The background of the entire page is a photograph of several classical, fluted columns, likely from a courthouse or government building. The columns are light-colored, possibly white or light grey, and are arranged in a perspective that recedes into the distance. A solid blue horizontal band is overlaid across the middle of the image, containing the main title and subtitle.

Leaders For Justice

*New York City Bar Presidents
on Pro Bono and Access to Justice*

The logo for the City Bar Justice Center is located in the bottom left corner. It consists of the words "CITY BAR", "JUSTICE", and "CENTER" stacked vertically in a bold, sans-serif font. The text is white and is framed by two horizontal white bars, one above and one below the text.

CITY BAR
JUSTICE
CENTER

*“If your actions inspire others to
dream more, learn more, do more
and become more, you are a leader.”*

—John Quincy Adams

Introduction

The New York City Bar Association was established in 1870 to support a system of justice grounded in the rule of law and, in accordance with the principles on which our nation was founded and for which many had recently made great sacrifice, accessible to all, not just to those who could, or would, pay for it.

As our current president, Patricia M. Hynes, writes in these pages, there is no access to justice without access to legal services. Over the last generation, the City Bar has played a leadership role in inspiring and cajoling the legal profession to acknowledge its responsibility, as caretakers of the legal system, to increase access to justice by providing pro bono legal services to those who can't afford a lawyer.

The leadership of the City Bar has been crucial in building lasting New York City institutions to match clients in need with pro bono attorneys, including Volunteers of Legal Service; New York Lawyers for the Public Interest; the City Bar Justice Center, which is housed at the City Bar and recruits and trains 1,000 pro bono attorneys annually; and the City Bar's Cyrus R. Vance Center for International Justice.

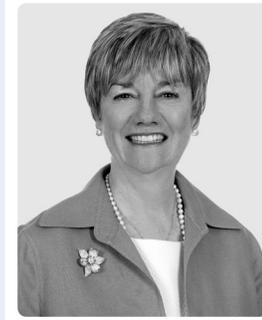
As an organization made up of leaders, the City Bar has come to expect great things from its own leaders, its successive presidents. They all have in common that they are men and women who rose to the top of their profession and used their position to increase access to justice for the disadvantaged. But they all have their own approach to leadership, their own interests, and their own voice.

Pat Hynes invited our past presidents to join with her in contributing short essays expressing their thoughts about pro bono and access to justice. We offer this collection, “Leaders for Justice,” as a window into the minds of the City Bar leaders who conceived and made real the strong pro bono tradition we have in New York, and whose influence is felt across the nation and around the world. We hope their thoughts inspire others to get involved in pro bono and to speak out in support of access to justice for all.

Barbara Berger Opotowsky
Executive Director of the New York City Bar

Lynn M. Kelly
Executive Director of the City Bar Justice Center

Patricia M. Hynes
President, 2008–2010



What a Difference a Lawyer Makes

If we live by the rule of law, then right to counsel should be seen as a fundamental right. That's because our justice system, which is supposed to be a level playing field, is for all practical purposes inaccessible without legal services.

Clients often arrive at the City Bar Justice Center after trying to go it alone, and it's amazing to see what a difference legal representation makes. The Justice Center's Consumer Bankruptcy Project, for example, handles some 100 bankruptcy filings a year with a virtual 100% success rate. By contrast, the failure rate for pro se bankruptcy filings in New York State is a stunning 90%; the sad paradox, of course, is that people filing for bankruptcy usually can't afford a lawyer to help them.

The Justice Center recently teamed up with The Legal Aid Society and the American Immigration Lawyers Association to set up clinics inside the Varick Federal Detention Facility for detained immigrants through the NYC Know Your Rights Project. Having counseled over 150 detainees, we discovered that over one-third of them had some basis for relief.

And yet by law, immigrants have no right to counsel. Even those with unassailable claims must leap high language and cultural hurdles, and without access to legal services, what chance do those detainees have? Plenty of immigrants who have lived here for many years and who, through a lawyer's successful involvement, have narrowly escaped the breaking up of their families, or their forced

return to a country where their life may be in danger, will tell you how important legal services have been to them.

Lessons learned from the NYC Know Your Rights project have contributed to a recent report by the City Bar's Immigration and Nationality Law Committee supporting the right to counsel for indigent detainees. Characterizing removal proceedings as "criminal trials in all but name," and citing the Supreme Court's holding in *Gideon* that indigent defendants have a Sixth Amendment right to appointed counsel, the report argues for this same basic right to be extended to immigrants. As Justice Brandeis wrote more than 80 years ago, removal can result "in loss of both property and life; or of all that makes life worth living." Right to counsel must be considered an integral part of the debate on immigration reform.

Like the U.S. Constitution, international covenants and treaties like the International Covenant on Civil and Political Rights, the United Nations Declaration on Human Rights, and the International Convention on the Elimination of All Forms of Racial Discrimination confer basic due process rights on individuals facing loss of liberty. The Vance Center for International Justice at the City Bar has led an increasing global awareness of the fundamental right to counsel and the moral obligation of lawyers,

as custodians of the legal system, to provide pro bono legal services. In 2008, the Vance Center launched the Pro Bono Declaration for the Americas, the first Americas-wide statement of a lawyer's responsibility to provide pro bono legal assistance, and so far over 400 lawyers, legal institutions, and non-governmental organizations have signed the Declaration, pledging to perform pro bono work.

