

**COLORADO SUPREME COURT STANDING COMMITTEE ON THE COLORADO  
RULES OF PROFESSIONAL CONDUCT**

**AGENDA**

December 6, 2013 9:00 a.m.  
Colorado Supreme Court Conference Room 4244  
Ralph Carr Colorado Judicial Center, 4th Floor  
2 East 14th Avenue, Denver  
Call-in number: 720-625-5050 - Access Code 44288829#

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1. Approval of minutes – October 11, 2013 meeting [to be distributed separately]
2. Report on status of proposed new Comment [2A] to CRPC 8.4 and new Rule 8.6; and proposed amendments to CRPC 1.15 [Marcy Glenn]
3. Supplemental report from Subcommittee on Marijuana [Judge Webb, pages 1-2; and materials from prior meetings]
4. Report from Subcommittee on ABA Amendments to Model Rules [Michael Berger, pages 68-284 of October 11, 2013 meeting materials]
5. New business: Proposed amendments to Recommended Pro Bono Policy following Comments to CRPC 6.1 [Dave Stark, pages 3-19]
6. Administrative matters: Select next meeting date
7. Adjournment (before noon)

Chair  
Marcy G. Glenn  
Holland & Hart LLP  
(303) 295-8320  
mglenn@hollandhart.com

TO: MARCY GLENN

FROM: AMENDMENT 64 SUBCOMMITTEE

RE: CROSS REFERENCING COMMENT IN RULE 1.2

DATE: NOV. 29, 2013

The subcommittee's initial report mentioned the desirability of a comment in Rule 1.2 cross-referencing Proposed Rule 8.6, but did not suggest specific language. The subcommittee's supplemental reports did not reiterate this suggestion.

With apologies for having overlooked this detail, the subcommittee requests that the Standing Committee recommend to the Supreme Court approval of the following new comment to existing Rule 1.2:

**Comment [12A]** Paragraph (d) should be read in conjunction with Rule 8.6.

Members Berger, Blum, Alvarez, Nemirow, Squarrell, and Webb support this proposal. So do members Sudler and Rothrock, but reserving their prior objections to the proposed rule. Member Wald proposes the following language, as either a final sentence to existing Comment 12 (his preference) or a new Comment [12A]: "In

appropriate circumstances, paragraph (d) should be read in conjunction with Rule 8.6.”

At least two considerations favor adding such a comment. First, the need for proposed Rule 8.6 arises from the “assist a client” phrase in Rule 1.2(d), and existing Comment [12] addresses paragraph (d). Second, because Rule 8.6 would, if adopted by the Supreme Court, be unique to Colorado, uniformity favors alerting readers familiar with the ABA Model Rules of a local variation.

The majority does not believe that the phrase “In appropriate circumstances” adds anything, because proposed Rule 8.6 was narrowly drawn to reference the two marijuana amendments to our state constitution. The majority also believes that uniformity warrants a separate comment, rather than language in the existing comment, which might be overlooked.

Respectfully submitted,

\_\_\_\_\_/s/\_\_\_\_\_

John R. Webb

**Subject:**  
**Attachments:**

Standing Committee on Rules of Professional Conduct, Proposed comments to Rule 6.1  
PRO BONO POLICY FOR GOVERNMENTAL AGENCIES Submitted to Standing  
Committee.doc; ATT00001.htm; 2013 10 10 Draft Comment to Rule 6 1 of Rules of Profi  
Conduct Adding Model Policy for InHouse Legal Depts with DWS edits.DOCX; ATT00002.htm

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**From:** Stark, David W. [<mailto:David.Stark@FaegreBD.com>]

**Sent:** Wednesday, November 13, 2013 4:56 PM

**To:** Marcy Glenn

**Cc:** Carmel Gill; Carolyn Powell; Charles Garcia; Stark, David W.; Ellen Wakeman; Hon. Barbara Hughes; Hon. Daniel Taubman; Hon. Michael O'Hara; Hon. Robert Hyatt; Wills, Jayne M.; Jim Coyle; Katy Donnelly; Kristen Burke; Michael Rosenberg; Mimi Tsankov; Roger Clark; Sarah Clark; Tess Hand-Bender; Troy Rackham

