

# Law Firm Pro Bono Challenge<sup>®</sup> Reports: An Anthology (1995 - 2014)



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\*There were no Reports from 1998 through 2006.

### MEETING THE CHA

The First Status Report on the Pro Bono Activities of America's Major Law Firms

# 1995 Law Firm Pro Bono Challenge Report

ENGE

#### The Law Firm Pro Bono Project

A Project of the Pro Bono Institute and the American Bar Association's Fund for Justice and Education Standing Committee on Lawyers' Public Service Responsibility



**Project Advisory Committee Members** 

Standing Committee on Lawyers' Public Service Responsibility

# The Law Firm Pro Bono Project Salutes the Challenge Signatory Firms

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◆\*Brown & Bain Jennings, Strouss & Salmon Snell & Wilmer L.L.P. Streich Lang

Arkansas

\*Rose Law Firm

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♦Adams, Duque & Hazeltine Best, Best & Krieger Cooley Godward LLP \*Crosby, Heafey, Roach & May Farella, Braun & Martel +Heller, Ehrman, White & McAuliffe Howard Rice Nemerovski Canady Robertson & Falk Irell & Manella ♦ McCutchen, Doyle, Brown & Enersen, LLP ♦Morrison & Foerster LLP ♦Munger, Tolles & Olson ◆Orrick, Herrington & Sutcliffe ♦Pettit & Martin Pillsbury Madison & Sutro LLP Thelen, Marrin, Johnson & Bridges Wilson, Sonsini, Goodrich & Rosati

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◆Holland & Hart
\*Holme Roberts & Owen

#### Connecticut

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 Day, Berry & Howard
 Robinson & Cole
 ♦Schatz & Schatz, Ribicoff & Kotkin
 ♦Shipman & Goodwin LLP
 Tyler Cooper & Alcorn

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- Holland & Knight
  \*Ruden, McClosky, Smith,
- Schuster & Russell Steel Hector & Davis LLP

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Hawaii Cades Schutte Fleming & Wright

#### Illinois

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  \*Tydings & Rosenberg
- +Venable, Baetjer and Howard

#### Massachusetts

#### Michigan

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#### Minnesota

Briggs and Morgan ◆Dorsey & Whitney LLP Faegre & Benson LLP ◆Fredrikson & Byron, P.A. Gray, Plant, Mooty, Mooty & Bennett Leonard, Street and Deinard Lindquist & Vennum P.L.L.P. Oppenheimer Wolff & Donnelly ◆ ◆Popham, Haik, Schnobrich & Kaufman Rider, Bennett, Egan & Arundel \*Robins, Kaplan, Miller & Ciresi

#### Missouri

Armstrong, Teasdale, Schlafly & Davis ◆Bryan Cave Husch & Eppenberger Peper, Martin, Jensen, Maichel and Hetlage ◇Smith Gill Fisher & Butts Thompson Coburn

Nevada Beckley Singleton Jemison & List

New Hampshire Sheehan Phinney Bass + Green

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#### North Carolina

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Ohio Vorys, Sater, Seymour and Pease

**Oregon** \*Bullivant, Houser, Bailey, Pendergrass & Hoffman Miller, Nash, Wiener, Hager & Carlsen Schwabe Williamson & Wyatt PC

#### Pennsylvania

Buchanan Ingersoll Dechert Price & Rhoads ◆Drinker Biddle & Reath Mesirov Gelman Jaffe Cramer & Jamieson Morgan, Lewis & Bockius LLP Pepper, Hamilton & Scheetz ◆Reed Smith Shaw & McClay \*Saul, Ewing, Remick & Saul \*Schnader, Harrison, Segal & Lewis

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 & Scarborough, LLP

Tennessee Bass, Berry & Sims

#### Texas

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 ◆Johnson & Gibbs Locke Purnell Rain Harrell

Utah

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\*Foster Pepper & Shefelman
◆Garvey, Schubert & Barer
Graham & James/Riddell, Williams
Perkins Coie
Preston Gates & Ellis
\*Williams, Kastner & Gibbs

#### Wisconsin

Godfrey & Kahn, S.C. Michael Best & Friedrich

- ✦ denotes Charter Signatories to the Challenge
- \* firm did not report pro bono activities in 1995

indicates the firm has either disolved, merged with another firm, or in two instances, requested removal from participation in the Challenge

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\* Past Members

# **Executive Summary**

Striving to meet the goals of the Law Firm Pro Bono Challenge, a national aspirational *pro bono* standard, 135 of the nation's largest law firms provided almost 1,600,000 hours in donated legal services to the poor and disadvantaged and charitable organizations in 1995, the first year of the Challenge.

The Law Firm Pro Bono Challenge, developed by law firm leaders and corporate general counsel, articulates a single national standard for one key segment of the legal profession—the nation's 500 largest law firms. These firms range in size from 70 to more than 1,000 lawyers. When compared to other aspirational *pro bono* standards, the Challenge is unique in several respects:

- It is national in scope, in recognition of the national practice of larger law firms and the multiple offices in several states maintained by many of these firms.
- It consciously targets one important segment of the bar and is tailored to the special concerns, resources, structure, and role of that segment.
- It uses a progressive standard—i.e., a target of either 3 or 5 percent of each firm's billable hours—rather than the hours-per-attorney standard commonly used in articulating *pro bono* goals. By using a percentage goal, the Challenge ties *pro bono* performance to firm productivity and profitability.
- It calls for an institutional commitment, rather than an individual lawyer goal, in recognition of the fact that the policies and practices of larger law firms are key to the ability and willingness of firm lawyers to undertake *pro bono* work.
- It creates goals not only with respect to the amount of pro bono work to be undertaken, but also with regard to the structural and policy elements that are essential for the creation and maintenance of a pro bonofriendly firm culture.
- It links Challenge firms to extensive technical assistance resources at the Law Firm Pro Bono Project.
- It includes an accountability mechanism and an outcome measurement through its annual reporting requirement.

While the performance of firms in 1995 was impressive, much remains to be accomplished by the firms and by the Law Firm Pro Bono Project in assisting firms to meet their Challenge goals. It is notable that 23% of firms reporting actually <u>exceeded</u> their Challenge goal of 3% or 5%. An additional 22% of these firms either met that goal or came within 0.5% of doing so. A majority of firms, however, failed to meet the 3% or 5% goal. A substantial number of those firms have made significant changes in *pro bono* oversight, policies, and practices since they accepted the Challenge—changes that will, in future years, enable them to increase their *pro bono* contributions and meet their goal. A smaller number of firms are having difficulty in implementing the Challenge, and the Project will work closely with those firms over the next year to help them improve their performance. In addition, the Project is also working to ensure that firms that failed to provide their 1995 statistics are able to report in future years.

Both the Law Firm Pro Bono Project and the law firms participating in the Challenge understand that the goals adopted by the firms are ambitious and that meeting those goals will, for some firms, require additional effort. In light of the recent cutbacks in funding and heightened need for legal assistance for the disadvantaged, however, it is essential that additional resources in the form of increased *pro bono* work become available as soon as possible. That sense of immediacy will inform the Project's work with law firms.

While the data concerning quantifiable increases in pro bono work are an essential part of the Challenge, they do not tell the whole story. Firm reports clearly demonstrate that the Challenge has served as a catalyst not only for increased pro bono service, but also for heightened innovation in firm pro bono efforts, greater visibility and top-down support for pro bono, increasingly broad participation across specialties and at all levels of seniority, and more pro-active pro bono projects that are responsive to the critical legal needs of the communities in which these firms are located. There is an unparalleled atmosphere of momentum, excitement, and commitment to pro bono within larger law firms today. The results of this first year of Challenge reporting are important in establishing a baseline and assessing the progress of participating firms. The Challenge, however is designed to be a long-lived phenomenon. The true measure of the Challenge will be whether, in the years to come, high performing law firms continue to maintain their efforts, other firms demonstrate a steady increase in pro bono, and all firm programs are characterized by the energy, creativity, and responsiveness to community needs that imbues the best of law firm pro bono.

# Introduction

### Introduction

Established in 1989 as an initiative of the American Bar Association's (ABA) Standing Committee on Lawyers' Public Service Responsibility (SCLPSR or the Committee), the Law Firm Pro Bono Project provides support, information and technical assistance to the nation's largest law firms in developing and enhancing the firms' *pro bono* programs. Originally targeted to address the needs of the 500 largest law firms in the nation, the Project has now expanded its focus to include all law firms in the United States with 50 or more attorneys.

