PRACTICING *PRO BONO*

By Kelly Doyle*

"We make a living by what we get. We make a life by what we give."

Attributed to Winston Churchill

I. Integration or Segregation

This article [1] will not address the complexities of the access to justice question and legal aid debate. It will consider some of the motivations, pitfalls and rewards for individual lawyers practicing *pro bono.* The content is intended to assist readers considering a few fundamental personal and professional issues. Why should I practice *pro bono* at all? How can I avoid potential pitfalls, problems and prejudice in integrating such work into my core practice? What rewards and benefits can I hope to derive from *pro bono* practice?

The Latin expression *pro bono publico* ("*pro bono*") means "for the public good" and embodies a recognized tradition of our ancient, honourable and learned profession. The practical expression of this tradition requires continuous examination and renewal in order to meet the challenges of a changing society and profession.

The administration of justice will continue to be faced with the reality of litigants comprised of represented "haves" and unrepresented "have nots". "Separate but equal" is a doctrine which describes a system of segregation that justifies giving different groups of people separate services with the claim that each group still receives equal quality of treatment. All are equal before the law but not all have equal, or indeed any, legal representation. [2] This is significant in a society where the law generally favours an adversarial system of justice and where the business of law typically bestows representation on the affluent or those with significant claims against the affluent. There is truth in the observation that "[e]qual justice is an implausible ideal; adequate access to justice is less poetic but more imaginable."[3]

Some libertarian lawyers do not accept the premise of an obligation to "give back to the community". [4] This perhaps oversimplifies the issue. The practice of *pro bono* is fundamentally one of choice. Lawyers can choose to integrate *pro bono* into their practices in some form and make a difference or find reasons to refuse, neglect or fail to do so. Lawyers can choose to practice integration through *pro bono* engagement or segregation through disengagement.

II. Opportunities

Pro bono means different things to different people. As one writer recently opined:

> "…much of what passes for "*pro bono*" is not aid to the indigent or public interest causes, but favors for friends, family, or clients, or cases where fees turn out to be uncollectible. The bar's *pro bono* commitments are, in short, a reflection of both the profession's highest ideals and its most grating hypocrisies." [5]

This seems a somewhat harsh conclusion other than in respect of *ex post facto* attempts to deem bad debts to be principled *pro bono*. Definitions and perceptions of what is or is not *pro bono* work vary.

There are a number of possible definitions of *pro bono* to inform a discussion on opportunities for engagement [6]. We have:

[1] legal services to establish or preserve the rights of the disadvantaged

This narrow definition of *pro bono* service focuses on the provision of legal services to those who can least afford those services. Those services often take the form of summary advice or full representation litigation services for individuals.

[2] legal services to the disadvantaged and to assist organizations who represent the interests of, or who work on behalf of, members of the community of limited means or other public interest organizations

This expanded definition adds the provision of legal services to organizations which provide services to the disadvantaged as well as other groups who advance or maintain civil rights, civil liberties, and the public interest generally. There is a tradition of lawyers providing *pro bono* legal services for such organizations as the C.B.A., its provincial branches, civil liberties associations as well as gay and religious rights organizations to name a few.

[3] the legal services described above together with other volunteer activities for the improvement of laws or the legal system

Non legal services might include volunteer service with the C.B.A., its provincial branches, local bar associations or court committees.

[4] all the above together with non legal charitable and community service generally

Many activities are beyond what is traditionally considered *pro bono*. Such might include service with non profit boards; political parties and service organizations; and even coaching and the like. This last definition often has much to do with the lawyer as individual or neighbor or citizen rather than the lawyer as lawyer. Although such activities are worthy and valuable, they do not liberate the unique gifts and experiences of the lawyer as lawyer for the public good.

[5] no fee, substantially reduced fee and conditional/contingency fee arrangements

There is some debate as to whether *pro bono* services ought to be offered exclusively without fee. Others also see substantially reduced fees as a way of making their services accessible. These arrangements represent the traditional scope of *pro bono*.

It should be acknowledged however that some practitioners effectively make a living providing discounted legal services to disadvantaged groups.

It should also be acknowledged that reduced fee arrangements may on occasion take the form of fees conditional on success. Conditional fees included contingency fee arrangements are typically the subject of regulation by law societies.