"Legal Services" are no less than the very means by which the rule of law is implemented, and an individual's access to legal services is a test of whether a society lives by the rule of law. [III](#)

Barry M. Kamins

President, 2006–2008



Justice for All at the City Bar

As a new City Bar President in 2006, I was mindful of former President Conrad Harper's thoughtful and eloquent observation about our bar association: "If our heart as an association is in the profession, our soul is in pro bono work." Indeed, over the last forty years, many presidents have focused on a particular niche of civil legal services and successfully recruited law firms to provide pro bono service to diverse communities.

As I surveyed the legal landscape in 2006, I noted that former presidents had recruited volunteers to render service in such areas as housing, bankruptcy, immigration, matrimonial matters, family law, and consumer law. However, as a former prosecutor and criminal defense attorney, I sought to focus the resources of the City Bar Association for the first time on pro bono activities in the criminal justice system. This presented a unique challenge for a number of reasons.

First, while law firms had traditionally been called upon to provide pro bono civil legal services, they rarely had been recruited to render free legal services to those accused of crimes. A few firms had represented defendants in their appeals of criminal

convictions, but firms had not routinely offered to represent criminal defendants in collateral civil matters. In addition, when attempting to recruit volunteers, it is fair to say that, from a volunteer's point of view, defendants in criminal cases present more of a challenge than many other groups.

Bearing this in mind, I focused on the most important challenge facing defendants who have completed their jail sentences: reentry. Each year in New York State, thousands of individuals are released from state prison and face a host of problems including housing and employment. Nine out of 10 parole violators are unemployed, and unemployment may in fact be the most serious of all contributors to the high rate of recidivism.

To address these issues, I formed the Reentry Law Project to provide legal services to persons with criminal records who are victims of the hidden and collateral consequences of having a criminal record. The project recruited attorneys from large law firms to assist previously incarcerated individuals in rectifying errors on their criminal history arrest sheets. These errors had the potential of preventing individuals from obtaining meaningful employment and suitable housing. The project later produced a Small Business Toolkit, a 50-page publication providing New Yorkers with an overview of legal issues that may arise for persons with criminal convictions who want to start a business or move forward with a business they have already begun. The booklet also maps out steps for planning and starting a business and for obtaining the necessary licenses.

In an effort to create a dialogue on reentry within the legal community, I convened a program at which Professor Bruce Western of Harvard University presented his evaluation of the Prisoner Reentry Program of the Kings County District Attorney. The panelists included Jeremy Travis, President of John Jay College, and Professor Charles Ogletree of Harvard University. President Travis noted in his comments that night that it was unusual, and refreshing, to have a discussion at the New York City Bar Association about reentry, recidivism, and unemployment of the previously incarcerated.

Finally, I formed a Task Force on Enhancing Employment Opportunities for the Previously Incarcerated. This stellar group, led by former President Michael Cooper, identified the barriers that previously incarcerated persons face when seeking work in the legal sector and elsewhere and determined ways to surmount them. The Task Force concept was recommended by the Pipeline Initiative, a consortium of individuals in the legal, financial services, and business communities who pool their talents to help reverse the joblessness and incarceration among young black men. The Task Force report suggests that employment barriers may be heightened by the failure of employers to understand the laws under which they operate, as well as employers' generalized misperceptions about job applicants with conviction histories.

During my presidency, I believe I took a small but important step to sensitize our members to pro bono issues in the criminal justice system. Hopefully, the seeds have been planted for future presidents to expand these projects. The New York City Bar Association, with more than 23,000 members from all corners of the legal profession, is uniquely situated to address this vital topic. ■■■

Bettina B. Plevan
President, 2004–2006



Experience, Diversity, and Leadership

Soon after I became President of the New York City Bar in 2004, I learned firsthand what lawyers can accomplish for the public good. Based on the City Bar's experience in providing pro bono legal services for victims of 9/11, we were well prepared to offer help in the wake of Hurricane Katrina. We began by bringing together representatives of law firms, corporate legal departments, and the non-profit legal services organizations within the city to discuss what we could do. We provided legal services organizations and volunteers with extensive information about our 9/11 experience and volunteered to work on matters affecting the Gulf region. We offered space to lawyers who were displaced, offered to help displaced children apply late for school, and helped displaced families obtain housing, medical care, social services, and many other needs. To me, the City Bar's response to Katrina was a classic example of how an organization can provide leadership for many who want to help but just do not know how to go about doing it on their own.

Similar leadership was reflected in the City Bar Justice Center's pro bono bankruptcy project, which was started in 2004, long before the current economic crisis. We facilitated the implementation of special rules and procedures, agreed to by the bench and bar, on conflict waivers allowing a financial institution's big-firm lawyers to volunteer their services. Through this

project, the Bankruptcy and Restructuring Committee has greatly helped the bankruptcy courts handle its increasing number of consumer bankruptcies and pro se filings.

I'm pleased that during my time as President, the City Bar's Committee on Pro Bono and Public Service adopted the Pro Bono Principles, to which more than 20 of the

largest law firms in the City became signatories. These principles went beyond those previously adopted by other organizations and not only describe categories of pro bono work and targets for the number of hours to be performed, but outline the elements of successful pro bono programs.

The City Bar is able to have such an effective leadership role in pro bono by harnessing the energy, enthusiasm, and diversity of its 23,000 members. Many legal services organizations are forced to focus their recruiting efforts on large law firms for the sake of efficiency. But the City Bar has the ability to develop programs for all its members, many of whom are solo practitioners or work in small or mid-size firms. Being able to create programs that appeal to this wide pool of lawyers allows us to assemble a virtual army of legal services providers on behalf of the public good. The Association's leadership has endeavored to widen this pool by encouraging corporations to adopt pro bono programs of all varieties to help New Yorkers in need. Each year now at the City Bar Justice Center Gala, we celebrate the accomplishments of the pro bono programs of corporate law departments as well as of law firms. Highlighting the work of pioneers points the way for others to follow.