#### The ABA Standing Committee on Lawyers' Public Service Responsibility

The American Bar Association has long led the effort to promote *pro bono publico* service by all segments of the legal profession. Its Standing Committee on Lawyers' Public Service Responsibility has as its charge to:

review, evaluate and foster the development of *pro bono publico* programs and activities by law firms, bar associations, corporate law departments and other legal practitioners; analyze and define the appropriate scope, function and objectives of *pro bono publico* programs; establish and develop liaison with state and local bar associations and other groups interested in such programs; propose and review legislation which impacts on the ability of lawyers to provide *pro bono publico* service; and undertake such further activities as may be necessary and proper in fulfillment of these responsibilities.

In furtherance of that mandate, the Committee sponsors a national *pro bono* conference on an annual basis and administers and presents the ABA's prestigious *Pro Bono Publico* Awards. On a policy level, the Committee led a successful effort to amend Model Rule 6.1 (Voluntary Pro Bono Publico Service) to establish a more concrete and quantifiable aspirational *pro bono* standard, worked with the Conference of Chief Justices to develop a resolution concerning the role of judges in promoting *pro bono*, and also successfully promoted the inclusion of pro bono service in the ABA's accreditation standards for law schools. It has promulgated, for the first time, standards for legal services providers that sponsor organized pro bono programs. The Committee-sponsored Center for Pro Bono serves as a national support center for pro bono programs and a clearinghouse for information on pro bono issues. A SCLPSR subcommittee provides oversight and counsel to the Law Firm Pro Bono Project.

#### The Pro Bono Institute

The Pro Bono Institute (PBI) is a newly established non-profit group whose purpose is to identify new approaches to-and resources for-the provision of legal services to the poor, disadvantaged and other individuals or groups unable to secure legal assistance to address critical problems. The Institute not only undertakes research and scholarship, but also works with a wide range of legal institutions to ensure that promising methods are workable in the real world of legal services delivery. Foremost among the projects operating under the aegis of the Institute is the highly-regarded Law Firm Pro Bono Project which receives support and guidance from the American Bar Association Fund for Justice and Education and its Standing Committee on Lawyers' Public Service Responsibility. Other Institute projects involve analysis of current delivery methods used by legal services and pro bono programs, development of proposals to strengthen existing "best practices," and design and introduction of innovative delivery models. In its work, the Institute seeks to look objectively at the strengths and limitations of current models and, working with key decision makers and opinion leaders, to assess, improve, and re-think those systems and models to avoid stagnancy and to ensure responsiveness to new issues and opportunities.

#### The Law Firm Pro Bono Project

In light of the ABA's existing commitment to pro bono, why was a new project, focused on only one segment of the bar, considered necessary? The answer lies both in the unique role that larger law firms play in the overall legal community and in the dramatic changes in the structure and economics of law firm practice that occurred in the two decades preceding the creation of the Law Firm Pro Bono Project (the Project).

Larger law firms have traditionally served as the opinion leaders and catalysts for change within the legal profession. On a wide range of issues—from the heightened use of technology to the use of legal assistants major law firms have often pioneered changes which then impacted the entire profession. In many respects, the larger law firms—in their practice, culture, economics, and structure—have represented a benchmark against which much of the profession measures its own activities and progress. The impact of major law firms has increased as they have grown. In the late 1950s only 38 firms in the United States had more than 50 lawyers; by 1995, that number had grown to more than 700 law firms.

The leadership role of these law firms has loomed particularly large in the context of the profession's commitment to voluntary service. If the most prosperous legal institutions are perceived as not doing their part, or if those institutions minimize the importance of *pro bono*, other lawyers may be less likely to contribute their services. A focus on these firms, therefore, is seen by the ABA as critical, not only to insure that their unparalleled resources are used effectively for *pro bono* service, but also to insure that the legal profession as a whole maintains a high level of commitment to *pro bono publico*. During the past two decades, the structure and practice of larger law firms has changed dramatically. Firm size has increased exponentially, with several law firms breaking the 1,000 attorney plateau. This growth has been accompanied by a dramatic shift in the governance of these institutions. Detailed and well-publicized data on economic performance and pressure on firms to operate in a more business-like manner have brought about a more formalized management structure in most larger firms. Growth has also been marked by far greater mobility, the infusion of large numbers of laterals into the firms, and the creation of branch offices. As a result, the unique culture and traditions of many firms have been weakened.

The changes in the economics of law practice at larger firms-dramatic increases in starting salaries, heightened expectations among seasoned lawyers regarding compensation, increased competition for "rainmakers," and the costs of technological improvements-have created enormous financial pressures on law firms. The results of those pressures-the constant rise in billable hour expectations, an intensified focus on business generation skills, and, most notably, an increased willingness on the part of firms to dismiss both partners and associates who are seen as less productive-are manifestations of a singular focus on the bottom line. The recession of the late 1980s, which ended many years of rapid growth and prosperity in firms around the nation, underscored for many firm leaders the importance of maintaining a profit-oriented mentality. For many lawyers, the forced downsizing and firm dissolutions during that period permanently changed their view of law firms as stable and secure partnerships.

The Law Firm Pro Bono Project was created to serve as a national resource and as a counter-balance to these changes in large law firm practice which were at their peak in 1989. The American Bar Association, as well as The Ford Foundation which has served as the primary funding source for the Project since its inception, realized that absent an affirmative and aggressive approach to pro bono, the institutional changes in larger law firms might seriously impair the pro bono culture at some firms, while hindering the growth of pro bono at firms without an established culture. Time and financial pressures, as well as uncertainty about the future, could discourage lawyers from undertaking pro bono work. Pro bono work was particularly at risk in the late 1980s, because most law firm pro bono programs were then relatively unstructured and ad hoc in nature, relying on the firm's tradition of pro bono service to motivate continued service. These pro bono efforts-so antithetical to the structured, management-based environment that had evolved in most other areas of firm practice-were further placed at risk because of the large numbers of new lawyers less familiar with the firms' history and values who had joined the firms earlier in the decade.

When the Law Firm Pro Bono Project began there was virtually no information available on what major law firms were doing with respect to *pro bono publico* service. No national listing of *pro bono* committee chairs and coordinators responsible for their firms' *pro bono* work existed. Firms seeking to develop a *pro bono* policy, identify successful projects, or deal with an issue such as the treatment of attorneys' fees awarded in *pro bono* matters had nowhere to turn. Over the past eight years, the Project has developed and expanded its support services for firms. It maintains and continually updates its list of *pro bono* contacts and other firm leaders. It supports the only comprehensive clearinghouse of information on *pro bono* programs at larger law firms. With the assistance of the law firms, that clearinghouse has grown over the years to include hundreds of law firm *pro bono* policies, information on more than two hundred firm-sponsored special projects, statistical information on trends in law firm *pro bono* programs, and descriptions of new *pro bono* initiatives, such as the increased use of the special skills of transactional lawyers to provide *pro bono* assistance to low-income communities. The Project initiated the first, and only, national forum for law firm leaders involved in the oversight of their firms' *pro bono* programs—an annual conference which now attracts representatives from more than 60 law firms.

The Project's publications-developed in response to the heightened activity and innovation among law firms-have become a critical source of information for thousands of law firm leaders. What's New in Law Firm Pro Bono, begun in 1994 and now published six times a year, is designed for managing partners, pro bono committee chairs, pro bono staff, and other firm leaders. Signatories Update, the Project's second newsletter, originally designed as an informal occasional periodical for those firms enrolled in the Law Firm Pro Bono Challenge<sup>®</sup>, is now published quarterly. Both publications include profiles of firms with successful pro bono programs, information on new initiatives and trends, and in-depth analyses by law firm leaders of issues impacting pro bono in firms. In addition to its newsletters, the Project also regularly publishes monographs, compilations of firm pro bono materials, and other reports. The Project also provides technical assistance tailored to individual law firms and/or to consortia of firms seeking to enhance the overall pro bono culture in their communities. Such assistance may include a selection of materials from the Project's clearinghouse, brief telephone advice, or extensive on-site assistance.

