

DAUPHIN COUNTY BAR ASSOCIATION

PRO BONO PROGRAM

*PRO BONO
ATTORNEY
HANDBOOK*

Dauphin County Bar Association

213 North Front Street

Harrisburg, PA 17101

Phone: (717) 232-7536

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www.dcba-pa.org

**Created By Public Services Intern Jamie Rahn
Modeled from Land of Lincoln Legal Assistance Foundation Handbook**

JOSEPH H. KLEINFELTER
PRESIDENT JUDGE



COURT OF COMMON PLEAS
TWELFTH JUDICIAL DISTRICT
DAUPHIN COUNTY, PENNSYLVANIA

DAUPHIN COUNTY COURT HOUSE
FRONT & MARKET STREETS
HARRISBURG, PENNSYLVANIA 17101

TELEPHONE: (717) 780-6650
FAX: (717) 255-2758

May 2003

Dear Dauphin County Bar Association Member,

There is currently a compelling need for us to recommit ourselves in Dauphin County to the goal of ensuring access to justice for all. In 1991, the Bar Association passed a resolution establishing our *Pro Bono* Program. At that time, members were asked to accept three *pro bono* cases annually or contribute \$400 to MidPenn Legal Services. Due to the members' strong support, the Program substantially reduced the backlog of cases and, in 1993, the Bar Association asked members to accept only two cases or contribute \$300.

We applaud your commitment and encourage you to participate with pride when it is your turn. We encourage you to accept these cases -- knowing that the Legal Services staff, the Bar Association and the Bench pledge to support you in any way we can. If you have any concerns about your ability to handle any *pro bono* matter, please call Sandy Ballard, the Bar Association's Public Services Coordinator.

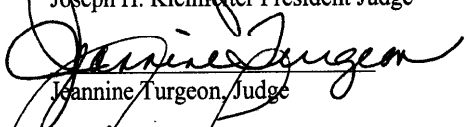
If poor people do not have access to justice through adequate legal representation, our justice system as a whole is undermined. By participating in the *Pro Bono* Program, you are doing your part to make our nation's promise of liberty and justice for all a reality. Furthermore, not only will you be helping to improve the public's image of the role lawyers play in society, but you will also be providing legal advice and representation to someone who has nowhere else to turn.

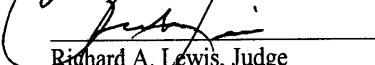
With our pledge of support and your willingness to serve, we are confident all of us can make a difference in ensuring justice for all in our community.

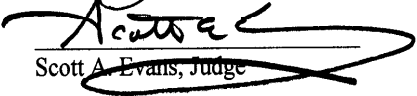
Thank you for your efforts to improve our profession and for your *pro bono* participation.

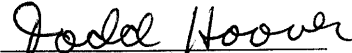
Sincerely,

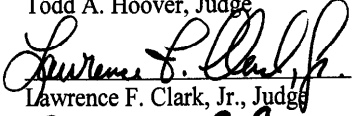

Joseph H. Kleinfelter, President Judge


Jeannine Turgeon, Judge


Richard A. Lewis, Judge


Scott A. Evans, Judge


Todd A. Hoover, Judge


Lawrence F. Clark, Jr., Judge


John F. Cherry, Judge

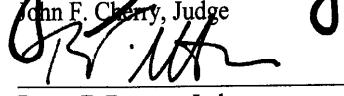

Bruce F. Bratton, Judge

Table of Contents

Mission and Goals	4
Introduction	
Clients and Income Guidelines Eligibility	5
How the Program Works	5
The Referral Process	
Screening, Intake, and Case Preparation	7
Referral to <i>Pro Bono</i> Attorney	7
Confirmation of Referral	7
Incomplete Referrals	8
Costs and Expenses	8
Malpractice Insurance	8
Fee Generating Cases	8
Training	9
Problem Clients	9
Sending the Client Back for a New Matter	10
Closing a Case	10
Types of Legal Services Statewide	11
Priority Areas	12
Case Examples	13
Recognition	14
Support Services	14
Thank You	15

Appendices

1. Financial Eligibility Chart
2. Initial Attorney Contact Letter
3. DCBA *Pro Bono* Program Guidelines
4. Appointment Letter to *Pro Bono* Attorney
5. Case Tracking Form
6. *In Forma Pauperis* Form
7. Representation Agreement
8. Client Responsibilities Letter
9. Client Survey
10. Frequently Asked Pro Bono Questions
11. Docket Costs Memo

DAUPHIN COUNTY BAR ASSOCIATION

***PRO BONO* PROGRAM**

MISSION STATEMENT

To increase access to civil justice for low-income persons
through *pro bono* representation.

GOALS

To advance the legal interests of vulnerable populations
To promote equal access to civil justice for low-income persons
To increase the number of clients served each year
To improve family stability

INTRODUCTION

Welcome to the respected ranks of the Dauphin County Bar Association *Pro Bono* Program. This handbook is intended to introduce new members and update current members with the DCBA *Pro Bono* Program and its procedures. This Handbook will provide you with important information and sample documents.

The referral process should be simple once you have become acquainted with the information in this Handbook. If you have any questions about any information provided in this Handbook, please contact **Sandy Ballard** at **232-7536** or **sandy@dcba-pa.org**.

Thank you for your *pro bono* service to low-income clients. Your generous contribution of time, talent and resources is invaluable and extremely appreciated.

Clients and Income Guidelines Eligibility

The Dauphin County Bar Association Pro Bono Program (the “Program”) provides representation to clients whose financial resources fall within the Program’s eligibility guidelines. MidPenn Legal Services determines income eligibility. The general standard is gross household income equal to or less than 125% of the current Federal Poverty Index. (Appendix 1). You can call the Program office (232-7536) for the most recent figures. For an eye-opening look at a poor family's budget, check out the Catholic Campaign for Human Development web site at www.usccb.org/cchd/povertyusa/tour2.htm.