**Subject:** Standing Committee on Rules of Professional Conduct, Proposed comments to Rule 6.1

Marcy,

I am a member of the Chief Justice's Commission on the Legal Profession and the Chair of Working Group D. My working group has focused on the relationship between the legal profession and the community and this, of course, includes pro bono participation. We have worked to increase that participation by law firms, solo practitioners, government lawyers, and in-house counsel. At the suggestion of Justice Hobbs, we have drafted two additions to the comments to Rule 6.1 to provide model pro bono policies for governmental agencies and in-house legal departments. I have attached those draft comments and hope that you will put them on the agenda for the Standing Committee's review.

I realize that you and the committee may have questions or comments and I and my working group would be happy to meet with the committee to discuss any issues.

Best Regards,

Dave

**David W. Stark**

*Partner*

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COLORADO RULES OF CIVIL PROCEDURE

APPENDIX TO CHAPTERS 18 TO 20  
COLORADO RULES OF PROFESSIONAL CONDUCT

This Comment, **Recommended Model Pro Bono Policy for Governmental Agencies**, is to be added to the Existing Comment in Rule 6.1. Voluntary Pro Bono Public Service.

**Recommended Model Pro Bono Policy for Governmental Agencies**

**Preface.** Providing pro bono legal services to indigent persons and organizations serving persons of limited means is a core value of Colorado licensed attorneys enunciated in Colorado Rule of Professional Conduct 6.1. Adoption of a pro bono policy will commit the governmental agency to this professional value and assure attorneys that their pro bono work is valued in their advancement within the respective entity. Nevertheless, the Court recognizes that the work environment for government attorneys is distinct from that of lawyers in private law firms, and may limit the type and amount of pro bono services that government lawyers can perform. In particular, the Court recognizes that government attorneys face concerns about conflicts of interest, which differ from those facing private attorneys, and, unlike private attorneys, government attorneys will be limited in performing pro bono service during regular hours, using office resources, and, possibly by statutory or regulatory provisions.

At the same time, the Court recognizes that efforts of the Colorado Bar Association and the American Bar Association to encourage pro bono service by government lawyers and believes that their policies and materials provide useful guidance for government lawyers to enable them to perform pro bono service. See “CBA Voluntary Pro Bono Public Service by Government Attorneys: Provision of Direct Representation to Indigent Persons,” 29 Colo. Lawyer 79 (July 2000); “Pro Bono Project Development: A Deskbook for Government and Public Sector Lawyers,” American Bar Association 1998, available at [apps.americanbar.org/legal\\_services/pro\\_bono/government\\_attorneys.html](https://apps.americanbar.org/legal_services/pro_bono/government_attorneys.html).

The Colorado Supreme Court has adopted the following recommended Model Pro Bono Policy, which can readily be modified to meet the needs of individual governmental agencies. References are made to provisions that may not apply in a federal or other governmental agency setting, depending on each agency’s governing statutes, regulations, and internal policies. Adoption of such a policy is entirely voluntary.

At the least, a pro bono policy would:

- (1.) Clearly set forth an aspirational goal for attorneys (the attached model policy uses the figure of at least 50 hours per attorney per year, which mirrors the aspirational goal set out in Rule 6.1 of the Colorado Rules of Professional Conduct;
- (2.) Demonstrate that pro bono service will be positively considered in evaluation; and
- (3.) Include a description of the processes that will be used to match attorneys with projects and monitor pro bono service, including tracking pro bono hours spent by lawyers and others in the respective entity.

The Colorado Supreme Court will recognize those governmental agencies that make a strong commitment to pro bono work by adopting a policy that includes:

- (1.) An annual goal of performing 50 hours of pro bono legal service by each Colorado licensed attorney pro-rated for part-time attorneys, primarily for persons of limited means and/or organizations serving persons of limited means consistent with the definition of pro bono services as set forth in the Colorado Supreme Court's Model Pro Bono Policy, and
- (2.) A statement that the agency will value at least 50 hours of such pro bono service per year by each Colorado licensed attorney, for all purposes of attorney evaluation and advancement.