I am particularly pleased to share my thoughts about pro bono as a newly appointed member of the ABA Standing Committee on Pro Bono and Public Service, where I hope to share much of what I learned through my work at the New York City Bar Association. [III](#)

E. Leo Milonas

President, 2002–2004



Justice Depends on Pro Bono

I came to the Presidency of the City Bar from a career mainly in public service, serving for 27 years on the trial and appellate bench and as the State's Chief Administrative Judge. From the vantage point of the courts I have seen the invaluable contributions that our profession renders, day to day, to the indigent of our society and the cause of justice. This is an important avenue where our profession uses its special training and skills to "give back" and at the same time to reap the very special personal satisfaction that comes with helping others.

As President of the City Bar, I have seen the many other opportunities the City Bar offers our profession for pro bono service, depending on one's individual interests and motivation, and the ever-changing call to service.

I have seen our members respond to the aftermath of the 9/11 crisis and the over-reaching of the "war on terror," when our members addressed the troubling issues involving our security, our liberties, and our commitment to international law. The City Bar was the only general membership bar association in the U.S. to file amicus briefs to the Supreme Court on behalf of two Guantanamo detainees (*Rasul v. Bush*

and *Habib v. Bush*), and we filed an amicus brief in *Padilla v. Rumsfeld*. Well before the waterboarding conflict, the City Bar issued a report analyzing the legal standards governing the interrogation of detainees. In the immigration area, in addition to human trafficking and asylum projects, the City Bar established a pro bono project response to the INS special registration program targeting men from Muslim and Arab countries and provided pro bono counsel in deportation hearings that resulted. City Bar committees drafted letters to President Bush advising that we follow international law and discouraging the

invasion of Iraq, urging attention to human rights and the security of women and girls in Afghanistan, and urging that we structure a credible justice system in Iraq.

When our members were not occupied in addressing these critical problems, they found the time to focus on many other important issues: same sex marriage, firearm regulation, gender related asylum claims, cloning, inappropriate use of Liberty Bonds, campaign finance reform, judicial selection, human rights in Hong Kong, Sarbanes-Oxley reform issues, diversity in the legal profession, and the financial well-being of the City Bar.

I have outlined just a smattering of the hot issues confronted by our members during my brief tenure as president as an example of the many projects offered by the City Bar to indulge one's pro bono interests. I have found that there is no more rewarding experience than working with your colleagues at the bar, and (while making new friends) seeing your work, training, and skills make a contribution to society and a difference in the world. ■■■

Evan A. Davis
President, 2000–2002



First Responders for Justice

It was my great privilege to serve as City Bar President during the days too terrible to dwell on, when the lawyers of New York, led by the City Bar, responded to the civic emergency of September 11, 2001. Our city had been gravely wounded, many were dead and many more displaced from their homes or places of work. Urgent and often novel legal needs abounded, requiring the creation of, and navigation through, new emergency regulations. To represent the injured and displaced and the families of the dead, lawyers had to be found, trained, and coordinated. Even before we had a chance to get organized and volunteer, the Mayor announced on the morning of September 12th that the City Bar would be making pro bono lawyers available the following day.

Fortunately, finding lawyers was no problem. In a remarkable staff effort of rapid response, we immediately organized a training at the House of the Association. A great overflow of lawyers showed up to be trained, with the line extending through the lobby, out the door, and down the block and onto Sixth Avenue. Chief Judge Kaye was in the building meeting with Bar leadership from New York, New Jersey, and Connecticut about the crisis, and therefore had the

chance to address all the lawyers who had come together to help. That outpouring of pro bono will be remembered not just because so many from the New York City Bar wanted to help but also because our help as lawyers was critically needed.

As is typical of the City Bar, we performed our emergency legal response role in a groundbreaking way. Realizing that the clients' legal problems would span many

specialties, but not wanting a victim to have to travel from lawyer to lawyer, we developed in the midst of crisis a holistic response to legal needs. By providing pro bono counsel with access to specialized legal support, just as if he or she were a member of a large firm, a single attorney could assist a client with all of his or her legal needs.

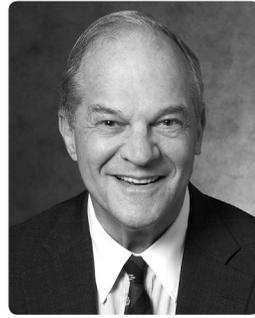
We should not forget that an important part of the City Bar's response to September 11th was our work to prevent that despicable attack from becoming an excuse to depart from the rule of law. As the lawyers for the most immediate victims of the attack, our insistence that weakening the command of the Constitution would not strengthen our ability to fight terrorism carried great credibility. As City Bar President, I led the successful fight in the ABA House of Delegates against the Bush Administration's plan for military tribunals that would have been unconfined by the principles of the Code of Military Justice and would have operated outside of any judicial oversight.

Lawyers are sometimes called gatekeepers, and we often don't like that phrase because of its connotation of liability and betrayal of client confidences. But the fact remains that, thanks in large part to the privilege, we are most often able to keep our clients out of trouble and thereby promote the rule of law. And there is one area where we are clearly gatekeepers—the gates of access to justice. Having a lawyer has time and again been shown to be outcome determinative when individuals face a legal crisis such as eviction.

It is also often outcome determinative to the actual realization of rights provided by law. Without actual realization, the rule of law becomes a fraud. Finally, having a lawyer can be outcome determinative to the success of the small business initiatives that are a key source of upward mobility and economic justice in our country.

