

1 Rule 6.1. Voluntary Pro ~~b~~Bono ~~L~~Legal ~~s~~Service.

2 ~~(a) A lawyer should render public interest legal service. Lawyers have Every lawyer~~
3 ~~has a professional responsibility to provide pro bono legal services. The professional~~
4 ~~responsibility established under this Rule is aspirational rather than mandatory in~~
5 ~~nature. The professional responsibility to provide pro bono legal services may be~~
6 ~~discharged by:~~

7 ~~(1) annually providing at least 36 legal services to those unable to pay. A lawyer~~
8 ~~should aspire to render at least 50 hours of pro bono legal services; or~~

9 ~~(2) making an annual contribution of at least \$10 per hour for each hour not provided~~
10 ~~under (a)(1) above to an agency which provides direct services as defined in (b) below.~~

11 ~~(b) Guidelines in publico legal services per year. In fulfilling this responsibility~~
12 ~~include, the lawyer should:~~

13 ~~(1a) providing provide a substantial majority of the 3650 hours of pro bono legal~~
14 ~~services without fee or expectation of fee to:~~

15 ~~(a)(1) (i) persons of limited means; or~~

16 ~~(a)(2) (ii) charitable, religious, civic, community, governmental and educational~~
17 ~~organizations in matters which that are designed primarily to address the needs of~~
18 ~~persons of limited means; and~~

19 ~~(2b) providing provide any additional services through:~~

20 ~~(b)(i1) delivery of legal services at no fee or substantially reduced fee to individuals,~~
21 ~~groups or organizations seeking to secure or protect civil rights, civil liberties or public~~
22 ~~rights, or charitable, religious, civic, community, governmental and educational~~
23 ~~organizations in matters in furtherance of their organizational purposes, where the~~
24 ~~payment of standard legal fees would significantly deplete the organization's economic~~
25 ~~resources or would be otherwise be inappropriate;~~

26 ~~(b)(ii2) delivery of legal services at a substantially reduced fee to persons of limited~~
27 ~~means; or~~

28 ~~(b)(ii3) participation in activities for improving the law, the legal system or the legal~~
29 ~~profession.~~

30 ~~(c) A lawyer may also discharge the responsibility to provide pro bono publico legal~~
31 ~~services by making an annual contribution of at least \$10 per hour for each hour not~~

32 provided under paragraph (a) or (b) above to an agency that provides direct services as
33 defined in paragraph (a) above.

34 (d) Each lawyer is urged to report annually to the Utah State Bar whether the lawyer
35 has satisfied ~~his or her~~ the lawyer's professional responsibility to provide pro bono legal
36 services. Each lawyer may report this information through a simplified reporting form
37 that is made a part of the Bar's annual dues statement. ~~The form may contain the~~
38 following categories to report whether the lawyer has provided

39 (e) In addition to providing pro bono legal services ~~or made contributions:~~

40 (1) I have personally provided _____ hours of pro bono legal services during this past
41 reporting year;

42 (2) (i) I hereby submit \$ _____ to the Utah Access to Justice Foundation in
43 meeting my obligation, or

44 (ii) I have contributed \$ _____. ~~(Only contributions, a lawyer should voluntarily~~
45 contribute financial support to organizations ~~which that~~ provide direct legal services as
46 defined in (b) should be reported).

47 COMMENT to persons of limited means.

48 Comment

49 [1] Every lawyer, regardless of professional prominence or professional work load,
50 has a responsibility to provide legal services to ~~persons of limited means. The Utah~~
51 ~~State Bar urges all lawyers to provide 36 those unable to pay. Personal involvement in~~
52 ~~the problems of the disadvantaged can be one of the most rewarding experiences in the~~
53 ~~life of a lawyer. All lawyers are urged to provide a minimum of 50~~ hours of pro bono
54 ~~legal~~ services annually. It is recognized that in some years a lawyer may render greater
55 or fewer hours than the annual standard specified ~~of 36 hours~~, but during the course of
56 ~~a the lawyer's~~ legal career, each lawyer should ~~aspire to~~ render on average per year,
57 the number of hours set forth in this Rule. Services can be performed in civil,
58 ~~administrative,~~ criminal or quasi-criminal matters for which there is no government
59 obligation to provide funds for legal representation, such as post-conviction death
60 penalty appeal cases.