The Colorado Supreme Court will also recognize on an annual basis those governmental agencies that voluntarily advise the Court by February 15 of each year that their attorneys, on average, during the previous calendar year, performed 50 hours of pro bono legal service, primarily for persons of limited means or organizations serving persons of limited means, consistent with the definition of pro bono services as set forth in this Model Pro Bono Policy.

Federal Government Lawyers.

Federal government lawyers also have a professional responsibility to provide legal services to persons of limited means and should strive to perform at least 50 hours of pro bono legal work annually. To make this possible, the Court strongly urges all federal agencies in Colorado to encourage and support pro bono activity by their lawyers by developing programs which assist their lawyers in finding appropriate pro bono opportunities, by welcoming requests by their lawyers to engage in pro bono activity, and by granting approval of

such requests in a timely manner. Recognizing that federal government lawyers face unique restrictions when engaging in pro bono activity, the Colorado Supreme Court urges federal government lawyers to seek out opportunities which are consistent with the statutes and regulations governing such outside professional activities. Federal government lawyers in Colorado are encouraged to abide by their agencies' pro bono policies, which will provide guidance in this area.

**Recommended Model Pro Bono Policy for Government Lawyers and  
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**References**

A. Preamble to the Colorado Rules of Professional Conduct

B. Colorado Rule of Professional Conduct 6.1

C. Chief Justice Directive 98-01, Costs for Indigent Persons Civil Matters

D. Colorado Rule of Civil Procedure 260.8

E. Colorado Rule of Civil Procedure 260.8, Form 8

## **I. Introduction**

The governmental agency recognizes that the legal community has a unique responsibility to ensure that all citizens have access to a fair and just legal system. In recognizing this responsibility, the governmental agency encourages each of its attorneys to actively participate in some form of pro bono legal representation.

This commitment mirrors the core principles enunciated in the Colorado Rules of Professional Conduct:

A lawyer should be mindful of deficiencies in the administration of justice and of the fact that the poor, and sometimes persons who are not poor, cannot afford adequate legal assistance, and therefore devote professional time and civic influence in their behalf. A lawyer should aid the legal profession in pursuing these objectives and should help the bar regulate itself in the public interest. . . . A lawyer should strive to attain the highest level of skill, to improve the law and the legal profession and to exemplify the legal profession's ideals of public service. (Preamble, Colorado Rules of Professional Conduct).

In addition, Colo. RPC 6.1 provides in pertinent part, "Where constitutional, statutes or regulatory restrictions prohibit government and public sector lawyers . . . from performing the pro bono services outlined in paragraphs (a) (1) and (2) [representation of persons of limited means or organizations addressing their needs], those individuals should fulfill their pro bono publico responsibility by performing services or participating in activities outlined in paragraph (b)." Paragraph (b) lists alternative means of providing pro bono service.

The governmental agency understands that there are various ways to provide pro bono legal services in our community. In selecting among the various pro bono opportunities, the governmental agency encourages and expects that attorneys will devote a minimum of fifty (50) hours each year to pro bono legal services, or a proportional amount of pro bono hours by attorneys on alternative work schedules. In fulfilling this responsibility, attorneys, when

possible, should provide a substantial majority of the fifty (50) hours of pro bono legal services to (1) persons of limited means, or (2) charitable, religious, civic, community, governmental and educational organizations in matters which are designed primarily to address the needs of persons of limited means. (Colorado Rule of Professional Conduct 6.1). The governmental agency strongly believes that this level of participation lets our attorneys make a meaningful contribution to our legal community, and provides important opportunities to further their professional development.

## **II. Pro Bono Committee/Coordinator.**

The governmental agency has designated a Pro Bono Coordinator or Committee responsible for implementing and administering the pro bono policies and procedures. The Pro Bono Coordinator or Committee has the following principal responsibilities:

1. Encouraging and supporting pro bono legal endeavors;
2. Reviewing, accepting and/or rejecting pro bono legal projects;
3. Coordinating and monitoring pro bono legal projects, ensuring, among other things, that appropriate assistance, supervision, and resources are available;
4. Providing periodic reports on the agency's pro bono activities; and
5. Creating and maintaining a pro bono matter tracking system.

Attorneys are encouraged to seek out pro bono matters that are of interest to them.