III. Motivations and Inspirations

The well-spring for *pro bono* engagement is different for different lawyers. For some it may be seen as a prudent business or career decision; for others a matter of high principled obligation; and for many a way to achieve personal and professional fulfillment.

The following is not exhaustive but hopefully descriptive. Some inspirations and motivations might include:

[1] pursuing the bottom line

The pursuit of firm profitability can inspire *pro bono*. There is a business case for *pro bono* which accounts for its integration in many of the largest national and international firms.

Esther Lardent of the *Pro Bono* Institute in Washington has written extensively on this subject. The business case for *pro bono* will include supporting critical firm goals and activities such as recruitment of new students, associates and laterals; retention of productive partners, associates and students; training and professional development; evaluation, supervision and mentoring; enhancing firm morale and loyalty; marketing the firm with a view enhanced credibility, greater visibility, improved client relationships and the use of good deeds as a business generation tool. [7]

Some firms will be most comfortable having their lawyers working within their core competencies on a no fee or substantially reduced fee basis. Others firms will recognize that legal skills and experience are transferable to public interest litigation, poverty law and other non core areas of practice.

[2] pursuing personal happiness

The pursuit of personal happiness, productivity and profitability can inspire *pro bono.* A wide body of evidence finds that volunteerism is correlated with both physical and mental health. There seems to be biological evidence of a “helper’s high” and that such activities can reduce stress and improve functioning of the immune system and trigger the release of endorphins.[8]

Involvement in activities that add a sense of value and meaning to life often makes a lawyer happier and more productive. Peak performance has much to do with enthusiasm and health. Engagement in *pro bono* for many is personally invigorating and rewarding.

Pro bono can provide opportunities to express deeply felt values, beliefs and principles which a specialized or commodity legal practice may not fully satisfy. The sum of the total person is greater than the total of his or her available billable hours. For many lawyers, helping others is integrally bound up with their sense of personal and professional identity.

[3] awakening a heart of justice

Alienation and disillusionment is not unknown within our profession. It has been observed that lawyers as a group are suffering from alienation. They have succumbed to the intense pressures of professional life and, in the process, become distanced from their own dreams. Sharon Browning has further opined that the majority of lawyers fundamentally have “hearts of justice”

and that lasting, permanent changes of legal culture will come only if they awaken the fire of compassion that dwells there. She observes:

> …Ours is the profession with the highest rate of depression, and the incidence of suicide and addiction is rising steadily. Disheartened practitioners leave the profession in droves every year, citing the pressures of billable hours, business production, and the bottom line. Law is now more business than profession, with a high misery index among its practitioners. This is a profession in which sad, disheartened people are not uncommon; many articulate a lack of meaning in their work lives. Because of its potential to be both energizing and vital and because of its centrality to the essential role and function of lawyers, *pro bono* involvement may be precisely the remedy needed to cure what ails us. [9]

Members of the legal profession serve as indispensable guardians of lives, liberties and governing principles. Lawyers are charged with the responsibility for systemic improvement of not only their own profession, but of the law and society itself. She concludes:

> It is my experience that the most faithful and passionate *pro bono* advocates are those who have a profound, heart-level connection to their clients or issues…Actual experience deepens understanding and enkindles compassion. It is possible to ignite this spark in many, many lawyers, and doing so not only would vastly increase services to clients, it would revitalize the legal profession, infusing it with an energy and passion for justice that is now sorely lacking. But how do we light that flame?
>
> There are many…unheeded cries in our society. Law is the cornerstone of our culture, and our belief in the rule of law is central to our self-concept as a fundamentally good, fair, and equitable society. As lawyers, as the gatekeepers of justice, our task is to ensure that all voices are heard. Closely linking lawyers to clients and the serious issues facing them is a step forward toward curing the deafness, and healing the profession."[10]

[4] putting a legal conscience in motion

Conscience is a closely related motivation. June Callwood O.C. offered many thoughts on the subject of conscience prior to her recent death. At a Law Society of Upper Canada symposium on "Access to Justice for a New Century: The Way Forward", she called *pro bono* the legal conscience in motion. It is an enlightened idealism: lawyers demonstrating empathy for the poor and disenfranchised and taking notice of another's misery.

[5] practicing the Golden Rule and analogous ethics of reciprocity

Some lawyers are able to empathize with the common helplessness of the unrepresented facing the mysteries of the law and legal system. The experience of lawyer as client can be life changing.