How the Program Works

We use an alphabetical list of Dauphin County Bar Association (DCBA) members to assign attorneys to *pro bono* clients. In general, you will not be asked to take additional *pro bono* cases until we have exhausted the entire alphabetical listing. Accepting a referral does not in any way bind you to accept every referral of a potential client. We make every effort to match the *pro bono* attorney’s interests and skills with the client’s needs. Of course, the *pro bono* attorney may decline any referral if a conflict occurs.

DCBA encourages members to accept at least two referrals each year or donate \$300 to support legal services. Furthermore, many attorneys voluntarily accept additional matters. The Program has been very successful over the years largely due to the membership's active participation.

We refer clients who appear to us to have meritorious civil cases to *pro bono* attorneys. The Program does not accept criminal or fee-generating matters. MidPenn Legal Services (MidPenn) staff screens each case to ensure that

1. The client is income eligible,
2. The case has at least "threshold" legal merit, and
3. The case is appropriate to refer to a *pro bono* attorney.

We will contact a prospective *pro bono* attorney selected from the alphabetical member list by mail or email, and schedule the attorney for their *pro bono* appointments. After the referral is made, the Program staff periodically contacts the *pro bono* attorney to determine

1. The status of the case and
2. Whether any support services are needed.

When the representation ends, the *pro bono* attorney is asked to report

1. The hours spent on the representation (a Legal Services Corporation requirement) and
2. Give a brief summary of the outcome.

Throughout the course of the representation, the *pro bono* attorney is covered by MLPS's professional liability insurance for any claims arising from the handling of the DCBA *Pro Bono* Program matter. Feel free to call Sandy if you have any particular questions concerning this coverage.

THE REFERRAL PROCESS

Screening, Intake, and Case Preparation

As previously explained, clients are screened for financial eligibility before they are offered advice or counsel. If the client is financially eligible and the case is apparently not fee generating, a MidPenn paralegal or attorney will review the case for potential legal merit and appropriateness for *pro bono* referral.

The case is then placed on the *pro bono* wait list. Along with the intake information, the client signs the *pro bono* information Release Form and MidPenn staff completes *pro bono* screening forms.

Referral to *Pro Bono* Attorney

We contact the *pro bono* attorney who has been selected from the alphabetical member list one month prior to the initial *pro bono* appointment. This is done by mail or email. (An example of this letter can be found in Appendix 2.) Enclosed with this letter is a copy of the DCBA *Pro Bono* Program Guidelines (Appendix 3). To participate, the DCBA member receiving the letter may:

1. Accept that appointment time,
2. Ask for a different time and/or date, or
3. Contribute \$300 to legal services in lieu of taking cases.

Confirmation of Referral

Once an attorney accepts the appointment time and date, MidPenn calls the attorney to confirm the information and determine what types of cases the attorney prefers. One week prior to the scheduled appointment, MidPenn sends another letter to the *pro bono* attorney (Appendix 4). This letter lists

1. The client's name,
2. The time and date of the appointment,
3. The type of case,
4. The opposing party (so the attorney can run a Conflict Check as soon as possible and call MidPenn 232-0581 if there is a Conflict), and

5. The name of a MidPenn attorney that the *pro bono* attorney can contact for assistance and consultation.

At this appointment, MidPenn supplies the *pro bono* attorney with the intake form on the client, a Case Tracking Form (Appendix 5), and *In Forma Pauperis* form. (Appendix 6). We suggest that you and the client sign a Representation Agreement at this initial meeting. A Representation Agreement form is available through our office (Appendix 7), or you may use your own form.

Incomplete Referrals

Once the *pro bono* attorney has interviewed the client and reviewed the case, the attorney is free to make his or her own merit determination regarding the client's claim and, if ethically appropriate, decline further representation. The *pro bono* attorney should return the Case Tracking Form discussing the reason for declining or closing the case. This completed form should be returned to the Program as soon as possible.

If the *pro bono* attorney is willing to handle the case but the client does not contact the attorney or keep appointments with the attorney, the attorney should complete the Case Tracking Form and return it to the Program, explaining this as the reason for case closure.

Costs and Expenses

Court costs for most Program clients can be waived or avoided by using the fee waiver *In Forma Pauperis* form that is included at the end of this packet (Appendix 6). Please feel free to make copies of this form for your use or we can email a copy to you.

Malpractice Insurance

MidPenn provides one million dollars worth of primary malpractice insurance coverage for all *pro bono* attorneys. This provides coverage for any case accepted through the DCBA *Pro Bono* Program.

Fee Generating Cases

The cases assigned to *pro bono* attorneys are not normally fee generating cases. Some cases may result in an award of a fee, which may not have been foreseen at the referral. When available, the *pro bono*

attorney is encouraged to seek attorney fees. The *pro bono* attorney may retain fees when awarded by the court. The policy on handling fee generating cases is further discussed in the Guidelines (Appendix 3).

Training

The Program periodically offers Continuing Legal Education training seminars in substantive areas in which *pro bono* clients might need legal assistance. These training seminars are offered at no cost to *pro bono* attorneys. If you think of a topic for one of these seminars, please share your idea with Sandy.

In addition, the Program periodically hosts “Free Lunch” programs to encourage dialogue and information exchange between MidPenn staff and *pro bono* attorneys.

Finally, the PA Bar Institute (info@pbi.org, 1-800-247-4724, or www.pbi.org) has agreed to make relevant videotapes available at no charge to *pro bono* participants.

Problem Clients

At the time of referral, clients are told they must cooperate fully with their *pro bono* attorneys in order to continue to be eligible for free legal services. (See Appendix 8). However, there may be some limitations on some of our clients’ abilities to follow every rule.

Please be aware that you may be the first attorney your clients have ever met. Your clients may not know how they should conduct themselves, and may enter the relationship with some doubt and mistrust, especially of “the system.”

In addition, it may be difficult for your *pro bono* client to cooperate with you in the same way as your paying clients. For example, your client may not have an answering machine to receive your messages, or your client may not know what has happened in his or her case before you came on the scene. Additionally, intellectual, literacy, physical, or mental health impairments may hamper your client.

