from the Association or otherwise provide twenty hours of pro bono legal service (as that term is defined in the WCBA Pro Bono Plan).** While some attorneys may be precluded by their work from providing any direct legal representation to individual clients, and while other attorneys may not be able in any particular year to meet this twenty-hour commitment, all WCBA members agree to use their best efforts to provide administrative and financial support to bring their annual contribution to a level that fulfills this professional standard.

In addition to directly representing eligible clients in judicial or administrative proceedings in the courts of Wayne County, an attorney may satisfy this commitment by:

- Serving as a “Pro Bono Team Leader” in one of the eight areas of pro bono legal service that this report has identified;
- Hosting and/or participating in community education and “advice only” clinics sponsored in partnership with North Penn Legal Services and/or community organizations (e.g., churches and synagogues, Salvation Army, Rotary International);
- Helping the Court to create “Plain English” court forms;
- Mentoring and advising less experienced attorneys who are doing pro bono;
- Providing pro bono service to a Wayne County resident in another established pro bono program (e.g., Middle District Bankruptcy Court Pro Bono Program; or pro bono programs by specialty legal aid programs like the Education Law Center, Disabilities Law Project, etc.); and/or,
- Making a financial contribution to support the WCBA pro bono program.

As used in this Policy, “pro bono” means the volunteer service that individual lawyers contribute to society by providing their *legal* experience and expertise to individuals living in or near poverty and to non-profit organizations providing free services to such individuals, without any fee or expectation of fee, or for a substantial discount from the lawyer’s standard fee. *Pro bono* is over and above what lawyers do as ordinary citizens, such as volunteering for community clean-up days, providing meals to shut-ins, mentoring young adults, serving on boards of hospitals, schools and cultural organizations, and volunteering in service through organizations like Rotary and communities of faith.

As an organization, the Wayne County Bar Association will use its best efforts to facilitate satisfaction of its members’ individual commitments, as well as the objectives of the Association’s Pro Bono Plan. In doing so, the Association commits to work closely with the Judges of the Twenty-Second District, court administration, and North Penn Legal Services, and to engage the business and philanthropic communities in this effort whenever possible.

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The WCBA Plan For Reducing The Justice Gap In Wayne County

Adopted November 22, 2017

In fiscal year 2017 (year ending June 30), the Wayne County office of North Penn Legal Services (NPLS), housed in the Wayne County courthouse in Honesdale, provided free legal service to 359 clients.⁹ This was done by one full time attorney supported by one full-time office assistant. To fill the “Justice Gap”, NPLS would need to triple in size; but the federal and state governments are clearly not going to provide the funding for that. Even if they did, there would still be a need for private attorneys to do pro bono, in cases where there are conflicts of interest.¹⁰

It is clear that private attorneys must step in and step up if the Justice Gap in Wayne County is to be closed in any meaningful way. To be effective, a pro bono program must provide a range of approaches to legal representation, including advice, brief service, and full representation, and must also provide other services including community legal education and pro se assistance, all in an efficient and effective way.¹¹

Sources of The Program’s Pro Bono Clients

While individual lawyers are always able to provide pro bono legal service to any person at any time (and regularly do), the Wayne County Bar Association (WCBA) as an organization can both facilitate that service and make help make sure that lawyers are used to their maximum efficiency and effectiveness in that process. This can be done through a very close working relationship with NPLS, which would include the following elements:

- Screening of income and assets to make sure the client qualifies for free legal services under federal poverty guidelines;
- Initial “merits” review, assessing whether or not the client has a facially cognizable, legally-supportable interest, claim or defense (not performed in conflict cases);
- Collection of data about the client at intake that can be shared electronically;
- Professional liability insurance for all matters that are screened and referred by NPLS¹²;
- Computerized documents (“HotDOCS”) that and can be utilized in a wide variety of legal matters (e.g., divorce, custody, mortgage foreclosure, eviction)¹³;
- Ready access to NPLS expertise through its Managing Attorney in Honesdale;

⁹ The list of matters handled is attached in Appendix III.

¹⁰ NPLS is not allowed, for example, to accept as clients both the husband and the wife in a contested custody, divorce, or abuse case. If it represents one of the two, it must decline to represent the other, who would most likely also be eligible for free legal services but for the conflict.

¹¹ See Standard Three, Standards for Organizations Receiving IOLTA Funds, <https://www.paiolta.org/wp-content/uploads/2016/11/2017-2018-PA-IOLTA-Specialized-Legal-Services-Zone-Grant-Application-Instructions.pdf>.

¹² NPLS insurance covers all pro bono and judicare attorneys who take cases it refers and who provide the periodic status reports required by NPLS. The malpractice limits are \$2 million per professional liability claim, plus miscellaneous amounts for injunctive relief, etc.

¹³ Attorneys participating in the pro bono program will be able to use these documents in their private practices as well.

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- Extensive online library available to full-time legal aid attorneys and pro bono lawyers statewide; and,
- Improved countywide data on the need for civil legal services by the poor.

The first two benefits of this kind of partnership merit emphasis: by working as a partner with NPLS, WCBA can reduce the chance that its members will be asked to deal with frivolous claims or defenses (cases without any legal merit are not accepted by NPLS), and will only be asked to help people whose income has been certified to be so low that it meets the federal standards. NPLS is audited by the federal government to ensure that its resources are only being spent on the poor, so the WCBA can be confident its members are providing free service only to those who truly cannot afford to pay for them.

Moreover, in many areas of representation, NPLS has some funds by which to pay low hourly rates to attorneys taking cases from them. Called “judicare” (or “low-bono”), this program pays \$75 per hour up to a maximum of 10 hours, which limit can be increased for good cause shown.

For all of these reasons, **the WCBA pro bono program will, whenever possible, begin by having the client and proposed matter go through the NPLS intake system, or do so as soon as possible after the representation has started.** Beyond the benefits listed above, doing so will also allow NPLS to be best informed as it tracks the need – and unmet need – for legal services for the poor of Wayne County. This will also improve the accuracy of the data being collected by the Pennsylvania Legal Aid Network and the Supreme Court of Pennsylvania.¹⁴

The WCBA pro bono program will also accept clients referred to it by the Court (litigants who have been granted *in forma pauperis* standing)¹⁵ and by the Custody Masters of Wayne County (who will refer income-qualified individuals in matters where one parent already has an attorney, or where one of the parties is vulnerable due to emotional or intellectual disabilities, language barrier, or literacy level, where the vulnerability may limit the ability of the Master to properly serve the ends of justice).

Attorneys will always be encouraged to help people whenever they possibly can. Attorneys do not need to go through the WCBA pro bono program before they can do pro bono, and they do not need to limit their volunteer service to those whose incomes fall within the federal poverty guidelines. But because that population is the focus of the WCBA Pro Bono Plan, attorneys providing service

¹⁴ See the section of this Report discussing **The Justice Gap**, above.

¹⁵ Under Pennsylvania Rule of Civil Procedure 240(b), “A party who is without financial resources to pay the costs of litigation is entitled to proceed in forma pauperis.” This determination is made by the Court on the basis of a petition and an affidavit by the litigant attesting to the person’s income, expenses, and assets, as to which there are civil and criminal penalties for false statements. Wayne County Common Pleas Court employs two tests as to economic hardship. Local Rule 4008.1(B), for example, specifies that transcript costs “shall be waived for a litigant who has been permitted by the court to proceed *in forma pauperis* or whose income is less than 125 percent of the poverty line as defined by the U.S. Department of Health and Human Services (HHS) poverty guidelines for the current year.” NPLS has developed an online In Forma Pauperis petition that is accepted for use in Wayne County: www.palawhelp.org/resource/petition-to-waive-court-costs-2?ref=2kQom

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to indigent clients directly will be required to certify the client's income-eligibility in order for the service to "count" towards satisfying the WCBA Pro Bono Commitment.¹⁶

Source of The Program's Pro Bono Lawyers

Those lawyers who are best known for their willingness to take pro bono cases cannot continue receiving the bulk of the calls, from multiple sources, as is the case today; in fairness, the profession's commitment to serving the poor needs to be shared much more equally. The explicit objective of the WCBA Pro Bono Plan is therefore to offer enough alternative ways to contribute to the cause of Equal Access to Justice that *every* member of the Wayne County Bar Association can participate, regardless of years of experience, area of practice, or financial wherewithal.