## **III. Pro Bono Services Defined.**

The foremost objective of the pro bono policy is to provide legal services to members of the community with limited means and the nonprofit organizations that assist them, in accordance with Rule 6.1 of the Colorado Rules of Professional Conduct. The governmental agency recognizes that there are a variety of ways in which its attorneys and paralegals can provide pro bono legal services in the community. The following, while not intended to be an exhaustive list, reflects the types of pro bono legal services governmental agency credits in adopting this policy.

(As noted above, where constitutional, statutory or regulatory restrictions prohibit government and public sector lawyers from performing the pro bono services outlined in paragraphs (a)(1) and (2), those individuals should fulfill

their pro bono responsibility by performing services or participating in activities outlined in paragraph (b).)

**A. Representation of Low Income Persons.**

Representation of individuals of limited means who cannot afford legal services in civil or criminal matters of importance to a client;

**B. Civil Rights and Public Rights Law.**

Representation or advocacy on behalf of individuals or organizations seeking to vindicate rights with broad societal implications (class action suits or suits involving constitutional or civil rights) where it is inappropriate to charge legal fees;

**C. Representation of Charitable Organizations.**

Representation or counseling to charitable, religious, civic, governmental, educational, or similar organizations in matters where the payment of standard legal fees would significantly diminish the resources of the organization, with an emphasis on service to organizations designed primarily to meet the needs of persons of limited income or improve the administration of justice;

**D. Community Economic Development.**

Representation of or counseling to micro-entrepreneurs and businesses for community economic development purposes, recognizing that business development plays a critical role in low income community development and provides a vehicle to help low income individuals to escape poverty;

**E. Administration of Justice in the Court System.**

Judicial assignments, whether as pro bono counsel, or a neutral arbiter, or other such assignment, which attorneys receive from courts on a mandatory basis by virtue of their membership in a trial bar;

**F. Law-related Education.**

Legal education activities designed to assist individuals who are low-income, at risk, or vulnerable to particular legal concerns or designed to prevent social or civil injustice;

**G. Mentoring of Law Students and Lawyers on Pro Bono Matters.**

Colorado Supreme Court Rule 260.8 provides that an attorney who acts as a mentor may earn two (2) units of general credit per completed matter in which he/she mentors a law student. An attorney who acts as a mentor may earn one (1) unit of general credit per completed matter in which he/she mentors another lawyer. However, mentors shall not be members of the same entity or in association with the lawyer providing representation to the indigent client.

The following activities, while meritorious, do not involve direct provision of legal services to the poor. Therefore, they cannot be counted toward fulfillment of the attorney's or the agency's goal to provide pro bono legal services to indigent persons or to nonprofits that serve such persons' needs: participation in a non-legal capacity in a community or volunteer organization; services to non-profit organizations with sufficient funds to pay for legal services as part of their normal expenses; client development work; non-legal service on the board of directors of a community or volunteer organization; bar association activities; and non-billable legal work for family members, friends, or other individuals who are not eligible to be pro bono clients under the above criteria.

#### **IV. Recognition of Pro Bono Service.**

The governmental agency recognizes that the commitment to pro bono work involves a personal expenditure of time. In acknowledgment of this commitment, an attorney's efforts to meet this expectation will be considered in measuring various aspects of the attorney's performance, such as yearly evaluations, where applicable.

#### **V. Administration of Pro Bono Service.**

##### **A. Approval of Pro Bono Matters.**

The Pro Bono Coordinator or Committee will review all proposed pro bono legal matters to ensure that:

1. There is no client or issue conflict or concern;
2. The legal issue raised is not frivolous or untenable;
3. The client does not have adequate funds to retain an attorney; and
4. The matter is otherwise appropriate for pro bono representation.

All persons seeking approval of a pro bono project must: (1) submit a request identifying the client and other entity involved; (2) describe the nature of the work to be done; and (3) identify who will be working on the matter.

## **B. Pro Bono Engagement Letter.**

After a matter has received initial approval, the attorney on a pro bono legal matter must send an engagement letter to the pro bono client. Typically, the engagement letter should be sent after the initial client meeting during which the nature and terms of the engagement are discussed.