61 [2] ~~The rule Paragraphs (a)(1) and (a)(2)~~ recognizes the critical need for legal
62 services that exists among persons of limited means by providing that a substantial

63 majority of the legal services rendered annually to the disadvantaged be furnished
64 without fee or expectation of fee. Legal services under these paragraphs consist of a full
65 range of activities, including individual and class representation, the provision of legal
66 advice, legislative lobbying, administrative rule making and the provision of free training
67 or mentoring to those who represent persons of limited means. The variety of these
68 activities should facilitate participation by government lawyers, corporate counsel, and
69 others, even when restrictions exist on their engaging in the outside practice of law.

70 [3] ~~Persons eligible for legal services under the paragraphs (b)(1)(i) and (a)(#2) are~~
71 ~~those who qualify for participation in programs funded by the Legal Services~~
72 ~~Corporation and those whose incomes and financial resources are slightly above the~~
73 ~~guidelines utilized by such programs but nevertheless, cannot afford counsel. Legal~~
74 ~~services can be rendered to individuals or to organizations such as homeless shelters,~~
75 ~~battered women's centers and food pantries that serve those of limited means. Lawyers~~
76 ~~providing pro bono legal services on their own need not undertake an investigation to~~
77 ~~determine client eligibility. Rather, a good faith determination by the lawyer of client~~
78 ~~eligibility is sufficient.~~ The term "governmental ~~governmental~~ organizations" includes,
79 but is not limited to, public protection programs and sections of governmental or public
80 sector agencies.

81 [4] ~~Because service should~~ must be provided without fee or expectation of fee ~~or~~
82 ~~with a substantially reduced fee~~, the intent of the lawyer to render free ~~or reduced fee~~
83 legal services is essential for the work performed to fall within the meaning of
84 paragraphs (b)(1)(i) and (a)(#2). Accordingly, services rendered cannot be considered
85 pro bono if an anticipated fee is uncollected, but the award of statutory
86 lawyers'attorneys' fees in a case originally accepted as pro bono would not disqualify
87 such services from inclusion under this section. Lawyers who do receive fees in such
88 cases are encouraged to contribute an appropriate portion of such fees to organizations
89 or projects that benefit persons of limited means. ~~It is recognized that some pro bono~~
90 ~~services provided to individuals slightly above program income guidelines may be~~
91 ~~provided at significantly reduced fees, based on the resources of the individuals.~~

92 [5] ~~While it is possible for a lawyer to fulfill the annual responsibility to perform pro~~
93 ~~bono services exclusively through activities described in paragraphs (b)(1)(i) and~~

94 (a)(#2), to the extent that any hours of service remained unfulfilled, the remaining
95 commitment can be met in a variety of ways as set forth in paragraph (b)~~(2)~~.
96 Constitutional, statutory or regulatory restrictions may prohibit or impede government
97 and public sector lawyers and judges from performing the pro bono services outlined in
98 paragraphs ~~(b)(1)(i)~~ and (a)(#2). Accordingly, where those restrictions apply,
99 government and public sector lawyers and judges may fulfill their pro bono
100 responsibility by performing services outlined in paragraph (b)~~(2)~~.

101 [6] Paragraph (b)~~(2)(i)~~ includes the provision of certain types of ~~pro bono~~ legal
102 services to those whose incomes and financial resources place them above limited
103 means. It also permits the pro bono lawyer to accept a substantially reduced fee for
104 services. Examples of the types of issues that may be addressed under this paragraph
105 include First Amendment claims, Title VII claims and environmental protection claims.
106 Additionally, a wide range of organizations may be represented, including social service,
107 medical research, cultural and religious groups.

108 [7] Paragraph (b)~~(2)(ii)~~ covers instances in which lawyers agree to and receive a
109 modest fee for furnishing pro bono legal services to persons of limited means.
110 Participation in judicare programs and acceptance of court appointments in which the
111 fee is substantially below a lawyer's usual rate are encouraged under this section.

112 [8] Paragraph (b)~~(23)(iii)~~ recognizes the value of lawyers engaging in activities that
113 improve the law, the legal system or the legal profession. Serving on bar association
114 committees, serving on boards of pro bono or legal services programs, taking part in
115 Law Day ~~activities, taking part in and other~~ law related education activities, acting as a
116 continuing legal education instructor, a mediator or an arbitrator and engaging in
117 legislative lobbying to improve the law, the legal system or the profession are a few
118 examples of the many activities that ~~may~~ fall within this paragraph.

119 [9] Because the provision of pro bono ~~legal~~ services is a professional responsibility,
120 it is the individual ethical commitment of each lawyer. Nevertheless, there may be times
121 when it is not feasible for a lawyer to engage in pro bono services. At such times a
122 lawyer may discharge the pro bono responsibility by providing financial support to
123 organizations providing free legal services to persons of limited means. ~~Such financial~~
124 ~~support should be reasonably equivalent to the value of the hours of service that would~~

125 ~~have otherwise been provided.~~ In addition, at times it may be more feasible to satisfy
126 the pro bono responsibility collectively, as by a firm's aggregate pro bono activities.

