

Large firms take strategic approach to pro bono

By Amanda Robert

When Jonathan Baum started as the director of pro bono services at Katten Muchin Rosenman in 1993, he became one of the first lawyers employed full-time to run a pro bono program at a law firm in the Midwest.

Over the years, as he both facilitated pro bono work for his colleagues and litigated his own pro bono cases, he noticed that the popularity of the practice tends to ebb and flow. He also noticed that those ups and downs often reflect economic circumstances in a way that most people might not expect.

"In some ways, the best time for pro bono was a couple of years ago when firms were hurting for business so much," Baum said. "People had more time.

"But the last year or two have been very challenging for pro bono in the firms. The work is coming back to the law firm that has fewer people working in it than before. Each one of them is working harder. It becomes more difficult, frankly, to squeeze in pro bono."

In June, the Pro Bono Institute (PBI) released statistics on pro bono practices in large law firms, showing that lawyers from 138 firms performed 4.45 million hours of pro bono work in 2010. This compares to 134 reporting firms that performed 4.87 million hours in 2009, representing an 8.56 percent decrease in pro bono work.

The PBI also revealed that the number of lawyers participating in pro bono work in law firms decreased 4.3 percent, from 52,871 lawyers in 2009 to 50,589 lawyers in 2010.

Ben Weinberg, the pro bono partner at SNR Denton, who joined the firm in 2008, agreed that changes in law firms, such as smaller classes



Katten Muchin Rosenman associate Chad Doobay (left) and partner David Benson actively participate in their firm's pro bono program. Photo by David Durochik.

of incoming associates, can affect the amount of pro bono work done by those firms.

"The reality is that in 2008 and 2009, there were lots of lawyers in law firms that had no billable work to do," he said. "Law firms like my firm, like SNR Denton, encouraged them to do pro bono work. Now as those people are no longer in firms or are much more busy, they do less pro bono work."

Others like Bob Labate, a partner and the co-chair of the pro bono committee of

Holland & Knight's Chicago office, reported that their firms bucked the national trend. In 2010, his firm saw pro bono work increase by 10 percent, he said.

In recent years, as pro bono leaders in Chicago law firms worked to increase pro bono participation, they began to integrate pro bono programs into the operations of their firms. Many of these programs now serve as separate practices, often with their own staff and policies.

They also try to make it easier for lawyers to get involved in pro bono by matching their skills to open opportunities and offering credit toward their billable-hour requirements.

While some large law firms still encourage lawyers to select their own projects, other firms take a more focused approach, searching for specific opportunities to help those in need while training young associates. They also adopt and offer holistic services to nonprofit organizations and secure finance or real estate matters for transactional lawyers.

In another effort to include as many lawyers as possible in pro bono, many law firms partner with other firms, organizations and clients in large-scale, high-impact projects like the Settlement Assistance Program in the U.S. District Court for the Northern District of Illinois and the Order of Protection Pro Bono Representation Program in the Cook County Circuit Court.

Push to be professional

Baum points to what he calls the “professionalization of pro bono” — recognizing pro bono as a practice area that needs its own attention — as one of the most significant trends in large law firms.

He said full-time pro bono directors symbolize this trend since as many as 11 others have joined him in the past 18 years. While large law firms might discourage pro bono by requiring lawyers to bill as many hours as possible, they also realize these directors serve as an “active counterforce” to push for pro bono, he said.

Baum explained that another trend in large law firms involves the recent top-down drive to do pro bono. In the past, he often satisfied eager associates by bringing in partners to supervise their chosen projects. But in today’s economy, young associates sometimes need a nudge toward pro bono.

“No one wants to stick their head up out of the foxhole,” Baum said. “They’re not sure what things will help them or hurt them in keeping their jobs.

“So part of it is pumping out the message that pro bono is a good thing that will help you advance in the firm, and the other part is going to partners and asking them to take on pro bono work and for them to enlist the associates who work for them.”

Weinberg agreed that he calls on this strat-

egy to promote pro bono participation among associates at SNR Denton. For example, he said, he enlisted one partner who bills as many as 2,500 hours each year to get involved in pro bono. Last year, she not only logged 80 hours of her own pro bono work, but she also recruited her associates to do the same.

“She didn’t do pro bono work and part of the problem when senior partners don’t do pro bono is that the associates who work with them think they shouldn’t do pro bono,” Weinberg said. “Even if there’s not the express message, they follow the lead of their boss.

