

**THE FUTURE OF  
PRO BONO IN NEW YORK**

**APPENDICES**  
TO VOLUME TWO:

Report And Recommendations

**NEW YORK STATE UNIFIED COURT SYSTEM**

## **APPENDIX A**

## **RESOLUTION OF THE ADMINISTRATIVE BOARD OF THE COURTS**

Lawyers are strongly encouraged to provide pro bono legal services to benefit poor persons. Every lawyer should aspire (1) to provide at least 20 hours of pro bono legal services each year to poor persons and (2) to contribute financially to organizations that provide legal services to poor persons.

Pro bono legal services that meet this goal are:

- professional services rendered in civil matters, and in those criminal matters for which the government is not obliged to provide funds for legal representation, to persons who are financially unable to compensate counsel;
- activities related to improving the administration of justice by simplifying the legal process for, or increasing the availability and quality of legal services to, poor persons; and
- professional services to charitable, religious, civic and educational organizations in matters designed predominantly to address the needs of poor persons.

Appropriate organizations for financial contributions are:

- organizations primarily engaged in the provision of legal services to the poor; and
- organizations substantially engaged in the provision of legal services to the poor, provided that the donated funds are to be used for the provision of such legal services.

## **APPENDIX B**

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NEW YORK STATE UNIFIED COURT SYSTEM

**PRO BONO CONVOCATION:**  
WORKING TO DESIGN A PRO BONO SYSTEM *for* NEW YORK

ALBANY LAW SCHOOL • DEAN ALEXANDER MOOT COURTROOM  
80 NEW SCOTLAND AVENUE, ALBANY, NEW YORK

**PROGRAM**

REGISTRATION AND CONTINENTAL BREAKFAST

8:30 A.M. – 9:00 A.M.

OPENING REMARKS, KEYNOTE ADDRESS AND  
OVERVIEW OF A PRO BONO MODEL

9:00 A.M. – 10:00 A.M.

*Opening Remarks -*

Hon. Anthony V. Cardona, *Presiding Justice, Appellate Division Third Department*

*Keynote Speaker -*

Lorraine Power Sharp, Esq., *New York State Bar Association*

*Overview Presenter -*

Kent Spuhler, Esq., *Florida Legal Services*

WORKING GROUP SESSIONS

10:00 A.M. – 12:00 P.M.

*Small breakout sessions to discuss panel presentation and begin addressing Working Group topics*

I. Organizing a Statewide Pro Bono System: What Makes Sense for New York?

*FACILITATORS:* Kent Spuhler, Esq. and Dan Weitz, Esq.

II. Overcoming the Obstacles to Providing Pro Bono Services: What are the Elements of an Ideal Pro Bono System?

*FACILITATORS:* Hon. W. Dennis Duggan and Mark Collins

III. Facilitating Pro Bono Through Limited Representatio: How can this be Accomplished in New York?

*FACILITATOR:* Hon. Fern Fisher

BUFFET LUNCH

12:00 P.M. – 1:00 P.M.

WORKING GROUP SESSIONS (CONTINUED)

1:00 P.M. – 3:00 P.M.

REPORTS OF WORKING GROUPS AND CLOSING REMARKS

3:00 P.M. – 4:30 P.M.

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**Keynote Address of Lorraine Power Tharp, Esq.  
New York State Unified Court System Pro Bono Convocation  
Albany Law School, October 25, 2002**

On behalf of the New York State Bar Association, I am so pleased to be part of this convocation. I am passionate about pro bono, about helping attorneys fulfill their pro bono obligations – and, I might add, I am passionate about keeping pro bono voluntary. In addition to all of the above reasons for my “passion” let me add two others. Many of you have heard me speak about my father who was a country lawyer in Massena, New York. He did “pro bono” as part of his every day practice. He may not have called it pro bono, but what he did was to provide legal services to people regardless of their ability to pay. I recall one gentleman who was constantly getting into scrapes with the law, and who would call my father day and night. When my father became District Attorney, this gentleman did not understand why my father could no longer help him!

The second reason for my passion is something that the State Bar does that is quite wonderful. Each President-Elect in the year before becoming President, co-chairs the President’s Committee on Access to Justice. Even though as Bar leaders, we are sensitive to the issues of access to justice, pro bono and legal services providers more than most, it is not until you sit in these meetings and hear the statistics and the data and the politics that you really become involved.

As I contemplated the past, present and future of legal services and pro bono in New York, I thought of the current television commercial of the man who unearths a magic lamp while using his metal detector. The genie tells him three wishes will be granted. Upon production of the first wish – a snazzy automobile – the man drives off, leaving the genie in the dust and satisfied with only the realization of his initial dream.

So what wishes would I identify to facilitate legal services for those in need? If a regularized funding mechanism could be secured, I, too, would be tempted to rush off without waiting to make additional wishes. I would hurry to tell the legal services providers that they could now concentrate more fully on their mission of counseling the indigent on legal matters, rather than having to divert time and resources to seek funding year after year.

But until – and notice that I am saying “until” – *not* “if” – we realize a defined funding source, there is a vital component of these efforts for access to justice that must be preserved and indeed nurtured. This is the public-private partnership of dedicated and involved voluntary attorneys complementing staff attorneys in assuring that counsel is available for those in need.