This gatekeeper role is the main source of our profession's pro bono obligation. Because we control access, because we have exclusive marketing rights to the legal services that bring justice, we have a duty to ensure that the justice system works for all. We are like the fire department that controls the fire hose and has no choice but to respond. The Mayor didn't wait for us to volunteer on September 11th, and he was right not to do so. ■■

Michael A. Cooper President, 1998–2000



The Imperatives and Rewards of Pro Bono Work

The obligation to do pro bono legal work and to support organizations doing that work has been a core part of my personal professional ethic for as long as I can remember. Long before I first heard Chief Judge Cardozo’s classic statement that the practice of law is “a privilege burdened with conditions,” I had a sense that as a well-compensated member of the Bar I ought to devote some of my professional time and talents to providing, and encouraging the provision of, those services to individuals who could not afford to pay for them. The New York Rules of Professional Conduct finally recognize that obligation by “strongly encourag[ing] lawyers to provide pro bono legal services to benefit poor persons” and setting forth an aspirational goal of devoting twenty hours a year to doing so.

Let me be clear as to the nature of the commitment called for. It includes financial support but is not limited to such support. You cannot avoid directly or indirectly providing services by writing a check. Either direct representation of poor people or involvement in the work of organizations assisting the poor is required.

It is not only a professional ethical imperative, but also a social necessity, that lawyers in private practice provide pro bono representation. Governmental funding at all levels has never been remotely adequate to address the legal needs of the poor, and there is no reason to anticipate significantly greater governmental generosity in the

future. I learned this bitter truth when Chief Judge Kaye asked me in 1997 to chair a task force to seek a permanent funding stream for civil legal services. After thoroughly exploring what other states had done or considered, the task force recommended that the State make an annual appropriation of \$25 million out of the roughly \$300 million in checking and savings accounts, insurance proceeds, and other abandoned property that escheated each year to the State. Since by definition no one asserts ownership of abandoned property, I naively expected that the proposal would receive serious consideration by the legislative and executive leaders in Albany. In fact, it was met with a fast shuffle, with each legislative leader assuring us that if the others took the lead, he/she would follow. In the end, the funds were hijacked for other purposes because there was insufficient political will.

The organized bar must continue to support adequate funding for civil legal services while supporting pro bono service, and we must take the long view in advocating for a “civil *Gideon*.” The simple truth is that at this stage of our society, government does not accept the concept of a “civil *Gideon*,” and the public is generally unaware until their own lives are touched. But concepts of justice do evolve.

While taking the long view, we must not squander the time we have to make a difference. The opportunities to engage in pro bono work are legion, and new ones

seem to arise almost daily. I have defended the Legal Aid Society in a malpractice case, pursued constitutional and statutory claims on behalf of patients confined in the psychiatric emergency rooms of public hospitals, and am currently representing a detainee at the Guantánamo Bay Naval Station. In addition to those litigation representations, I have held office in a number of diverse legal services organizations, including the Lawyers’ Committee for Civil Rights Under Law, the Legal Aid Society and Pro Bono Net, as well as three organizations in whose creation the New York City Bar Association played a leading role: Volunteers of Legal Service, New York Lawyers for the Public Interest, and the Cyrus R. Vance Center for International Justice.

What have I received in return for my work in these various capacities? First, the opportunity to collaborate with lawyers in public interest organizations and in my own firm who are dedicated to protecting the rights of the poor and otherwise disadvantaged and must often work under difficult conditions. Second, the exposure to new, different, and challenging areas of the law I would not otherwise have encountered in my corporate litigation practice. And, finally, the satisfaction of knowing that as a result of our efforts some individuals and groups are receiving the benefit of legal services that would not otherwise be available to them. ■

Michael A. Cardozo President, 1996–1998



Pro Bono Participation: The Role of the Public Sector

In the two years I had the honor of serving as President of the City Bar, I tried to encourage pro bono legal service, as have all my predecessors and successors. But it was not until I became Corporation Counsel in January 2002, shortly after the horror of 9/11, that I first understood the role government, and the lawyers who work for it, could play in leveraging, supplying, and encouraging pro bono legal services.

I became Corporation Counsel at a time when many of the Law Department's attorneys were working out of the Family Assistance Center at Pier 52, which had been set up immediately after 9/11 to provide help to people affected by the tragedy. What I witnessed in the seven months after 9/11 was an extraordinary response of both Law Department attorneys and the hundreds of private sector attorneys who volunteered from around the city to assist at the Pier. The efforts devoted to coping with the aftermath of 9/11 were, as former Chief Judge Kaye has written, among the Bar's—and certainly the Law Department's—finest hours.

My City Bar and 9/11 experiences led me to recognize that public sector lawyers, like their counterparts in the private bar, could also use their unique legal skills in the service of others. Therefore, on the one-year anniversary of 9/11, I established a Volunteer Legal Activities program for members of the Law Department. Believing that this was an appropriate time to recommit ourselves to the ideals of the legal profession and the obligation to render “public interest and pro bono legal service” – while acknowledging that by working for the City of New York each of us was already laboring daily in the public interest in fulfillment of that

obligation – I wanted the Law Department to encourage and support our attorneys who wanted to offer pro bono legal services and to serve the larger community through pro bono, nonprofit, and bar organizations.

After almost seven years since the inception of the program, the verdict is in: our attorneys have been enthusiastically participating in a variety of activities, ranging from drafting wills and acting as small claims court arbitrators to coaching public school debate teams and mentoring students interested in becoming lawyers. The positive feedback we've received about such involvement has been exhilarating, and a theme has emerged: our government colleagues feel that participating in volunteer legal activities enriches their lives and provides a unique opportunity to “give back” even beyond what they do as legal representatives of the City.