Also, many of our clients may have difficulty finding transportation or childcare in order to arrive in a timely fashion for scheduled appointments.

However, you are not required to continue representing a client who is constantly uncooperative. If the client repeatedly fails to return your calls, does not appear for appointments, does not provide you with

necessary information, etc., you should contact the client and inform him or her of your decision on further representation. The same applies to clients who disappear. Please let us know if these situations occur, and be sure to send in the Case Tracking Form documenting these incidents.

Sending the Client Back for a New Matter

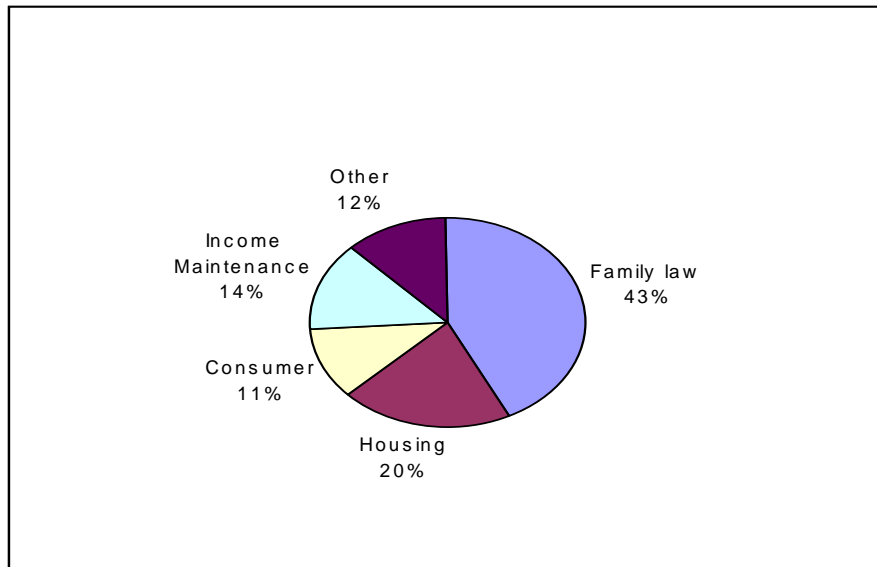
Any *pro bono* attorney working on a case through our Program should feel free to ask the client to return to Legal Services for a new screening when the client asks about a new matter. The *pro bono* attorney may still help the client, but the attorney is not obligated to do so.

Closing a Case

Once representation is complete, a Case Tracking form should be completed by the *pro bono* attorney and mailed or faxed to the DCBA Public Services Coordinator. The attorney should include a brief summary of the case outcome and indicate the total number of hours that were spent representing the client. We cannot avoid this reporting requirement. The Legal Services Corporation, which is the major government funding source for MidPenn Legal Services, requires client and service information on all cases closed by private attorneys doing *pro bono* work for clients referred by the DCBA *Pro Bono* Program.

The DCBA Public Services Coordinator keeps a record of hours reported by *pro bono* attorneys. Furthermore, once a case is closed in the DCBA office, clients are periodically asked to evaluate the DCBA *Pro Bono* Program as well as their *pro bono* attorney by filling out a postage-paid postcard survey (Appendix 9) and returning it to our office. This feedback is used to improve the quality of our *Pro Bono* Program.

Types of Legal Service Cases – Statewide



Family law (42%):

- Domestic violence
- Child support
- Divorce
- Child custody
- Parental rights
- Guardianships

Income Maintenance (14%)

- Eligibility for or termination of
 - SSD (disability);
 - SSI (Supplemental Security Income)
 - Unemployment Compensation
 - Public Benefits

Housing (20%)

- Unlawful eviction
- Denial access to public or government-subsidized housing
- Illegal mortgage foreclosure

Other (12%)

- Education
- Employment
- Children & youth
- Individual Rights
- Health

Consumer (11%)

- Illegal taking of property
- Wage garnishment
- Denial of credit
- Fraudulent consumer practices

PRIORITY AREAS

*****Note: At this time, we particularly need help in the substantive areas of**

Divorce, Family Law and Custody issues.***

Divorce and Family Law Practice

As is the case across the country, there is a tremendous demand for representation in the family law area and the need for *pro bono* attorneys is great. The Program encounters a large number of divorce, custody, and child support matters.

Social Security Benefits

Many disabled people are denied benefits in spite of medical evidence establishing their disabilities. The Program needs *pro bono* attorneys to represent these claimants.

Bankruptcy

Wage earners who meet the Program financial eligibility guidelines (no more than 125% of the federal poverty level) *AND* have a need to discharge their debts need representation in bankruptcy proceedings.

Guardianship

Pro Bono attorneys represent our clients seeking guardianship of disabled adults and minor children.

Other *Pro Bono* Issues

The Program also handles cases involving adoption, consumer issues, landlord/tenant disputes, labor law issues where our client is the employee, defendants in personal injury claims, civil rights and discrimination charges, and unemployment compensation. *Pro Bono* attorneys are needed to advise clients on these matters as well.

Case Examples

We have summaries of a few of the types of cases you may encounter. Please note that the names have been changed to protect the privacy of the clients.