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#### Genesis of the Law Firm Pro Bono Challenge

One of the first activities of the Law Firm Pro Bono Project was its sponsorship of a series of regional and national conferences for managing partners and law firm pro bono contact persons. The discussions at these meetings identified the lack of any national normative standard for pro bono participation by large law firms. The conferences revealed that there were wide variations in the pro bono performance of larger firms resulting from economic factors, from the presence or absence of a strong local or firm culture supportive of pro bono, and from the availability-or absence-of a broad range of opportunities for pro bono service. Those striking disparities were confirmed by a survey conducted by the Project which found that, in larger firms, the percentage of total attorney time expended per firm on pro bono ranged from less than one-tenth of a percent to almost 10 percent. The Project also learned that the many state and local bar association aspirational resolutions promoting pro bono had little apparent impact on major law firms. This was due, in part, to the fact that those resolutions addressed the pro bono obligations of individual attorneys without speaking directly to the role to be played by the legal institutions that employed the attorneys. The variations among bar resolutions with respect to definitions of pro bono and aspirational goals created problems for firms with multiple offices in several states seeking to develop a coherent, firm-wide approach to pro bono service. In addition, larger firms typically looked to peer firms around the nation as exemplars, rather than the organized bar in their immediate community. Many firms represented at the Project's conferences called for a single national pro bono standard specifically tailored to the needs and resources of larger law firms.

In response, the Project's Advisory Committee, composed of managing partners of firms around the nation as well as general counsel of major corporations, designed a national set of normative principles for larger law firms engaged in *pro bono publico* service. Those principles, representing a distillation of the elements common to successful law firm *pro bono* programs, are unique among *pro bono* aspirational guidelines in addressing not only the appropriate level of *pro bono* participation by larger law firms, but also the activities, policies, and procedures which larger firms must undertake to create an infrastructure which promotes and protects *pro bono* service. Numerous drafts and re-drafts of what came to be known as the Law Firm Pro Bono Challenge were broadly disseminated, reviewed and revised.

After the Challenge was finalized by the Advisory Committee, a select number of firms around the country-primarily those viewed as pro bono leaders in their communities-were invited to serve as Charter Signatories to the Challenge. Approximately sixty such firms were identified, with forty-eight agreeing to enroll in the Challenge. The Project then contacted the managing partners of the nation's 500 largest law firms to solicit their firms' participation in the Challenge. James W. Jones, Chair of the Project's Advisory Committee and then-Managing Partner of Washington, DC's Arnold & Porter, and Curtis M. Caton, Project Chair and then-Managing Partner of Heller, Ehrman, White & McAuliffe, a leading San Francisco law firm, cris-crossed the nation holding meetings with firm representatives in every city in the United States with a substantial number of larger law firms. In addition, the President of the American Bar Association sent a personal letter to each managing partner urging that their firm sign on, as did the late Associate Supreme Court Justice William J. Brennan, Jr., long a forceful voice for equal access to justice.

Not surprisingly in light of the Challenge's unique approach to *pro bono*, a number of the Challenge's provisions, including the definition of *pro bono*, were not well understood or had become controversial. To assist firms in responding to the Challenge, the Project developed an accompanying commentary and a question and answer format that addressed commonly asked questions or misperceptions.

The response to the Challenge from major law firms was extraordinary. When the Challenge was formally announced, on April 30, 1993, at a Law Day ceremony that included Attorney General Janet Reno, then-ABA President J. Michael McWilliams, Justice Brennan, and many other leaders of major firms and the bar, more than 170 major law firms had enrolled as Signatories to the Challenge.

#### What is the Law Firm Pro Bono Challenge?<sup>1</sup>

As noted above, the Law Firm Pro Bono Challenge is unique, as an aspirational *pro bono* standard, in several respects. The Challenge:

- is nationwide in scope, in recognition of the fact that major firms often have a national practice and that many of these firms have multiple offices in several states;
- consciously targets one important segment of the bar and is tailored to the special concerns, resources, structure and culture of that segment;
- utilizes a progressive standard for *pro bono* service: i.e., by establishing a percentage of total billable hours as a target, rather than a flat hours-per-attorney standard, the Challenge ties *pro bono* commitment to the productivity and profitability of the firm;
- creates an institutional commitment, rather than a personal goal, in recognition of the fact that the policies, practices, and culture of larger law firms as employers uniquely contribute to—or can be detrimental to—the ability and willingness of lawyers in those firms to undertake *pro bono* work;
- addresses not only the amount of the *pro bono* commitment, but also the structural and policy elements that must be present to enable firms to realistically meet that commitment;
- links firms to an extensive technical assistance resource that provides a wealth of information, consultation, training, and support; and
- includes an accountability mechanism and an outcome measurement, in the form of an annual reporting requirement that enables both the individual firm and the Project to assess whether firms met the commitment and what difference that has made.

#### Methodology

This document-the first report of the activities undertaken by the law firms who participate as Signatories to the Law Firm Pro Bono Challenge-contains statistical information on the progress made by these firms in meeting the Challenge goals. To enable readers to clearly understand the goals and impact of the Challenge, the data is augmented by brief descriptions of the initiatives undertaken by some of these firms. We have highlighted these initiatives because they effectively illustrate the purpose and elements of the Challenge. We regret that space and cost considerations make it impossible to detail in this report the outstanding work of the many Challenge firms that are making such effective contributions to their communities. In keeping with the general agreement not to provide disaggregated statistical information, activities and data of specific law firms described in the report have been reviewed and approved by those firms prior to publication.

This report is organized around the seven principles that make up the Law Firm Pro Bono Challenge. For each principle, the report discusses the purpose and rationale behind the goals articulated in that principle, followed by statistical information on the rate of success of Challenge firms in addressing that principle and anecdotal descriptions of one or more firms whose activities illustrate the principle. To provide a clear picture of the results of this first year of implementation, the Challenge principles are discussed in a different order than they appear in the Challenge itself, with Principle Seven, which sets out the overall definition of *pro bono*, discussed before Principle Three which incorporates the concept of a special emphasis, within the overall definition, on legal services to those of limited means.

<sup>1</sup>The full text of the Law Firm Pro Bono Challenge and the accompanying commentary are reproduced on page 27.

# Elements of the Challenge

#### Responding to the Challenge at Graves, Dougherty

A Charter Signatory to the Law Firm Pro Bono Challenge, Graves, Dougherty, Hearon & Moody in Austin, Texas has long been recognized for its history of pro bono involvement and leadership. The development and adoption by the firm of a Statement of Policy Concerning Pro Bono Activities was an important cornerstone of the firm's implementation of its commitment to the Challenge. That policy is designed to "demonstrate its [the firm's] commitment to provide pro bono services, to encourage each of its attorneys to participate in pro bono activities, and to facilitate participation in such activities by providing organization and support."

The policy continues: "[T]he Firm is committed to delivering an annual amount of pro bono legal services that, in total, exceeds 3% of the Firm's total billable hours with at least half of this amount directed to legal services for persons of limited means. This commitment is consistent with the Firm's participation in the ABA Law Firm Challenge. The Firm expects each shareholder, associate, and legal assistant to help fulfill this commitment." The policy defines pro bono activities by utilizing the Challenge definition and noting that "[P]ro bono legal services should not be confused with other worthy services performed without compensation. For example, services as an officer or director of a charitable or civic organization do not generally qualify as pro bono legal services. Similarly, involvement in professional activities is a separate service not within the definition of pro bono legal services."

#### PRINCIPLE ONE: AN INSTITUTIONAL COMMITMENT

Our firm recognizes its institutional obligation to encourage and support the participation by all of its attorneys in pro bono publico activities. We agree to promulgate and maintain a clearly articulated and commonly understood firm policy which unequivocally states the firm's commitment to pro bono work.

One of the major innovations of the Law Firm Pro Bono Challenge-and one element that distinguishes it from any other pro bono standard developed to date-is the fact that it is the law firm, as an institution, that makes the commitment to abide by the principles of the Challenge. This institutional commitment is, in many respects, the most critical element of the Challenge. It recognizes that, because of the unique structure of larger law firms and the economics of law practice within these firms, a commitment to pro bono on the part of individual lawyers, or even the aggregation of those individuals' willingness to do pro bono work, is not sufficient to ensure substantial, longterm pro bono participation. It is essential that the firm commit its institutional resources to affirmatively promote pro bono service. The firm must examine and, if necessary, revise its policies, procedures, compensation scheme, and structure to ensure that none of these inadvertently undermine the ability of the firm's lawyers to participate in pro bono service. Instead, these policies and practices should consciously promote pro bono service and make it as easy and desirable as possible for firm attorneys to undertake that service. The quantitative commitment to pro bono established by the Challenge underscores the institutional nature of this initiative. Rather than establishing a per-attorney goal or an aggregation of individual attorney hours, it establishes a target percentage of total billable hours and places the burden of meeting that percentage on the firm as a whole.