This is this element that I believe has enabled us to do as much as we have in the face of enormous challenges of funding cutbacks and restrictions while caseloads grew in number and complexity. This is the key that I identified in speaking about New York’s legal services initiatives last week at a conference of bar leaders of the Mid-Atlantic states.

In calling for voluntary pro bono service and setting out concrete steps to enhance volunteerism, the Association’s 1989 report on the subject stated: “. . . the best, the strongest and the most effective volunteer efforts have evolved at a local level, when the local bar, paid legal services staff and the local judiciary have come together cooperatively to address the local need and to tailor a local solution.”

We are pleased that the view of private attorneys as “important partners” and “vital allies” to staff programs is reiterated in the newly prepared Plan for Justice of the New York State Planning Steering Committee.

This is the formula that the Association has stressed over the years. It is an approach that we must continue to embrace. Despite the economic boom of the 1990s, the percentage of poor persons in New York increased from 13 to 14.6 percent. That simply stated fact and figure translates into some 2.7 million citizens, including 535,935 families, living in poverty.

It is a fact that must weigh on us today as fiscal conditions crumble, all around us, as government resources and other funding become harder to grasp for staffed programs, and as the demands on practitioners leave little time for other activities, no matter how altruistic. These tight conditions provide another reason why public and private legal services attorneys need each other and why neither public nor private programs should go it alone. These programs should be structured to tap into the expertise and efforts of both staff and volunteers.

Bill Dean of the Volunteers of Legal Service has aptly pointed out that effective use of pro bono service is not without cost but necessitates support to identify, screen, match cases with volunteers, and provide training, mentoring and backup. As such, government officials must recognize that reducing funding for legal services programs also unravels the valuable work of pro bono partners. And they also must comprehend that while the Bar will continue its professional responsibility to assist in assuring the availability of legal counsel, the profession cannot and should not fully shoulder what is truly a societal concern.

As proposals are shaped for a statewide pro bono structure, such a movement should not abandon the involvement of bar associations and other entities that have toiled for so long in the vineyards of access to justice.

The bar and other organizations have developed experience and connections in working with practitioners in outreach and training. As observed by the Steering Committee, bar associations and others are invaluable allies in advocacy in the Legislature, in the media, at public forums, and in discussions with community and business leaders, in addition to providing legal counsel. I am pleased to report to you that the State Bar Association is taking action to deliver its message to lawmakers and the public by concerted, coordinated, and multi-faceted means. We plan to take every opportunity to raise our voice.

Communicating the critical need to do more to assure practical access to justice is a top priority for us. It is a message describing why this is a societal concern, not a singular problem to be worked out by the profession. And it is a message explaining why these services must be provided through stable staffed programs, complemented by private practitioners assisting on a *volunteer* basis, not a mandatory one, in order to be truly effective.

We also will be depicting the faces behind this need, showing the impact on the individual citizen living in poverty, on the community, and on the state and describing the ultimate price that is paid by shortchanging justice. We welcome the opportunity to partner with you in this communication.

As we seek to promote and leverage pro bono service and foster public-private alliances, I suggest that we look back a half century and listen to the access to justice advocates when the concept of staffed legal services, coupled with volunteer service, began to take root across the state and country. We can take a cue from their vision and from their message to colleagues, lawmakers and the public.

“It may seem curious that a Legal Aid organization actually helps the private lawyer, but that is the overwhelming consensus,” reported Orison S. Marden, a New York practitioner and extraordinary bar leader, known as “Mr. Legal Aid” for his devotion to hands-on volunteer service throughout his career.

“The establishment of Legal Aid takes a great load from those members of the profession who give so generously of their time in helping people who cannot afford to pay a fee,” Mr. Marden said, pointing out that the public-private approach saves time and money, in addition to being more efficient and effective. Further, he noted the valuable training and experience gained by young attorneys who participate on staff or as volunteers.

Mr. Marden also cited the benefit of legal assistance to social services agencies, by bringing legal counsel to bear in calling for necessary remedial legislation and in relieving these agencies of problems of a legal nature. He added that a well-publicized Legal Aid program fosters goodwill for the profession by spreading the word that lawyers are people who can provide help for problems and prevent difficulties. This initiative demonstrates that justice is accessible for those without means, with this awareness building the public’s understanding of the law and promoting respect in the process.

Each of these points has currency and each is worth retelling practitioners and bar and community leaders. In today’s parlance, it resonates.

And we can continue to identify with the faces painted by Attorney General Katzenbach in his discussions when civil legal services were initiated in the War on Poverty. “Too often,” he said, “the poor man sees the law only as something which garnishes his salary; which repossesses his refrigerator; which evicts him from his house; which cancels his welfare; which binds him to usury; or which deprives him of his liberty because he cannot afford bail. The adversary system on which our courts are based fails whenever one side goes unrepresented and judgment is entered by default.”

We are engaged in a fight against such failure. It is a struggle that will take the tremendous talent, dedication and perseverance gathered in this room today. It will take all of us, working together. There is no cause more critical. Thank you for inviting me to join you and we look forward to pursuing this dialogue and the development of solutions beyond today’s proceedings.