- ✓ Julie, a thirty-three year old mother of four, was seeking to obtain custody of her children (two sons; ages six and fifteen, and two daughters; ages three and thirteen). She also wanted to ensure that her former husband would pay support. In the past, the children's father had shaken one of the sons when he was only a baby. He had also been accused of molesting his young niece. With the help of *pro bono* attorney Thomas D. Gould, Julie received court orders for support and custody. Thanks to Tom's hard work, the mother and her children are now able to live a life free from fear.
- ✓ Mary, a fifty-three year old mother, was seeking custody of her twelve-year-old daughter in order to escape an abusive situation. The father had previously lied in court to obtain a custody order. He had ended up in prison for threatening and physically abusing Mary. Furthermore, the father had received a DUI with the child in the car. With *pro bono* attorney Richard S. Friedman's assistance, Mary gained custody of her daughter and was able to avoid further abuse from the father. Thanks to Richard, Mary and her child can look forward to a brighter and safer future.
- ✓ Vincent, a forty-eight year old African-American man, had lost his driver's license as a result of a lawsuit filed against him. A driver's license is a crucial form of identification that affords many people the opportunity to go to and from their place of employment. Attorney James Rowland was able to reach an agreement with the plaintiff in the lawsuit, and have Vincent's driver's license reinstated.
- ✓ On December 17, 2001, forty-five year old Roger came to MidPenn Legal Services seeking help to secure unemployment benefits from his former employer. Roger had a unemployment compensation hearing coming up in less than a month on January 7, 2002. Right before the holidays on December

- ✓ George, an elderly man with many health problems, was facing a mortgage foreclosure on his house. The mortgage company was trying to evict him from his home, but could not do so because the property was actually owned by George's late aunt. Based on this evidence, Attorney Mark Winter petitioned the Court of Common Pleas for a stay, which enabled George to remain in his home until his death two months ago.

Recognition

Recognition of *pro bono* work is done throughout the year at the DCBA. Many *pro bono* attorneys are recognized each month in our newsletter. In addition, the names of attorneys actively participating in the *pro bono* Program are forwarded to the judiciary for further recognition. Furthermore, *pro bono* attorneys are recognized in the DCBA *Pro Bono* Honor Roll, which hangs in the DCBA office and is posted on the Association's website.

Our *pro bono* attorneys are part of a broader effort that enhances the reputation of the profession as a whole. You will have the personal satisfaction of knowing you have helped provide access to justice in our community. If you believe you have a story others would like to hear about, let us know, and we will consider it for publication in our newsletter success stories.

Support Services

DCBA *Pro Bono* attorneys are not alone. We want to do all we can to facilitate the efficient use of your time on these *pro bono* matters. Therefore, there are several resources available to you.

1. MidPenn staff is available to assist you. You may contact a staff attorney by calling 232-0581. Just explain that you are calling regarding a *pro bono* matter that you would like to discuss.

2. Expedited Docket for *Pro Bono* Support Matters: *Pro Bono* attorneys with support matters should contact Judge Turgeon’s assistant, Kim Robison, at (780-6841) to let her know they are appearing on a *pro bono* matter. Kim can move *pro bono* lawyers up on the docket list and limit the time they have to wait. This should not be an issue for other types of matters which have scheduled times. However, if you have a schedule issue, please consider an appropriate letter to the opposing party and the court administrator.
3. The PA Bar Institute (info@pbi.org, 1-800-247-4724, or www.pbi.org) has agreed to make relevant videotapes available at no charge to *pro bono* participants.
4. The Miller Center for Public Interest Advocacy at Dickinson Law School can provide volunteer law students to assist with your *pro bono* matters. Law students are available to research legal questions and otherwise help attorneys. To request assistance, contact Professor Gary Gildin by email (gsg2@psu.edu) or phone 240-5238. Law students from Widener Law School are also available to assist you. Contact Public Services Coordinator Sandy Ballard at 232-7536 if you are interested.
5. A group of DCBA Civil Dispute Resolution Program approved mediators are available to do a free mediation for *pro bono* clients. A mediation may be a useful way to resolve your *pro bono* matter in a more timely fashion. Contact Sandy Ballard at 232-7536 for more information.
6. Finally, you can contact Sandy Ballard at 232-7536 if you need any other assistance.

Your involvement in the DCBA *Pro Bono* Program is very important to the legal community, and most of all, to the indigent clients who will benefit from your willingness to help.

We appreciate your help and so do they.

Your dedication, effort, and expertise are vital to our organization’s ability to help provide access to justice for all.

Thank you!

Appendix 1 – Financial Eligibility Chart

(Gross Income)

MPLS

FINANCIAL ELIGIBILITY (LSC)

FEBRUARY 26, 2002

FAMILY SIZE	
1	*\$ 212.98
	**\$ 922.92
	***\$11,075.00
2	287.02
	1,243.75
	14,925.00
3	361.06
	1,564.58
	18,775.00
4	435.10
	1,885.42
	22,625.00
5	509.13
	2,206.25
	26,475.00
6	583.17
	2,527.08
	30,325.00
7	657.21
	2,847.92
	34,175.00
8	731.25
	3,168.75
	38,025.00
9	805.29
	3,489.58
	41,875.00
10	879.33
	3,810.41
	45,563.00

*Weekly
 **Monthly
 ***Yearly

Appendix 2 -- Initial Attorney Contact Letter

Dear ,

As you may know, our Dauphin County Bar Association administers a very successful *Pro Bono* Program in conjunction with MidPenn Legal Services. Each Association member is asked to participate annually by either accepting two *pro bono* referrals or contributing \$300.

We have reached your name on the alphabetical membership list and would like to schedule you to see two clients at MidPenn Legal Services, 213 N. Front Street, Harrisburg **on July 15, 2003** beginning at **9:00 AM, if that date is convenient for you**. If you would prefer to interview the clients at your office or at another date, please contact Sally Heffelfinger at 232-0851. Approximately one week prior to your appointment, you will receive a memo providing you with the names of the clients and the types of legal problems they appear to have.

If you receive a case in a substantive area about which you do not feel completely comfortable, MidPenn staff attorneys are available to provide assistance. The PA Bar Institute (PBI) has also agreed to make relevant videotapes available at no charge to *pro bono* participants. Finally, the Miller Center for Public Interest Advocacy at Dickinson Law School can provide volunteer law students to assist with your *pro bono* matters. Law students are available to research legal questions and otherwise help attorneys.

Also, as explained in the enclosed guidelines, forms regarding waiver of filing fees will be available at the legal services office. You will also notice in the guidelines that MidPenn Legal Services carries malpractice insurance which covers your work under our *Pro Bono* Program.