To that end, the Association will ask every member to complete a form specifying which types of cases or services the attorney is most willing to provide and not willing accept.¹⁷ Those preferences will be honored. This Plan then proposes that those volunteering for pro bono service be organized into eight (8) Teams according to the area of legal service; and that one attorney from each Team serve as the Team Leader. These initiatives are discussed below. Attorneys who are unable to render pro bono legal service are expected to contribute financially to the effort, with their contributions designated for the areas of greatest unmet legal need by the poor: custody and abuse.

For its part, the Judiciary is encouraged to work with the WCBA to develop ways by which it can recognize and thank the attorneys who serve the poor pro bono. Ideas for doing so can be discussed with the members of the WCBA, and are readily available through the American Bar Association Center for Pro Bono, www.abaprobono.org.¹⁸

¹⁶ Rule 240(d)(1) provides as follows: "If the party is represented by an attorney, the prothonotary shall allow the party to proceed in forma pauperis upon the filing of a praecipe which contains a certification by the attorney that he or she is providing free legal service to the party and believes the party is unable to pay the costs." The use of the word "believes" in this Rule rather than "knows" absolves the lawyer from having to undertake a "reasonably diligent inquiry". See: comment 3 to Rule 3.3 ("Candor Towards The Tribunal"), Pennsylvania Code of Professional Responsibility: "However, an assertion purporting to be on the lawyer's own knowledge, as in an affidavit by the lawyer or in a statement in open court, may properly be made only when the lawyer knows the assertion is true or believes it to be true on the basis of a reasonably diligent inquiry." As such, this is a matter of good faith, and certifications will be made on an "honor code" basis.

¹⁷ A "Participating Attorney Preferences" form, as adopted by the WCBA on October 4, 2017, is included in Appendix II.

¹⁸ Examples can be found in the following articles:

Judicial Support of Pro Bono, by the Counsel to the ABA Standing Committee on Pro Bono and Legal Aid: https://www.americanbar.org/newsletter/publications/dialogue_home/dialogue_archive/sp10_probono1.html

Pro Bono: The Case for Judicial Support, by the Honorable Anne Lazarus, Judge, Philadelphia Court of Common Pleas, https://www.americanbar.org/content/dam/aba/administrative/probono_public_service/judicial/probono_a_case.authcheckdam.pdf

A Rule to Show Cause on the Courts: How the Judiciary Can Help Pro Bono, by Tobey Oxholm, volunteer attorney
Part I: Reduce Costs: <https://www.americanbar.org/content/dam/aba/publishing/dialogue/dialwi99.authcheckdam.pdf#page=13>
Part II: Increase Benefits: <https://www.americanbar.org/content/dam/aba/publishing/dialogue/dialsp99.authcheckdam.pdf#page=3>

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Reducing the Cost of Pro Bono

More important to lawyers than being thanked for their service is having confidence that they will only have to do what they have agreed to do, and be able to serve in an efficient, effective, and expeditious way. There are many different ways that this can be achieved:

- Clear understanding by the client (and the Court) about what the lawyer is going to do. “Pro bono” is not Latin for “blank check”. By agreeing to represent a client, the lawyer is not agreeing to be the client’s lawyer for everything, or to do everything the client might want.¹⁹ Under the WCBA Pro Bono Plan, there will not be such a trap. This Plan includes (in the appendix) sample engagement letters and “client responsibility” agreements that are written in Plain English that are very clear in saying what the attorney will and won’t do, what the client must do, and when the attorney is allowed to terminate her/his representation. These documents satisfy the Pennsylvania Rules of Professional Conduct, which permit attorneys to limit the scope of representation.²⁰ To effectuate those limits, this Plan includes (in Appendix IV) forms for “Limited Entry of Appearance” and “Substitution of Appearance” which also satisfy the Rules of Civil Procedure.
- The ability to reschedule an existing court date if the newly-assigned pro bono lawyer has a scheduling conflict. It is sometimes the case (particularly in the area of custody) that an attorney is asked to represent an eligible individual only a few days prior to that individual’s scheduled hearing, such that the hearing date conflicts with other matters the attorney has scheduled for that day and/or the attorney does not believe that s/he has adequate time to prepare for the hearing. This is generally not a problem if the opposing side agrees to reschedule the hearing. If the opposing side does not agree to postpone the hearing, however, this becomes a problem, particularly if the attorney cannot go into Motions Court prior to the hearing (as Motions Court is only held on Tuesdays and Thursdays) to ask that the Court reschedule the hearing. This becomes an obstacle to the attorney’s willingness to accept the representation. This impediment can be eliminated if there is a process in place by which newly-appointed pro bono attorneys can request and receive continuances of quickly-approaching hearings without having to go into Motions Court.
- Confidence that a representation will end when it is supposed to end. Once a lawyer enters her/his appearance for a client in a judicial matter, there are only a few ways that a lawyer can get out: when the case is over, when another attorney steps in, or when the judge grants a motion to withdraw. If there is no the certainty that a volunteer will really be done as soon the agreed-upon service is concluded, volunteers will be reluctant to get involved at the beginning. The Court is urged to adopt an Administrative Order confirming the effectiveness of the “Limited Entry” and the processes it will use to

¹⁹ For example, a lawyer’s agreement to represent a client in a disputed custody matter does not mean that the lawyer will represent the client in contempt petitions, or in modification hearings, or in support proceedings. The “Plain English” engagement letter makes this limitation clear.

²⁰ “A lawyer may limit the scope of the representation if the limitation is reasonable under the circumstances and the client gives informed consent.” Rule 1.2(c), Pennsylvania Rules of Professional Conduct.

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partner with (and protect) attorneys who are helping the Court fulfill its mission to “provide equal access to a fair and effective system of justice for all.”²¹

- Scheduling judicial hearings to facilitate pro bono service. In many courts around the Commonwealth where lists of cases are scheduled to be called (e.g., for arguments, hearings, or status reports), judges frequently call first those cases in which pro bono counsel are involved. Data suggest this is not currently needed in Wayne County. At the magisterial district court level, however, there is the opportunity to schedule certain kinds of cases all on the same day – for example, credit card cases on Tuesdays, evictions on Thursdays – so that one lawyer could be in court that day to represent multiple indigent clients, not just one, using the lawyer’s time to maximum advantage. (Other unrepresented parties could also engage the lawyer for a fee in their matters.) Magisterial Justice Linus Myers has indicated his willingness to test this concept in his district.
- Use Alternative Dispute Resolution (ADR) when appropriate. Judges regularly encourage counsel and parties to resolve on their own as much of their dispute as they possibly can. ADR is a well-accepted means to that end. It should be encouraged by counsel and the court whenever appropriate. ADR in pro bono is discussed at greater length in Appendix III. Mediation between self-represented parties can also be useful, as long as there are no inequities between them that unbalance the negotiations.

Reducing the Need for Pro Bono Lawyers

In many ways, justice is a lot like health care: people go to lawyers/doctors when they have problems that have gotten out of hand, and they go to court/emergency rooms when the problem has become a real crisis. As in health care, the justice system needs to find ways to be proactive and reduce the demand for lawyers and courts.

- Financial Literacy. If there is any common cause to be found in a significant percentage of the unmet legal needs of the poor and near-poor (beyond having enough money to cover all of the expenses they face), it is in not understanding the consequences of the difference choices they must make – e.g., how quickly extra charges can add up when rent is paid late, what the real cost is of using credit cards, and other financing methods – and what must be done to repair credit. Rather than just help clients get out of their

²¹ The Administrative Order issued by the Court of Common Pleas of Lackawanna County in attached as part of Appendix III. The WCBA urged the Court to issue this kind of Administrative Order in April 2009 as part of its Pro Bono Plan (Recommendation 11.4):

The Pro Bono Committee shall seek appropriate limits on the scope of pro bono representation in specific matters such as child custody by requesting the entry of Administrative Orders that would establish a defined scope of representation. For example, in a child custody matter, the Committee would seek the entry of an Administrative Order permitting a participating attorney to provide representation through the Reconciliation Conference without being obligated to continue representation through any evidentiary hearings that may be required thereafter unless the attorney voluntarily agrees to provide such additional representation.