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## **APPENDIX C**

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NEW YORK STATE UNIFIED COURT SYSTEM

**PRO BONO CONVOCATION:**  
WORKING TO DESIGN A PRO BONO SYSTEM *for* NEW YORK

STATE UNIVERSITY AT BUFFALO LAW SCHOOL • O'BRIAN HALL  
BUFFALO, NEW YORK

**PROGRAM**

REGISTRATION AND CONTINENTAL BREAKFAST	8:30 A.M. – 9:00 A.M.
OPENING REMARKS, KEYNOTE ADDRESS AND OVERVIEW OF PRO BONO MODELS	9:00 A.M. – 10:00 A.M.
<i>Opening Remarks -</i> Hon. Eugene F. Pigott, Jr., <i>Presiding Justice, Appellate Division Fourth Department</i>	
<i>Keynote Speaker -</i> Paul Michael Hassett, Esq., <i>Brown &amp; Kelly</i>	
<i>Overview Presenter -</i> Cheryl Zalenski, Esq., <i>Assistant Staff Counsel, ABA Center for Pro Bono</i>	
WORKING GROUP SESSIONS	10:00 A.M. – 12:00 P.M.
<i>Small breakout sessions to discuss panel presentation and begin addressing Working Group topics</i>	
I. Organizing a Statewide Pro Bono System: What Makes Sense for New York? <i>FACILITATORS:</i> Hon. E. Jeannette Ogden and Cheryl Zalenski, Esq.	
II. Overcoming the Obstacles to Providing Pro Bono Services: What are the Elements of an Ideal Pro Bono System? <i>FACILITATORS:</i> Hon. Rose Sconiers and Paul Michael Hassett, Esq.	
III. Facilitating Pro Bono Through Limited Representation: How can this be Accomplished in New York? <i>FACILITATORS:</i> Hon. Fern Fisher and Sharon Thomas	
BUFFET LUNCH	12:00 P.M. – 1:00 P.M.
WORKING GROUP SESSIONS (CONTINUED)	1:00 P.M. – 3:00 P.M.
REPORTS OF WORKING GROUPS AND CLOSING REMARKS	3:00 P.M. – 4:30 P.M.

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**Keynote Address of Paul Michael Hassett, Esq.  
New York State Unified Court System Pro Bono Convocation  
State University at Buffalo Law School, October 15, 2002**

I am flattered to have been asked to deliver this keynote address at the second ever in the history of the world conference on pro bono legal services and I have wrestled with the chore of finding an appropriate topic for this occasion for some time. I kept sticking articles in a file until it got so big that no one could distill the substance of them into a consistent message but I have been able to extract a few thoughts that I hope will be worth sharing with you this morning. I was heartened by a letter which we all received from Judge Newton last week describing the convocation in general terms and noting that it would begin with a brief presentation for background purposes before we split up into working groups and begin the real task of the convocation. I take it that I'm to deliver that brief presentation.

I have given considerable thought to our topic – creating a system for pro bono delivery and organizing efforts on a statewide level with appropriate roles for all collaborating partners. There are two major challenges embedded in that definitional statement: first, can we find an advantage in a statewide organizational effort? That is, is bigger always better? and second, even if it's better, is it possible to do it in a state so economically, geographically, politically and culturally diverse?

And even if it makes sense and if it can be so structured, will it be successful? Is there any way to increase, in a meaningful way, the not inconsiderable pro bono efforts already existing in our state? Perhaps the answer can be found in the tragic lessons we learned from the horrible events of a year ago and their effect on our profession, about which much as already been said and written, for example:

- Judge Kaye's masterful Marden lecture of last March at the City Bar which is posted on the website for this convocation and if you have not read it you certainly should and her remarks at Fordham last spring which we heard this morning.
- Reports of bar presidents and others detailing the magnificent pro bono effort resulting from the attacks - beginning almost immediately and continuing for months, even until today in some cases.
- The stirring account of Michael Miller, now president of the New York County Lawyers Association, in his message which has been often reprinted throughout the country.

I have to pause here to confess my total admiration for Michael, a man whom I am proud to call my friend, who has been a beacon for us all and whose service in Bosnia and Kosovo prefaced his weeks of devotion in New York City. I was most honored to be in attendance last August at the ABA Annual Meeting in Washington when he was presented with the Pro Bono Publico Award by the American Bar Association for his many efforts, especially during the World Trade Center attacks.

While Michael Miller was at the pinnacle of our profession's pro bono response, thousands more of our colleagues – from large firms, small firms, sole practitioners, government lawyers, law school faculty and students – gave freely and selflessly of their time and talent during those horrible and frightful weeks. In the words of Judge Kaye in the Marden lecture: “Never did I dream . . . that our values would be so tested by other nations or that in America we would see such an outpouring of patriotism, humanitarianism, professionalism.” And Michael Miller in his remembrances told us: “I find it difficult to reflect on September 11<sup>th</sup> without a rush of pride at the extraordinary legal relief effort. In fact, that effort, which continues today, is a dramatic reminder of that, more than any other profession, lawyers serve the public good. While the events of that morning were dreadful, it was also the beginning of one of the Bar's finest hours . . .” He continued: “While there are lessons to be learned, I believe two important messages emerged from those cowardly attacks. First, as lawyers, as New Yorkers, and as Americans, when things are at their worst, we are at our very best. Second, there is still a great nobility in our profession.”