Please contact me (232-7536 or sandy@dcba-pa.org) if you have any questions. Thank you for your support of the *Pro Bono* Program.

Sincerely,

Sandra Ballard
Public Services Coordinator

P.S. If you prefer to opt out by making a financial contribution, please make your check payable to MidPenn Legal Services, 213 North Front Street, Harrisburg, PA 17101. Thanks!

Appendix 3 – DCBA *Pro Bono* Program Guidelines

GUIDELINES FOR PRO BONO PROGRAM

1. MidPenn Legal Services (MidPenn) staff will screen each client to make sure that he/she meets financial eligibility guidelines. Staff will also oversee determinations that the client has a civil legal problem of the type handled by the program.
2. Prior to the scheduled appointments, MidPenn will provide you with a list of the clients who are expected to see you, their appointment times and a brief indication of the general type of problem they seem to have.
3. You will be provided with a copy of the intake form which verifies the client's eligibility for legal services. MidPenn maintains a file on the client only for the limited purpose of documenting eligibility. The file which you open on the client need not be returned to MidPenn.
4. If you will be seeing a client who would be required to pay filing fees or sheriff service costs but who cannot afford such, MidPenn will provide forms that may be completed and filed authorizing the litigant to proceed in forma pauperis without the need for payment of such fees and costs. The client is responsible for court costs which cannot be waived. Other costs, such as telephone and postage, should be borne by the attorney.
5. The PA Court Reporters Association has established a program for providing pro bono reporting services. If, in the course of handling your pro bono referral, you have a need for their services, please contact the manager of the MidPenn office. Although there are certain restrictions on their services, every effort will be made to obtain a pro bono reporter for you.
6. After interviewing the client, you will be responsible for deciding the extent to which his/her problem may be resolved by advice, negotiation, litigation or other action. ***You are not obligated to pursue a case that you believe has insufficient merit; nor are you expected to represent the client in any matter other than the one which is initially accepted; nor are you obligated to pursue an appeal of an unsuccessful matter that you handled although you may, within the Rules of Professional Conduct, wish to assist the client in meeting applicable appeal deadlines.***
7. If you receive a case in an area in which you are not able to provide competent representation, it will be your responsibility to contact MidPenn to re-refer the matter. The comment to Rule 1.1 of the new Rules of Professional Conduct provides that,

"a lawyer can provide adequate representation in a wholly novel field through necessary study. Competent representation can also be provided through the association of a lawyer of established competence in the field in question."

MidPenn, through its staff attorneys, stands willing and able to discuss cases and provide assistance in unfamiliar areas of general concern to poor persons.
8. MidPenn will provide you with a Case Closing Form for your completion indicating how the client's case was resolved. When a client does not show up for his/her appointment, this should be indicated on the Case Closing Form. For statistical purposes, it is very important that Case Closing Forms be returned to MidPenn promptly upon your having closed the case.

9. If you learn that a client's income increases during the attorney-client relationship, you should notify MidPenn. MidPenn will review the financial status of the client and, if he/she is not eligible for continued services, you and the client will be advised that the client may negotiate a fee with you for future services, be referred to the Dauphin County Bar Association Lawyer Referral Service, or retain another attorney of his/her choice.

10. If you learn that a client's income may have been inadvertently under-reported to MidPenn, or that MidPenn may have made a computation error, such that the client may not in fact be eligible for free representation, simply call MidPenn's pro bono coordinator, who will then review the situation with both you and the client and make a redetermination of pro bono eligibility.

11. If you learn that a client's income may have been intentionally under-reported to MidPenn, immediately contact MidPenn's pro bono coordinator, who will then promptly investigate the matter and inform you and the client of the results.

12a. Although it does not occur frequently, you may find that a case to which you are assigned is potentially fee-producing, either because a substantial monetary recovery appears likely (including in divorce cases, subject to ethical constraints on "contingent fee" agreements in such matters), or because a fee-shifting statute is implicated, or both. In that event, you may discuss a fee arrangement with the client after advising MidPenn's pro bono coordinator in writing of same on the Case Closing Form.

12b. With specific regard to divorce cases, more complicated issues may arise. While the concept of shifting at least a portion of the financially disadvantaged spouse's attorney fees, costs and expenses to the advantaged spouse is firmly established in the Divorce Code, especially at 23 PA.C.S. §§ 3323 and 3502, the application of this concept to individual cases is one of broad judicial discretion, with wide and often unpredictable latitude and consistency in the results. Moreover, while relief under other fee-shifting statutes is made available to volunteer, public service and legal aid litigants not actually under an obligation to pay, the rationale used in those situations is at best only partially applicable here. Under the Divorce Code and caselaw construing it, a pro bono attorney should be able to seek and obtain costs for his or her client to pay for any needed experts, for instance, but she is already on "equal footing" at least in theory, with respect to legal representation. Thus, where circumstances indicate that a fee may with reasonable likelihood be recoverable from the non-indigent spouse, MidPenn does not consider those matters as appropriate for pro bono representation. For obvious reasons, however, initial screenings by MidPenn and Bar representatives may not uncover facts which later reveal the potential for fee-shifting. In those instances, pro bono counsel may:

(i) subject to applicable ethical considerations, refer the case back to MidPenn after discussing the reasons for doing so with the client, and ensuring that no prejudice to the client will result, and simultaneously sending to MidPenn the Case Closing Form with an explanatory note briefly stating the reason for the return of the case and its general status, including any filing or other deadlines, at which point the case will be sent to the Association's Lawyer Referral Service; or

(ii) continue client representation on the basis that the indigent client will not in fact be charged a fee beyond that which is actually recovered from the financially advantaged spouse without prejudice to the litigation position of the indigent spouse, and send the Case Closing Form to MidPenn indicating that the matter is no longer being handled as a pro bono case, and why.

