

USC GOULD SCHOOL OF LAW
LAW FIRM ECONOMICS & THE PUBLIC INTEREST:
ADVANCING THE COMMITMENT TO PRO BONO PUBLICO
THROUGH LAW FIRMS AND OTHER LEGAL INSTITUTIONS

February 3, 2023, 2:00 - 5:00 p.m.
February 4, 2023, 10:00 a.m. - 1:00 p.m.
February 10, 2023, 2:00 - 5:00 p.m.
February 11, 2023, 10:00 a.m. - 1:00 p.m.

Room 103

David A. Lash
Managing Counsel, Pro Bono & Public Int. Services
O'Melveny & Myers LLP
dlash@omm.com
(213) 430-8366

Steven H. Schulman
Pro Bono Partner
Akin Gump Strauss Hauer & Feld
sschulman@akingump.com
(202) 887-4071

COURSE DESCRIPTION

This course is focused on introducing you to the economic construct of major law firms and how those economics impact the firms' pro bono programs and commitment. We will use that construct to explore the role that pro bono plays in the greater legal community and in the delivery of legal services to the poor.

We do this through three primary means: presentations (not just from the professors, but also from law firm and legal services leaders in the community); reading current materials on pro bono and the state of the legal market; and role-playing, using our mock law firm, Rodriguez Zimmerman & Drysdale. Each student will have a specific role in that fictional law firm, and we will provide access to more firm financial information than you will likely have at any other firm when you start (and certainly more than you would ever have from the outside). Alas, it is fictional – but trust us, it is realistic.

To understand how pro bono works in a large law firm, you first need to be familiar with how a large law firm itself works, both internally and in the marketplace. The beginning of this course focuses on what we broadly call “law firm economics,” but just as well could be called “operations,” “management” or “finance.” We want you to understand these subjects so that you can answer this question – and then argue or defend the answer in the future: how is it that the Top 100 revenue-producing law firms in the United States contribute, on average, about 60 hours of free legal services per attorney each year? What does the donation of 1½ weeks of productivity do to the firm's bottom line?

Then we will focus on the how and why of pro bono practice. Where did this impulse to provide free legal services come from? How do law firms decide which matters to take, and which to decline? There is a vigorous debate in the law firm pro bono community about “what counts” as pro bono work – there is even a small treatise with that very name (included in the reading

materials). Beyond the issue of qualification, how do law firms determine their pro bono priorities? How does pro bono fit within larger law firm management goals?

We will also explore pro bono from other points of view: public interest providers, law schools, corporate in-house counsel and the media. What role do these organizations play in the provision of pro bono legal services, and how do they interact with large law firm pro bono practices?

The guest speakers for this seminar were selected not just because they all are intimately involved in law firm management and/or pro bono work, but also because they are the kind of speakers who welcome questions. *The point of the speakers is not for you to absorb what they say uncritically, but to challenge them.* Believe us, they will appreciate it.

A word about the reading materials. The readings in this course were selected to give you an understanding of the various issues we discuss in the class sessions. In a way, the readings are optional – but only in the sense that we will not quiz you on them, and probably will not know if you have read them or not. If you want to have a full appreciation for the lectures and the simulation, you should read them – not to memorize them, but with a professional interest, like you should do when you are practicing law.

SEMINAR SYLLABUS

Fri., February 3: Introduction and Overview; the Economics, Practice and Structure of the Large Law Firm

Guest Speakers: Jim Jones, Senior Fellow, Center for the Study of the Legal Profession, Georgetown Law Center

This session will start with introductions and brief course overview. We will then dive right into a discussion of law firm economics, using our law firm, Rodriguez Zimmerman & Drysdale, as the backdrop. What are the principal drivers of large law firm revenues and expenses? How are law firms financed? How are law firms structured, in terms of personnel (e.g., equity vs. non-equity partners), practices and offices?

Our speaker will be Jim Jones, a former managing partner at Arnold & Porter and legal industry expert and analyst. He will provide a good overview of the law firm competitive landscape. You'll want to review the latest Report on the State of the Legal Market: posted separately. Jim will give us a preview of the 2023 edition.

Questions to Consider for Class No. 1:

- *What are your goals for this class?*
- *Why do you care about pro bono? Why should lawyers care about pro bono?*
- *Make a prediction about how pro bono might develop in the future.*

Notes For Class No. 1:

Read the RZD materials -- overview, roster and Excel sheet
Suggested readings:

Sat., February 4: Law Firm Economics, Pro Bono Defined, and The Media's Impact on Law Firm Behavior

Guest Speakers: Jim Sandman, former President, Legal Services Corporation

We will conclude our discussion of law firm economics and the intersection with pro bono to start today's session. We will then discuss why law firms do pro bono and why pro bono is needed. We will discuss the Justice Gap – the fact that about 90% of the civil legal needs of the poor go unmet, despite the promise of *Gideon vs. Wainwright*.

We then will be joined by Jim Sandman, President Emeritus of the Legal Services Corporation (and also a former managing partner of Arnold & Porter). Jim will provide an overview of LSC and the current legal aid crisis, as well as some thoughts on the problem of access to justice generally as well as the role of the private bar in delivering serious assistance to those in need. Please review “LSC By the Numbers: 2019” <https://lsc-live.app.box.com/s/xjztcpfhiu3cr9yb7o9rd9996pyvwi3i> and the LSC report of the Pro Bono Task Force, October 2012, <http://www.lsc.gov/report-pro-bono-task-force-released-washington-boston-and-chicago>

Next, we will wade into the discussion of the definition of pro bono – what counts and why, by defining the elements of pro bono in breakout sessions and then returning to the large group for discussion.