## **C. Professional Liability Insurance.**

Attorneys may provide legal assistance through those pro bono organizations that provide professional liability insurance for their volunteers. Before undertaking any pro bono legal commitment, the professional liability implications should be reviewed with the Pro Bono Coordinator or Committee.

## **D. Attorney Fees in Pro Bono Matters.**

Attorneys are encouraged to seek and obtain attorney fees in pro bono legal matters where possible. In the event of a recovery of attorney fees, the attorney is encouraged to donate these fees to an organized nonprofit entity whose purpose is or includes the provision of pro bono representation to indigent or near-indigent persons.

## **VI. CLE Credit for Pro Bono Work.**

Colorado Rule of Civil Procedure 260.8 provides that attorneys may be awarded up to nine (9) hours of CLE credit per three-year reporting period for (1) performing uncompensated pro bono legal representation on behalf of persons of limited means in a civil legal matter, or (2) mentoring another lawyer or law student providing such representation.

### **A. Amount of CLE Credit.**

Attorneys may earn one (1) CLE credit hour for every five (5) billable-equivalent hours of pro bono representation provided to the person of limited means. An attorney who acts as a mentor may earn one (1) unit of general credit per completed matter in which he/she mentors another lawyer. Mentors shall not be members of the same governmental agency or in association with the lawyer providing representation to the indigent client. An attorney who acts as a mentor may earn two (2) units of general credit per completed matter in which he/she mentors a law student.

### **B. How to Obtain CLE Credit.**

An attorney who seeks CLE credit under CRCP 260.8 for work on an eligible matter must submit the completed Form 8 to the assigning court, program, or law school. The assigning entity must then report to the Colorado Board of Continuing Legal and Judicial Education its recommendation as to the number of general CLE credits the reporting pro bono attorney should receive.

COLORADO RULES OF CIVIL PROCEDURE

APPENDIX TO CHAPTERS 18 TO 20  
COLORADO RULES OF PROFESSIONAL CONDUCT

Rule 6.1. Voluntary Pro Bono Public Service

This Comment, **Model Pro Bono Policy for Colorado In-House Legal Departments**, is to be added to the Existing Comment in Rule 6.1. Voluntary Pro Bono Public Service.

**Recommended Model Pro Bono Policy for Colorado In-House Legal Departments**

**Preface.** Providing pro bono legal services to persons of limited means and organizations serving persons of limited means is a core value of Colorado licensed attorneys enunciated in Colorado Rule of Professional Conduct 6.1. Colorado lawyers who work in in-house legal departments have, historically, been an untapped source of pro bono volunteers. Rule 6.1 applies equally to in-house lawyers; however, the Court recognizes that the work environment for in-house lawyers is distinct from that of lawyers in private law firms, and may limit the amount of pro bono work lawyers can accomplish while working in-house.

To encourage Colorado in-house lawyers to commit to providing pro bono legal services to persons and organizations of limited means, the Court has adopted rules to overcome some of the barriers impeding in-house counsel from performing pro bono legal work. For example, an in-house attorney who is not licensed to practice in Colorado may obtain a license to perform pro bono legal work, as a “pro bono/emeritus attorney” under Rule 223 of Chapter 18, the Colorado Court Rules Governing Admission to the Bar. The attorney must pay a one-time fee of \$50, and must act under the auspices of a Colorado nonprofit entity whose purpose is or includes the provision of pro bono legal representation to persons of limited means.

The following Model Pro Bono Policy can be modified to meet the needs of individual in-house legal departments. Adoption of such a policy is entirely voluntary. The model policy below is designed to serve as a starting point for in-house legal departments within Colorado that would like to put in place a structured program to encourage their lawyers to engage in pro bono service. The model policy should be adapted as needed to reflect the culture and values of the company or organization and legal department. No formal pro bono policy is needed to launch an in-house pro bono program (indeed, many of the most successful in-

house pro bono programs have no policy at all); however, the model below reflects some of the issues that an in-house legal department may wish to consider before launching a program. In a few instances below alternative language is suggested. Additional resources and model policies are available from the Pro Bono Institute, Corporate Pro Bono Project: <http://www.probonoinst.org/projects/corporate-pro-bono.html>.