It is clear that the World Trade Center attacks were the catalyst for the most stirring example of pro bono activity ever, proof positive that it can be done – New York lawyers in large numbers will volunteer to help those in need who cannot afford to pay for legal services: the families of victims, neighbors of the Trade Center, small businesses, police and fire personnel and their families. The day the attacks occurred I was in Albany at an Access to Justice conference. Judge Kaye was there. Judge Lipmann was there. Judge Newton was there, as were many other lawyers and judges interested in access to justice. Sometime during that morning, a decision was made by Judge Kaye and Judge Lipmann to keep the courts open and open they were, sometimes without power - without telephones – without transportation in the red zone. That they remained open for the transaction of business stood as a symbol of our refusal to allow the horrid perpetrators of that tragedy to succeed in deterring one of the proudest accomplishments of our democracy - access to our justice system.

In the days following, when the magnitude of the profession's response became obvious I remember thinking: “How can we bottle this? How can we preserve it so that when we return to normalcy lawyers will remember and continue this burst of volunteerism?” What made that effort so different, so dramatic? Let me offer a couple of thoughts:

- In responding to the Trade Center disasters, lawyers felt the immediacy of the need - the certainty that their assistance would make a difference in the lives of those whom they helped;
- In responding to the Trade Center disasters, lawyers were reacting to a tremendous patriotic urge, an urge to fight against an attack on our fundamental American values, on our freedom, on our whole system of law and justice.

But is it really any different if you and I show up at Bob Elardo's door tomorrow and offer to help a family about to be evicted from their home or a parent facing bankruptcy with small children to support or a young mother seeking assistance in Family Court?

We all know that programs like Bob's can help only a small portion of those who need us; and that most of these programs stop taking calls from new clients in the first half-hour or so of every day. But the reality is that those whom we cannot help face futures every bit as bleak as those faced by our unfortunate neighbors who suffered from the great tragedy of September, 2001.

And are we really any less patriotic, any less devoted to our fundamental American values, when we offer to help a pro bono client with an adoption, with an employment or immigration matter, and in doing so, ensure that our American ideal of equal justice, of equal access to our system of civil dispute resolution, is available to all of our citizens not just those who have the means to afford our services? I suggest that there is no fundamental difference in the motivations of those who stood in line to help the victims of the attacks on the Trade Center from the motivations of those of us who add their names to the Roster of the Erie Bar's Volunteer Lawyers Project.

So, how do we convince New York's lawyers that the motivation and the reward for us, here in Buffalo, are identical to the motivation and reward of our colleagues who poured forth in New York City a year ago? That, my friends, is the task we face and it is by no means an easy one. We have to do it without the help of the media who kept everyone's attention rooted on the need. We have to do it for clients whose problems are not constantly at the forefront of our awareness. We have to do it all by ourselves, remembering how important our help is to those who need us and acknowledging our obligation as members of a proud and honorable profession.

I might suggest a few basic principles that must be incorporated in our solution:

- Any system of pro bono delivery must involve all of the traditional providers of pro bono service: bar associations, law firms, law schools, the court system - all of which are independent of each other and whose participation must therefore be absolutely voluntary.
- Many of you may know about the work of the New York State Planning Steering Committee and its efforts over the past couple of years to comply with the Legal Service Corporation's mandate to re-configure New York State and to develop a comprehensive plan for the delivery of civil legal services. Judge Newton has been an essential part of that effort and I have had the opportunity to participate in the last several months. The result is an impressive comprehensive statewide plan and the effort of the Steering Committee will continue towards developing a statewide structure, one without any inherent authority but instead a representative body working to support existing legal services providers. Pro bono is a part of

that planning effort and much can be gained by cooperating in that process because much of the groundwork has already been done. I hope you will consider that during your deliberations today.

- Finally, I have been reading a book (and I read books over the course of many days, sometimes weeks, and sometimes I read the end before the beginning so I am not sure exactly how far along I am in it) but the book is by Steven Sample, former president of the State University at Buffalo and for the last 10 years president of the University of Southern California. Dr. Sample's book is about leadership and in it he espouses something which he calls "thinking free" - free that is from all prior restraints. He says that it's somewhat akin to "thinking out of the box" or "brainstorming," but thinking free takes that process of inventiveness to the next level. He tells us that the key to thinking free is first to allow your mind to contemplate really outrageous ideas and only subsequently apply the constraints of practicability, legality, cost, time and ethics. He tells his readers that the most important inventions in a particular field are often made by people who are new to that field - people who are too naive and ignorant to know all of the reasons why something can't be done and who are therefore able to think more freely about seemingly intractable problems.

I am hopeful that among us today are some who are too naive and too ignorant to know why we can't accomplish our objective – why we can't think free of all the constraints and come up with some fresh approaches to the problem of pro bono legal service delivery in New York State and make Michael Miller's observation that: "There is a great nobility in our profession," prove true. Thank you all for coming and joining in that effort.