Government as an institution, like the lawyers who work for it, can also play a critical role in facilitating access to pro bono help. In the spring of 2009, in the midst of another crisis—this one economic—Mayor Bloomberg created “NYC Service,” a program designed to increase civic engagement and volunteerism in New York City. As part of this initiative, we established “NYC Legal Outreach,” launched by a joint request from Chief Judge Lippmann and Mayor Bloomberg that attorneys contribute their skills and time pro bono to New Yorkers in need of legal help in four areas particularly worsened by the recession:

evictions, foreclosures, consumer credit, and immigration matters. In this effort we have partnered with numerous existing pro bono and legal services organizations, bar associations, and law schools, and have sponsored panels in all five boroughs, where representatives of such groups provided information about how lawyers can volunteer their help. At these meetings, City and court representatives again encouraged lawyers to provide pro bono legal service to those unable to afford a lawyer.

New York is fortunate to have many organizations that have the experience and expertise to guide volunteer lawyers. And, of course, New York is equally fortunate to have among its citizens a large corps of attorneys who can be counted on—just as they were after the tragic events of 9/11—to help their fellow New Yorkers. ■■

Barbara Paul Robinson

President, 1994–1996



Serving Others, and Ourselves

When the New York City Bar Association celebrated its 125th anniversary during my term as President, a major focus was the construction of a proper home for the City Bar Justice Center at the heart of the Association's landmark house. After we concluded a successful capital campaign, obtained difficult regulatory approvals, and resolved testy negotiations with an adjacent building, we built new space in what had been an open courtyard. This placed the City Bar Justice Center visually and physically at the very core of the Association, sending a clear message about its importance.

This central location is symbolic of the essential link between the City Bar's direct service programs, which assist individuals and disadvantaged groups, with the Association's public policy and advocacy work. Experience gleaned from handling individual cases helps inform the efforts of the Association's many hardworking committees as they seek to improve the laws and the administration of justice.

At my law firm of Debevoise & Plimpton, we too seek to make pro bono work central to our professional lives. Every pro bono

case taken on by any of our lawyers is treated with the same care as every other matter we handle, with the same insistence on appropriate supervision, training, and commitment to the highest professional standards. Opportunities for pro bono work are circulated throughout the firm on a regular basis and our senior lawyers set an example by their own engagement in pro bono cases. The firm's annual report includes a description of that year's important pro bono cases alongside news of major deals and litigation for our regular clients.

My own definition of pro bono work encompasses more than the representation of indigent individuals and disadvantaged groups to include all volunteer efforts serving the public good. This broader definition would apply to virtually all the work of the City Bar's many committees as well as to the many volunteer roles lawyers take on for civic and charitable organizations in the community. Lawyers have always been important leaders in this respect and for this reason my firm and I are establishing a City Bar lecture series to feature lawyers as leaders. We hope to both recognize those lawyer-leaders who have made important contributions to community service and to encourage others to emulate these impressive role models.

In looking back over my own professional career, I can still vividly recall some of my own gratifying pro bono cases. As a very young lawyer, my first case took me to Surrogate's Court to terminate the rights of an abandoning parent so that the child could be placed for adoption. I agonized over the difficult balance of protecting the mother's rights against seeking a better future for her child. I can also remember how elated I was to obtain political asylum for a young Ugandan woman who had managed to escape from the murderous regime of Idi Amin. Immigration cases continue to challenge the City Bar's volunteers who assist in these heart-rending cases

while the Association weighs in on the evolving legislation and ongoing public policy debates on these issues.

Most recently, I represented the Appalachian College Association, a membership organization of 37 small liberal arts colleges in Appalachia serving needy students who are almost always the first in their family to go to college. When I succeeded in protecting the ACA's interest in an estate plagued by theft, fraud, and worse, they thanked me in the best possible way by creating a scholarship in my name to help students from Appalachia go to law school. I had the great pleasure of meeting the first of these impressive students when they traveled to New York City for the first time. Of course, I took them to the Association, followed by tours of the federal and state courts, City Hall, and meetings with many of New York's distinguished lawyers and judges. I was deeply moved by their personal stories of overcoming extraordinary hardship and adversity and inspired by their passionate commitment to bringing their legal skills back to serve their own needy communities.

It is in cases like these that we not only help the clients we serve but are deeply enriched in our personal and professional lives. [III](#)

John D. Feerick

President, 1992–1994



Looking Back and Giving Back

The expression “pro bono publico” is not one I was familiar with when I graduated from law school. When I graduated from Fordham in 1961, a sense of obligation to my country and the profession I was entering had already been instilled in me. It was inspired by the lives of my parents and by my teachers— Ursuline sisters at St. Angela Merici grammar school, priests of the Archdiocese of New York, Marist Brothers (and priests) at Bishop Dubois High School, Jesuits and lay teachers at Fordham College, and law professors at Fordham. My teachers were special role models who exemplified the spirit of giving in spite of the fact that many of them received little or no compensation for their work. My parents, however, were my greatest influence. They sailed to America as teenagers in the late 1920s and, while not having had the opportunity to receive a formal education themselves, they stressed at home the importance of education, civic participation, and the values of our religion. Their impact, along with that of my teachers, opened my eyes to the larger world.