The most concrete embodiment of the firm's institutional commitment is its promulgation of a policy that strongly and clearly articulates the firm's support for *pro bono* service. An effective policy statement is, of course, only one element of a firm's commitment to *pro bono*. Other firm policies and practices, as well as the statements and actions of the firm leadership, must be consistent with the position taken in the policy if the policy is to have any impact. A formal articulation of support through a clear, consistent, and commonly understood statement of policy regarding *pro bono* work is, however, the first building block in the establishment of institutional support.

#### **PRINCIPLE ONE: RESULTS**

Fittingly, the most notable response to the Challenge has been the development and revision of *pro bono* policies on the part of Challenge firms. The very process of discussing and articulating the firm's *pro bono* commitment has become a critical element in communicating the importance of *pro bono* to the firm and its leadership. Prior to the Challenge, many firms had no established *pro bono* policy, relying instead on the firm's oral tradition of commitment to *pro bono*—a tradition not easily communicated or understood as firms expanded, merged, and grew. For these firms, developing a coherent policy was an important first step. Even among firms that had long-standing policies, however, the Challenge often prompted a re-assessment and thorough revision of those policies. The most widespread change, of course, was the inclusion of the Challenge definition of *pro bono* and the articulation in the policy of the firm's quantitative Challenge goal. Equally, or perhaps even more important, however, were the profound changes in the nature of *pro bono* policies. Earlier policies were often no more than brief statements encouraging participation in *pro bono* service.

The policies developed by law firms in response to the Challenge are, typically, far more detailed and more concrete, in an effort to demystify *pro bono* work and to reassure firm lawyers and other staff that articulations of firm support are more than mere lip service. More evolved policies typically begin with a definition of *pro bono* work. If the firm is committed to providing parity for time spent on *pro bono*, it is essential that the members and staff of the firm have a common understanding of the scope of *pro bono* service.

Mature policies also include specific information on the procedures for selection, approval, review, supervision, reporting of time spent, and evaluation of work done in *pro bono* matters, as well as policies regarding payment of expenses in *pro bono* matters, disposition of any attorneys' fees awarded in these matters, and availability of support staff and other firm resources for cases or projects handled on a *pro bono* basis. In addition, these policies often include information on the firm's treatment of time spent on *pro bono* work, to ensure that some or all *pro bono* hours are credited in the same manner as work for paying clients.

While the Challenge does not specify that a firm's pro bono policy be in writing, virtually all major firms have developed a written policy. Since so many other firm procedures are reduced to writing, creating a written pro bono policy is an indication of the importance the firm places on the issue. A number of firms have gone beyond simply developing a policy. They have produced policy and procedures manuals that provide a comprehensive guide to pro bono work at the firm. These manuals often include information on sources of pro bono work, mentors, library materials, training programs, and forms specifically tailored to pro bono work. In addition to the manuals, a growing number of firms now use technology to provide detailed and up-todate information on the firm's commitment to pro bono. At the Chicago office of Baker & McKenzie, for example, each attorney, upon logging on to her or his computer in the morning, receives a "pro bono resources" icon. Using that icon, the attorney has access to sample pleadings and forms in the substantive areas most common to pro bono work. A complete list of mentors is also available to assist the pro bono attorney in handling cases efficiently and to provide high quality, timely service to the firm's pro bono clients.

Other portions of the policy address the manner in which pro bono matters are to be undertaken. "Pro bono matters are Firm matters that are to be handled in the degree of professionalism that would be expected from any arrorney in the Firm. pro bono activities and ro assure that proas work on other Firm matters." The firm resources and funds to support and activities. Although Graves, Dougherty's firms, the time and thought that the firm gave to preparing a thorough delineation of its position and policies with respect to Dougherty, Hearon & Moody met and exceeded its Challenge goal, and every attorney in the firm participated in the

# One Firm's Experience in Meeting the Challenge Goal

The practice of law is a service to society. Commitment to the highest professional standards when-serving business clients is not alone sufficient to nurture a wholesome and worthy institution. We must also recognize as a core value of Hunton & Williams our companion commitment to serve the public welfare. When a citizen's access to justice is thwarted by inability to pay a legal fee, the fabric of our free society suffers. We as lawyers are obliged to use our best efforts to see that the economically disadvantaged receive adequate legal services.<sup>2</sup>

While Richmond-based Hunton & Williams had a long-standing commitment to pro bono service, the firm's reaffirmation of that commitment, in agreeing to become a Charter Signatory to the Law Firm Pro Bono Challenge in 1993, served as a critical catalyst that motivated the firm to dramatically expand its pro bono service.

By adhering to the Challenge principles, this 472-lawyer firm was able to revamp, strengthen, and enhance its pro bono program. How did this firm achieve such dramatic results in so short a period of time? Hunton & Williams enlisted the active support of the firm's leadership. In 1993, it formed a firm-wide community service committee charged with promoting the firm's pro bono efforts, increasing its level of service, and coordinating the activities of the pro bono committees established in each of the firm's offices. Recognizing the complexity of administering a pro bono program in a large, multi-office firm, Hunton & Williams expanded its professional pro bono staff, employing a full-time partner and a parttime assistant to work with committee members. The firm initiated a pro bono newsletter, established a firm-sponsored pro bono award, and began publishing an annual pro bono report.

#### PRINCIPLE TWO: A QUANTIFIABLE, FIRM-WIDE GOAL

To underscore our institutional commitment to pro bono activities, we agree to use our best efforts to ensure that, by no later than the close of calendar year 1995, our firm will either:

(1) annually contribute, at a minimum, an amount of time equal to 5 percent of the firm's total billable hours to pro bono work;

#### or

\_(2) annually contribute, at a minimum, an amount of time equal to 3 percent of the firm's total billable hours to pro bono work.

To enable firms to assess the overall effectiveness and impact of their pro bono efforts, the Challenge includes a quantifiable, firm-wide aspirational goal. Unlike other pro bono aspirational resolutions addressed to the practicing bar as a whole, the Challenge goal is expressed as a percentage of total hours billed annually, rather than as hours per individual attorney. The percentage goal was selected for two reasons. First, use of a percentage underscores the institutional nature of the commitment undertaken. Just as the firm establishes a goal for revenues, and, as an institution, works to meet that goal, a firm, through its management and leadership, bears the ultimate responsibility for meeting its Challenge goal. In addition, a percentage goal avoids the regressive nature of a fixed hour-per-attorney target. The Challenge percentage insures that firms' pro bono responsibilities increase as their productivity and prosperity increase. While some firms have expressed concern about the percentage goal, arguing that its use penalizes the busiest law firms, most firms now seem comfortable with the Challenge approach since it complements each firm's culture regarding work expectations.

The Challenge provides firms with a choice between two alternative minimum goals—a goal of either 5 percent or 3 percent of total billable hours. Thirty-five firms, or 20% of all Challenge firms, have selected the higher goal, while 138 firms (80%) have chosen the 3% goal. This two-tiered approach is in response to the wide disparity that has existed among firms around the nation with respect to past levels of *pro bono* participation. While many firms, particularly those in cities with a strong tradition of *pro bono* service, have consistently contributed *pro bono* service that substantially exceeds the higher Challenge goal, for other firms accepting the lower of the two goals represents a commitment to dramatically expand their existing level of effort.

In implementing the Challenge, a number of firms, for the first time, established an overall annual *pro bono* budget for the firm based on projections of billable hours for the year that included a total number of donated hours, as well as additional funds for administration, staffing, publications, training, and litigation expenses.