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## **APPENDIX D**

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NEW YORK STATE UNIFIED COURT SYSTEM

**PRO BONO CONVOCATION:**

WORKING TO DESIGN A PRO BONO SYSTEM *for* NEW YORK

RAMADA INN GENEVA LAKEFRONT  
41 LAKEFRONT DRIVE, GENEVA, NEW YORK

**PROGRAM**

REGISTRATION AND CONTINENTAL BREAKFAST	8:30 A.M. – 9:00 A.M.
OPENING REMARKS, KEYNOTE ADDRESS AND OVERVIEW OF A PRO BONO MODEL	9:00 A.M. – 10:00 A.M.
<i>Opening Remarks -</i> Hon. Eugene F. Pigott, Jr., <i>Presiding Justice, Appellate Division Fourth Department</i>	
<i>Keynote Speaker -</i> Claire Parins, Esq., <i>Illinois Tech Center for Law &amp; the Public Interest</i>	
<i>Overview Presenter -</i> Sharon Goldsmith, Esq., <i>Executive Director, Pro Bono Resource Center of Maryland</i>	
WORKING GROUP SESSIONS	10:00 A.M. – 12:00 P.M.
<i>Small breakout sessions to discuss panel presentation and begin addressing Working Group topics</i>	
I. Organizing a Statewide Pro Bono System: What Makes Sense for New York?	
II. Overcoming the Obstacles to Providing Pro Bono Services: What are the Elements of an Ideal Pro Bono System?	
III. Facilitating Pro Bono Through Limited Representation: How can this be Accomplished in New York?	
BUFFET LUNCH	12:00 P.M. – 1:00 P.M.
WORKING GROUP SESSIONS (CONTINUED)	1:00 P.M. – 3:00 P.M.
REPORTS OF WORKING GROUPS AND CLOSING REMARKS	3:00 P.M. – 4:00 P.M.

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**Keynote Address of Claire Parins, Esq.**  
**New York State Unified Court System Pro Bono Convocation**  
**Ramada Inn Geneva Lakefront, November 8, 2002**

I am here today for a couple of reasons.

First, I'm here to help describe the current needs of the rural poor and the crisis that is facing the justice system.

I am also here to tell you about some projects that I saw as Director of the ABA's Rural Pro Bono Project. As you might imagine, there is some creative dancing being done in rural areas where just finding a lawyer, much less one that can work for free, is sometimes harder than giving a cat a bath. Pro bono is often one of many tools used by communities, legal and otherwise, to provide access to court systems and to bring resolution to life-threatening circumstances.

I come to you on the tails of the Rural Law Symposium put on by the Legal Services Corporation last week in Nebraska. Susan Patnode, a participant in today's convocation, and I were invited to be part of a two and a half-day meeting to come up with ideas about improving the delivery of legal services in rural areas. On the first day, we described the face of rural poverty. Attorneys from across the country told different stories about a wide variety of low-income clients with a wide variety of legal problems. Harder were the days that followed – one question – "what is justice?" – was eventually abandoned as unanswerable. The easier part "Who needs help?" has always been clear for many of us, and is probably why some of you went to law school in the first place, and why many of us are here today.

On that first day, this is what Susan and I heard about the face of rural poverty in America:

- ▶ What we have in common is that isolation abounds.
- ▶ But the rural poor are not homogenous.
- ▶ Diminishing rural support systems and infrastructure are leading to increased poverty.
- ▶ There is confusion about the services that are out there, a lack of knowledge about legal rights.
- ▶ Triage is often the main part of a legal services or pro bono attorney's job.
- ▶ Clients come in crisis.
- ▶ They are scared.
- ▶ There are family farmers who need soup kitchens even though they live to grow food for others.

- ▶ Many will not ask for help because there is a lack of privacy in rural areas.
- ▶ Neighbors watch what neighbors purchase with food stamps.
- ▶ Yet many people in America live without basic necessities like health care.
- ▶ We heard about how a family who worked for years to buy their house only to lose it because they purchased a water softener through an outrageous credit scam.
- ▶ We heard about how poverty has a lot to do with race and class. Rural poverty in America is about poor whites, poor African Americans, poor Native Americans.
- ▶ Poverty is sometimes about blatant discrimination.
- ▶ It's about the stigmatization of the poor – disdain for those who live on the wrong side of the tracks.
- ▶ Poverty is about giving up on children's educations just because their parents before them could not read.
- ▶ Poverty is about domestic violence in immigrant communities. It's about Cajun fishermen who don't have social security cards.

But it is also about New Yorkers. And the faces you could draw would probably be similar to what you've just heard. What I heard last week in Nebraska was about how broad the array of difference looks on the surface, but how deep the common thread of need can run from heart to heart. And the attorneys who help these people represent communities, not just individuals, and they include judges, legal services attorneys, solo practitioners, government attorneys, paralegals, and law students.

Susan Patnode, my mentor and friend, heads the Rural Law Center of New York in Plattsburgh. She told me a story shortly after I met her about a woman who rode her daughter's bicycle to work – 25 miles – there and back – before Susan's program was able to help provide her with a car through a Wheels-to-Work program. The Rural Law Center finds other ways to reach clients – including Judges' Best Practice Seminars – Judges, pro bono coordinators, and attorneys, with the help of CLE credit, found a way to work together to make pro bono cases happen.

In Oregon, communities are getting together develop a statewide system of pro bono delivery. Pro bono mini-summits involve networks of business, nonprofit, and government advocates. Legal and other service providers from the same local community strategize about new legal service delivery models and build networks in four rural areas.

In Tennessee, there's an urban-to-rural hotline. Clients in the rural service areas of two legal services programs receive consumer law advice and counsel by telephone through a large Memphis law firm.