**Recommended Model Pro Bono Policy for Colorado In-House Legal Departments**

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**IX. Expertise**

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**References**

- A. Preamble to the Colorado Rules of Professional Conduct
- B. Colorado Rule of Professional Conduct 6.1
- C. Chief Justice Directive 98-01, Costs for Indigent Persons Civil Matters
- D. Colorado Rule of Civil Procedure, Chapter 18, Rule 223

**I. Introduction**

Company recognizes the importance of good corporate citizenship, and supporting the communities in which it does business. Performing pro bono services benefits both the professionals who undertake the work as well as the individuals and organizations served. Pro bono work allows legal professionals to sharpen their existing skills, learn new areas of the law, connect more fully with their communities, and achieve a measure of personal fulfillment.

Rule 6.1 of the Colorado Rules of Professional Conduct sets forth an aspirational goal that each lawyer render at least 50 hours of pro bono public legal services per year, with a substantial majority of those hours without fee to (1) persons of limited means or (2) governmental or non-profit organization matters designed primarily to address the needs of persons of limited means.

*[Insert statement about Company's existing or planned community service work]*

Company encourages every member of the Legal Department to assist in providing pro bono legal services. Company aspires to attain the goal of each Company attorney devoting a minimum of 50 hours per year to pro bono legal services, or a proportional amount of pro bono hours by attorneys on alternative work schedules.

## **II. Mission Statement**

Through its pro bono program, the Legal Department intends to serve Company's communities by providing pro bono legal services to individuals and organizations that otherwise might not have access to them. In addition, the Legal Department seeks to provide opportunities for rewarding and satisfying work, to spotlight Company's position as a good corporate citizen, for Legal Department professional skills and career development, and for collaboration and teamwork across Company's Legal Department and within the community in general for our attorneys and other professionals.

## **III. Pro Bono Service Defined**

Pro bono service is the rendering of professional legal services to persons or organizations with limited means, without the expectation of compensation, regardless of whether such services are performed during regular work hours or at other times. It is this provision of volunteer legal services that is covered by this pro bono policy. Because the following activities, while meritorious, do not involve direct provision of

legal services to the poor, they are not pro bono services under this policy: participation in a non-legal capacity in a community or volunteer organization; services to non-profit organizations with sufficient funds to pay for legal services as part of their normal expenses; non-legal service on the board of directors of a community or volunteer organization; services provided to a political campaign; and legal work for family members, friends, or Company employees who are not eligible to be pro bono clients under an approved pro bono project.

#### **IV. Pro Bono Service Participation**

Every member of Company Legal Department is encouraged to provide pro bono legal services. The pro bono legal services should not interfere with regular work assignments and must be approved by the Pro Bono Committee/Coordinator. No attorney will be adversely affected by a decision to participate in the program; conversely, no attorney will be penalized for not participating in the program.

**Optional language:** The Legal Department encourages each member to devote up to 50 hours of regular work time per year toward providing pro bono services. Legal Department members may need to use paid time off for any pro bono services provided in excess of 50 hours per year. *[Insert language for process of tracking those hours.]*

#### **V. Pro Bono Committee/Coordinator**

To support Company's efforts to provide pro bono services, Company Legal Department has established a Pro Bono Coordinator/Committee. The Committee/Coordinator oversees the pro bono program, supervises and approves all pro bono matters, ensures that conflicts are identified and processes are followed, and ensures that all pro bono matters are adequately supervised. The Pro Bono Coordinator/Committee encourages all employees within the Legal Department to bring to the Coordinator's/Committee's attention any pro bono projects of interest.

#### **VI. Pro Bono Projects**

All pro bono projects must be pre-approved by the Pro Bono Coordinator/Committee. Individuals may not begin their pro bono representations in a particular matter until Coordinator/Committee approval is received. Individuals must obtain the approval of their supervisors to perform pro bono services during scheduled work hours.