Law school in particular was a turning point for me as I collaborated with classmates on school projects and shared in study groups knowledge and information about the law. In particular, the opportunity to serve on the Fordham Law Review gave me an enlarged perspective of the world and the important role played by the law. As my classmates and

I completed our studies, prepared for and passed examinations, and looked forward to our lives beyond law school, we were faced with the reality that some doors in the profession at the time were closed to Fordham lawyers. Regardless, we were determined to make our mark in the world, as graduates before us had done. Our dean,

William Hughes Mulligan, and the small group of teachers he had assembled, challenged us to be good lawyers, and we understood that as including service to the profession and our country as well as a commitment to being ethical. Throughout law school we learned about the successes of graduates in both the law and public life but didn’t know what lay ahead for us. After sharing our dreams, my classmates and I left with a desire to make the school proud of our lives as lawyers.

Upon graduation, I was fortunate to join a small law firm, Skadden, Arps, Slate, Meagher and Flom, which, despite its size and uncertain future at that point, stressed the importance of service to the profession. Barry Garfinkel of the firm impressed on me that the first thing I should do was join a bar association and become active in such work. He encouraged me to join the New York City Bar Association and helped me gain membership to the Committee on State Legislation. Though it was a challenging experience of hard work, I learned a tremendous amount concerning the legislative process in New York State. I felt, as did other committee members, that we were making an important difference in the world. From that experience I knew I wanted to remain active in Bar Association work.

In addition, I became exposed to parts of society with which I had not been acquainted, involving people who faced difficult life circumstances, including unfair treatment by the legal system, discrimination, and

oppression. I witnessed what others were doing to address these needs and I knew I had to do my part. And so, to the best of my ability, I got involved in helping organizations that serve the poor and victims of unfair treatment or discrimination. I also accepted representation in individual matters and used platforms at the Bar and Fordham to promote pro bono work.

Without doubt, among my strongest memories of being a lawyer are the pro bono matters. My most significant public opportunity was serving as a special master of family homelessness in New York City. I met on that occasion a homeless child, Pedro, who reminded me of my own children and grandchildren except that he was trapped in an institutional setting. I have often wondered how many more like him are similarly situated, and how far they could go if they had the kind of support I was fortunate enough to have had as a child.

I expect to continue to do my part as founder and director of Fordham Law School’s Center for Social Justice and Dispute Resolution. [III](#)

Conrad K. Harper

President, 1990–1992



All My Days

Midnight, Mississippi, is a small town in the Delta. In November 1971, it and all of Humphreys County were the scene of a general election marred, among other charges, by claims that black illiterate voters had their ballots marked, contrary to their stated requests, in favor of white candidates by white election officials. All of the black candidates lost their bids for office.

Humphreys County was identified by the Lawyers' Committee for Civil Rights Under Law as the worst of the Mississippi counties in denying or impairing the rights of black voters. In the preceding half dozen years, federal registrars, acting under the Voting Rights Act of 1965, had registered hundreds of Humphreys County black voters. On election day 1971, FBI agents, federal observers, and volunteer poll watchers blanketed the county and the state to assure, insofar as outsiders could, that the election was conducted fairly and that infractions were recorded accurately. After reviewing statewide reports from the poll watchers, the Lawyers' Committee determined that Humphreys County should be sued and requested pro bono help. Cyrus Vance, then the head of my firm, asked

three Simpson Thacher associates to accept the assignment. By early 1972, we were in Midnight: One black male, one white male, and one white female. We worked with two local lawyers, both male, one white and one black.

For the next two years, we three New York lawyers crisscrossed the county, meeting with local residents in the county seat, Belzoni, in smaller places like Louise and Four-Mile, and in still smaller places without names. We figuratively walked in the blood of a martyr when we mounted the steps of the county courthouse. A few years earlier, a black man had been shot to death on those very steps as he left the building after being refused the right to register to vote.

The plaintiffs in our case were determined to see a better day. Their courage gave us strength. We subpoenaed and obtained the federal observers' reports. We requested and were given the poll watcher reports by the Lawyers' Committee. We took dozens of depositions of election officials, federal observers, and poll watchers.

The Old South was not dead. When an illiterate black voter, who was also a candidate for sheriff, showed up at the polls, the white election officials laughed at him. Another black voter said that at home he slept with his shotgun nearby in case the Klan came calling.

The bench trial took two weeks in Greenville's federal district court. An old black man who had never been able to vote until 1971 took the stand. I asked him how long he had lived in Mississippi. He said, "All my days."

After the trial, the record remained open so that post-trial depositions of statistical experts could be taken.

On October 4, 1974, the court rejected the claim that the ballots of black illiterate voters had been marked, contrary to their stated requests, in favor of white candidates by white election officials. But the court further decided, among other things, that in future elections illiterate voters, most of whom were black, were to have the same right as blind and disabled voters, most

of whom were white, namely, assistance in marking ballots by persons of their choice. The case is reported: *James v. Humphreys County Board of Election Commissioners*, 384 F. Supp. 114 (N.D. Miss. 1974).

Pro bono service gives us a chance, all our days, to do some good in the world. [III](#)

Robert M. Kaufman President, 1986–1988



Pro Bono Beginnings at the City Bar

My years as President of The Association of the Bar of the City of New York, 1986-88, were among my happiest and most rewarding as a lawyer. I take great pride in the City Bar, what it has stood for and what it has accomplished. One of its pillars is seeking access to justice, which requires courts that can be effectively used by litigants so that basic justice can be done. This is particularly important in the courts that are most used by New Yorkers, often without legal counsel. As President, I made it a priority to focus on the needs of Family Court, Housing Court, Criminal Court, and Small Claims Court. I visited many of them during my tenure and worked with Association committees to stimulate improvement in court facilities and procedures.