Dugald Christie was awarded the 2006 Harry Rankin *Pro Bono* Award by the C.B.A. (B.C. Branch). The Trial Lawyers Association of B.C. also honoured Dugald in March 2006 for his life's work which included recruiting and organizing hundreds of lawyers to serve in summary advice clinics in B.C. and elsewhere. He was introduced on the occasion of the latter presentation as being "every lawyer's conscience of their professional obligations". Dugald's own conscience

was informed by his personal religious beliefs which included the Golden Rule. “In everything, do to others what you would have them do to you…” [11]. This ethic of reciprocity is found in positive and negative variations in almost all religious and moral writings.

In his acceptance speech, Dugald related an epiphany he had in 1982. Journalist Pete McMartin related the story as follows:

> "I used to have a perfectly normal life," he told the audience, "in fact I thought rather a posh kind of life. I had a beautiful waterfront house in Lions Bay, and a beautiful family -- everything was beautiful!
>
> "And then it all ended and I'd like to say that it was due to pure willpower that I gave up this way of life to serve the poor. But unfortunately, in 1982, the reality is that there was an avalanche which came down Alberta Creek and removed everything and my whole way of life disappeared. The litigation that followed was almost worse than the avalanche itself. "
>
> He had to settle for a nominal judgment of about $5,000, he said, because he couldn't afford the four-month trial. And out of that, he said, he learned a couple of things. He learned that there were a lot of good lawyers out there, many of them who he counted as friends, and he learned that we lived "in a harsh society" made harsher, sometimes, by the legal system itself.
>
> It could be the work of lawyers, he said, to soften society's blows. [12]

[6] fulfilling one’s role in a helping profession

The Chief Justice of Ontario, Roy McMurtry, delivered remarks at the Third Colloquium on the Legal Profession in October 2004 hosted by his Advisory Committee on Professionalism. He encouraged the legal profession to remember its role as a helping profession [13] and referred to a book by Anthony Kronman, the former Dean of Yale Law School entitled *The Lost Lawyer: Failing Ideals of the Legal Profession.* [14] Dean Kronman had opined therein that there was a crisis in the American legal profession and that the profession stood in danger of losing its soul.

Some take their roles as members in a helping profession a further step. It has been argued that there is a role morality with attendant obligations. The argument has been expressed as follows:

> The lawyer’s function is grounded in role morality, the idea that special obligations attach to certain roles, in this case, to render justice. Lawyers claim autonomy to perform their functions as a consequence of specialized knowledge and skill. The state grants autonomy, an effective monopoly, in exchange for lawyers, as officers of the court, discharging their duty to further equality before the law. After all, the very reason the state conferred such a monopoly was so that justice could best be served, a notion that surely means that even those unable to pay or those pursuing an unpopular cause can expect legal representation. A lawyer’s duty to serve those unable to afford to pay is thus not an act of charity or benevolence, but rather one of professional responsibility, reinforced by the terms under which the state has granted to the profession effective control of the legal system. [15]

There are periodic debates in U.S. jurisdictions over whether *pro bono* ought to be mandatory or permissive. Some jurisdictions make the reporting of *pro bono* hours mandatory but not its practice. Voluntary *pro bono* is the dominant and prevailing view.

[7] perpetuating a spirit of public service

A recognition of professional calling can inspire *pro bono*. Definitions of professionalism have changed over time. The fundamental tenet of public service has not changed.

Roscoe Pound, the influential Harvard Law School academic, provided the traditional definition. He stated that a profession is a group "…pursuing a learned art as a common calling in the spirit of public service - no less a public service because it may incidentally be a means of livelihood." [16]

In the face of modern commercialism, the primacy of public service as a component of professionalism has apparently given way to more "balanced" definitions. Public service remains a core element. In a 1996 report of the Professionalism Committee of the Section of Legal Education of the American Bar Association, the term was defined as follows: "[a] professional lawyer is an expert in law pursuing a learned art in service to clients and in the spirit of public service; and engaging in these pursuits as part of a common calling to promote justice and public good." [17]

[8] perpetuating a spirit of professionalism

Professionalism can be approached from the perspective of ideals rather than definitions. One ideal to be embraced is that of the good lawyer rather than the accomplished legal technician. Rosalie Abella, now a Justice of the Supreme Court of Canada, provided the opening address entitled *Professionalism Revisited* at a planning session of the benchers of the Law Society of Upper Canada. She opined on the ideal of the good lawyer and wrote:

> My thesis is that there are three basic values which merge in a good lawyer; a commitment to competence**,** which is about skills; a commitment to ethics, which is about decency; and a commitment to professionalism, which transfuses the public interest into the two other values. My sense is that while there is a crisis in neither of competence nor of ethics, most lawyers having both in laudable abundance, the same cannot be said of the spirit of professionalism. [18]

[9] perpetuating a spirit of idealism

Idealism concerning the profession is not only of value to individual lawyers but of value to generations of lawyers. Madame Justice Cronk of the Ontario Court of Appeal opined that it is the obligation of every lawyer to foster the ideals of professionalism in the lawyers that follow. She referred to a speech by James E. Coleman Jr. of the American College of Trial Lawyers on professionalism which expressed the proposition well. He said:

> The serpent in our paradise is our indolence in perpetuating and passing from one generation of lawyers to the next the idealism of the profession. We can change this! …if not us, who?...[Remember], as you help young lawyers grow, as you work for ethics, civility, and honour, your influence will merge with the good influences of lawyers of past generations, into the eternal stream of a true

> profession – ripe with idealism. What sculpture is to marble, idealism is to the legal profession. [19]

The American Bar Association has recognized the importance of *pro bono* to idealism. The Standing Committee on *Pro Bono* & Public Service and the Center for *Pro Bono* of the American Bar Association seek to identify new ideas for engaging in *pro bono* and public service ideals under the umbrella of a "Renaissance of Idealism in the Legal Profession". A final report bearing this title was delivered in August 2006. The report contained the following observations:

> Meanwhile the practice of law has undergone a transformation so sweeping as to cause many to question whether the ideal of service can survive the tyranny of the billable hour and the relentless focus on the bottom line. Some have argued that the profession is losing its soul, that the ideal of the lawyer-statesman has been replaced by what Professor Robert W. Gordon of Yale Law School has called "a whole new style of corporate practice – ruthlessly competitive, powered nearly exclusively by the drive for profits, so demanding as to leave time or energy for other commitments, and mostly indifferent to social responsibility and public values."
>
> ...If this situation is to change, lawyers must be able to strike a better balance in their lives and law practices.
>
> The key to that balance is persuading the decision makers in America's law offices to free up time for lawyers to volunteer their skills to those in need, to help improve their communities, and in the process to find greater satisfaction in their legal careers.
>
> We are under no illusions as to the difficulty of this mission… [20]

[10] perpetuating a sense of stewardship

The necessity of passing idealism to the next generation of lawyers leads to a consideration of stewardship. Many lawyers give most of their adult lives to practice and profession. They feel a sense of responsibility for the profession and the law as institutions. They may want to pass on valuable ideals and traditions rather than abdicating responsibility for the direction that the profession or law will follow in the face of the *zeitgeist* or spirit of the age. Paradigm shifts in culture including legal culture do occur. Worthy paradigms require capable exemplars. *Pro bono* is a worthy paradigm.

IV. Pitfalls and Problems

We now turn from the "big picture" motivations to some of the "nuts and bolts" of practice realities. *Pro bono* practice like law practice has potential pitfalls. Many pitfalls in *pro bono* practice can be avoided by bringing the same attention to *pro bono* work as one brings to paying work. Still, *pro bono* legal work for disadvantaged people carries its own unique challenges. These can be overcome through prudence and common sense. Some of those potential pitfalls include:

[1] a failure to maintain appropriate boundaries

Budgeting or setting annual *pro bono* target hours is prudent. [21] Know your limits. Partners, employers and families have financial expectations. The economic platform of a viable firm practice must be sustained for *pro bono* to be sustainable. The financial expectations of a viable practice will vary from lawyer to lawyer and firm to firm. [22]

Spatial boundaries may also be appropriate. Rather than attending your own offices, it may be desirable to meet disadvantaged clients at community centers or other venues. Such arrangements are common with summary advice clinics.

[2] a failure to properly screen clients for means and identifiable legal problems

It can be disillusioning for some to discover that an apparently disadvantaged client has misrepresented his or her income or assets in order to secure free legal services. This happens from time to time despite screening.

It is also a waste of valuable time to be interviewing clients who have no discernable legal problems. *Pro bono* service providers often offer and perform such screening.