During the last hour, we will be joined by a former law firm leader who will discuss his own experiences with pro bono programs, his view of pro bono from a law firm perspective, and offer a governmental, personal, overall view of the role of legal aid organizations and pro bono volunteers in the delivery of legal services to those most in need.

Questions to Consider For Class No. 2:

- *What steps can we take to increase access to justice?*
- *If you care about the access to justice crisis, what role can law firms play in addressing that crisis?*
- *What are the advantages and disadvantages of addressing that crisis through pro bono work at a law firm? The advantages and disadvantages of working at a legal services organization?*
- *What is the role of law firms in advancing racial justice work?*
- *How could we once and for all solve the access to justice crisis? Should pro bono be part of the solution?*
- *What role could technology play in solving the access to justice crisis?*
- *What role could people who are not lawyers play in solving the access to justice crisis?*

Notes for Class No. 2:

- o *Legal Services Corporation: <https://lsc.gov/>*
- o *2022 LSC Justice Gap Report: <https://justicegap.lsc.gov/>*
- o *National Legal Aid & Defender Association: <https://www.nlada.org/>*

Fri., February 10

What Counts as Pro Bono, Public Interest Lawyers, & Signature Projects

Guest Speakers:

Adam Murray, Inner City Law Center (Los Angeles) - <https://innercitylaw.org/>

Bill Holston, Human Rights Initiative (Dallas) - <https://hrionline.org/>

Jamila Johnson, The Lawyering Project - <https://lawyeringproject.org>

We will start the class by continuing to define pro bono. We will also discuss the internal and external motivations for pro bono within large law firms. With a better understanding of how pro bono is defined, we will break out into groups to analyze hypothetical pro bono projects to determine “what counts” as pro bono.

We will review the collaboration between law firms and legal services agencies before being joined by a panel of public interest lawyers, who will discuss the opportunities and challenges presented by pro bono volunteers. **In preparation for this class, please review each panelist’s legal services organization’s website so you are familiar with their work. The organization websites are listed above.**

After a break, we will examine law firm pro bono policies; the development of signature projects, practice areas, and other ways firms are working to have a larger impact on certain legal needs and issues of the day; how transactional lawyers have increasingly become involved in pro bono matters that require their deal-making expertise.

We will end the class by previewing tomorrow’s law firm simulation.

Questions To Consider For Class No. 3:

- *Why is it important to have pro bono definitions?*
- *Would your definition change based on where a lawyer practiced (e.g., law firm vs. corporation vs. small firm? United States vs. other countries? large city vs. rural area?)*
- *What role does/should racial justice work play in a firm’s pro bono program?*

Notes For Class No. 3:

- *Pro Bono Institute: <http://www.probonoinst.org/> [including “What*

Counts?]

- *Association of Pro Bono Counsel:* <https://apbco.org/>
- *Law Firm Anti-Racism Alliance:*
<https://www.lawfirmantiracismalliance.org/>

Sat., February, 11 **Current Topics in Pro Bono, Global Pro Bono, & The Simulation**

We will start the class examining current topics in pro bono—with an emphasis on the impact of the pandemic on pro bono work and law firm’s racial justice pro bono work.

Next, we will address how pro bono has gone global in two ways: (1) US lawyers working on projects involving international law, international development, human rights, and international affairs; and (2) the influence of US pro bono culture and philosophy on lawyers outside of the US, and not just where US firms have offices. Consider, for example, the expansion of pro bono in London through the UK Collaborative Plan for Pro Bono (<http://www.trust.org/spotlight/Collaborative-Plan-for-Pro-Bono-uk/>). See also the following pro bono sites:

- Pro Bono De Las Americas: <http://www.redprobono.org/en/>
- Australian Pro Bono Centre: <https://www.probonocentre.org.au/>
- Pro Bono Deutschland: <https://www.pro-bono-deutschland.org/home/>

On the other hand, how might the concept of social welfare and social justice outside the United States impact the concept of pro bono?

The remainder of class will be our simulation: separate meetings then a joint meeting of members of the Executive Committee and the Pro Bono Committee of RZD, exploring both management and ethical issues. Seminar students will receive agendas in advance, and will be in role. The last part of class will be spent discussing the simulation and lessons learned from the course.

Questions To Consider For Class No. 4:

- *Is there a conflict between doing pro bono work and a successful Big Law career?*
- *Who and what within a law firm will influence the pro bono work that you do as an associate?*
- *Should law firm pro bono programs be "viewpoint neutral" or should they*

advocate for particular positions on certain issues based on the preferences of the law firm leadership or individual attorneys?

- *Should law firms be more risk averse when determining whether to accept a pro bono representation than a billable representation?*
- *What could law firms do to encourage attorneys to do pro bono work?*
- *What could law firms do to encourage students to ask about pro bono work during interviews or to demonstrate a sincere commitment to pro bono?*
- *What obstacles do you predict you will encounter in trying to do pro bono work at a law firm? How might you get past them?*