13. Although MidPenn will do everything possible to ensure that clients keep scheduled appointments, it is not uncommon for them to miss appointments. You will be scheduled to see two clients, and your obligation is fulfilled if you are available to see the two scheduled clients--whether or not they keep their appointments. If you are interviewing clients at MidPenn office, it is suggested that you bring along some of your own work in the event that your clients fail to keep their appointments. You are free to use MidPenn telephones and the library, when it is available, for the work you bring along as well as for pro bono cases.

14. Malpractice insurance in the amount of \$1,000,000 has been purchased by MidPenn, which provides primary coverage for every attorney working on a case under this program.

James P. DeAngelo, Esquire
Chairman, Public Service Committee

Donald Morgan, Esquire
Executive Director
Dauphin County Bar Association

Sandra Ballard, Esquire
Public Service Coordinator

Appendix 4 – Appointment Letter to *Pro Bono* Attorney



MidPenn Legal Services

213-A North Front Street, Harrisburg, PA 17101-1492
Phone 800-932-0356 717-232-0581 FAX 717-232-7821

FILE COPY

TO: Esquire
FROM: Sandra A. Ballard, Esquire
DATE: June 30, 2003
RE: Pro Bono Interview

We again thank you for your willingness to participate in the Pro Bono Program. As discussed in a recent phone conversation, one pro bono case has been scheduled for you at your office on July 2, 2003. Following is the name of the client and the type of case:

<u>Time</u>	<u>Name</u>	<u>Type of Case</u>	<u>Opposing Party</u>
12:30 p.m.		Unemployment Compensation	

If there are any questions or if you have any problems with this schedule, please do not hesitate to call me. Also, if, after conducting your interview, you need assistance from one of our staff, or believe we may have some forms or resources that could help you, your contact person here is Steve Krone, Esquire. Thank you.

SAB:sh



Appendix 5 – Case Tracking Form

Dauphin County Bar Association *Pro Bono* Case Tracking Form

To: _____ Re: *Pro Bono* Client _____ Date: _____

Thank you for playing your part in making the Dauphin County Bar Association a statewide leader in providing *pro bono* legal services to those in the community who would otherwise be denied access to the justice system.

If you are **still working** with a *Pro Bono* client, please inform us of the present status of the case by completing this sheet and returning it. If you have already **closed the case**, please indicate that on this form or send back the Case Closing Form. It is important that we have this information to comply with Legal Services Corporations (LSC) regulations.

Case is closed. Outcome is _____

Case is Open.

Hearing is scheduled on _____

I could use the help of a law student on this matter.

I could use the help of a free mediator.

I could use some advice from a Legal Services expert attorney.

I could use other assistance: _____

- Estimated length of time case will remain open: _____
- Estimated hours spent to date (for open or closed cases): _____
- Other comments? _____

Thank you for your attention to this matter. If you have any questions, please contact me.

Sandy Ballard, Esquire

Public Services Coordinator Dauphin County Bar Association

213 North Front Street, Harrisburg, PA 17101

(717) 232-7536, Fax: 234-4582

sandy@dcba-pa.org

Appendix 6 – *In Forma Pauperis* Form

vs. : IN THE COURT OF COMMON PLEAS
: DAUPHIN COUNTY, PENNSYLVANIA
:
: NO.
:
:
: CIVIL ACTION - LAW

APPLICATION FOR LEAVE TO PROCEED IN FORMA PAUPERIS

Pursuant to Dauphin County Rule 240(2), Applicant, by counsel, applies for leave to proceed in forma pauperis. Applicant is indigent, having been so determined by MidPenn Legal Services, (MidPenn). Counsel is "acting as or on behalf of a non-profit legal services organization" within the meaning of said Rule in that s/he is providing free legal services to Applicant as a volunteer under the Dauphin County Bar Association/MidPenn pro bono program.

Attorney(s) for Applicant/

ORDER

AND NOW, this _____ day of _____, 20____, upon presentation and consideration of the above Application and pursuant to Dauphin County Rule 240(2), said Application is hereby granted.

Stephen E. Farina, Prothonotary

Appendix 7 – Representation Agreement

REPRESENTATION AGREEMENT

This Agreement for civil legal services is between _____

_____ (the "Legal Representative") and _____
_____ (the "Client").

The Client hereby authorizes the Legal Representative, as a Dauphin County Bar Association Pro Bono Program volunteer, to represent the Client in the civil legal matter described as follows: _____
_____ (the "Legal Services"). The representation will be limited to this matter only and does not include any other legal issues or any appeal of this matter.

The Legal Representative's services will be provided free of charge, except if the Client's financial situation improves substantially or it is discovered that assets exist with which the Client could pay attorneys' fees. In that case, Legal Representative may request permission from the Pro Bono Program to charge reasonable attorney's fees for continued representation. If this occurs, the Client is not required to work with Legal Representative but may opt to hire another attorney.

The Client is responsible for paying all costs related to the matter (such as, court filing fees, serving court papers to the opposing party, copying charges and long distance telephone charges).

The Legal Representative's obligations under this Agreement will end, subject to necessary court approval, under the following circumstances:

1. The matter has received a final adjudication in the current legal forum;
2. The Legal Services as described above have been completed;
3. Further representation would be useless, unreasonable or would not help to achieve Client's goals;
4. The Client no longer meets the MidPenn Legal Services' financial eligibility guidelines;
5. The Client has failed to cooperate in the representation; or
6. When otherwise required or allowed by the Rules of Professional Conduct.

I have received a copy of this Agreement and I understand and agree to its terms.

Client : _____

Date: _____

Legal Representative: _____

Date: _____

Appendix 8 – Client Responsibilities Letter

Attorneys in our area are working with Dauphin County Bar Association (DCBA) *Pro Bono* Program and MidPenn Legal Services (MidPenn) to provide free legal aid for low-income clients. Through the DCBA, private attorneys volunteer to handle specific legal work for people who are eligible for free legal aid when MidPenn staff are unable to help them.