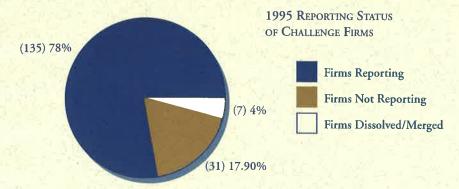
The goal of 3% or 5% of billable hours, it should be noted, represents a substantial contribution of resources. For example, a single 200-lawyer firm that selects the 3% goal has made a commitment to provide donated legal services valued at approximately \$2.5 million annually.<sup>3</sup>

<sup>&</sup>lt;sup>2</sup>From Hunton & Williams' pro bono policy adopted by the firm's Executive Committee on April 11, 1994.

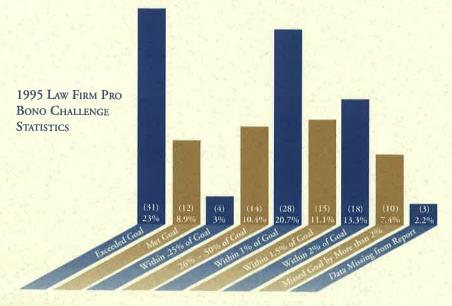
<sup>&</sup>lt;sup>3</sup>The estimated value of annual donated services was arrived at using the following assumptions: Large firm lawyers bill, on average, 2,000 hours annually. Accordingly, a 200-lawyer firm's annual billable hours would total 400,000. Three percent of that figure is 12,000 hours. Using a blended partner/associate hourly billing rate of \$210, the value of the *pro bono* time contributed would be \$2,520,000.

#### PRINCIPLE TWO: RESULTS

Of the 173 law firms which originally signed on to the Law Firm Pro Bono Challenge, the Project received reports on the 1995 year from 135 firms. An additional 31 firms did not respond, and seven firms have either merged with other firms or have dissolved.<sup>4</sup>



Forty-three firms, or 31.9% of those reporting, either met or exceeded their selected Challenge goal. An additional four firms (3%) came within 0.25% of meeting their goal, while 14 firms (10.4%) came within 0.5% of their selected goal. In summary, 45.3% of Challenge firms who filed reports on their 1995 activities either met their Challenge goal, exceeded it, or came within one-half percent of meeting their goal.



With respect to other firm reports, 28 firms (20.7%) were within 1% of their goal; 15 firms (11.1%) were within 1.5% of their goal; and 18 firms (13.3%) were within 2% of their selected goal. Ten firms (7.4%) reported that there was a greater than 2% gap between their goal and their reported percentages. Three firms (2.2%) did not provide sufficient information in their reports to determine their level of *pro bono* service. The percentage of billable hours reported ranged from a low of 0.3% to a high of 8.33%. The total hours of *pro bono* service reported by the 135 firms in 1995 was 1,594,537 hours.

The firm expanded its existing pro bono projects and developed innovative programs to provide legal assistance to the economically disadvantaged by identifying the legal needs in each of the communities in which it had an office and tapping the expertise, interest, and imagination of its lawyers and staff. Long known for its Church Hill office (a firmestablished and administered neighborhood pro bono office located in the oldest and poorest section of Richmond), the Richmond office in 1994 expanded Church Hill's services to include lowincome residents throughout the city. In 1995, the firm established a Richmond Pro Bono Fellowship, providing a full-time lawyer who splits her time between the Church Hill office and the local legal services program.

In that same year, the firm's Atlanta office, in cooperation with the Carter Center's Atlanta Project, established and staffed another neighborhood office, the Southside Legal Center, which provides legal services to the working poor in that neighborhood. The firm's relatively small New York City office, sensitive to the large number of homeless in that city, organized and staffed two clinics to serve the legal needs of the homeless in midtown Manhattan. In its newest office in Charlotte, North Carolina, Hunton's lawyers established a program that provides legal assistance to victims of domestic violence. Young lawyers in the firm's Raleigh office organized a project that provides free legal assistance on a range of transactional and business matters to non-profit groups in that community. With the encouragement, infrastructure, and guidance provided by the firm's management and its pro bono leadership, Hunton & Williams has developed, in an astonishingly brief time, a model pro bono effort that unites the firm and contributes greatly to the communities of which it is a part.

<sup>4</sup>These firms are identified on the list at the front of this report.

#### One Firm Defines Pro Bono Service

In structuring its *pro bono* policy, Snell & Wilmer sought to place special emphasis on legal services to the poor, while continuing to express support for the civic and community involvement that has been a source of pride and an important goal for the firm and its lawyers.

To accomplish both of these goals, Snell & Wilmer's policy recognizes two categories of pro bono work. The first, "Pro Bono I," essentially comprises work that meets the Challenge definition of pro bono, although the firm has narrowed that definition further to exclude legal services to charitable, religious, civic, governmental, and educational organizations that do not have as a principal purpose the promotion of the interests of the poor or near poor or that do not involve civil rights and public rights law. The latter type of legal work, along with services to improve the law, the legal profession, or the legal system, law-related education of the public of other lawyers, service on bar sections or committees whose focus is the improvement of the law and the legal system, and participation in courtsponsored administration of justice programs, are defined by the firm as "Pro Bono II." While both types of pro bono work will be considered, along with time devoted to client matters, for purposes of evaluation and compensation, only time spent on Pro Bono I activities is credited toward an attorney's annual billable hour goal.

#### PRINCIPLE SEVEN: A COMMON DEFINITION OF PRO BONO PUBLICO SERVICE

As used in this statement, the term pro bono refers to activities of the firm undertaken normally without expectation of fee and not in the course of ordinary commercial practice and consisting of (i) the delivery of legal services to persons of limited means or to charitable, religious, civic, community, governmental and educational organizations in matters which are designed primarily to address the needs of persons of limited means; (ii) the provision of legal assistance to individuals, groups, or organizations seeking to secure or protect civil rights, civil liberties or public rights; and (iii) the provision of legal assistance to charitable, religious, civic, community, governmental or educational organizations in matters in furtherance of their organizational purposes, where the payment of standard legal fees would significantly deplete the organization's economic resources or would be otherwise inappropriate.

To accurately evaluate the impact of the Challenge, it is essential that participating firms share one commonly understood and uniformly implemented definition of *pro bono publico* service. In the course of drafting the Challenge and enrolling Signatory firms, no other single issue—not even the use of a percentage as a quantitative goal—generated as much discussion and controversy as the definition of *pro bono*.

In crafting a definition, all existing aspirational statements, including law firm policies, Revised Model Rule 6.1, adopted by the American Bar Association in 1993, as well as state and local bar association resolutions were examined for appropriate elements. The *pro bono* definition finally adopted by the Law Firm Pro Bono Project Advisory Committee incorporates several important policy decisions.

First, the Challenge definition, like that of Model Rule 6.1, encompasses only <u>legal</u> work on behalf of individual or institutional clients. The focus on use of legal skills is based on the concept that, while lawyers can certainly contribute to their community in many ways, they alone possess the ability to provide legal assistance to others. In light of the monopoly granted lawyers, and in recognition of the vast percentage of low-income and other disadvantaged persons who are unable to secure a lawyer's assistance, *pro bono* service was restricted to legal service. The Advisory Committee recognized that this definition excluded many worthwhile activities—service on the board of directors of a legal services program or raising funds for such a program that may ultimately benefit or expand legal services. While such activities are important, they are, nevertheless, peripheral to the work and skills of lawyers and law firms.

A second important decision by the Advisory Committee involved the special responsibilities of larger law firms. These firms are the most prosperous and resource-laden segment of the bar. Their lawyers are far more likely to be involved in bar association work, judicial advisory committees, and similar activities. On the theory that these firms, because of their resources, should be held to a higher standard than the bar as a whole, the Challenge definition excludes two activities that are often included in broader definitions of *pro bono*. First, for purposes of the Challenge, activities related to the improvement of the administration of justice, such as participation on bar and court-sponsored committees, is excluded (unless, of course, that service involves legal work, such as drafting legislation) on the theory that inclusion of such activity would artificially inflate reported levels of *pro bono* service without increasing the availability of legal assistance.