In Ohio, attorneys have joined forces with churches. The Interfaith Legal Services clinics in two rural counties are a collaboration among the private bar, legal services attorneys, clergy, and other stakeholders. The partnerships aim to overcome the historical biases and tensions that a "big city" legal services program may experience in a rural area, and they involve diverse organizations.

In Maine, a paralegal and half-time attorney opened a branch office to recruit pro bono attorneys. The Volunteer Lawyers Project, part of Pine Tree Legal Assistance, knew that they had to establish a greater physical presence to serve the predominantly northern and central areas of the state. Local Pro bono attorneys refer cases to other attorneys in their community.

In all these cases, the projects were designed to be replicated and shared, and could be extended throughout the state and across all borders. And while the jury is still out on what the number of volunteers will be, the important thing is hundreds of clients have been served and relationships made.

We are here today to work towards solutions for New York and to find ways to help build a statewide pro bono delivery system that starts to address the diminishing support systems that we encounter lately in our own communities, in our court system and, in some cases, our own lives.

I commend Judge Newton and everyone here today and others who attended the three other convocations this fall. With partnerships like those forged here, you all are going to set an example for the rest of the country. It is only through partnerships, time, and truth about the real needs in rural delivery that our system can begin to change.

Today, some of you will struggle with how to increase pro bono services, others will debate how structured the pro bono delivery system should be, still others will define the obstacles to establishing a statewide system at all. I invite you all to think about all of these questions, but to keep a bigger picture in mind as you proceed. Instead of making the debate just about how to increase pro bono, think about framing the debate like this: How will New York ensure that low-and-moderate income citizens, rural, and urban alike, have increased access to the court system and as a consequence, better lives? How will New York maintain the momentum of volunteerism put in motion by 9/11 so that it does not have to settle on the diminishing returns of a slowing economy, the effects of welfare reform, overworked attorneys, and overcrowded courts? How can New York show its reverence for community and people? That's the real question we all face today. How shall we proceed?

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**APPENDIX E**

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NEW YORK STATE UNIFIED COURT SYSTEM

**PRO BONO CONVOCATION:**

WORKING TO DESIGN A PRO BONO SYSTEM *for* NEW YORK

FORDHAM UNIVERSITY SCHOOL OF LAW • JAMES B. M. MCNALLY AMPHITHEATRE  
140 WEST 62<sup>ND</sup> STREET, NEW YORK, NEW YORK

**PROGRAM**

REGISTRATION AND CONTINENTAL BREAKFAST                      ATRIUM                      8:30 A.M. – 9:00 A.M.

OPENING REMARKS AND KEYNOTE ADDRESS                      AMPHITHEATRE                      9:00 A.M. – 10:00 A.M.

*Opening Remarks:* HON. JUDITH S. KAYE, *Chief Judge of the State of New York*

HON. JUANITA BING NEWTON, *Deputy Chief Administrative Judge for Justice Initiatives*

*Keynote Speaker:* MICHAEL A. CARDOZO, *Esq., Corporation Counsel of the City of New York*

PANEL PRESENTATION AND DISCUSSION                      AMPHITHEATRE                      10:00 A.M. – 11:30 A.M.

**MODELS FOR EXPANDING PRO BONO**

*Moderator:* HON. STEVEN W. FISHER, *Administrative Judge, Queens County Supreme Court*

*Panelists:* HON. PHILLIP ADLER, *Chair, 7th District Pro Bono Committee, Indiana*

DEAN ELLEN CHAPNICK, *Center for Public Interest Law, Columbia Law School*

SHARON GOLDSMITH, *Esq., Executive Director, Pro Bono Resource Center of Maryland*

CHERYL ZALENSKI, *Esq., Assistant Staff Counsel, ABA Center for Pro Bono*

WORKING GROUP SESSIONS                      CLASSROOMS                      11:30 A.M. – 12:30 P.M.

I. ORGANIZING A STATEWIDE PRO BONO SYSTEM: What Makes Sense for New York?

*FACILITATORS:* Hon. Phillip Adler, Sharon Goldsmith, Esq. and Cheryl Zalenski, Esq.

II. OVERCOMING THE OBSTACLES TO PROVIDING PRO BONO SERVICES: What are the Elements of an Ideal Pro Bono System?

*FACILITATORS:* Dean Ellen Chapnick and Michael Miller, Esq.

III. FACILITATING PRO BONO THROUGH LIMITED REPRESENTATION: How can this be Accomplished in New York?

*FACILITATORS:* Hon. Fern Fisher and Lynn Kelly, Esq.

BUFFET LUNCH                      ATRIUM                      12:30 P.M. – 1:30 P.M.

WORKING GROUP SESSIONS (*CONTINUED*)                      CLASSROOMS                      1:30 P.M. – 3:30 P.M.

REPORTS OF WORKING GROUPS AND CLOSING REMARKS                      AMPHITHEATRE                      3:30 P.M. – 4:30 P.M.

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**Keynote Address of Michael Cardozo, Esq.  
New York State Unified Court System Pro Bono Convocation  
Fordham University School of Law, June 20, 2002**

Thank you so much Judith, that's really very kind. I hesitate to start by correcting our Chief Judge, but the facts are that she has now admitted error. Judge Cardozo never graduated from Columbia Law School. The story is that while Judge Cardozo was in Columbia Law School, Columbia changed the law school from a two-year curriculum to a three-year curriculum, made the rule retroactive. Not only did Judge Cardozo refuse to abide by this retroactive decree, but that is the reason, people say, is why he was interested in prospective overruling. But that's not the subject for today.