127 ~~[10] [9a] The Utah Rule, unlike the Model ABA Rule, contains paragraph (c), which~~
128 ~~explicitly allows lawyers to discharge their pro bono services responsibility by annually~~
129 ~~contributing at least \$10 per hour for each hour not provided under paragraphs (a) and~~
130 ~~(b). While the personal involvement of each lawyer in the provision of pro bono legal~~
131 ~~services is generally preferable, such personal involvement may not always be possible.~~
132 ~~The annual contribution alternative allows a lawyer to provide financial assistance to~~
133 ~~increase and improve the delivery of pro bono legal services when a lawyer cannot or~~
134 ~~decides not to provide pro bono legal services through the contribution of time. Also,~~
135 ~~there is no prohibition against a lawyer's contributing a combination of hours and~~
136 ~~financial support.~~

137 [10] Because the efforts of individual lawyers are not enough to meet the need for
138 free legal services that exists among persons of limited means, the government and the
139 profession have instituted additional programs to provide those services. Every lawyer
140 should financially support such programs, in addition to either providing direct pro bono
141 services or making financial contributions when ~~providing~~ pro bono ~~legal~~ services is not
142 feasible.

143 [11] ~~Paragraph (b)(1) recognizes the pressing need for legal services to be provided~~
144 ~~to persons of limited means without fee or expectation of fee. That type of service is a~~
145 ~~greater priority than services rendered at a reduced fee to those same persons. For the~~
146 ~~majority of Utah's practitioners, this preference for 'no-fee' service is reasonable.~~
147 ~~However, a substantial number of Utah's lawyers practice in communities in which (or~~
148 ~~with clientele for whom) the cost of living is high and wages are low. For example,~~
149 ~~Utah's rural counties have average wages ranging from 60% to 80% of the Salt Lake~~
150 ~~County norm, while cost of living is from 90% to over 100% of the national norm. The~~
151 ~~same is true of some Wasatch Front communities. These lawyers may have a practice~~
152 ~~which consists generally of rendering services at reduced fees to persons of limited~~
153 ~~means. The general preference of 'no-fee' service may not apply to these Law firms~~
154 ~~should act reasonably to enable and encourage all lawyers in the same manner as to~~
155 ~~lawyers who rarely render such service.~~

156 ~~[12] While the personal involvement of each lawyer in the provision of pro bono~~
157 ~~legal services is generally preferable, such personal involvement may not always be~~
158 ~~possible or produce the ultimate desired result, that is, a significant maximum increase~~
159 ~~in the quantity and quality of pro bono legal services provided. The annual contribution~~
160 ~~alternative recognizes a lawyer's professional responsibility to provide financial~~
161 ~~assistance to increase and improve the delivery of pro bono legal services when a~~
162 ~~lawyer cannot or decides not to provide firm to provide the pro bono legal services~~
163 ~~through the contribution of time. Also, there is no prohibition against a lawyer~~
164 ~~contributing a combination of hours and financial support.~~

165 ~~[13] called for in this Rule.~~

166 ~~[11a] The Utah Rule, unlike the Model ABA Rule, contains paragraph (d) concerning~~
167 ~~voluntary reporting to the Utah State Bar. Voluntary reporting is designed to provide a~~
168 ~~basis for reminding lawyers of their professional responsibility under this Rule and to~~
169 ~~provide useful statistical information. [14] The intent of this Rule is to direct resources~~
170 ~~towards providing representation for persons of limited means. Therefore, only~~
171 ~~contributions made to organizations described in subsection (b~~a~~) should be reported.~~
172 ~~[15] The 36-hour standard for the provision of pro bono legal services is a minimum.~~
173 ~~Additional hours of service are to be encouraged. Many lawyers will, as they have~~
174 ~~before the adoption of this Rule, contribute many more hours than the minimum. [16]~~
175 Reporting records for individual attorneys will not be kept or released by the Utah State
176 Bar. The Utah State Bar will gather useful statistical information at the close of each
177 reporting cycle and then purge individual reporting statistics from its database. The
178 general statistical information will be maintained by the Bar for year-to-year
179 comparisons and may be released, at the Bar's discretion, to appropriate organizations
180 and individuals for furthering access to justice in Utah.

181 ~~[12] The responsibility set forth in this Rule is not intended to be enforced through~~
182 ~~disciplinary process.~~

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