In addition, while some definitions of pro bono include work undertaken on a reduced fee basis, the Challenge definition, with a few carefully crafted exceptions, includes only cases undertaken with no expectation of compensation and not in the course of the firm's ordinary commercial practice. There are limited instances in which the acceptance of a fee award is permissible within the Challenge definition of pro bono. For example, post-conviction capital appeals, where firms contribute thousands of hours, are clearly pro bono matters for purposes of the Challenge, despite the fact that lawyers may receive limited fees awarded by the court. Similarly, court-awarded attorneys' fees in civil rights and other cases accepted by the firm without regard to the prospect of fees would not disqualify such services as pro bono work. Requesting and receiving fees in such matters reinforces important public policy considerations by enabling firms to serve as "private attorneys general." Challenge firms that receive fees in such cases are encouraged to contribute an appropriate portion of those fees to organizations that provide services to persons of limited means.

To insure that all participating law firms understand and accurately and uniformly apply the Challenge definition of *pro bono*, the Project provides advice and regularly responds to inquiries from firms regarding the applicability of the definition to a particular project or matter. Firms also have access to a quarterly column entitled "What Counts?" which addresses commonly raised issues regarding the scope of the definition.

#### **PRINCIPLE SEVEN: RESULTS**

Since its inception in 1993, the Challenge definition has become the most widely used definition of *pro bono* among larger law firms, whether or not these firms are Signatories to the Challenge. For a number of firms, the use of the Challenge's more restrictive definition resulted in a surprising decline in *pro bono* hours in the first year of Challenge reporting. Many firms struggled with the task of incorporating the Challenge definition without devaluing the many non-legal community service activities firms have traditionally undertaken. One firm that creatively resolved this dilemma is Phoenix, Arizona's Snell & Wilmer LLP.

In establishing two types of pro bono service, Snell & Wilmer has ensured that, in reporting time for purposes of the Challenge, it includes only those activities that fall within the Challenge definition. By crediting only that category of pro bono, the firm has, consistent with the Challenge, placed special emphasis on the delivery of legal services impacting those of modest means. At the same time, its recognition of another category of service (commonly labeled as community service at other firms that have a bifurcated definition) enables Snell & Wilmer attorneys to continue their worthy nonlegal contributions, but not at the expense of hands-on legal work.

#### Securing Civil Rights While Ensuring Affordable Housing for Low-Income Persons

In 1995, Minneapolis' Fredrikson & Byron settled a major lawsuit brought by the firm on behalf of the NAACP. The lawsuit alleged that government agencies in that city had administered public and subsidized housing for low-income families in a manner that discriminated against minorities and created segregated neighborhoods. In addition, much of that housing was dangerous and substandard. In settling the suit, the Department of Housing and Urban Development agreed to spend \$100 million over the next five vears to demolish and rebuild 770 HUDfinanced apartments and homes throughout the Twin Cities. As part of the settlement, HUD also agreed to issue 900 new subsidized housing certificates. By providing safe, decent, and affordable housing that also promotes more diverse neighborhoods, the firm has made an enormous contribution to the welfare of thousands of poor persons.

# Leonard, Street and Deinard—Serving the Low-Income Community

Building on a longstanding tradition of pro bono service and responding to the Law Firm Pro Bono Challenge, Minneapolis' Leonard, Street and Deinard, "adopted" the Phillips neighborhood, one of the poorest areas of that city, by opening a legal services clinic for lowincome residents of that neighborhood. To strengthen its community ties, the firm's clinic is housed in an existing neighborhood health clinic, the Community-University Health Care Center, which provides medical, dental, and mental health services to an overwhelmingly low-income clientele. As part of the firm's commitment to the legal clinic, it

#### PRINCIPLE THREE: MEETING THE NEED

In recognition of the special needs of the poor for legal services, we believe that our firm's pro bono activities should be particularly focused on providing access to the justice system for persons otherwise unable to afford it. Accordingly, in meeting the voluntary goals described above, we agree that a majority of the minimum pro bono time contributed by our firm should consist of the delivery of legal services on a pro bono basis to persons of limited means or to charitable, religious, civic, community, governmental and educational organizations in matters which are designed primarily to address the needs of persons of limited means.

Principle Three is, in essence, a second aspect of the Challenge definition of pro bono service. While the Challenge definition itself encompasses activities undertaken on behalf of a broad spectrum of clients, this principle hones that definition by requiring that Challenge firms place a special emphasis on the legal problems of persons of limited means and of the organizations that serve the poor. Both state and national studies routinely reported, even before the recent deep reductions in funding for legal services for the poor, that more than 80% of the legal problems of this population were not being met.5 Principle Three reflects a fundamental goal of the Challenge-that the resources and expertise of leading law firms be brought to bear to assist the most vulnerable in our nation in securing their rights. These legal services cover a broad range of activities, including, among others, individual and class representation, legislative advocacy and administrative rulemaking, as well as legal assistance to organizations seeking to develop low-income housing, improve community services, or increase the financial resources of persons of limited means.

<sup>&</sup>lt;sup>5</sup>"Findings of the Comprehensive Legal Needs Study," Consortium on Legal Services and the Public, American Bar Association, 1994.

The Challenge's emphasis on the legal needs of persons of limited means is not intended to supplant the involvement of major firms in *pro bono* matters for other populations. In developing the Challenge, the Advisory Committee took note of the fact that many major law firms already had a strong commitment to public interest litigation and projects that promote civil liberties and ensure that our society functions fairly. However, a relatively small number of firms had evinced an equally strong involvement in the problems of persons of limited means. By requiring that the firm's time be allocated toward the delivery of legal services to low-income persons and their service organizations, the Challenge sought not only to increase the amount of *pro bono* participation within firms, but also to channel a majority of *pro bono* service to the area of greatest need.

#### **PRINCIPLE THREE: RESULTS**

Of those firms reporting, 69 firms (51%) complied with Principle Three by spending more than half of their Challenge goal in legal services directed to the low-income community. The volume of low-income legal services, as a percentage of the firms' total billable hours, ranged from 0.04% to 7.4%. has hired a full-time coordinator to oversee and facilitate the clinic's *pro bono* operations. Most of the clinic's caseload mirrors the individual one-on-one matters that are commonly handled by a legal services office—family law, housing, consumer, and government benefits matters.

The firm's contributions to the welfare of the Phillips neighborhood and its impoverished residents, however, goes beyond assisting individuals with legal problems. The firm now serves as counsel to several neighborhood non-profit groups that sponsor projects-the development of affordable housing, siting a grocery store in the neighborhood, building a community center, and structuring a revolving loan fund for home repairs-that will create jobs, provide decent places to live, and strengthen residents' sense of community. In 1995, utilizing Leonard, Street and Deinard's knowledge of and contact with the community, the firm began a lead paint abatement project, designed to reduce the incidence of lead paint poisoning among children in the neighborhood. The firm also prepares a monthly legal information column in the Phillips community newsletter and has produced and distributed through the clinic a series of consumer brochures dealing with legal issues.

The success of the firm's neighborhood initiative is reflected in its progress in meeting Principle Three of the Challenge. In 1995, more than 65% of the *pro bono* hours contributed by the firm—hours which totaled 4% of the firm's total billable hours—were spent representing persons of limited means. Leonard, Street and Deinard's bold new initiative has become a critical source of support for an economically depressed community and a source of pride and inspiration for the firm.

#### A New York City Firm Broadens its Pro Bono Base

In 1994, the Management Committee of 205-lawyer Rosenman & Colin LLP issued to all attorneys a written report on the firm's progress in meeting the goals of the Challenge, That report noted that, despite a robust and diverse pro bono program, only about one-quarter of the firm's lawyers had actively participated in pro bono work during the past year and established a goal of increasing that number by one-third by the end of 1994. In focusing its energies and attention on broadening participation, using the goal established in Principle Four of the Challenge as a guide, Rosenman & Colin, by the conclusion of 1995, had exceeded its own expectations. During that year, 53% of firm partners and 60% of associates and other firm attorneys participated in pro bono activities.

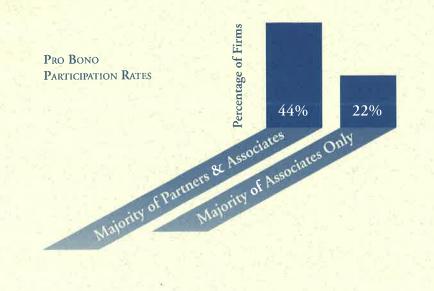
#### PRINCIPLE FOUR: SECURING BROAD-BASED PARTICIPATION

Recognizing that broad-based participation in pro bono activities is desirable, our firm agrees that, in meeting the minimum goals described above, we will use our best efforts to ensure that a majority of both partners and associates in the firm participate annually in pro bono activities.