The Pro Bono Coordinator/Committee plans to offer, from time to time, group projects that have already been approved. In addition, members of

the Legal Department may seek approval for a new project by submitting to the Coordinator/Committee a project approval request that contains: the name of the proposed client, the name of the opposing parties and other entities (e.g. opposing attorney or law firm) involved, a description of the project including the scope of work to be done, the names of the Law Department members who would work on the project, an estimate of the time required from each person, an estimate of any anticipated costs associated with the project, anticipated schedule of the project and/or deadlines; supervision or training needs, whether malpractice coverage is provided by the project sponsor, and any other relevant information.

## **VII. Insurance Coverage**

Company's insurance carrier provides insurance coverage for employees in the Legal Department for work performed on approved pro bono projects. Members of the Legal Department must advise the Pro Bono Coordinator/Committee immediately should they learn that a complaint or disciplinary complaint may be filed concerning a pro bono matter.

### **OR**

Company does not have malpractice insurance to cover pro bono work of its Legal Department members; however, many of the organizations that sponsor pre-approved pro bono projects carry malpractice insurance for their volunteer attorneys. The Pro Bono Coordinator/Committee will reject any project that does not provide malpractice coverage for the legal services provided. Members of the Legal Department must advise the Pro Bono Coordinator/Committee immediately should they learn that a complaint or disciplinary complaint may be filed concerning a pro bono matter.

*[Note: The Pro Bono Institute has outlined additional options, such as self-insurance through the purchase of a policy from NLADA, in a paper available here: <http://www.cpbo.org/wp-content/uploads/2012/09/Insurance-Paper.pdf>]*

## **VIII. Expenses and Resources**

As with any other Company work assignment, individuals doing pro bono work may engage Legal Department legal assistants, paralegals and other support staff in a manner consistent with their job responsibilities. Legal Department members may use Company facilities, such as telephones, copiers, computers, printers, library materials, research materials, and mail, as appropriate to carry out pro bono work; however, in accordance with the section entitled "Company Affiliation" below, use of Company resources should not convey the impression that Company is providing

the pro bono services. Ordinary expenses (e.g., parking, mileage, etc.) may be submitted for reimbursement. Expenses exceeding \$250 should be submitted to the Pro Bono Coordinator/Committee for prior approval. Legal Department members should make every effort to control expenses related to pro bono work just as they would for any other legal matter.

## **IX. Expertise**

Legal Department members providing pro bono services should exercise their best judgment regarding their qualifications to handle the issues necessary to provide pro bono services. Those providing pro bono services should obtain training on the legal issues they will handle. Training is available through various pro bono organizations, bar associations, law firms, and CLE offerings.

### **OR**

Because pro bono work may require Legal Department members to work outside of their areas of expertise and skill, the Legal Department will make available to all pro bono volunteers substantive support services, if requested on an approved project, to enable them to provide effective and efficient representation in pro bono matters.

## **X. Company Affiliation**

Although Company strongly endorses participation in the pro bono program, participants are not acting as Company representatives or employees with respect to the matters they undertake, and Company does not necessarily endorse positions taken on behalf of pro bono clients. Therefore, Company Legal Department members participating in such activities do so individually and not as representatives of Company. Individuals who take on pro bono matters must identify themselves to their clients as volunteers for the non-profit organization and not as attorneys for Company.

Individuals providing pro bono services should not use Company's stationery for pro bono activities or otherwise engage in any other acts that may convey the impression that Company is providing legal services. Individuals should use the stationery provided by the pro bono referral organization, or if no stationery is provided, blank stationery (i.e. no Company letterhead). Similarly Company business cards must not be distributed to pro bono clients.

**Optional Language:** Most client interviews or other meetings should take place at the offices of a partner organization. If this is not suitable, members of the Legal Department may host pro bono client meetings at a

Company location with the prior approval of the Coordinator/Committee. The Company attorney hosting the meeting should take care to remind the pro bono client that, although the meeting is taking place at a Company location, the client is represented by the attorney and not the Company.

## **XI. Conflict of Interest**

Legal Department members may not engage in the provision of any pro bono service which would create a conflict of interest or give the appearance of a conflict of interest. This includes, but is not limited to, direct conflicts, business/public relations conflicts, and politically sensitive issues. Conflicts analysis must be ongoing throughout the course of any representation as an issue raising a conflict may present itself at any time during the course of representation. The Pro Bono Coordinator/Committee will review and resolve any potential conflict issues.