“When she agreed to do pro bono, she sent an e-mail to her team that literally said, ‘Hell has frozen over. I’m going to do pro bono work, and you should, too.’ And they have.”

Pro bono leaders also encourage lawyers to get involved in pro bono through tangible tactics, such as the exchange of billable-hour credit for pro bono service.

Both Katten and SNR Denton allow associates to count at least 100 hours of pro bono work toward billable-hour requirements. Firms like Winston & Strawn encourage lawyers to do 35 hours of pro bono, while others like Mayer Brown expect incoming associates to contribute 40 to 60 hours toward a pro bono project. DLA Piper requires all of its lawyers to complete 60 hours of annual pro bono.

Baum also brings lawyers into pro bono through “matchmaking.” When a new lawyer joins the firm, he asks them to complete an electronic survey that asks for his or her interest in 60 different pro bono areas and builds e-mail lists based on the responses. So, for example, when he receives a pro bono request from an organization about a disability rights case, he forwards that request to his disability rights e-mail list, he said.

“If I send it to someone, and they don’t want to do it, they’re free not to do it,” Baum said. “But our theory is that if you make pro bono easy enough and attractive enough, the natural impulse of folks to do pro bono work will generate a sufficient amount of pro bono activity.”

When David Benson, a Katten partner who joined the firm in 2003, was a summer associate he asked for Baum’s help in finding pro bono opportunities with the Lawyers’ Committee for Better Housing and Chicago Lawyers’ Committee for Civil Rights Under Law.

“And ever since, it’s been an important part of what I do,” Benson said. “It keeps me

grounded and it also keeps me excited about being able to use my skills where there is a need.”

Benson tries to keep at least one pro bono case on his docket, and when he scans Baum’s e-mail lists, he looks for the “David v. Goliath-type story” or a story where his legal expertise can meaningfully impact someone’s life.

Benson currently represents an individual who survived a double brain aneurysm and then asked a man he met at a bar to sign up as the registered payee for his Social Security benefits.

“Long story short, this individual stole about \$40,000 from my client,” Benson said. “He accepted checks from the Social Security Administration, but never gave them to him.

“I read that description in Jonathan’s e-mail, and I said, ‘This is classic fraud. I’m good at fraud. I can help this guy out.’”

Chad Doobay, a Katten associate who joined the firm in 2006, looks for pro bono opportunities with the Heartland Alliance’s National Immigrant Justice Center. He developed a personal interest in helping asylum seekers since his father immigrated from Guyana in South America. He said he also felt the organization needed more pro bono lawyers since immigrants who lose their request for asylum do not automatically receive representation.

Doobay’s third client, a native of Kazakhstan who faced beatings for being a homosexual, won his hearing in early July. His previous cases involved immigrants from Zimbabwe and Chad who faced political persecution.

“When you review the list of NIJC cases, you read it and you want to take on all of them,” Doobay said. “There are so many people that need and deserve representation before a judge. It breaks your heart that you can’t take on all of them.”

Finding their focus

Margaret Benson, the executive director of Chicago Volunteer Legal Services, often finds that even if law firms promote pro bono, their lawyers still question whether they have time to fit it into their schedule.

And, she said, if lawyers do find time, they increasingly expect their pro bono work to provide value to their practice.

“That’s sometimes where I have problems,

because what I need, what some of our clients need, are not necessarily valuable cases,” Margaret Benson said. “I might need someone to do a bankruptcy or a divorce or a credit card collection case that may not go to trial.

“A lawyer who’s already totally swamped but has to do some pro bono may want to take a case that is interesting or might move them up in the firm. They won’t think a divorce is going to do it.”

As a result, she sees more law firms working to align pro bono with their training programs. In a recent meeting with Ropes & Gray, she heard that the firm wants to present their associates with specific programs and partners.

“They don’t want to just say, ‘We want you to do pro bono, do whatever you want,’” Margaret Benson said. “Sometimes that’s a little too undefined and confusing for them.

“And for the firm, they want to know associates are working with programs that have what they need.”

Most large law firms want their associates to gain experience in defending or prosecuting summary judgments as well as interviewing clients, reviewing documents and writing reports, Margaret Benson said.

“Pro bono programs need these big firms, because we need their lawyers to do a lot of this work,” she said. “The big firms need the pro bono, because A, their clients are demanding it, and B, it helps train their lawyers.