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current legal problems, the WCBA pro bono program should partner with other agencies in providing opportunities for clients to learn about personal finances.

- “Plain English” Court Forms. Many judicial districts have created Plain English versions of their own forms, and offer examples with names filled in (“Jane Doe, Mother”, “John Doe, Husband”, and “X Company, Landlord”) which make it easier to complete the forms themselves. In addition, the Access to Justice Lab at Harvard Law School is creating and testing pro se forms that use cartoons.²².
- Non-Lawyer Help. Legal documents often use words that are not used by “ordinary people”. Even the intake forms used by NPLS and the in forma pauperis petition used by the courts can be confusing²³ and overwhelming. Instructions on how to complete standard court documents (like complaints) are long and anything but simple. What’s needed is often practical advice, not legal advice, and (especially for those with limited reading ability) oral assistance, not written instruction. Anyone who has been trained to understand what is required in the Court’s forms, who wants to help others, and who is a good listener, can help complete forms and spot issues where a lawyer could be helpful. The WCBA pro bono program should partner with community-focused programs like the Salvation Army and the University of Scranton’s Counseling Department to train volunteers in how forms can be completed, and then provide lawyers to be on call to answer specific questions that arise.
- “Advice Only” Clinics. Tenants do not know what their rights and obligations are; many landlords don’t, either. The results are often errors that could have been avoided, missed deadlines, delays in obtaining possession, lost personal property, and wasted time, effort and money. Almost everyone needs a will; many want to have advance directives (living wills); some want powers of attorney – and all of these legal needs, increasing as our population ages, have the potential to become crises (for the person and the family) when there is a health-care problem. Some married couples without significant assets and without children want to end their marriages with as little fight as possible. Getting legal advice early on, and in completing important legal documents, can substantially reduce the need for lawyers down the road. Advice by lawyers can be provided on a limited basis face-to-face and by telephone²⁴; it can be done for free (pro bono) for those who qualify, and for discounted rates (low-bono) for those who are slightly above the federal limits; and

²² The Access to Justice Lab is considering partnering with the WCBA in assessing the effectiveness of certain initiatives proposed in this report.

²³ The Wayne County Court Administrator reported that one party wrote “sports” to complete the line “interest: ____.”

²⁴ Comment 7 to Rule 1.2 of the Rules of Professional Conduct specifically contemplates this kind of limited service:

“If, for example, a client's objective is limited to securing general information about the law the client needs in order to handle a common and typically uncomplicated legal problem, the lawyer and client may agree that the lawyer's services will be limited to a brief telephone consultation.... Although an agreement for a limited representation does not exempt a lawyer from the duty to provide competent representation, the limitation is a factor to be considered when determining the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.”

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can be provided in partnership with stakeholder organizations (churches, hospitals, libraries, schools) that already do community outreach and serve as community resources for low income people.²⁵ Custody clinics in particular are used effectively in some Pennsylvania counties, where a lawyer walks through the legal and courtroom process so that low- or no-income clients are better prepared to represent themselves if no attorney can be found to help.²⁶

- Judicial Involvement in Narrowing and Clarifying the Areas of Disagreement. Finally, lawyers should be called in to serve only when they are truly needed. There are ways that the Court can help produce this efficiency. In Pike County, for example, custody cases are actively managed by the Court Administrator, with the judiciary actively participating in the negotiation of interim agreements by the parties. In other counties, the judges do not require attorneys at hearings on the more routine petitions seeking modification of judicial orders (e.g., support, visitation). When the Court is directly involved, the parties tend to concentrate on what are their true interests, and agreements tend to come more readily. Once the issues have been narrowed, lawyers can provide more targeted service, either as mediators helping work out agreements, or as advocates in arguing the alternatives.

Providing Education and Advice Where and When It's Needed

As the above recommendations make clear, communities (townships, non-profit organizations, businesses, and communities of faith) can play a very direct role in helping lawyers provide access to justice for the poor and near-poor. The assistance can be given in libraries and meeting rooms wherever lawyers live, work or worship, not just in Honesdale. Community education and “advice only” clinics can be held in partnership with North Penn Legal Services and/or community organizations (e.g., churches and synagogues, Salvation Army, Rotary International); and they can be scheduled throughout the year; and they can be held in the evenings and on weekends. In this way, the when, what, who, how and where can respond to the needs as ascertained by stakeholders and communities, and potentially make it easier for the lawyers to serve.

²⁵ Rule 6.5 of the Rules of Professional Conduct specifically protects the lawyer from any charge of “conflict of interest” when the lawyer unknowingly provides limited advice to a pro bono client in the context of hotlines and advice-only clinics. It also protects the lawyer’s firm. As noted in Comment 4 to that Rule: “a lawyer’s participation in a short-term limited legal services program will not preclude the lawyer’s firm from undertaking or continuing the representation of a client with interests adverse to a client being represented under the program’s auspices. Nor will the personal disqualification of a lawyer participating in the program be imputed to other lawyers participating in the program.”

²⁶ This fact was provided by the Executive Director of the Pennsylvania Legal Aid Network.

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Recommendations for Specific WCBA “Access to Justice” Initiatives

During the ten months that preceded the presentation of this Plan to the WCBA, members of the Association investigated the types of legal issues (1) where access to lawyers is most desperately needed by the poor and near-poor of Wayne County, and (2) that were, and were not, suitable for pro bono representation by the members of the WCBA. NPLS was particularly helpful in identifying areas of legal unmet need that were “within the sweet spots” of the private bar.²⁷

As a result of those investigations, and with the assistance of other pro bono programs in Pennsylvania, the WCBA Pro Bono Plan recommends that the WCBA develop the following specific initiatives.

1. Custody and Domestic Abuse

Without question, the greatest area of unmet legal need in Wayne County is in the areas of Custody and Domestic Abuse.²⁸ NPLS can represent one side but not both; and sometimes cannot even represent one side. Finding lawyers for the parties who cannot be served by NPLS presents unique, persistent and overwhelming challenges. These were documented in a “Problem Statement” and a list of possible responses was created and approved by the Bar Association on July 10, 2017.²⁹ The problem has been confirmed by Wayne County court staff, by NPLS, by the County’s Custody Masters (current and former), by community agencies, by the WCBA Pro Bono Coordinator, and by the attorneys. The President Judge has also said that the absence of counsel impairs his ability to get the data he needs to render a decision that he feels is in the best interests of the child.

It is clear that the unmet need cannot be met by repeatedly asking for volunteer assistance, when only a very few attorneys are willing to respond. After investigation and debate, the best alternative was determined to be a response based on the part-time prosecutor/public defender model, where one or more attorneys are awarded contracts to provide such service at substantially discounted fees.³⁰ To a very limited extent, the Bar Association is already doing this for abuse cases where the NPLS has a conflict.³¹ The Bar Association would take the lead in

²⁷ A copy of the letter of Victoria Coyle, Executive Director, NPLS, setting forth her priorities is reproduced in Appendix III.

²⁸ Data for FY2017 (year ending June 30) for the Honesdale Office of NPLS indicate that of the 359 cases in which representation was provided, 118 (33%) were for custody/visitation and 101 (28%) were for domestic abuse.

²⁹ The Custody Problem Statement and Possible Ideas is attached in Appendix III.

³⁰ The clients receiving such service would be solely those of the attorney providing the service; they would not become clients of WCBA or the non-profit corporation. Before making any such arrangement, the parties would have to create a process by which the client would agree to allow information about the representation to be shared to assure the quality of the representation provided by the contract attorney, and the accuracy of data that would only be reported in the aggregate.