If you are accepted to receive free legal aid through our *Pro Bono* Program, your name and the nature of your legal issue will be given to a volunteer attorney who will help you with your legal problem. DCBA will work with your attorney and will keep track of your case. If you have any questions or problems regarding your attorney, call us at 232-7536.

The DCBA Pro Bono Program needs your help to make it work. **We ask that you:**

- ❖ Remember that the attorney has **volunteered** to help you without any cost to you.
- ❖ **Be on time** for your appointments. Call in advance if you need to reschedule.
- ❖ Promptly **return phone calls** and keep your attorney updated on any new developments in your case. Communication is very important.
- ❖ If you have **second thoughts** about your legal problem, let your attorney know. Your attorney may be willing to hold your file open, for a limited time, while you decide. If possible, let your attorney know **before** papers are prepared and filed in court.
- ❖ Inform DCBA (232-7536) if you decide **not to use the services** of the attorney. This will allow us to refer another person in need of legal aid to that attorney.
- ❖ Contact DCBA immediately if your **case is not accepted** by the attorney. We may be able to refer you to another attorney.
- ❖ Notify your attorney and DCBA if you **move or change your phone** number.
- ❖ Be **patient and courteous**. Legal matters take time. If you believe your case is taking an unreasonably long time, call your attorney or DCBA. Try to avoid unnecessary phone calls to your attorney's office, and patient while waiting for a response.
- ❖ Remember that the volunteer attorney has accepted only your **current** legal problem. The attorney has **not** agreed to represent you in any other matter. Call DCBA if you need assistance with any other legal issue.
- ❖ Understand that your pro bono attorney may recommend **mediation** as a tool to help resolve your legal matter.

**** ***We are glad that we are able to assist you.*** ****

Appendix 9 – Client Survey

Dear Client:

Thank you for contacting the Dauphin County Bar Association *Pro Bono* Program. To help us improve please answer the following questions on the enclosed postcard and return it to us.

Additionally, we have left space at the bottom of this survey for you to share your opinions about the Program based on your personal experience. We hope that you will take full advantage of this opportunity to make any recommendations or suggestions you may have for the Program.

Your input helps us improve and lets us know how our attorneys helped in assisting you. Thank You!

DCBA PRO BONO PROGRAM SURVEY

1. Would you use the DCBA *Pro Bono* Program again? yes no

2. Was the attorney courteous and respectful? yes no

3. Was the attorney easy to contact? yes no

4. Did the attorney keep you informed about the matter? yes no

5. Were you satisfied with the quality of work performed? yes no

6. Based on your experience, how could we improve?

Appendix 10 – FREQUENTLY ASKED QUESTIONS

(Taken From Past DCBA Newsletters)

Am I Covered? (July '03)

Yes. MidPenn Legal Services provides primary **malpractice insurance** coverage for all *pro bono* attorneys. This provides coverage for any case referred through MidPenn Legal Services.

Should I use a Retainer Agreement? (Aug. '03)

Yes. We recommend that you use a Retainer Agreement for your *Pro Bono* clients. We encourage you to review the Agreement with your Client so the Client understands 1) what specific services you have agreed to provide and 2) what the Client needs to do as part of the Agreement. Please contact Sandy Ballard, if you want a sample Agreement.

What if My *Pro Bono* Client Buys a New BMW? (Sept. '03)

Call Sandy! MidPenn Legal Services does the initial screening to determine clients' income eligibility. However, if you suspect that your *pro bono* client may be over the income limits (e.g., gross income of \$11,000/year for a single person), please contact Sandy.

What do I do when my *pro bono* case is over? (Oct. '03)

First, inform the client by phone and letter. Explain that if another issue arises, the client can contact MidPenn Legal Services (232-0581). Second, send a copy of the letter and your Case Closure Form to the *Pro Bono* Program. Finally, if you entered an appearance in court, notify the court of your withdrawal.

How much time will a *pro bono* case take? (Nov. '03)

On average, a DCBA *pro bono* matter usually takes approximately five hours. This average was calculated based on the hours reported by participating attorneys on their Closed Case Forms.

Can I choose when to take a *pro bono* case? (Dec. '03)

Yes! We send scheduling letters on a rotating basis according to the alphabetical DCBA membership list. However, if you have a special time of year (e.g., not during tax season) or certain date that you prefer, we are happy to schedule you in advance for that date. Our scheduling letter also encourages you to contact us if you would prefer to interview the clients at your office or on another date.

Who do I call if I have questions about my *pro bono* case? (Jan. '04)

DCBA *pro bono* attorneys are not alone! We will do all we can to facilitate the efficient use of your time on these *pro bono* matters. Therefore, MidPenn staff is available to assist you. You may contact a staff attorney by calling 232-0581. Just explain that you are calling regarding a *pro bono* matter that you would like to discuss. In addition, Sandy Ballard (232-7536) has other resources that may be able to help you. Just give us a call!

I did not sign up for Pro Bono, so why did I get a letter? (May '04)

Every member of the Dauphin County Bar Association is expected to participate in our Pro Bono Program by either accepting two referrals or contributing \$300. DCBA members approved a resolution creating this system at a Law Day Dinner Meeting on May 1, 1991. The original Resolution provided for either one-half day of service (no more than three cases) or a \$400 contribution.

Due to strong membership support, DCBA was able to substantially reduce the backlog of Legal Services' cases. Thus, two years later in 1993, the "expectation" was changed, and members are now asked to accept only two cases or contribute \$300. This expectation of participation continues to this day.

Thus, on a rotation basis, each member is asked to take a turn for pro bono appointments. This method is used to ensure that every member is provided an equal opportunity to do pro bono work.

I want to do pro bono, but I am unfamiliar with the areas needed. What can I do? (Oct. '04)

You can do what DCBA member **Robert H. Davis Jr.** did. Bob is a solo practitioner who specializes in legal ethics. Bob does not practice in the family law area. Yet, Bob wanted to help and accepted a pro bono custody matter.