However, even with these improvements the fact remains that someone going to court is far better off with professional assistance. I am proud that during my Presidency we started the Community Outreach Law Program (“COLP”), to provide direct legal assistance to persons in need. COLP has grown into today’s City Bar Justice Center, which has attracted thousands of volunteer lawyers to help tens of thousands of people.

When I became President, previous City Bar programs had trained lawyers to provide immigration assistance, and our

Legal Assistance (now named Pro Bono and Legal Services) Committee was developing effective procedures for using volunteer lawyers. We were a national leader in the fight to preserve the Legal Services Corporation when it was threatened with extinction in the early 1980s. But it became clear, despite the best efforts of the existing legal services organizations – including New York Lawyers for the Public Interest and Volunteers of Legal Service, both created by the Association – that the unmet need for legal services was overwhelming. There was clearly a hands-on role for the City Bar to play.

The immediate trigger for our entry into the direct legal services field was the Immigration Reform and Control Act of 1986. This act created a one-year window for several hundred thousand immigrants in New York City to apply for status. Unfortunately, the process was confusing, and existing organizations could not meet the need. We trained and mentored volunteer lawyers, with great assistance from our Immigration and Nationality Law Committee. We announced that we would host clinics at the Association where undocumented immigrants could meet with volunteer lawyers. I recall at one clinic seeing over 100 people lined up in the lobby for help. We helped over 600 immigrants through these clinics, and took what we learned from this effort to launch COLP in 1987. COLP then assisted refugees from war in El Salvador and Guatemala with immigration claims and developed expertise in the immigration field.

Our model focused upon harnessing the talents of volunteer lawyers, law students, and paralegals; providing training and supervision; finding ways to make the volunteer experience attractive for lawyers in all areas of practice; and then focusing on particular needs that were not being met within the existing legal services framework and that would be well suited for handling by volunteers. The concept of “community outreach” was an important part of this effort, as volunteers made presentations in city neighborhoods and ran education programs in city schools. Homelessness emerged as a significant issue. The City

Bar’s new Committee on Legal Problems of the Homeless wrote a report calling for changes to reduce homelessness, and in 1989 filed an amicus curiae brief in the successful *Jiggetts v. Grinker* appeal challenging the inadequacy of the public assistance shelter allowance. A major outgrowth of that report was COLP’s Legal Clinic for the Homeless, which has sent pro bono volunteers into homeless shelters for nearly twenty years.

The City Bar’s pro bono program has grown and developed into a major component of New York’s legal services community, supported by our membership and the larger New York legal community. Only with this support would the program have been in the position to harness volunteers and coordinate efforts in the aftermath of the September 11th attacks to help so many thousands of victims. The City Bar Justice Center’s current involvement in helping people stave off foreclosure and handle debt problems exemplifies how we can mobilize volunteers to meet the crucial needs of the moment.

The City Bar, through its public service efforts, has made justice more accessible. I am sure the City Bar will continue to use its ability to affect public policy and mobilize lawyers through the City Bar Justice Center to provide legal services that make a difference for the community we serve. ■■■

Louis A. Craco

President, 1982–1984



Photo: Rick Kopstein/NY Law Journal

A Tale of Two Cities

By 1983 in New York City, economic adversity had swollen the already large welfare rolls and the homeless population had grown to crisis proportions. On top of that, the AIDS epidemic had begun to cut a fatal swath through whole communities.

At the same time, the “takeover craze” of the eighties ushered in a new era of corporate prosperity, including for the law firms involved in the high-stakes corporate and litigation work that was involved. The times were well suited to the talent pool of the major New York firms and their long-standing business model.

However, the demands of this business also significantly drained the amount of discretionary time for lawyers to provide pro bono legal help to the poor. To make matters worse, new federal constraints began to impair the ability of well-established full-time legal service providers to continue the levels of service they had been furnishing, much less expand them to meet emerging needs.

And so, the disparity between the increasingly desperate need for legal services for poor New Yorkers and the flourishing

abundance of legal services in the city for businesses and wealthy individuals had grown to conscience-shocking proportions. In short, for the big law firms and corporate law departments of New York, it was the best of times. For the marginalized residents whose access to the social safety net depended on their assertion of legal rights, it was the worst of times.

This tale of two cities did not go unnoticed in the legal community, where there were also side-effects of these trends that deeply disturbed thoughtful observers. Trying to furnish legal service to the poor was not only obviously good for the poor, but it had proven over time to be good for the lawyers who furnished the services and for the sense of the profession as a public occupation. A whole generation of younger lawyers in the great New York firms was being threatened with the loss of insight and satisfaction long derived from sharing legal talent with people

who needed but could not pay for it. And the role of such work as a hallmark of the profession uniquely charged with the promotion of justice (which, as had been famously noted, if rationed was denied) was being atrophied.

Bar committees convened and exhorted the legal community; alternate funding plans like IOLA were developed; incessant lobbying efforts strove to roll back federal restrictions. And still the disparity grew larger all the while.

At the Association of the Bar a settled conviction developed that a crisis so different in scale as to be different in kind had arisen, and that a new approach had to be devised to supplement the traditional modes of delivering legal services to the indigent.

Accordingly, the Association created a Special Committee on the Legal Needs of the Poor, headed by Sheldon Oliensis, which, within months, proposed a new pro bono design. Acting quickly on its recommendations, a new organization, “Volunteers of Legal Service,” promptly nicknamed “VOLS,” was established and the law firms of the city were challenged to pledge to it in-person legal work equivalent to 30 hours per year for each lawyer in their New York offices. The sheer size of the commitment sought was daunting, and it put the City Bar to a fundamental test of its oft-claimed support of pro bono work. Cyrus Vance readily agreed to chair VOLS and to spearhead the recruiting effort among the firms. Richard Lombard, General Counsel of Exxon, solicited a similar commitment from the largest corporations headquartered in the city.