³¹ On March 8, 2017, the WCBA passed a motion that “authorize[s] the Bar to pay \$150.00 for counsel fees for volunteer attorneys for Protection From Abuse actions to be paid as stand-by counsel for conflict of interest in cases

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funding this approach, and will contribute \$20,000 per year to this effort, which it hopes will be matched by state funding through IOLTA.³²

Only non-profit corporations having the primary purpose of serving the poor are eligible for IOLTA grants. For this reason, the Pro Bono Committee proposed, and the WCBA has already adopted, a Resolution to activate a non-profit corporation for the primary purpose of providing pro bono legal service in custody and abuse cases, and to apply to IOLTA for matching funds.³³ All administrative and financial services will be performed by the WCBA, negating the need for staff and ensuring that all moneys raised will go for the intended purposes.

2. Wills, Advance Directives, Powers of Attorney

Without wills, title to real estate gets tangled and those who live in the homes lose access to programs that benefit low-income homeowners (e.g., weatherization, heating assistance). Without advance directives (“living wills”), important health care decisions are delayed, costs are increased, and family tensions exacerbated. Without powers of attorney, family members must ask a judge to appoint guardians to make decisions in a wide variety of areas.

Simple wills, advance directives, and powers of attorney are available on line, but these forms are often confusing to persons with limited education or for whom English is a second language. Sometimes questions do arise where an attorney’s advice is necessary; and final review by a lawyer is always recommended.

The WCBA should work in partnership with community agencies to provide clinics where simple documents of these kinds can be created (that is, a facility with space to hold confidential discussions, internet, printers, people to witness signatures, and a notary public). If hosted by NPLS, service to income-eligible people would fall within the NPLS insurance coverage. As for those whose incomes are too high to meet the federal guidelines for free legal service, they can retain the attorney staffing the clinic.

3. Landlord-Tenant (Eviction and Replevin)

Few areas are as heavily regulated as housing. Opportunities abound for mistakes – by landlords and tenants alike – and simple mistakes can lead to substantial delays, as well as the loss of fundamental rights. Everyone would benefit from having the rules, forms, and schedules explained in Plain English – on the forms, in teaching or advice-only clinics.

where North Penn Legal Services, Inc. cannot represent the plaintiff. These people would have to be qualified through North Penn Legal Services, Inc. as is the current practice.”

³² This is consistent with Recommendation 12 of the 2009 WCBA Pro Bono Program: “The Pro Bono Committee shall investigate and apply for any state or federal funding that may assist the Pro Bono Program in meeting its goals.”

³³ A copy of the “Resolution Authorizing the WCBA President to Serve on the Board of Directors of Pro Bono Partnerships Inc., and to Take All Steps Necessary in Furtherance of its Sole Purpose of Raising and Distributing Funds for the Delivery of Legal Services to the Poor As Part of the WCBA Pro Bono Program,” adopted on September 11, 2017, is attached in Appendix III.

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Losing one's home is one of the biggest threats a person can face, yet only a very small number of tenants are able to access an attorney. District Justice Linus Myers has expressed his willingness to try scheduling eviction hearings on specific dates each month, which would allow an attorney to be available to unrepresented tenants before, during and after hearings. Pro bono representation could be provided to those tenants who had been pre-screened and determined to be income-eligible by NPLS, and over-income clients could privately retain the attorney.

The experience of practitioners and Magisterial District Judges confirms that lawyers can also be very helpful in working out (mediating) agreements to resolve housing-related issues, and in obtaining prompt return of personal possessions that have been lost in lock-outs.

The WCBA should form a special working group to consider this area of practice and how pro bono lawyers could help prevent and resolve the legal issues of the poor and near-poor, while also creating the possibility for fee-paying clients by those willing to participate.

4. Credit card debt

Credit card companies routinely sell their delinquent accounts at steep discounts, and there is a large market for the secondary purchase of such commercial paper. Collection companies have become increasingly aggressive in seeking collection of increasingly smaller debts. Attorneys who regularly practice in this area, for fee-paying as well as pro bono clients, confirm that debtors typically have full and complete defenses at law that they lose because they don't appear at hearings and, if they appear, do not understand the protections that the law provides. The collection company may only have a total debt amount it is claiming, without the necessary supporting documentation; and this can result in major errors. While judges are able to assess the legal adequacy of the pleadings that are filed and the process that has been followed, they justly feel that they can be perceived as "crossing the line" if they identify the defects. As with evictions, the magisterial district courts could easily schedule credit card cases for hearings on a set day of the week, allowing a pro bono attorney to attend and represent clients, both fee-paying and pro bono. And because credit card debt affects people who do have money to hire attorneys, this is an area of law that might attract a large number of attorneys.

5. Appeals from District Courts

Court administrators have identified appeals from the magisterial district courts as one of the largest areas of legal need that they see. Unrepresented people regularly show up in court offices at the last possible hour on the last possible day, and they are presented with lengthy and complicated forms that they need to complete in order to take appeals. Court staff are prohibited from offering legal advice. To the extent that the magisterial district courts are able to schedule specific kinds of cases on specific days, it would be possible to have a pro bono attorney "on call" on the final date for appeals from such decisions, ready to help at the courthouse.

As noted in earlier parts of this Report, everyone would benefit from having the rules, forms, and schedules explained in Plain English, with examples ready to hand out. Beyond that, the court would benefit from having attorneys at the ready to help. The WCBA should form a special working group to consider this area of practice

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6. Driver's License (Suspension and Revocation)

While it might not seem important, given the list of other legal matters that are so fundamental, being able to drive can often be the single most important factor in determining the future of individuals and their families. Transportation is key to maintaining jobs and income, and to attending meetings and hearings. Representation in this area is typically very limited, with enormous consequence. The WCBA should form a special working group to consider this area of practice.

7. Criminal Records (Expungements and Sealings)

There is an increasing awareness of how devastating a criminal record can be. A person's "criminal record" includes not just convictions, but arrests, charges, intermediate hearings, transfers, and dispositions expressed in Latin (e.g., "nolle pros,"), and indecipherable letters (e.g., "PWOV" and "ARD"). Pennsylvania law is clear that non-conviction data cannot be legally considered in making important decisions (e.g., housing, jobs, admission into professions, government benefits); but in fact it is, thanks to the fact that the data are on-line and available via simple searches.

Non-conviction data, and even convictions for certain misdemeanors, can be expunged or sealed via computer-generated petitions that are available to pro bono attorneys. As with the other areas identified above, this is an area of law that benefits fee-paying and pro bono clients alike.

Putting It All Together: Redefining the Pro Bono Committee

In the past, the WCBA has relied on a non-lawyer coordinator to respond to calls (from NPLS, the Court and the public) and to find attorneys willing to volunteer. Identifying seven key areas (plus one for "other/general") will allow attorneys to sign up for what they know they can do (and be very specific about what they can't and won't do). More than this, it would allow what could be a large, messy problem to be broken into smaller, manageable parts. Lawyers who work in one of the particular areas could step up and coordinate a "team" response, where the team is comprised of other attorneys who practice in that same area and have indicated they are willing to be called.

This Plan proposes that each Team have a Team Leader who is responsible for taking calls from the WCBA Pro Bono Coordinator, and for then trying to find a volunteer. The Team Leader would convene the Team members at least twice each year to discuss how things are working and developing better ways to meet the need within that area of practice. Finally, each Team Leader would be a member of the WCBA Pro Bono Committee, which would also meet at least twice a year, inviting NPLS and the Judiciary to attend, which will help ensure that the pro bono program as a whole is operating as well as possible. The Pro Bono Committee would issue a report to the full membership, and the Wayne County community, once each year.

To be most effective, the WCBA pro bono program must have one number to call, and it should be to the office of a WCBA member. In that way, the calls asking for volunteer attorneys will be coming from a peer. The Association should also include paying the Coordinator's assistant (for example, \$20/hour, or \$500 per month) for organizing and tracking calls, obtaining data, and so on.

CONCLUSION

Providing volunteer (pro bono) legal service is in the finest tradition of the American legal profession. It is an expression of our humanity and desire to help others in need.

Facing an overwhelming need for legal service by the poorest among us, North Penn Legal Services and the Courts of the Twenty-Second Judicial District need the help of the Wayne County Bar Association; and we, in turn, need the help of the community at large.

This report includes many recommendations. Some of them can be immediately implemented, others require further review and refinement by people with experience in the particular areas. We will know by June 1 whether IOLTA will help us meet the need for helping in the area of contested custody; and by then, we should have been able to implement a significant number of the other recommendations.