[3] a failure to rigorously apply the usual risk management practices including conflict assessments

Conflicts are often of three general varieties. There are legal conflicts; indirect or business conflicts; and conflicts of a non-legal or non-business variety where the matter in dispute is viewed as being prohibitively controversial. Controversies include the political, ideological and ethical. There may be a fear of alienating current or prospective clients. Other partners in the firm may passionately hold opposing views on the issues in dispute. Taking on unpopular causes and matters in order that justice can be done is consistent with some of the best traditions of the profession. The implications for conflict should however be addressed in advance and, if not avoided, then managed.

There are insurance issues to be considered including deductibles, exclusions and record keeping obligations. Beware of providing *pro bono* advice to relatives. Be aware of the availability and coverage of *pro bono* insurance in those jurisdictions that offer such coverage.

[4] a failure to properly “paper” the relationship

Pro bono clients may be poor clients with difficult cases and modest claims. They may be poor clients with commonplace issues. They may be poor clients with difficult cases but significant claims.

Pro bono clients are entitled to be made aware the terms, scope and limitations of the *pro bono* assistance being provided and the fee and cost implications, if any, to them of their matter. *Pro bono* service providers will likely have their own forms.

Is the engagement for full representation on a defined matter; a limited retainer such as advice only; or unbundled legal services of some description? When services are being offered privately by the lawyer, a letter of engagement will often serve as a fee and/or costs agreement. The retainer letter may consider conditional fees such as contingency arrangements. Practitioners should refer to the law society rules governing fee arrangements in their province or territory.

In the event that the matter is litigious, the payment of potentially significant disbursements for filing fees, transcripts, expert reports or appeal books will need to be addressed together with the potential for cost recovery in the event of a successful outcome. A recent decision of the Ontario Court of Appeal in *1465778 Ontario Inc. v 1122077 Ontario Ltd.* [23] contains a useful summary of the law governing the award of costs in favour of *pro bono* counsel.

Some firms will use different forms of retainer letters for *pro bono* clients based on whether and how costs and disbursements will be charged or recovered. For example, a firm might use one form of retainer letter for non-litigious matters where there is no expectation of recovery of professional costs and expenses and another for litigious matters where the firm wants to provide for recovery of their costs and expenses from any costs award or settlement made in favour of the client. The letter can address how fees will be calculated in such an event and the right to have the account assessed. In any event, issues relating to payment of disbursements, costs recovery and conditional fee arrangements should be clearly set out.

Lawyers should consider opportunities for cost and disbursement relief. Courts generally make provisions for indigent status for indigent litigants and the waiver of court filing fees. There may be limited disbursement fund assistance available in particular jurisdictions.

[5] a failure to provide for an exit strategy

Some files take on a life of their own. Everything goes wrong. The client may have told the lawyer only they wanted the lawyer to know in order to solicit sympathy and representation. The facts may turn out to be quite different. Many lawyers will soldier on. Others will not be amused by manifest manipulation.

In anticipation of problem files or problem clients, retainer letters and particularly those involving full representation arrangements should make provision for the termination of the retainer in certain circumstances. The firm may wish to terminate if the client refuses to accept the legal advice in respect of an issue which the lawyer considers essential to the conduct or satisfactory settlement of the matter; if the client's financial circumstances change in material way through employment, windfall or otherwise such that the firm no longer considers the client to fall within its *pro bono* scheme; the firm considers the prospects of success to be weak; the client does not keep in contact with the firm; the client fails to provide adequate instructions or show that the client has lost confidence in the firm; the client loses his or her legal capacity; a conflict of interest arises or becomes apparent; or disbursements are not paid by the client within a defined period.[24]

[6] a failure to treat *pro bono* clients like paying clients

Pro bono clients are entitled to the same levels of competence and quality of service as full fee paying clients. Lawyers will often perform *pro bono* work within their core areas of competency or provide advice where they have transferable competencies. It has been observed that:

> Even in an age of pervasive specialization, lawyers are known for their versatility as generalists, for their capacity to master the unfamiliar complexities of cases in areas of the law in which they may have had little or no prior training or exposure. [25]

[7] a failure to treat *pro bono* clients differently

Working with the disadvantaged who may live on the street will periodically bring lawyers into contact with those with disabilities. Disabilities may include physical disabilities, psychiatric disabilities, intellectual disabilities, neurological disabilities and sensory disabilities. Brain injuries, dementia, intellectual disability and mental illness are not unknown. Lawyers must be alive to issues of legal competence and the cognitive capacity of clients to provide instructions.