From my perspective, I think that this conference is just terrific. As she has done so often in the past, our Chief Judge has seized the moment to present a critical challenge to all of us: design a workable system for pro bono services in New York. Rarely has there been a time when the need is so great, and in my view, rarely has there been a time when the Bar has shown – at least a large part of the Bar – a willingness to take up the challenge. I think our question today is “how do we capture the pro bono spirit that we saw post-9/11, and how do we incorporate that spirit into some kind of workable system?” And as I look around this room, and I know almost as many of you as Judith does, I can't imagine a better group of people to solve that problem.

Certainly, as the Chief Judge said, we don't need to tell this audience the need for pro bono help. The unmet legal need of the poor is overwhelming. We have cases involving eviction, deportation, homelessness and so much more. I hesitate to put a damper on the enthusiasm of the day, but I do want to say that one area that I do not think can be looked at, in the foreseeable future, for any significant help, is the government. Unfortunately, you have all read about the deficits. The City's deficit next year is projected to be higher than the deficit that, hopefully, will be closed when the City Council passes the budget this afternoon. The State's deficit is even worse, projected to be even worse next year. While we can all as advocates argue that the government should spend more money on Legal Services because that will reduce many of the things that government has to do, I think the brutal reality is that the likelihood of finding significant increased government help, in the foreseeable future, is small, which makes our challenge today even greater.

History has taught that in times like this, the Bar has stepped forward. The history of lawyers doing good work dates back to the beginning of time practically. I did a little research and found that as early as four hundred A.D., clergymen were being directed to find people to help the poor, to help them in their legal problems. Moreover, as we all know, the pro bono obligations that we all feel in this room are embodied in the lawyer codes of our country. But I found it frightening and disturbing, when I read the materials for this conference, to learn that about half of the lawyers in this state do not perform any public service at all, and an equal number of them remain unconvinced that they should perform such service, and that it is in their interest and that it is fun to do so. It was Edmund Burke, in the eighteenth century, who said that “the only thing necessary for the triumph of evil is for good men to do nothing.” We can't do nothing. We've got to find a way, and I'm convinced that there is a way, and there is particularly a way if we focus our efforts at younger lawyers, and younger people.

I was recently at a graduation ceremony at Dartmouth College, where my niece graduated, and there was a program there that honored all the graduating students who had performed public service. I was just amazed at the overwhelming number of people in that graduating class who had done things ranging from working in soup kitchens to spending a semester in Africa working with people with AIDS. The examples could go on and on. I said to myself, "A lot of these people are graduating and going to law school, and after they graduate from law school they are going to start practicing law. How can we capture the spirit that is exemplified by these young people graduating from college, full of enthusiasm; how can we capture that spirit, so that after three years of law school and after they join a law firm or a legal employer, we can remind those people that they were so enthused about public service when they were in their early 20s." There is a willingness out there, and somehow too frequently we lose that willingness five or ten years later when those people start practicing law. How do we capture that enthusiasm?

I think one way to do it is to focus on law school programs. I know Columbia has one, I'm sure many, many other schools have as well, which inculcate the pro bono spirit into law students, teaching them about how much fun it is, how much satisfaction it is, what an obligation it is. It's vital.

Yesterday at the City Bar Association, there was a project sponsored by the Committee on the Homeless where it invited some associates to hear about pro bono opportunities in that area. They heard a terrific panel of speakers, including some of the people in this room, talking with enthusiasm in doing pro bono work; we have to build up that enthusiasm. Last year there was a conference of younger lawyers on the same subject. We have got to focus our attention on that. Because there is no doubt that, despite the fact that half the Bar remains unconvinced, there is a terrific pro bono spirit out there.

The Chief Judge has called the 9/11 efforts by the Bar the Bar's shining moment. I think of the lawyers who lined up down 44<sup>th</sup> Street, around onto 6<sup>th</sup> Avenue a few days after 9/11, standing up to get training with the Bar Association to help the families of the victims. It's a story that needs to be told over and over again. The examples of the Bar stepping up after 9/11 are not just limited to what we have heard of the typical Bar Associations. The Trial Lawyers formed an organization – Trial Lawyers Care. They gave free legal advice to all the families of the victims as they went through and made applications to the Victims' Compensation Fund. What a terrific statement of public spirit.

Also of extraordinary significance, in my view, is the way inside corporate counsel responded to the tragedy of 9/11. At least when I was president of the Bar Association, one of the problems we found when we talked about pro bono is that as difficult as it was to get the private Bar to step up to the plate, it was even more difficult to get inside corporate counsel to be involved. Well, there was a celebration last week sponsored by the American Corporate Counsel Association of all the efforts that were made by inside corporate counsel. I think it is extraordinarily significant that hundreds of inside corporate lawyers participated in all these post 9/11 events. I also think it is noteworthy that there is at least one corporation, and its representative is here today, that has established a Pro Bono Coordinator for the inside corporate counsel modeled after the way some private law firms are organized. I think that is very significant as we ponder how can we get more people involved in pro bono activities. It should not take a crisis of the dimension of 9/11 to convince our colleagues that pro bono should be a part of our regular practice.