To succeed, Access to Justice cannot be just an ideal: it needs to be a front-of-mind priority, shared by all sectors of our community, with specific goals, reporting, and accountability. This report provides the ways. It's up to all of us to provide the will.

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Inaugural Access to Justice Partner
The Honesdale National Bank

The Honesdale National Bank was established in Honesdale, Pennsylvania in 1836. Over the past 181 years, it has grown from its one small office to become one of the strongest and largest independent financial institutions in the region, serving Northeastern Pennsylvania and Southern New York State. Across all those years, miles, and changes, one thing has remained steadfast: our commitment to our community.

We provide personal service to each of our customers, helping them identify and then meet their financial needs. But we are more than just a collection of customers: we are a *community* bank, which means that we intentionally and constantly reinvest our deposits into the communities we serve. We do this in the forms of personal and small business loans, residential and business mortgages, student loans, and municipal loans and investments, as well as through the volunteer efforts of our employees whom we encourage to be active in their personal service. We recognize that in a true community, each of us does better when all of us do better.

That is why we are proud to partner with the Wayne County Bar Association in its Access to Justice Project, which aims to make sure that everyone in Wayne County has access to lawyers and the court system for their most important legal problems.

Consumer debt, repossessions, rent issues, mortgage foreclosures, loan defaults, collections – these are the kinds of financial issues that often end up in court. Lawyers can help sort out the legal issues. As they do, members of The Honesdale National Bank family will be volunteering to teach financial literacy. This will help clients to better understand how they might get over the immediate crisis that has caused them to end up needing a lawyer, and also learn how to avoid those kinds of problems in the future. We expect to do this face-to-face in free clinics around the county, but we are very excited to be working with the Bar Association and other community partners to create videos and provide free access to our online financial literacy program which can be easily accessed any time by anyone with access to the internet.

We understand finance, we are proud to have the trust of our customers, and we are truly delighted to have the opportunity to partner with the Wayne County Bar Association in service to our communities. It's what we do.

WCBA Pro Bono Report and Plan
Inaugural Access to Justice Partner
The University of Scranton

The University of Scranton is a Catholic and Jesuit university that was founded in 1888. Consistently ranked among the 10 Best Regional Universities in the North (U.S. News) and a “Best College” in the nation (The Princeton Review), the University is a community dedicated to the freedom of inquiry and personal development fundamental to the growth in wisdom and integrity of all who share its life.

The Jesuit ideals that motivate all that we do include an emphasis on academic excellence, the importance of the liberal arts, and *cura personalis*—the education of the whole person. As much as we attempt to broaden our students’ minds during their time at Scranton, we also aim to expand their hearts. We do this through requiring all of our students in the College of Professional Studies to contribute at least 80 hours in service to the public as a requirement for graduation, and by encouraging all of our students to pursue internships in community service organizations as well as in business. Indeed, an increasing number of classes require between 10-40 hours of community-based learning. We are excited to explore new opportunities in each of these areas.

Our Campus Ministries’ Center for Service and Social Justice provides a wide range of opportunities for students to express their faith in reflective service while responding to local and national needs. One new opportunity for student service in the community could be through the Access to Justice Project, which helps fellow citizens navigate through the maze of legal rules, forms and procedures that today so define their lives.

Our Counseling and Human Services Department, in our College of Professional Studies, requires its students to have internships through which they commit between 10 and 15 hours per week to service. A new opportunity in this area, in cooperation with the Wayne County Bar Association and North Penn Legal Services, will be internships that will allow our students to play significant roles in making civil justice accessible to individuals and families without financial means in Wayne County.

This partnership with the Wayne County Bar Association and North Penn Legal Services is expected to begin with volunteers in the spring of 2018, and at least one internship per semester beginning in the fall.

WCBA Pro Bono Report and Plan

WCBA Pro Bono Program Participating Member Preferences

{ As approved by the Association on October 4, 2017 }

There are many areas where low- and no-income people need legal assistance; but not all lawyers are generalists, and clients are not well served by having an unready, unwilling or unable attorney.

Using this form, the members of the Wayne County Bar Association can indicate where they would prefer to provide pro bono service, and the areas where they will not accept a referral. **If an attorney does not complete and submit this form, the attorney will be assumed to be participating in the Pro Bono Program and willing to be called for service in any area of pro bono legal need.**

Only individuals meeting the federal poverty guidelines, North Penn Legal Services' income requirements, or certified In Forma Pauperis by the Court, will be referred through the Wayne County Bar Association Pro Bono Program.

I WOULD PREFER	PRO BONO PROJECT AREAS	I WILL NOT DO
	Appeals from District Courts	
	Collections/Repossessions/Garnishments	
	Credit Card Debt	
	Criminal Records Expungement	
	Custody (limited representation only)	
	Divorce/Separation (no asset/no children)	
	Domestic Abuse - Plaintiff	
	Domestic Abuse - Defendant	
	Landlord/Tenant – Eviction	
	Landlord/Tenant – Replevin/Security Deposit	
	Foreclosure Defense	
	Driver's License – Suspension/Revocation	
	Real Estate "Tangled Title"	
	Unemployment Compensation	
	Wills, Powers of Attorney, Advance Directives	
	Other (list):	

Indicate HERE () if you are making a contribution in satisfaction of your WCBA Pro Bono Commitment for the year. The suggested/requested amount is \$500 in lieu of 20 hours service. **Contributions should be made payable to Pro Bono Partnerships, Inc.,** and are tax-deductible as allowed by law.

Indicate HERE () if you decline to participate in the WCBA Pro Bono Program.

Attorney
Name (Print) _____ Signature _____ Date _____

Preferences can be changed at any time simply by submitting a new form to the WCBA.

WCBA Pro Bono Report and Plan

Resolution Authorizing the WCBA President to Serve on the Board of Directors of Pro Bono Partnerships Inc., and to Take All Steps Necessary in Furtherance of its Sole Purpose of Raising and Distributing Funds for the Delivery of Legal Services to the Poor As Part of the WCBA Pro Bono Program

**ADOPTED by the Wayne County Bar Association
September 11, 2017**

Intention

Pro Bono Partnerships, Inc., is a Pennsylvania not-for-profit corporation having the sole purpose of supporting, encouraging and expanding pro bono legal services for the poor. It has qualified for, and received, grants from IOLTA and the Pennsylvania Bar Foundation. It is being proposed to serve exclusively as the agent of the Wayne County Bar Association in raising funds to disburse (via grant awards) to attorney(s) willing to represent NPLS-qualified clients in custody and abuse cases -- the areas of greatest unmet legal need in Wayne County. Pro Bono Partnerships will not have any employees; rather, it will rely on the WCBA for staff support, bookkeeping, and any necessary insurance coverage. Its inaugural Board of Directors will include the President of the WCBA and the Executive Director of North Penn Legal Services, and the Chair of the WCBA Pro Bono Committee; and its Treasurer will be the Treasurer of the WCBA. It will seek funding from IOLTA; and if an IOLTA grant is not received, the organization will unwind and cease operations.

RESOLUTION

RESOLVED, that the President of the Wayne County Bar Association is authorized to serve as Director and Chair of the Board of Pro Bono Partnerships, Inc.; to perform or authorize, as appropriate, the powers, duties and obligations set forth in its By Laws for the President and the WCBA; and to take all steps necessary to timely seek grants from IOLTA (and other funders) to fund legal services to the indigent of Wayne County in custody and abuse cases, all as the President deems to be appropriate in furtherance of the WCBA's pro bono plan and program.

WCBA Pro Bono Report and Plan

WAYNE COUNTY BAR ASSOCIATION BY-LAWS

Proposed Amendments related to the Pro Bono Policy and Plan

{Introduced November 22, 2017}

ARTICLE VII. COMMITTEES

Section 7.2 Responsibilities of the Standing Committees

(f) [PROPOSED/NEW] Pro Bono Committee

The Pro Bono Committee shall be responsible for implementing, monitoring, and recommending changes to the Association's pro bono policies. It shall be constituted as set forth in the Association's Pro Bono Plan or otherwise at the discretion of the President; shall meet not less than twice each year; and shall issue a report on pro bono once each year.

