

The WRIT

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Thursday, January 30, 2020

ANNUAL BASQUE DINNER CELEBRATION



Recently retired Judge Frances Doherty is our Honorary Dinner Host this year. We will return to the Santa Fe to celebrate our 13th year for this event.

Please join Judge Doherty and your colleagues for a picon punch or two. The bar opens at 5:30 p.m. and dinner seating begins at 6:30 p.m. Dinner is served family style. Reservations are limited to the first 150 guests. Tickets are \$55 per person (\$5 of each ticket will be earmarked for Judge Patrick Flanagan's International Judge Scholarship). Tickets are available online at www.wcbar.org.

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MILLENNIAL MINUTE

By: Kelci Binau, McDonald Carano

2020: The Year of Giving

With the holiday season of giving and receiving behind us, we embark upon a new year that holds the promise of fulfilled goals and presents opportunity for new growth. With only a few weeks left of the year, I contemplate how we as attorneys can continue the season of giving into the new year. One answer may lie in pro bono services. As recently barred attorneys with the completion of the Nevada Bar, Transitioning into Practice requirements behind us, many of us face the new responsibilities of Continuing Legal Education (“CLE”) and Rule 6.1 of the Rules of Professional Conduct (“RPC”).

Nevada’s CLE requirements consist of: ten (10) hours of general CLE; two (2) hours of ethics and professional conduct and one (1) hour of substance abuse, addictive disorders and/or mental health, for a total of thirteen (13) hours per year. Under the requirements, attorneys must annually complete and report their CLE. Effective 2019, Nevada attorneys are required to submit an Affirmation of Attendance and Compliance with Mandatory CLE Requirements to the Nevada Board of CLE. As a licensed attorney, you are required to maintain all CLE certificates of attendance, program outlines, agendas, receipts and “other evidence of attendance,” for the past three years. Pursuant to Supreme Court Rule 210, the Nevada CLE Board can randomly audit your CLE records.

As a new attorney you may ask, what are my responsibilities under RPC 6.1? As an established attorney you may ask, what more can I do to further bolster my responsibilities under RPC 6.1? The American Bar Association (“ABA”) Model Rule 6.1 states that “a lawyer should aspire to render at least (50) hours of pro bono publico legal services per year.” Under the rule, you must annually report whether you provided pro bono public services (or contributed funds) as defined by RPC 6.1.

Rule 6.1 of the Nevada Rules of Professional Conduct (“NRPC”), follows

the ABA model rule and requires mandatory reporting; however, NRPC 6.1 states Nevada attorneys should “aspire to render at least 20 hours of pro bono” services every year. NRPC 6.1 does not make pro bono itself or financial contributions mandatory, only the reporting thereof. However, the rule strongly advocates these activities as aspirational goals of all attorneys and the Nevada Supreme Court Access to Justice Commission challenges all Nevada lawyers to donate their time and resources to those less fortunate. Beyond taking a case or donating money, NRPC 6.1 also includes activities such as law-related education; activities for improving the law and the legal profession; or presenting for an approved education program sponsored by the state or a county bar or a Nevada court.

The gap between the legal needs of the poor and the resources available to meet those needs is growing dramatically. By necessity, people have been increasingly emphasizing expansion of pro bono legal services through various policy and delivery options. Pro bono reporting is one such option available. Pro bono reporting systems and the data collected through them can be used to promote and encourage pro bono participation. Despite this available option, only a few states, including Florida, Maryland and Nevada have mandatory pro bono reporting systems in place. The majority of the states have opted for purely voluntary pro bono reporting, many citing the time and expense to operate and collect the data as deterrents to implementing a mandatory reporting program.¹

Over the years, many have asked, “should all lawyers be required to complete pro bono or monetarily contribute to legal services offices?” Is it better for the community that each lawyer make that call for himself or herself, or would such a requirement do more harm than good?

On September 14, 2012, New York decided to answer these questions. The New York State Court of Appeals adopted a new rule requiring applicants for admission to the New York State bar to perform 50 hours of pro bono services. All candidates seeking admission after January 1, 2015, with the exception of admission on motion candidates, need to file documentation showing they have completed fifty (50) hours of qualifying pro bono work, as required by Rule 520.16 of the Rules of the Court of Appeals.

Some lawyers actively participate in their county bar associations (raising funds to support volunteer legal services) or the bar’s Judicial Evaluation Committee. Some lawyers coach mock trial teams to help young people learn about the legal system. Others do free legal work for their local non-profits or neighbors. Still others help the local church or animal shelters, work in hospices, are big sisters to teens in need, or donate to their local K-12 and higher education programs. Interestingly, the New York Rule does not count any of these activities, although they may be the most productive use of a lawyer’s charitable time. And as we all know, one thing most lawyers uniformly lack is time.

Justice Sonia Sotomayor spoke to this issue at the national convention of the



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American Law Institute in 2016. Justice Sotomayor said, “I believe in forced labor,” and, “If I had my way, I would make pro bono service a requirement.” If the government required lawyers to work for no pay, she said that there is no risk that they “may not give their best effort,” because the ethics rules require them to give their best effort.

Do you have an alternative idea that would do a better job of helping to meet the legal needs of the indigent? This year let’s work together to continue the spirit of giving into the new year by actively pursuing pro bono opportunities within our communities. Your skills and resources can and will change lives. Happy New Year!

¹The following states have voluntary pro bono reporting systems: Arizona, Georgia, Hawaii, Illinois, Kentucky, Louisiana, Mississippi, Missouri, Montana, New Mexico, Texas, Utah and Virginia.

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bad kids could become good kids if shown the proper path in life.” He was publicly remembered by several colleagues. Justice Gunderson wrote: “David believed children who had gone wrong had the potential to be shaped in a corrective manner--that was what he focused on very heavily. He was very much a pioneer in improving all aspects of the juvenile system and you could always count on him to be fair.” Justice Young noted: Justice Zenoff “was a good leveling influence on the court. He was a credit to the judiciary.” Justice Becker added her own observation that Justice Zenoff “was a caring, intelligent and dedicated individual. He worked hard for the children of this State and I remember thinking, as a young lawyer and judge, ‘that’s the type of person I want to be.’”

The Nevada Supreme Court published a moving memorial in which it noted that Justice Zenoff “demonstrated dedication, ability, and leadership in all areas of his life--in his legal career, in his involvement in his community, and in his family.” Even though Justice Zenoff might have smiled at his own occasional zeal, he was a serious jurist who endeavored to enhance Nevada law. In so doing, he left a personal mark that shall remain timeless.

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This is number 124 in a series of essays on judicial ethics authored by Judge David Hardy, Second Judicial District Court, Dept. 15.