While the Challenge is focused on an institutional commitment to pro bono, that commitment will succeed only if pro bono publico service is the concern of all lawyers in the firm rather than that of a few highly committed individuals. Experience has demonstrated that broad-based participation by lawyers, regardless of office location, area of expertise, and seniority within the firm, is a key element in developing and nurturing a successful pro bono program. Widespread involvement, particularly among more senior lawyers, serves as a visible affirmation of the firm's institutional support. Equally important is the result achieved by involving firm lawyers with a broad range of interests and skills—enriched services and creative solutions for the firm's pro bono clients.

#### **PRINCIPLE FOUR: RESULTS**

While some firms continue to experience difficulty in involving certain categories of lawyers, such as non-litigators, in *pro bono* work, efforts to increase partner participation in response to the Challenge have already borne fruit. Of those firms reporting, more than 44% (74 firms) responded that a majority of both partners and associates had undertaken *pro bono* work in 1995. An additional 37 firms (22%) reported that a majority of associates had done so, with partner participation lagging below the 50% level. The Law Firm Pro Bono Project is working with law firms to identify and replicate effective techniques to stimulate partner involvement.



#### At a Southern Law Firm, Pro Bono is Everyone's Business

Before agreeing to enlist as a Charter Signatory to the Law Firm Pro Bono Challenge, South Carolina-based Nelson Mullins Riley & Scarborough LLP put the question to a vote of the firm's entire membership. The sense of ownership generated by that vote has been an important factor in the widespread support for -and participation in-pro bono service at the firm. The firm's longrange pro bono plan, the intense level of support demonstrated time and again by Nelson Mullins' leadership, and the breadth of pro bono opportunities available to Nelson Mullins lawyers also contributed to the firm's strong showing. In 1995, 90 of the firm's 100 partners participated in pro bono activities, along with every one of Nelson Mullins 115 associates.

#### A Mega-Firm Institutionalizes its Pro Bono Oversight

In response to the Challenge, New York City-based Skadden, Arps, Slate, Meagher & Flom LLP for the first time established a firm-wide pro bono committee, with representatives from each of the firm's domestic offices that have more than ten attorneys. The charge of that committee is to encourage attorneys throughout the firm to undertake pro bono work and to discuss policy questions of firm-wide significance. In most of the fum's individual offices, new office pro bono committees have been established. These individual office committees typically include representatives (usually partners) from all practice groups of significant size represented in that office. Each committee member is charged with encouraging pro bono work within his or her practice group and ensuring that such work is appropriately supervised and evaluated. The office pro bono committees can also establish priorities for pro bono work and are responsible for screening potential major cases and projects.

PRINCIPLE FIVE: PROMOTING AND RECOGNIZING *PRO BONO* SERVICE; ENSURING ACCOUNTABILITY

In furtherance of these principles, our firm also agrees:

- a. To provide a broad range of pro bono opportunities, training, and supervision to attorneys in the firm, to ensure that all of our attorneys can avail themselves of the opportunity to do pro bono work;
- b. To ensure that the firm's policies with respect to evaluation, advancement, productivity, and compensation of its attorneys are compatible with the firm's strong commitment to encourage and support substantial pro bono participation by all attorneys; and
- c. To monitor the firm's progress toward the goals established in this statement and to report its progress annually to the members of the firm and to the American Bar Association's Law Firm Pro Bono Project.

While a clear and coherent law firm policy is an essential first element of law firm support for *pro bono*, that policy will be rendered meaningless unless each relevant aspect of the firm's operations is congruent with that policy and furthers its goals.

In making an institutional commitment to *pro bono*, Challenge firms are asked to establish a program in which the firm, as a whole, takes responsibility for identifying and securing *pro bono* opportunities that are appropriate and appealing to all of the firm's lawyers and for providing the oversight and support necessary to ensure that its attorneys feel and are competent to undertake these matters. This approach eliminates one of the major obstacles that can limit *pro bono* participation—a concern that firm lawyers lack sufficient expertise in areas of the law commonly encountered in a *pro bono* context.

The second element of Principle Five—ensuring that firm policies with respect to compensation and advancement are compatible with support for *pro bono*—is among the most significant advances promoted by the Challenge. In an era of heightened expectations with respect to billable hours, fees collected, and similar measures, a firm's commitment to *pro bono* must include positive incentives to perform that work. Whether this takes the form of billable hour credit, receivables equivalent credit, or another form of recognition will depend on each firm's existing compensation and incentives system. It is equally important that participation in *pro bono* work be identified as one criterion for positive evaluations and advancement in the firm. Such parity reinforces the stature of *pro bono* work.

The third element of Principle Five—monitoring the firm's progress in meeting its aspirational minimum goal as well as its level of participation in legal services to persons of limited means—underscores the institutional nature of the commitment made through the Challenge. Equally important is the obligation to report the results of that assessment of the *pro bono* program broadly within the firm. To assist the Law Firm Pro Bono Project in assessing the impact and effectiveness of the Challenge, the firms are also asked to provide that information to the Project. Pursuant to an agreement with the law firms, that information will be kept confidential by the Project and will not be released in any manner which identifies the results for a specific firm or firms. In publishing those portions of this report that detail the Challenge activities of specific law firms, the Project has done so only after seeking and obtaining the permission of these firms.

#### **PRINCIPLE FIVE: RESULTS**

Many firms, in accepting the Challenge, have substantially or completely revamped their approach to *pro bono* work. One of the clearest examples of that change has been the growth in the number of *pro bono* committees. These committees now have permanence, stature and membership comparable to commercially-oriented committees in the firm. While some *pro bono* committees predate the Challenge, their numbers have increased dramatically. In addition, in many firms with *pro bono* committees in place prior to the Challenge, the role and composition of these committees have been drastically altered. Prior to the Challenge, many *pro bono* committees were relatively small and composed of a small core of *pro bono* "true believers." By 1995, in most firms, these committees were more active and included representatives of many, if not all, domestic offices and transactional lawyers as well as the litigators who had traditionally dominated the committees.

These committees have also redefined and broadened their role. They now provide a formal structure for identifying, screening, and monitoring attorneys' pro bono activities, as well as assessing the overall vitality of the firm's pro bono efforts. Committee members actively solicit pro bono opportunities and maintain relationships with non-profit groups that are sources of pro bono work. They assess areas of interest among firm attorneys and find matches for those interests. They supervise pro bono matters directly and secure firm partners to serve as supervisors. They develop and implement targeted pro bono efforts and firm-wide pro bono projects. Finally, they work diligently to promote greater awareness of the firm's pro bono activities and accomplishments, by establishing in-house award programs, publishing firmwide pro bono newsletters, and preparing reports on the firm's pro bono activities.

One other result of the Challenge's delineation of the role of the firm in *pro bono*, allied with the increasingly active and complex jurisdiction of *pro bono* committees, is the growth of full-time or part-time firm staff to assist the committees in administering the *pro bono* program. Increasingly, firms have selected knowledgeable individuals to serve as non-attorney *pro bono* coordinators, *pro bono* counsel, or—the latest trend—*pro bono* matters and to the administration of *pro bono* service by others at the firm. While a small number of firms had previously employed full-time *pro bono*-responsible lawyers or coordinators, that position is now well-established among a substantial number of firms in cities across the nation.

With respect to the second element of Principle Five, there has been a substantial increase in the number of law firms that now treat time spent on *pro bono* work as equivalent to hours spent on commercial matters for puposes of meeting the firm's productivity goals and, in many cases, for puposes of compensation and bonuses. Firms have taken concrete steps to assure attorneys that their commitment to equivalency for *pro bono* time is genuine, including changing the reporting format for attorney hours to blend *pro bono* and paying client time together as billable or billable equivalent time.

Skadden, Arps' new *pro bono* committee has developed a number of innovative techniques for crediting and rewarding *pro bono* work. For example, the firm changed the computation of an attorney's running total of billable time, which an attorney sees whenever entering newly billed time into the firm's computer system, so that this running total now includes *pro bono* time. While Skadden had previously determined that it would count and credit *pro bono* time, the change in reporting brought the computerized information in line with the firm's policy. In addition, the firm's *pro bono* coordinator now receives monthly reports regarding the total number of *pro bono* hours contributed to date by attorneys in each practice group in each office. Moreover, the firm's management, in presenting data regarding the utilization of attorneys in the various practice groups, now includes all *pro bono* time as well as all billable time.