In the June DCBA newsletter, Bob noticed that a video tape of the April 21, 2004 one-hour Pro Bono CLE on Custody for Non-family Law Attorneys was available as a resource for pro bono attorneys. MidPenn Legal Services Staff Attorney **Peg Simok** and Dauphin County Custody Conciliator **Judith Calkin**, Esquire led the CLE. Their presentation included a step-by-step guide to filing for custody and sample forms.

Bob called Sandy Ballard to borrow the video. Sandy also emailed Bob a copy of the hand-outs including the sample forms. Bob watched the video while reviewing the forms.

Bob completed the forms with his pro bono client. Before filing the forms, Bob asked Peg Simok to review the forms. Peg reviewed the forms to make sure all was in order and discussed the matter with Bob. (If Bob had needed additional help or advice, Bob could have contacted one of the Family Law Expert Attorneys.)

With the easy-to-access assistance he needed, Bob was able to provide valuable pro bono legal assistance to someone who had no where else to turn.

Pro Bono Question: What If My Case Lacks Merit? (Note: Not used yet)

You should not represent a client if you believe the case is not meritorious. However, even if you do not represent your client, you provide a valuable legal service by explaining the situation to your client, advising your client of available options, and suggesting ways to avoid the problem in the future. According to paragraph 6 or the Pro Bono Guidelines:

"After interviewing the client, you [the pro bono attorney] will be responsible for deciding the extent to which his/her problem may be resolved by advice, negotiation, litigation or other action. You are not obligated to pursue a case that you believe has insufficient merit; nor are you expected to represent the client in any matter other than the one which is initially accepted; nor are you obligated to pursue an appeal of an unsuccessful matter that you handled although you may, within the Rules of Professional Conduct, wish to assist the client in meeting applicable appeal deadlines." (emphasis in original)

If you are not sure of your case's merits, contact Sandy Ballard (232-7536) to discuss the matter.

Appendix 11 – DOCKET COSTS MEMO

TO: All Long-Suffering Pro Bono Divorce Counsel

FROM: Stephen R. Krone, Esquire

RE: Docket Costs and Costs of Publication Where Substituted Service is Required

DATE: November 2, 2004

Judging from some of the questions relayed to me by Sandy, I guess it is time for me to re-do this memorandum and bring it up-to-date, particularly for some of the younger of you folks who may not have encountered those problems before, and thus not be used to the routine. In order to make things as simple as possible, I will divide the subject of costs in divorce matters into four categories: (1) Regular costs of filing and service within Dauphin County; (2) Costs of publication within Dauphin County; (3) Costs of publication within Pennsylvania but outside of Dauphin County; and (4) Costs of publication outside of the Commonwealth of Pennsylvania. A discussion of each topic, numbered as above, follows.

Dauphin County Docket Costs

1. With regard to the ordinary costs of filing and personal service within the County of Dauphin, there really is no problem at all, thanks to Pa.R.C.P. Nos. 240(b) and (d). A simple one-page praecipe is filed, the form and content of which already exists and is available through our office, or in Rule 240(i). Indeed, I believe a copy is automatically given to pro bono attorneys who graciously take on these cases. On the other hand, where clients go through the “pro se” clinic (somewhat of a misnomer), they are required to pursue a slightly more burdensome process, including the submission of an affidavit, as set forth in Rules 240(c) and (h).

Dauphin County Publication Costs

2. Where an individual has been granted IFP status consistent with the procedure referred to above, and service of process is required outside of Dauphin County, deputized service is available, and sheriffs of other counties are required to honor our Court’s *forma pauperis* orders. Where alternative service by publication is ordered in Dauphin County, in conformity with State and Local Rules 430, the procedure is well established and simple. Ever since the Paxton Herald became certified as a “newspaper of general circulation” in this region, they have agreed to publish without cost all divorce notices, provided that the Executive Director of the Bar Association confirms by letter to them that the matter is being handled without fee. As to the need to publish in the Dauphin County Reporter, the Association will likewise publish there without charge.

Publication Costs for Other PA Counties

3. Where alternative service by publication is required to be in a foreign county, but within the confines of the Commonwealth of Pennsylvania, the problem is more difficult. Our judges obviously cannot require bar journals in other counties to publish without cost, much less direct that a private newspaper do so. In such instances, the County of Dauphin will, as indeed it constitutionally must, cover those costs. Procedurally, counsel should obtain a statement from the appropriate source as to the publication expenses, and then send a request for payment by the County of Dauphin and a copy of the invoice to the Court Administrator.

As an aside, there is certainly no reason why, where permitted by Pennsylvania and foreign jurisdiction rules, service cannot be accomplished by the use of a process server, who would no doubt be much less expensive than service by publication, not to mention the fact that such personal service, if accomplished, would provide actual, rather than constructive, notice to a defendant. Although I have never been told of such an instance, should a scenario like this one present itself, I would be glad to assist with research, or even co-counsel, in arguing that it is in the County's best interests to pay such expenses in lieu of publication costs, especially given U.S. Supreme Court precedent and well-established Constitutional principles of due process. Also, although it has been many many years since I have done it myself, there was a time when I was successful in convincing our Court to order as a permissible means of alternative service the use of first class mail delivered to a close relative on the grounds that such notification is far more likely to reach a defendant than the infinitely more expensive method of publication. I am not certain whether that would work in this day and age, but it is probably worth thinking about.

One final word of wisdom: when using out-of-county publication sources, please obtain pre-publication invoices so that the County can directly pay that source. My experience has been that counsel will not be reimbursed by the County if those costs are fronted by the lawyer in the first instance.

Publication Costs in Other States

4. Follow the same principles and procedures as with out-of-county PA alternative service.

Finally, remember that MidPenn stands ready to assist with any systemic problems that arise, and will do as we have in the past if necessary, and co-counsel in any litigation of such issues.

Thanks again to all of you for your countless hours of help in these sometimes emotionally charged and difficult domestic matters. You are truly unsung heroes and pillars of your community and this profession.

PBhandbookDRAFT