ARTICLE IX [PROPOSED/NEW]: PRO BONO³⁴

Section 1. **Mission.** WCBA's Pro Bono Policy arises out of two core values: our profession's calling to help other people, and basic human kindness. The members of the Wayne County Bar Association have agreed to provide *pro bono* (volunteer) legal service to those in our community who do not have the financial resources necessary to hire a lawyer, particularly those who have been allowed by the Court to proceed *in forma pauperis* without having to pay court costs, and those who have been determined by North Penn Legal Services as being eligible to receive free legal services.

Section 2. **Policy.** It is expected that every Voting and Associate Member of the Wayne County Bar will participate in the Association's pro bono program by accepting two pro bono case referrals from the Association each year or otherwise providing twenty hours of pro bono legal service (as that commitment is defined in the Association's Pro Bono Plan) to the poor of Wayne County or to organizations serving those clients, or by contributing financially to the Association's pro bono program.

Section 3. **Partnership.** The Association will use its best efforts to facilitate satisfaction of its members' individual commitments, as well as the objectives of the Association's Pro Bono Plan. It will work closely with the Judges of the Twenty-Second District, court administration, and North Penn Legal Services, and provide all Members who participate in the Association's pro bono program such benefits and recognition as the Association shall determine from time to time.

³⁴ All words in this proposed Article are taken from the Pro Bono Mission Statement adopted by the Association on July 10, 2017 (which appears at page 9 of this Report), and the Pro Bono Policy and Individual Commitment adopted by the Association on October 4, 2017 (which appears at page 10).

WCBA Pro Bono Report and Plan

APPENDIX III- Administrative Order re Limited Representation in Family Court Matters

IN THE COURT OF COMMON PLEAS OF LACKAWANNA COUNTY FAMILY DIVISION

IN RE: ENTRY/WITHDRAWAL OF) ADMINISTRATIVE DOCKET
LIMITED APPEARANCE IN FAMILY) No. 544 of 2007
COURT MATTERS)
)
)
)
)

ADMINISTRATIVE ORDER NO. _____

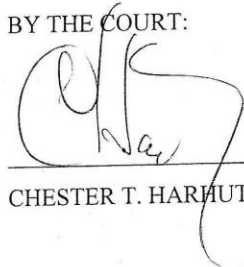
AND NOW, this 22 day of January, 2007, it is hereby ORDERED and
DECREED that:

1. Effective Immediately, each pro bono attorney who has agreed to represent individuals in Family Court matters referred to him/her by Lackawanna Pro Bono, Inc. shall be permitted to withdraw his/her appearance in those matters upon certification that he/she has completed all duties and responsibilities incident to the Entry of Limited Appearance filed of record.
2. To make a limited appearance pursuant to this Order counsel must enter his/her appearance on an approved Praecipe for Entry of Limited Appearance form, to be provided to the pro bono attorney by Lackawanna Pro Bono, Inc., that shall set forth with specificity those duties to be completed.
3. Upon certification that all duties have been completed and that the client has been notified, counsel shall be permitted to withdraw his/her appearance by filing an approved Withdrawal of Limited Appearance form, to be provided to the pro bono attorney by Lackawanna Pro Bono, Inc.
4. This Administrative Order shall constitute leave of Court to withdraw as required by Pa.R.C.P. 1012(b) upon filing by counsel of said certification/Withdrawal of Limited Appearance.

WCBA Pro Bono Report and Plan

5. The Office of the Prothonotary shall accept counsel's Withdrawal of Limited Appearance that references this Administrative Order for filing and shall note counsel's withdrawal on the docket.
6. Except in such cases where said information has been deemed confidential, all Withdrawals of Limited Appearance shall state an address and telephone number where the formerly represented party can be reached for future notification purposes.
7. This Administrative Order shall constitute the authority of the Prothonotary to accept a Withdrawal of Limited Appearance without Court Order only in those cases certified by counsel in his/her initial Entry of Limited Appearance as Lackawanna Pro Bono, Inc. referrals.

BY THE COURT:


_____, P.J.
CHESTER T. HARHUT

WCBA Pro Bono Report and Plan

NORTH PENN LEGAL SERVICES

CASES HANDLED – HONESDALE OFFICE

July 1, 2016 – June 30, 2017

Type of Problem, by Code	# of Cases
01 Bankruptcy/Debtor Relief	10
02 Collect/Repo/Def/Garnsh	12
03 Contract/Warranties	1
04 Collection Practices / Creditor Harassment	2
07 Public Utilities	1
09 Other Consumer/Finance	1
29 Other Employment	6
31 Custody / Visitation	118
32 Divorce / Sep. / Annul.	1
37 Domestic Abuse	101
38 Support	10
42 Neglected/Abused/Dependent	10
51 Medicaid	4
61 Fed. Subsidized Housing	3
63 Private Landlord/Tenant	28
64 Public Housing	1
65 Mobile Homes	3
67 Mort. Foreclosures not Pred. Lending	21
71 TANF / Other Welfare	1
73 Food Stamps / Commodities	1
75 SSI	9
76 Unemployment Compensation	5
89 Other Individual Rights	4
95 Wills and Estates	3
96 Advance Directives / Powers of Attorney	2
99 Other Miscellaneous	1
Grand Total	359

WCBA Pro Bono Report and Plan



October 23, 2017

Tobey Oxholm, Chair
Pro Bono Committee
Wayne County Bar Association

Via email ONLY: tobeyoxholm@gmail.com

NPLS Priorities for WCBA Pro Bono

Dear Tobey:

Thank you for inviting me to the August 28 meeting of the WCBA Pro Bono Committee. I am impressed by how thoughtful the Committee is proceeding through the myriad issues and very happy to note that the plan (when it's completed) will be a partnership with NPLS.

One of your members asked me to follow up by sharing NPLS' priorities - our pro bona "wish list." As I said at the meeting, NPLS is totally overwhelmed by the demand, and there is no way we can serve everyone who applies and is income-eligible for our services. Wayne County has a total population of just over 50,000 and 13% of that lives below the federal poverty guidelines. We know that, statistically, almost everyone who is eligible for our services has more than one legal problem. There is no way we can begin to meet that demand alone. Almost anything the WCBA is willing to do will help us reach more people. And for our part, we will contribute our time, talent and insurance to anyone taking a pro bona case that comes from us.

Below is a list of cases which we accept, as well as some which we don't accept but which constitute important legal needs of poor people. Knowing how many small firms/solo practitioners work, I think that any of these issues would be within the comfort zone of your members, and learning the law could also be of benefit to them in their private practices:

- Credit card debt
- Collections, repossessions, garnishments
- Mortgage foreclosure
- Evictions and replevin
- Breach of contract (consumer, insurance)
- Divorce/separation (no children, no assets)
- Appeals from magisterial district courts
- Driver's license revocation
- Unemployment claims
- "Tangled title" (real estate)
- Wills, powers of attorney, advance directives

Main office: Korie A. Traver, CPA, CFIO 33 North Main Street, Suite 200, Pittston, PA 18640 Direct: 570.299.4102 Fax: 866.336.4011 ktrnvr@northpcnnl.org
Executive Director: Victoria A. Coyle, Esq. 559 Main Street, Suite 200, Bethlehem, PA 18018 Direct: 610.317.5308 Fax: 866.286.9233 vcoyle@northpcnnl.org
Director of Legal Advocacy: Lori A. Molloy, Esq., 559 Main Street, Suite 200, Bethlehem, PA 18018 Direct: 610-317-5306 Fax 610-317-8778 lmolloy@northpcnnl.org
Human Resources Manager: Betsy A. Grbenick, PHR 329 Market Street, Williamsport, PA 17701 Direct: 570.320.8712 Fax: 570.754.8519 bgrbenick@11011hpennlegal.org
Director of Development & Communication: Alison L. Norton 559 Main Street, Suite 200, Bethlehem, PA 18018 Direct: 570.317.5314 ann1on@northpcnnl.org

WCBA Pro Bono Report and Plan

October 23, 2017

Page 2

- Custody
- Protection from Abuse
- Dependency and neglect/Children & Youth (where the county already provides payment)

Please call me if I can give you any more information as you move forward with this exciting project.