The stature and moral persuasiveness of these two leaders proved hard to withstand. By Law Day, May 1, 1984, the thirty largest

firms and many of the corporate law departments had made the VOLS commitment. With those pledges in hand and the indefatigable Sheldon Oliensis as its President, VOLS launched a different approach to delivering pro bono services. Its slim staff sought out particular pockets of legal needs, particularly those for which federal funds were unavailable or traditional providers were too short-handed to address, and matched them with law firms or law departments that set about furnishing the needed services.

Even more remarkable than the commitments made at the start has been the steadfastness of the private bar in adhering to the VOLS challenge over the ensuing years. This year, as VOLS celebrates its 25th anniversary, meeting its challenge has become a given among the great firms of New York. In 2008 alone, those firms contributed over one million hours of prime legal services to the city’s poor through their VOLS projects. The professional and personal satisfaction gleaned by the lawyers doing the work over these years, and the results they continuously produced in the lives of their clients, may well account for the project’s staying power.

The key lesson from all of this is easy to state and hard to put into action: with clarity of practical vision; with forceful, personal leadership from those to whom the Bar looks for it; and with perseverance by a cadre of firm representatives, it is possible to devise and carry out targeted, creative, economical ways to deliver legal services to the poor. And while the chasm between need and resources can never be closed, programs of this sort can change for the better the lives of thousands of impoverished residents of the city, and, not incidentally, the lives of thousands of lawyers, too. [III](#)

Merrell E. Clark President, 1978–1980



Pro Bono Legal Service: Mandatory v. Voluntary

One of the major issues that arose during my term as President (1978-80) centered on the obligation of lawyers to perform pro bono legal services. A Special Committee on Lawyers' Pro Bono Obligations was appointed and filed a report in early 1980 recommending (with several dissents) that the obligation be made mandatory. The special committee suggested that each lawyer be required to devote 30 to 50 hours annually to pro bono service. The report was circulated to other committees, which responded with considerable criticism of the special committee's recommendation of mandatory pro bono.

The report was also sent to the Executive Committee. At the Committee's December 5, 1979, meeting, representatives were present from the special committee and from the committees that considered the report. None of the committees supported the special committee's recommendation of a mandatory pro bono obligation, although various committee members did.

Several committees questioned the need for a mandatory pro bono obligation and recommended that an empirical study be made of the special committee report. Some questioned the constitutionality of

the requirement. The committee also noted that enforcing a mandatory pro bono requirement would be expensive and difficult, if not impossible.

The final word was the Executive Committee's position as reported in the Record of January/February 1981:

"A lawyer shall participate in providing public interest legal services. A lawyer may discharge this obligation by activities on behalf of the public for improving the law, the legal system or the legal profession, by providing legal services to persons unable

to afford adequate legal representation or to public service groups or organizations or by financial support for such activities or legal services. A lawyer practicing with a firm that has established a regular and substantial program of public interest legal services may take the activities of such program into account in determining compliance with this rule."

Thus the special committee's advocacy of a mandatory pro bono public obligation was not adopted by the Bar Association.

It seems, however, that the effort was not a failure. Michael J. Powell's book "From Patrician to Professional Elite" contains this thought:

"Although the pro bono proposal eventually failed even within the ABCNY, the special committee's advocacy of it engendered considerable debate over the obligation of lawyers to provide free service to those who cannot afford to pay. In so doing it had substantial significance in that it drew attention to the bar's stated commitment to provide representation to all, irrespective of ability to pay."

Indeed, the special committee's effort was a precursor to much-heightened pro bono activity from which we are still reaping the benefit. In 1984, the Association created Volunteers of Legal Service, which was based on law firms pledging to commit 30 hours per lawyer per year of pro bono service. In 2008 alone, firms that signed the pledge provided over 1.1 million hours of pro bono service.

The impetus for mandatory pro bono led then-Chief Judge Sol Wachtler to appoint the Committee to Improve the Availability

of Legal Services, chaired by now-federal Judge Victor Marraro. That committee, in its 1989 preliminary report and its 1990 final report, urged that New York State adopt a mandatory pro bono requirement. The Executive Committee reviewed the preliminary report in October 1989 and authorized then-President Sheldon Oliensis to testify that the Committee "strongly endorses the principle reflected by the recommendations" of the Marrero Committee. He testified that there were high hopes that the legal needs of the poor could be satisfied by full-time, experienced legal services lawyers, but that in the past decade these "hopes had been dashed," and that the Executive Committee "accepts, however reluctantly," the need for a mandatory pro bono system. The Executive Committee acknowledged the logistical difficulties of setting up such a system and said it should be phased in gradually.

While there is still great reluctance within the bar to establish such a system, it seems that the very presence of the idea has stimulated still further activities, from surveys by the New York State Bar Association of members' pro bono work, to the American Bar Association's call for lawyers to devote 50 hours per year to pro bono, to the American Lawyer's rating system for firms that gives heavy weight to a firm's pro bono activity.

The legal needs of the poor are still great, and the organized bar must continue to press for both adequate public funding for legal services and a bar that is heavily committed to doing pro bono service. [III](#)

The City Bar Justice Center's mission is to increase access to justice by leveraging the resources of the New York City legal community. Drawing upon our relationship with the New York City Bar, the Justice Center provides legal assistance to those in need; mobilizes lawyers, law firms, corporate legal departments, and other legal institutions to provide pro bono legal services; educates the public on legal issues; fosters strategic relationships; and impacts public policy.



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