Working with the disadvantaged may bring clients into contact with recent immigrants and others with language barriers. This requires cultural sensitivity. Uneducated clients from a non English speaking background with poor literacy skills present challenges. It is obviously advisable at a minimum to take the time to listen carefully and to explain matters in plain and simple terms.

[8] a failure to distinguish “problem clients” from clients with problems

It is not uncommon for disadvantaged people have a recognizable manifesting legal problem but the resolution of the legal problem will not cure or treat the underlying condition which caused the problem. An eviction notice may be based on addictive behaviour or social disorders. *Pro bono* service providers often provide screening and referrals. Lawyers should be aware of potential resources including law society practice advisors who might be of assistance.

[9] a failure to anticipate the financial challenges of some *pro bono* litigation

Litigation provides somewhat unique funding challenges. Litigation may be uncertain as to its size, scope and length. There may be limited disbursement assistance available. A disadvantaged client can be assisted to anticipate and explore ways and means of budgeting for essential disbursements.

[10] a failure to confront the dangers of peer and personal cynicism, apathy, pessimism and even burnout

Lawyers practicing *pro bono* need not be “lone rangers”. They are not alone in their struggles. They may look for opportunities to network with other lawyers in the firm or profession who share your interests. There are many.

V. Rewards and Benefits

People perform *pro bono* work for a myriad of reasons. Some want to make a concrete difference in their community. Some want to gain important legal skills and experience. Some may want to meet clients and others in the justice community. Young lawyers can benefit from increased knowledge of practice areas; broadening of legal knowledge and skills; acquisition of practical experience; client interaction; an enhanced profile within the law firm and profession; and general networking within the profession and community.

A lawyer’s personal experience can be informative. In an article entitled “Top 10 Reasons Why I (Still) Do *Pro Bono* Work”, Amy Greer summarized her experience as follows:

[1] the variety of experience cannot be duplicated elsewhere;

[2] given the importance of the matter to the client, *pro bono* work grounds us;

[3] *pro bono* cases usually are not big consumers of our time;

[4] *pro bono* cases teach us how to turn a position of weakness into a position of strength;

[5] since they often are used in the most difficult of circumstances, *pro bono* cases sharpen our negotiating skills;

[6] along similar lines, we find that *pro bono* work exercises our common sense;

[7] *pro bono* work never ceases to remind us why we became lawyers;

[8] on balance, the need for volunteer lawyers is greater than the substance or number of our excuses we can come up with for avoiding *pro bono* service;

[9] the easy one: *pro bono* and community service are just the right thing to do; and

[10] finally, there's that satisfaction thing. [26]

VI. Conclusion

This article was introduced with a quotation attributed to Winston Churchill. It will conclude with another:

> All the great things are simple, and many can be expressed in a single word: freedom, justice, honor, duty, mercy, hope. [27]

Lawyers in a just and democratic society can do many simple things to make great things a reality in the lives of people who might otherwise personally be denied freedom, justice, honor, mercy, hope or the opportunity for the fulfillment of duty. Lawyers often fail to appreciate the importance of what they do. They also fail to consider that the cases and clients they will most likely remember are those where they have made a difference. *Pro bono* is much more than the provision of "commodity" legal services to target markets or "deliverables" to designated groups.

ENDNOTES

[1] This article arises out of the writer's participation on April 18, 2007 in the online CLE session sponsored by the C.B.A. (National) entitled "Integrating *Pro Bono* Initiatives into Your Practice" and the CLE conference sponsored by the Continuing Legal Education Society of B.C. entitled "*Pro Bono* Practice, April 2007."

[2] *Brown v. Board of Education of Topeka*, 347 U.S. 483 (1954) (USSC)

[3] Deborah L. Rhodes, *Equal Justice Under the Law: Connecting Principle to Practice*, 12 Wash. U.J.L. & Pol'y 47, 61 (2003) cited in Russell G. Pearce *Redressing Inequality in the Market for Justice: Why Access to Lawyers Will Never Solve the Problem and Why Rethinking the Role of Judges Will Help*, 2004 Fordham Law Review 969.