Sincerely,

A handwritten signature in cursive script, appearing to read 'V. Coyle', written in dark ink.

Victoria A. Coyle, Esq.
Executive Director

WCBA Pro Bono Report and Plan

Wayne County Bar Association – Pro Bono Committee

IDEAS FOR ADDRESSING THE CHALLENGE OF CUSTODY CASES

July 10, 2017

Problem Statement:

Largest area of unmet legal need, by far, is custody cases where both parents/guardians are income-eligible for North Penn Legal Aid/In Forma Pauperis, and one is being represented by North Penn.

The WCBA's primary concern is with correcting imbalances; we do not want to create them. As a result, we are not concerned with custody cases where neither party is represented.

At the same time, we want to give the Custody Masters the ability to call for help (for both parents) in cases where the Masters think the interests of justice require at least one party to have legal assistance (e.g., diminished capacity, victim of abuse).

Custody is very emotional, often unreasonable, and can require tens of hours of lawyer time. The cases can go on for years (more than a decade) without reaching a final resolution

"Pro bono" is not Latin for "blank check". Clients should not think the lawyer must do everything they want. This is unfair to the other parent (who is paying for a lawyer), as well as to the volunteer attorney.

The WCBA should not take fee-paying business away from attorneys who practice in the custody area.

We do want to encourage more attorneys to learn this area, especially younger attorneys: private clients with other kinds of problems often end up needing assistance in family law issues.

Many (perhaps most) WCBA attorneys do not practice family law. The WCBA should not assign inexperienced attorneys to cases that require specialized knowledge the attorney does not have.

Ideas:

- 1) The engagement letter must be very clear in specifying when pro bono representation in custody matters terminates
 - a. Representation would be up until a final order is received.
 - b. Withdrawal would be by form, with the Court providing prompt consideration/hearing and review/approval
- 2) Perhaps cap free representation at a certain number of hours - e.g. 10. Proposal is to ask every WCBA practicing attorney to contribute 20 pro bono hours a year (30 mins/week), and take 2 cases from the Bar Association per year, so that's roughly 10 hours/case.
- 3) Should try to teach pro se clients (in lots of areas other than custody). While a Pro Se Custody Clinic is used in other counties, a better idea for Wayne County is to create a series of YouTube videos [not just in custody areas]. This would save clients from

WCBA Pro Bono Report and Plan

having to make long trips, and miss work or unnecessarily waste time, especially if they don't have their own transportation.

- 4) The Bar Association's Pro Bono Custody program should not deal with emergencies: these are currently being handled well by the judge. Perhaps we could have a paid "standby" attorney present to assist at emergency hearings.
- 5) Some counties have standardized forms and special hearing dates where the pro bono program is providing attorneys. Christine McAdams (our Pro Bono Coordinator) could be in the courtroom for those special listings, and have forms prepared for use in each case, where the forms would allow personalization for the specific case and the types of agreements/relief resulting from it.
- 6) Training/CLE:
 - a. Circulate the list of free PBI podcasts (not just for custody)
 - b. Free CLE in custody law/practice for anyone taking on # pro bono (limited) custody cases/year [maybe make ALL CLE free]
 - c. Experienced custody lawyers provide training (double CLE credit) and mentoring, to satisfy WCBA pro bono expectations
 - d. Judges host informal, by-invitation-only Bench-Bar gatherings [perhaps only for pro bono volunteers] to discuss matters of interest
- 7) Create a funded WCBA "custody" position, to handle NPLS conflicts and emergencies, with a stated salary or hourly rate. Explore possibilities of funding from:
 - a. Court-appointed/payment-per case
 - b. Restore judicial/county funding
 - c. Pro hac vice admission fees paid by "visiting" attorneys
 - d. Revenue share from the Bar Journal
 - e. Attorney dollar contributions in lieu of pro bono time (WCBA Pro Bono policy *as currently being discussed* would ask all attorneys who are unable to perform pro bono to contribute cash (\$250-\$300 per case – 2 cases per year - or per year)
 - f. NPLS via Judicare
 - g. Overseen by a special committee of the WCBA

WCBA Pro Bono Report and Plan

ADR (Alternative Dispute Resolution) in the Courts, and in Pro Bono

A key part of the mission of the Wayne County Court of Common Pleas is to create “a fair and effective system of justice for all without excess cost, inconvenience or delay...” This language mirrors that of Rule 123 of the Pennsylvania Rules of Civil Procedure (“Rules”), which commands that “[t]he rules shall be liberally construed to secure the just, speedy and inexpensive determination of every action or proceeding.”

To that end, the Rules specifically include mediation as something that a Judge should consider when trying to resolve any kind of case, either “sua sponte or on motion of any party” (Rule 212.3(a)(5)), and require the parties to “engage in good faith efforts to resolve the case” before a conference with the Judge occurs. (Rule 212.3(f)) The Rules recommend voluntary mediation in custody actions (Rule 1940.1 et seq.) and counseling in divorce actions when one party requests it (Rule 1920.45), and even allow the Court to order mediation in medical malpractice cases (Rule 1042.21). Finally, the Rules allow the Court to appoint masters and referees in divorce, abuse, partition, and support cases; and employ experts to advise the Court in equity cases.

Moreover, the Rules set forth at length the procedures to be followed when a case is required to be arbitrated (Rule 1302 et seq.), and leave to the Court of Common Pleas the decision about which cases must be referred to arbitration. In Wayne County, all cases seeking damages of \$50,000 or less are required to be tried by a panel of arbitrators before they are allowed to be presented to a judge or jury for trial. Other counties have similarly extensive rules regarding mediation.³⁵

These alternative ways of resolving disputes (ADR) apply generally to all cases, without regard to the particular characteristics (e.g., income) of any party. They express the very strong and historic preference of the judicial system, and of society in general, that disputes are best settled by the parties themselves whenever they can be. Simply put, **ADR is not “second-class justice”: it is an integral and essential part of the justice system.**

Attorneys participating in the Wayne County Bar Association pro bono program should use their best efforts to utilize ADR whenever appropriate. In doing so,

- Pro bono attorneys should take care to explain ADR to their clients, and the clients should be asked to sign separate agreements for using it. Forms are provided in the Appendix.
- All attorneys serving as mediators, arbitrators or experts in cases involving a client referred to the WCBA Pro Bono Program shall do so pro bono (that is, serve without fee); and it is hoped that other professionals will do likewise.
- Arbitrators should take the oath of office required by Section 3151 of the Judicial Code, just as is done in court-mandated arbitration (Rule 1302(f)), entitling them to the same privileges and immunities of other court officers; and similarly decline to accept appointment in any case of a real or perceived conflict of interest (Rule 1302(e)).
- Mediators should agree to be bound by the Model Standards for Mediators adopted by the American Bar Association in 2005.

The Wayne County Bar Association should maintain a list of qualified attorneys who are willing to provide such services in any kind of case, not just where one client is indigent.

³⁵ See, for example, Local Rule 212.5, Monroe County Court of Common Pleas Rules of Civil Procedure.

WCBA Pro Bono Report and Plan

WCBA Pro Bono CUSTODY engagement letter

RE: - Custody
Agreement for Free (but Limited) Legal Assistance

Dear {Pro Bono Client}:

You were recently referred to me by the Wayne County Bar Association Pro Bono Program. This letter will tell you what I will do for you. It also talks about what you need to do as a client.

I am your lawyer in a custody lawsuit. That means, I will talk and write to the Judge and the other people in the lawsuit. You are the client. That means, you have the right to make all decisions about what you want to ask the Judge for and what you want to say to the Judge. As the lawyer, I have the right to make all the decisions about how the case moves in court. I will tell you about these things before I do them. Sometimes, that isn't possible. If you don't like the decisions I make, you can fire me at any time.

I will be your lawyer up until the Judge makes the first decision about the custody of the child. That means, you and I will work together to attend all conferences with the Custody Master and the Judge. We will try to make an agreement with the other parent/guardian. We will try to make the best arguments we can when we are in front of the Custody Master and the Judge. The Judge will make an Order that decides who gets custody. That is when our agreement ends. We might make a new agreement. If we don't, or if it has taken me more than 10 hours to represent you, I may file a paper with the court that will allow me to stop representing you. You might need a new lawyer. The Bar Association might help you again. If not, you will have to do the best you can without a lawyer.