“But there’s always a business part of it. The big firms want pro bono that will be value-driven, and honestly, the pro bono places know if they get a big firm to come in and work with them, they’re likely to get some money from them too.”

Anne Geraghty Helms, pro bono counsel for DLA Piper’s Chicago office, who joined the firm in 2006, agreed that while she wants lawyers to participate in projects that make them feel good about themselves, she also wants to be strategic about the firm’s pro bono efforts.

While Helms admires the traditional pro bono model of taking on large-impact litigation, she sees the value to adopting a system that allows every lawyer in the firm to get involved, she said. In recent years, she helped the firm set up signature projects in specific focus areas like veterans’ work, hunger relief and education.

“I think we’re responding to people’s interests,” Helms said.

“When you do focus like that, you’re able to leverage resources, and once you learn about a particular area, you know it and you can build upon that.”

Helms helps Chicago lawyers focus on education, specifically through work with the Woodlawn Children’s Promise Community. In this initiative, the firm works with nine schools, providing them with outside counsel, free legal clinics and Street Law classes as well as public service projects like family literacy nights.

DLA Piper also asks large clients like Deloitte and Transwestern to become partners in some of those projects.

“Partnering with our clients is not only a strategic benefit for us, it’s a benefit to our clients to be able to offer the expertise that we have developed in the pro bono front,” Helms said. “A lot of them don’t have the resources to do it on their own.”

In the past year, Greg McConnell, pro bono counsel at Winston & Strawn, who joined the firm in 2002, also began administering pro bono activities in ways that get more lawyers involved.

He said he plans to make greater use of technology as he works to enlist 100 percent of the firm’s partners and associates in pro bono.

For example, he said he hopes to roll out a “dashboard,” which will provide the firm with information about individual and firmwide pro bono productivity.

“We are of the belief and experience that a lot of lawyers don’t need to be encouraged, rather they need to have the information presented to them,” McConnell said. “They already have the interest and desire to do the work.”

In addition to handling a large number of pro bono asylum cases, appeals and inmate civil rights cases, Winston & Strawn lawyers switched gears and created a Web-based database project for The Innocence Project.

David Koropp, a partner at Winston & Strawn, who joined the firm in 1989, led the firm’s effort on The Innocence Record project, in which lawyers, staff and law students collected and digitized the court records related to every person who was wrongfully convicted and later exonerated through DNA evidence.

“That was a massive project that involved hundreds of people at Winston & Strawn and over 22,000 hours of work,” Koropp said. “We

did a lot of work with our younger associates in reviewing those files and putting them into a form where they can actually be searched.”

Koropp admits that while work on these larger pro bono projects can disrupt his practice, he sees the value of giving them the same attention he gives any other matter.

“It’s what you have to do to fully be a professional in this business,” Koropp said.

“It’s that kind of thinking that gets ingrained in you as a young lawyer and you grow up that way and hopefully you pass that on to younger associates you work with when you’re older.”

Since SNR Denton specializes in class-action defense, Weinberg works to find pro bono cases where the firm’s lawyers can represent people with disabilities and children in class-action cases.

Among its past high-profile matters, the firm acted as lead counsel in the disability rights class-action case *Ligas v. Maram*, in which lawyers devoted more than five years and \$4 million in legal time.

“The leading law firms devote a lot of time to pro bono work and there’s a tremendous need for legal services,” Weinberg said. “One of the challenges is to not just tilt at windmills and do little bits here and there and not accomplish anything. That’s why we like doing class-actions — there’s more impact.”

At Holland & Knight, Labate and associate Elisa Westapher, a Chesterfield Smith Fellow who is devoting one full year to providing pro bono, have taken a special interest in increasing the firm’s pro bono transactional opportunities.

Westapher works with legal service providers to find projects that match those lawyers’ skill sets. She also tries to think outside of the box and identify projects in nontraditional settings, such as with Habitat for Humanity Lake County, she said.

“We just trekked out there, met with the director so she knows who we are and established a personal relationship,” she said.

“That’s a way of feeding some additional transactional real estate projects, since more people in the real estate group want to do work than before.”

Labate often encourages lawyers to work on pro bono projects in a different practice area than their own.

For example, he said, one of the associates in

the restructuring group recently began working with Equip for Equality to create a individualized education plan for a student with disabilities.

"If you're an associate, advancing relationships is part of advancing," Labate said.