But as Evan Davis wrote, “Adversity almost always has a counterpoint. From scandal comes reform; from disease comes medical advance . . . . The tragedy with which we are coping has revealed the Bar’s deepest character.” I think we have got to find a way to capture that character.

So what lessons can we learn from 9/11, what can we do, how can we make this all work? Let me suggest three principles as you go forward in your work today. First, we must motivate people to do pro bono; we must make them understand the satisfaction you get from doing pro bono work. Second, we must create a framework for legal employers to understand that it is in their self interest to encourage lawyers to perform pro bono work, and third, we must make it as easy as possible for that pro bono work to be performed. Let me expand on these themes just a little bit.

Motivation: Everyone in this room could tell story after story about the satisfaction he/she has received from doing pro bono work. I do think it is a useful story for me to say that six months ago I was a partner in a major New York City law firm. I had an interesting practice. Now I am privileged to have what I think is one of the greatest jobs in New York City. I have that job not because I was a partner at Proskauer but because of the pro bono and legal services work that I did. It was there – private law firms are great and my law firm was great – but it was in the public service activities that I was exposed to the issues of the pro bono challenges, the 18-B issues, the homelessness issues and so forth.

One of my most enduring images as president of the Bar Association – which today pales in significance to what happened on 9/11 – but what I can remember vividly, is going to Kennedy Airport after the crash of TWA 800. I stood there talking to the families of the victims of that tragedy and telling them that there were 30 lawyers in the room standing there ready to help. That was the satisfaction that I got, that I will never forget. We have to publicize that satisfaction over and over again. I think that the tragedy of 9/11 opened up the eyes of many, many lawyers to the satisfaction that you can gain.

But we can’t stop there. We must make it in the employers’ self- interest to have employees perform pro bono service. It’s not enough for us to ring our hands and say these private law firms, they are making lots of money, their lawyers are being paid extraordinary amounts of money and oh, if they would only take a step back and do some pro bono service. That is nice rhetoric, but we’ve got to make it in their self-interest.

It’s hard to believe, but it’s not so many years ago that we were having this debate about how can you persuade private law firms that it’s in their self interest to employ minorities and employ women. It’s an issue that we don’t even debate today, it’s self evident and we have to make it self evident to the private law firms that it’s in their self interest to perform pro bono work. I think we can do that. I suggest, number one, that we go back to the law students, the best and the brightest whom the law firms are competing for, and we have to encourage those law students to say “Hey, which is the firm where I can best continue my pro bono efforts?” They will have to ask the questions of the law firms “what will my opportunities be to perform pro bono legal services if I go to firm A verses firm B” because I think that is pressure. At one law school with

which I am affiliated, the Board of Visitors of that law school passed a resolution encouraging law students to ask the questions of their prospective employers, "What can I do if I go to your law firm for pro bono work?" We have to encourage that demand.

Second, as the Chief Judge has suggested, because pro bono is fun and is interesting, it is a way for younger lawyers to gain greater satisfaction in the practice of law. While private law firms are great and the challenges there are interesting, we all know that there are too many young lawyers who are not happy in the practice of law, and they are happier when their practice can have added to it, not just long hours, but the fact that they are also doing something where they are in court right away, where they are helping people right away and that they are not just on a team of four, five or six lawyers.

Pro bono service does make the practice of law more enjoyable, and we have to educate the employers that it is in their interest to have their lawyers do the pro bono work because there will be great satisfaction. In that regard, I am encouraged by the following story even though it stretches the definition of pro bono just a little bit. As you all know the City has a fiscal problem. I put out a SOS to all the law firms in the City, and I said the Corporation Counsel's office does not have enough lawyers and we cannot hire any more lawyers because of the fiscal problem, please help. The response of the private bar has been extraordinary. Twelve law firms donated an associate to us for six months at no charge to try cases. Close to thirty law firms have agreed to represent the City on a pro bono basis. Part of that is because of the hands on training these young lawyers are going to get and the experience, but part of it is because the lawyers in the law firms, I think, recognize a need, a desire of the younger lawyers to help – not just help the City, which is what I was interested in, but to help in some way. There is a great desire out there to help.

I also think that the corporate counsel example that I mentioned a few moments ago is another way that we have to focus on, to show that it is in the private employer's interest for its employees to perform pro bono work. I commend Pfizer and the other corporations that have stepped up to the plate. We have to reward the corporations, we have to reward the law firms who do step up to the plate, to help it make it in their self-interest, because we do need, as the Chief Judges has said, we do need leadership from the top to encourage the younger lawyers to do the work. We have to find a way to make it good business for the law firms and the corporations to do pro bono service.

Finally we have to make it easy. There are so many lessons from 9/11 that many of you know far better than I. The one-stop shopping, I call it, that we offered after 9/11 where the lawyers were sitting there, after appropriate training, helping people, serving as lawyers for families of the victims. We have to make it efficient and uncomplicated, we have to eliminate the barrier. Every time you do pro bono work and you have a bureaucracy to cut through, we lose the momentum. It has to be made easy. I'm not sure how to do that. I hope you can find some ways to do that today. I do know, in my view, that the energy of the lawyers and the willingness of the lawyers is there and is untapped. It is particularly there among the younger lawyers. I hope today that everyone in this room can find a way to tap that energy, harness it in some way so that we can have a workable pro bono system in this State.

Thank you very much.

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