[4] see, for example, Karen Selick, *Pro Bono? No Thanks--I Gave at the Office* (Canadian Lawyer, March 2005)

[5] Deborah L. Rhodes, *Pro Bono in Principle and in Practice: Public Service and the Professions* (Stanford University Press: 2005) and *Pro Bono in Principle and Practice*, (Stanford Public Law and Legal Theory Working Paper Series, Research Paper No. 66: June 2003) at p. 1.

[6] see, for example, the *Pro Bono* Working Group Report http://www.cba.org/CBA/groups/probono/committee/aspx (date accessed: 9 April 2007)

[7] Esther Lardent, *Making the Business Case for Pro Bono* http://www.probonoinst.org/publications.free.php (date accessed: 9 April 2007)

[8] Deborah L. Rhodes, *Pro Bono in Principle and Practice*, (Stanford Public Law and Legal Theory Working Paper Series, Research Paper No. 66: June 2003) at p. 7.

[9] Sharon Browning, *Awakening the Heart of Justice: The Next Pro Bono Challenge* http://www.phillyvip.org/Philadelphia%20%VIP%20Articles.htm (date accessed: 9 April 2007)

[10] Sharon Browning, *Awakening the Heart of Justice: The Next Pro Bono Challenge* http://www.phillyvip.org/Philadelphia%20VIP%20Articles.htm (date accessed: 9 April 2007)

[11] Mathew 7:12 (New International Version)

[12] Pete McMartin, Vancouver Sun, August 2, 2006. http://www.canada.com/vancouversun/news/story.html?id=2d7f24ce-b04b-4c4e-8b74-1893e3539ee6&k=75659&p=2 (date accessed: 26 May 2007)

[13] *The Legal Profession and Public Service* http://www.lsuc.on.ca/media/third_colloquium_mcmurtry.pdf (date accessed: 24 July 2006)

[14] (Belknap Press of Harvard University Press: 1993)

[15] R. Katzman, ed., *The Law Firm and the Public Good* (Washington DC; The Brookings Institution; 1995) cited in *Pro Bono Publico — lawyers serving the public good in British Columbia* at p. 3.http://www.lawsociety.bc.ca/publications_forms/report-committees (date accessed: 9 April 2007)

[16] Roscoe Pound, *The Lawyer from Antiquity to Modern Times* (St. Paul, Minn.: West Publishing Co., 1953), p. 5.]

[17] cited in the State Bar of Georgia, *Professionalism CLE Guidelines* http://www.gabar.org/programs/continuing_legal_education/professionalism_cle_guidelines/ (date accessed: 31 January 2006)]

[18] Ontario *Lawyers Gazette*, November/December 1999 at p. 20.

[19] referred to by Madame Justice Cronk of the Ontario Court of Appeal in her keynote address entitled *Professionalism & Barriers to Justice* at pp. 26-27. http://www.lsuc.on.ca/media/fourthcolloquiumkeynoteaddress.pdf (date accessed: 9 April 2007)

[20] *Renaissance of Idealism in the Legal Profession* (American Bar Association, Final Report, August 2006) http://www.abanet.org/renaissance/downloads/finalreport.pdf (date accessed: 9 April 2007)

[21] Paul McLaughlin, *Managing Pro Bono* http://www.lawsocietyalberta.com/lawyerservices/FromtheAdvisor (date accessed: 9 April 2007)

[22] Kelly Doyle, *Doing Well by Doing Good*, The Advocate vol. 64 Part 6 November 2006 and http://cba.org./CBA/groups/probono/resources.aspx (date accessed: 9 April 2007)

[23] 2006 CanLII 35819

[24] *The Australian Pro Bono Manual: a practice guide and resource kit for law firms*, para. 2.3 (letters of engagement) http://www.nationalprobono.org.au/probonomanual/ (date accessed: 9 April 2007)

[25] cited by Rob Atkinson, *A Social-Democratic Critique of Pro Bono Publico Representation of the Poor: The Good as the Enemy of the Best*, Journal of Gender, Social Policy & the Law [2001] vol. 9:1 at p. 143.

[26] http://www.volunteerlawyersnetwork.org/files/Top%2010%Reasons (date accessed: 9 April 2007)

[27] the opening quote is popularly but perhaps inaccurately attributed to Winston Churchill whereas the concluding quote is properly attributed to him on the authority of the Churchill Centre http://www.winstonchurchill.org (date accessed: 9 April 2007)