Sometimes a parent will ask the Judge to give them a "Protection From Abuse" ("PFA") Order. If that happens in this case, I don't agree to be your lawyer. I might talk to you about how you can find another lawyer, or how you can help yourself.

You have to repay me for the expenses in your case. This could be copying costs or paying court fees. I will let you know if I need to pay any costs.

You have to meet the income guidelines for North Penn Legal Services. If you make more money, I may stop helping you.

I need you to sign a Court form called a "Withdrawal and Entry of Appearance." By signing it, you agree that it will be okay for me to leave the case. I will only file this paper in Court when our agreement ends. I will tell you that I'm going to file it. After I file it, the Court will start sending you all the letters and notices.

WCBA Pro Bono Report and Plan

To be your lawyer, I need you to sign three things:

1. The bottom of this letter. It tells me you agree to this letter.
2. The bottom of “My Job As The Client”. It tells me you understand what you need to do as a client and you promise to do it.
3. The Withdrawal and Entry of Appearance Form. It lets me leave the case when it is finished, or when our agreement ends.

I will give you copies of everything you sign.

I am looking forward to helping you with your legal matter.

Sincerely,

[attorney]

I HAVE READ THIS LETTER. I UNDERSTAND WHAT YOU ARE AGREEING TO DO
AND WHAT I HAVE TO DO, AND I AGREE WITH IT.

CLIENT SIGNS HERE:

TODAY’S DATE:

WCBA Pro Bono Report and Plan

WAYNE COUNTY BAR ASSOCIATION VOLUNTEER LAWYER PROGRAM

{Approved 7-10-2017}

MY JOB AS THE CLIENT

I know that I have to work with my lawyer for my lawyer to help me, and that means I have to do these things:

- **I will stay in touch with my lawyer.** I am giving you contact information for me and for someone my lawyer can call if I don't answer my phone. I will tell my lawyer as soon as possible about any changes in this information.
- **I will call my lawyer immediately if something important happens in my case.** I won't call my lawyer unless I really have to, because I know my lawyer is busy and has other clients to help.
- **I will return my lawyer's calls as soon as possible, and I will be on time for all my appointments with my lawyer and in Court.** If I think I am going to be late or cannot make it at all, I promise to call my lawyer right away. If I don't do this, I know my lawyer can quit. I also know that not showing up in Court when I have to is very, very bad and can really hurt my case.
- **I will go to a class or two about ways to manage my money, if my lawyer strongly says I should.**
- **If I have another legal problem,** I will call North Penn Legal Services (1-877-953-4250), and not my lawyer. I know my lawyer has agreed only to represent me in this one case and not anything else.

THESE ARE MY PROMISES, AND I WILL DO MY BEST TO KEEP THEM.

SIGN HERE:

TODAY'S
DATE:

MY ADDRESS: _____

BEST PHONE NUMBERS: _____(CELL) _____

PERSON TO CALL IF YOU CANNOT REACH ME:

PHONE NUMBER: _____

WCBA Pro Bono Report and Plan

**IN THE COURT OF COMMON PLEAS OF WAYNE COUNTY
COMMONWEALTH OF PENNSYLVANIA
22nd JUDICIAL DISTRICT**

<hr/>	:	
PLAINTIFF NAME	:	
Plaintiff	:	
v.	:	No. _____
	:	
DEFENDANT NAME	:	
Defendant	:	
<hr/>	:	

PRAECIPE FOR ENTRY OF LIMITED APPEARANCE
PURSUANT TO WCBA PRO BONO PLAN

TO THE PROTHONOTARY:

Kindly enter my limited appearance on behalf of Plaintiff/ Defendant _____ in the above matter. I hereby certify that I have accepted this representation as a pro bono volunteer attorney through the Wayne County Bar Association Pro Bono Program. Pursuant to Pa. R.Civ. P., I further certify that I believe the party is unable to pay the costs of this proceeding, including my fees. My representation ends, by agreement with my client, upon ____ [e.g., the entry of the first dispositive order issued by the Court; conclusion of ____; ten hours of volunteer legal service], or earlier, in some circumstances.

Upon completion of the above duties and consistent with the agreement, I may withdraw my appearance without further petition or order of the Court. Upon filing my withdrawal as counsel, I shall provide a copy of the same to my client and shall certify the address at which my client may receive additional notices after my withdrawal.

Respectfully submitted,

Dated: _____

Name
Attorney ID. No. ____
Address
Telephone Number.

WCBA Pro Bono Report and Plan

**IN THE COURT OF COMMON PLEAS OF WAYNE COUNTY
COMMONWEALTH OF PENNSYLVANIA
22nd JUDICIAL DISTRICT**

	:	
PLAINTIFF NAME	:	
Plaintiff	:	
v.	:	No. _____
	:	
DEFENDANT NAME	:	
Defendant	:	
	:	

SUBSTITUTION OF APPEARANCE

ENTRY OF APPEARANCE OF SELF-REPRESENTED PARTY

I, _____, Plaintiff / Defendant, will be representing myself in this lawsuit from now on. Please WITHDRAW the appearance of my attorney, named below, because s/he won't be representing me anymore.

I understand that I must always keep the Court and all attorneys and parties up to date on how to get in touch with me. This is the best address where all papers can be served on me, and the best telephone number to use to call me:

Address: _____
Telephone: _____

Dated: _____ Signed: _____

[CLIENT] _____

WITHDRAWAL OF APPEARANCE OF THE CLIENT'S LAWYER

Kindly WITHDRAW my appearance in this matter on behalf of the above party. I hereby certify that I have completed all duties I agreed to perform in my engagement for this client, and in the Limited Entry of Appearance I filed in this case. I also certify that I am this day serving a true and correct copy of this document on all parties (including the party named above) and/or their counsel of record, by first class mail, postage prepaid.

Date: _____

[LAWYER] _____
Counsel for the above Party
Attorney ID No.
Address

WCBA Pro Bono Report and Plan

WAYNE COUNTY BAR ASSOCIATION VOLUNTEER LAWYER PROGRAM AGREEMENT TO MEDIATE

“Mediate” means to talk about a problem and try to work it out by agreement. A “mediator” is a person who helps people work things out, and who doesn’t have anything to do with the problem or the people in it. “Mediation” means trying to work it out by talking it through and reaching a deal with the help of the mediator. Sometimes the mediator will meet with me (and my lawyer) alone, sometimes the mediator will meet with the other people alone, and sometimes all of us will meet and talk together.

Here is what I agree to:

- **If I have a lawyer, I can have my lawyer with me the whole time.** I can talk privately with my lawyer whenever I want. I will be able to talk for myself, and let my lawyer talk for me, too.
- **I agree to be respectful, to let others talk when it’s their turn, to not interrupt, and not to yell even if I get upset.** I can ask for a break whenever I need one. I can even leave if I want to, but only after I give the mediator the chance to fix whatever it is that’s bothering me.
- **The mediation is 100% private, and I promise not to talk about what happens during the mediation.** Everything that goes on in a mediation is private and confidential, except if someone threatens to hurt someone else. Whatever I say cannot ever be quoted against me, and I cannot quote what anybody else says, even the mediator.
- The only thing that isn’t private and confidential is the written settlement agreement that we sign at the end. **There’s no agreement unless it’s signed by me and everyone else. What I agree to is up to me.** No one can tell me I have to agree to anything.
- **I agree I will not sue the mediator for any reason, period.** I understand that the mediator is doing this for free, is not my lawyer, and will never give me any legal advice.
- I do not have to pay anything for the mediation, but **I do agree to be on time, to give the mediation my full attention as long as it goes, to be honest whenever I say something, and to try my best to work out the problem.**

I am signing this agreement intending to be legally bound by it. **THESE ARE MY PROMISES, AND I WILL DO MY BEST TO KEEP THEM.**

SIGN HERE:

PRINT NAME:

TODAY’S
DATE: _____

If I have one, my lawyer signs here: _____