"If you do pro bono, you can meet partners outside of your practice group and practice area and create relationships and create bonds. That's very good for both the partner and the associate."

Partnering for pro bono

Marc Kadish served as a clinical professor of law at Chicago-Kent College of Law for 20 years before becoming the director of pro bono activities and litigation training at Mayer Brown in 1999.

Since then, he established several programs that both benefit society and teach lawyers to become better lawyers. In addition to helping lawyers handle nearly 140 appeals in the 7th U.S. Circuit Court of Appeals and nearly 30 murder and serious felony trials in Cook County Circuit Court, he offers them the opportunity to work on the Settlement Assistance Program.

Kadish worked with Magistrate Judge Morton Denlow to create a program in 2005 that would give young associates the chance to handle arbitrations and mediations in the U.S. District Court for the Northern District of Illinois.

Those associates represent pro se litigants on a limited basis. They don't file a complaint, they don't do any discovery — they just attempt to settle the case, he said.

"If you settle the case, you draw up the settlement papers," Kadish said. "If you do not settle it, then you withdraw."

"Initially, Mayer Brown administered the program, but it was so successful Judge Denlow said, 'Why don't we have an organization in the city handle it? This way, other lawyers can work on it.'"

Mayer Brown passed the program to the Chicago Lawyers' Committee for Civil Rights Under Law, and since its inception, the firm has handled 34 of its cases. Kadish recently

traveled to the firm's Houston office to encourage lawyers there to start their own program.

Bob Graves, executive director of the Chicago Bar Foundation, who works often with the court system, points to a growing tide of people coming in without representation. He partners with the courts and grantee organizations to develop pro bono projects to help meet the needs of these people.

For example, the CBF recently teamed up with the Cook County Circuit Court, The Chicago Bar Association, Coordinated Advice and Referral Program for Legal Services (CARPLS), Chicago Legal Clinic and several Chicago law firms to implement the Municipal Court Pro Bono Project. Lawyers who volunteer for the program represent low-income litigants in cases in which a jury demand has been filed.

"Especially in these larger firms, getting jury trials when you're younger is really hard," Graves said. "If they can do that while they're helping people who would otherwise be unrepresented, and they're also helping the court run more efficiently, it's a win-win-win."

"It's a win for the firm and the individual lawyer, it's a win for the courts and, most importantly, it's a win for the client who gets a level playing field and their day in court."

Graves said CBF also plans to partner with other agencies to help new lawyers who are unemployed or underemployed, but want to get involved in pro bono work. Right now, many of those lawyers lack the skill and experience needed to be self-sufficient volunteers and legal aid agencies lack the resources to support them.

They are working to set up a new program based on past programs where one or two experienced partners trained as many as 30 new lawyers in certain areas of the law, Graves said.

"We're loosely calling this the Pro Bono Academy concept," he said. "We're trying to see if we can take that to scale and create a program that has those characteristics, and that type of structure and support, for newer lawyers who are employed, unemployed or

underemployed who will benefit from the experience and hands-on training."

Weinberg and several other pro bono leaders recently became involved in another pilot program that serves unrepresented individuals in the Cook County Circuit Court's Domestic Violence Division.

In February, Circuit Judge Grace Dickler, former presiding judge of the division, and Leslie Landis, the domestic violence court administrator, asked them to help establish a pro bono clinic in the court, Weinberg said. In the Order of Protection Pro Bono Representation Program, they bring in lawyers from 10 large law firms to represent individuals in order of protection matters.

"People were really struggling to complete the pleadings," Landis said. "They are really benefiting by having someone who can listen to their story, help them identify what relief they need, get it down on paper and help them present their case in court."

"There's a real benefit to the court, too, in that our judges were seeing many, many pro se litigants in front of them. They would be asking questions, but they would have to remain neutral."

"Often they would know in their gut that there was more there than the person was articulating ... but the judge's hands were tied because they couldn't overstep the appropriate boundaries."

Landis helps provide an easy, two-day training for lawyers, who typically pick up one or two cases during each shift. She finds that many are attracted to the program, since they are helping the court and working with other organizations, she said.

Weinberg agreed that participants have succeeded in establishing an effective public-private collaboration that achieves multiple goals.

"They don't take a lot of time, but they are important for the client who is usually a woman who has been living with abuse," Weinberg said. "It's also very important that law firms are collaborating together to create a more coordinated response to a real societal problem." ■