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## Raising the bar: pro bono, altruism and other truths about good lawyering and great lawyers

Indiana lawyers are an amazing lot. They routinely devote substantial uncompensated time to their communities through service in many different areas. It is so common as to be the default assumption that you will see lawyers serving on not-for-profit boards, in church and school positions, coaching youth sports teams, leading the Rotary and Kiwanis, and on and on. In my life, I have identified lawyer after lawyer who has served as a mentor and a model for good citizenship and good behavior. I had the chance to visit with one of the most important in that vein recently when I joined the Inns of Court dinner in Muncie at the invitation of Jack Buckles. As a teenager growing up in Muncie, I didn't know exactly what Jack did in his professional life, but I knew I wanted to be like him when I grew up – *still do!*

What is it that motivates us to become lawyers in the first place, and then what is it that takes us into that broader arena of community service? I believe it is a deeply embedded value called "altruism" that shows up in people who want to help others.\*

An argument can be made that when lawyers consider volunteer opportunities they should seek out those projects and programs that require the unique skills of a lawyer. Any engineer, accountant, manufacturers rep, school teacher, doctor, dentist, et cetera, can coach the Little League team, but only a lawyer can set up a not-for-profit corporation, draft its bylaws and file for 501(c)(3) status or represent the indigent client and the legally underserved in our society in a courtroom through pro bono service.

Lawyers of a certain vintage will recall that not that many years ago, the concept of pro bono legal service was merely a recognition of the routine practice of providing no- or low-cost legal services to persons in need. "County seat" lawyers simply did what was right as they judged the circumstances of the individual they were representing. It was not uncommon for no fee to be charged or a long-term payment plan arranged that would fit the economic circumstances of the client. As time has passed and the practice of law, like the rest of society, has sped up, the opportunity to approach pro bono practice with such a simple and generous view of the professional responsibility we all assume is no longer practical. Younger lawyers, who provide the

bulk of legal representation at a certain socio-economic level, are no longer afforded the luxury of ignoring billable-hour requirements either because the firm has an expectation of production or the individual has serious education debt to serve (and generating fees is a high priority). Middle-aged lawyers are settling into a routine, developing specialties and reputations, and pro bono interferes with mid-life goals and objectives. Older lawyers are often willing to assist the underserved for no fee, but they are frequently unfamiliar with the subject matter of the cases with which they are asked to assist.

The Indiana Supreme Court has not mandated a pro bono requirement for practicing lawyers in Indiana unlike some other states. During House of Delegates debates several years ago, it was clear that the practicing bar, as represented by that body, was not in favor of being compelled to perform pro bono and believed that such service was being provided informally already. A number of larger firms have attempted to create a firm culture of pro bono and have made serious policy decisions internally that recognize and reward pro bono instead of penalizing the lack of production of billable (and collectible) hours. Many solo and small firm practitioners have made personal pledges of pro bono time, and the Indiana Pro Bono Commission has spearheaded a much more focused effort in recent years benefiting from IOLTA funding.

So, where is all of this leading us? I recently noted that one of the true wonders of our American experiment in democracy is the willingness of the people to abide by the rule of law and to implicitly recognize the values that are embedded in the stability the rule of law provides for our social and economic welfare as a country. The risk we all face is when a small minority of the

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**PRESIDENT'S PERSPECTIVE**  
**Douglas D. Church**  
**2007-2008**

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underserved in our society grows to a more significant number, and, then, absent access to the system, they pursue “self help” in extralegal and frequently violent and destructive ways. The manifestation of this denial of access to our judicial system has appeared in highly dense urban areas of our country where poverty has deep roots. The consequence of this threat to our stable community is merely to refocus the duties and obligations that we, as attorneys, uniquely serve in our society. As lawyers, we are the keyholders and gatekeepers within our judicial system – doctors, dentists, accountants can’t provide this service. As citizens, we should accept our share of the responsibility in addressing the unmet needs of the underserved. *As lawyers, we must provide the assistance that only lawyers can.* Far be it from me to deny the benefits and rewards to our communities from the broad

range of volunteer activities that I noted earlier, and I would never discourage such volunteerism. I am merely urging you to consider the addition of pro bono legal service to your arsenal of good deeds.

My theme for this year (“raising the bar”) was intended to represent several ways of thinking about how the organized bar can help provide benefits to practicing

attorneys, but it also reflects our desire to let society know that we accept and bear the unique and privileged responsibility that is expressed in our oath and implied within our professional sense of duty and purpose. In that spirit, I encourage all Indiana attorneys to do two things – first, call your local

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pro bono plan administrator and ask for an assignment, and, second, when the call comes, answer it and take the case. If you are in a firm, consider adopting an internal pro bono policy and encourage all of the attorneys in the firm to comply.

We are fortunate in so many ways. We live and practice in a wonderful state with an incredibly competent bar and a highly qualified judiciary. At the same time, we live in a state with legal needs of the underserved that are not being met. We do not need to be mandated to do what we know is right, but making such a statement now needs to be backed up with action. Help me “raise the bar” by volunteering your time and your professional expertise to provide access to justice for all Hoosiers – and do it now! There is no better time. 🙏

\*For a thorough examination of the concept of “altruism,” type in “altruism defined” in your computer search engine and read the Wikipedia entry that pops up.