At Tampa's Carlton, Fields, Ward, Emmanuel, Smith & Cutler, pro bono work is included in both annual shareholder self-evaluation forms and annual associate evaluations. Baltimore-based Piper & Marbury now includes pro bono hours performed by associates in calculating compensation and bonuses. At Washington, DC's Hogan & Hartson, home of one of the nation's most comprehensive and long-standing pro bono programs, the firm's acceptance of the Challenge prompted its Executive Committee to review and clarify the firm's policies with respect to valuing pro bono work. That newly adopted policy states, in part, "Hogan & Hartson highly values all pro bono and community service activities [i.e., pro bono activities undertaken in cooperation with the firm's Community Services Department]. These activities will be taken into account for evaluation purposes in precisely the same way as is work for fee-paying clients. The firm will continue to expect associates generally to perform at least...billable hours, but participation in community service activities will be weighed and credited in compensation and bonus decisions made by the Executive Committee. Indeed, the Executive Committee awarded bonuses to several associates this past fall based, in part, on their significant contributions to community service and expects to continue to do so. The Executive Committee likewise intends to take significant contributions on pro bono projects into account in partnership/ counsel decisions."

The new *pro bono* policy adopted by New York City's Schulte Roth & Zabel LLP notes that "Once accepted, *pro bono* matters are to be given the same staffing, attention and resources as any other matter in which the Firm provides representation for its clients. An attorney's work, whether partner or associate, on a *pro bono* matter is given equal credit and weight as compared with other Firm activities, specifically including work on billable matters, in evaluating that attorney's contribution to the Firm. Computer recordkeeping reports highlight *pro bono* activity, and *pro bono* hours are counted toward associates' target hours."

Washington, DC's Shaw, Pittman, Potts & Trowbridge's *pro bono* policy, developed in response to the Challenge, sounds the same theme:

Once a pro bono matter has been approved, the rights and obligations of attorney and client are the same as for paying work. Attorney work product must meet the firm's high professional standards, including the energy, enthusiasm and creativity with which work is tackled, the quality of the product, and the timeliness with which the product is produced. When attorney skills, productivity, professional accomplishments, and overall contributions to the firm are measured, pro bono work will be considered paying work. In the process of evaluation of associates and counsel by the Associates Committee and by the Senior Professional Personnel Committee, no distinctions will be permitted between paying work and pro bono work. Professional success or failure on pro bono work will count the same as success or failure on paying work-both for purposes of compensation and for purposes of professional advancement and stature in the firm. The same rules apply to partners, i.e., for purposes of compensation and for purposes of professional advancement and stature in the firm.

North Carolina's Smith Helms Mulliss & Moore now provides full credit and recognition for *pro bono* work in assessing whether its attorneys have met the firm's annual professional goals.

Increasingly, firms are recognizing and rewarding *pro bono* work in other ways as well. Whether through the special individual awards presented by Seattle's Bogle & Gates P.L.L.C., San Francisco's McCutchen Doyle Brown & Enersen, LLP and New York's Milbank, Tweed, Hadley & McCloy or via the annual events sponsored by Detroit's Dykema Gossett PLLC and Minneapolis' Dorsey & Whitney honoring all those at the firm who have made a *pro bono* contribution, more and more law firms are sponsoring award and recognition programs.

Firms have also changed their procedures to comply with the reporting requirement that is articulated in the third element of Principle Five. While the Challenge could be seen to require only a quantitative summary, many firms have provided more in-depth information. Florida-based Holland & Knight, Washington, DC's Shea & Gardner, and many other firms now produce comprehensive annual reports that include not only the firm's contributions of time for the year, but also detailed information about the types of activities undertaken and the impact of the firm's work. The Board of Directors at St. Paul's Briggs & Morgan receives both an oral and written report during its compensation deliberations regarding the *pro bono* activities and the *pro bono* hours of all of the firm's lawyers. In addition, a number of firms, such as Boston's Foley, Hoag & Eliot LLP, have revamped their time-keeping systems to insure that accurate information on the firm's Challenge participation and time is maintained and communicated to the leadership and the firm.

#### Washington, DC's Crowell & Moring: Giving More Time and More Support

In 1995, Crowell & Moring LLP not only met its Challenge goal, but also significantly increased its financial support for legal services and public interest programs that provide legal services free of charge to persons of limited means. In addition to providing financial support to a wide range of organizations in the District of Columbia, the firm sponsored a two-year fellowship at a public interest organization and agreed to provide a \$100,000 grant to another such entity to fund a staff attorney at that program for a twoyear period.

#### **PRINCIPLE SIX: FINANCIAL SUPPORT**

This firm also recognizes the obligation of major law firms to contribute financial support to organizations that provide legal services free of charge to persons of limited means.

The level of firm *pro bono* commitment identified in the Law Firm Pro Bono Challenge is not intended to replace or diminish a firm's monetary contributions to organizations that provide legal services to persons of limited means. The Challenge commitment fosters hands-on service and personal involvement in *pro bono* work. The Challenge also strongly encourages firms to continue and expand their financial support for legal services organizations.

#### **PRINCIPLE SIX: RESULTS**

While firms are not required to provide comprehensive information on their level of contributions, virtually all of the firms that have reported appear to be either maintaining their pre-Challenge level of financial support or increasing that level in response to reductions in public funding and greater awareness of institutional need. Studies of non-lawyer giving in the United States have noted that contributors typically donate their money where they donate their time.<sup>6</sup> As law firms become more familiar with the unmet legal need and the critical importance of institutions that undertake public interest work on a full-time basis, their willingness to provide financial support for these institutions increases. One indication of that trend is the substantial growth in the number of law firm-sponsored fellowships that provide fulltime staff to public interest and legal services programs at the firms' expense.

<sup>&</sup>lt;sup>6</sup>"Giving and Volunteering in the United States: Findings from a National Survey," 1990 Edition, (Independent Sector) p. 2.

# The Future of the Challenge

## The Future of the Challenge: An Ongoing Commitment

As noted earlier, this report represents the results of the first year of formal implementation of the Law Firm Pro Bono Challenge by the major firms that have enrolled in the Challenge since 1993. The reports from these firms concerning their response to all of the principles of the Challenge indicate that the Challenge has already had a profound impact on the way in which many larger law firms view and structure their *pro bono* service. *Pro bono* at these firms has the following qualities, attributable in large part to the Challenge:

#### Heightened Visibility and Awareness

The Challenge has served as a catalyst for discussion and assessment of firm *pro bono* efforts among Challenge Signatory firms as well as firms that elected not to become part of the Challenge. *Pro bono* work receives greater attention within the firms, and, through the use of publications, awards and other forms of recognition, that attention is overwhelmingly positive.

#### More Visible and Vigorous Leadership Support

One critical aspect of heightened visibility is the support for *pro bono* service voiced more frequently and more intensely by the leadership of the firm—chairs, managing partners, and executive committees.

#### More Structured and Formal Programs

As noted in the discussion of Principle Five above, *pro* bono efforts at major law firms, for the most part, have moved from informal *ad hoc* efforts to more organized and formal efforts that mirror the firms' approach to commercial practice and firm management. Pro-active efforts to find attractive and meritorious *pro* bono opportunities, active oversight and assessment by *pro* bono committees, and the growth of firm-wide special projects, involving a range of firm employees and attorneys, all illustrate a more thoughtful, planned approach that institutionalizes *pro* bono within the firm.

#### **Increasingly Broad-Based Participation**

Broadening participation increases support for *pro bono*. Challenge firms have worked to overcome the tradition, common to many cities, that *pro bono* work is only for associates. Hands-on *pro bono* participation by partners, particularly department and firm-wide leaders, is one of the most powerful tools in persuading younger lawyers to participate. Firms are also developing new models that involve business lawyers—tax, real estate, corporate, public finance specialists—in addition to litigators.

#### Greater Use of Firm Resources

Increasingly, Challenge firms are providing resources in addition to the time and expertise of their lawyers. These firms open their training programs to legal services and public interest lawyers whose programs no longer have a training budget. They lend librarians, paralegals, computer experts, and other staff to these programs and to community groups that have limited resources. They work with their marketing department to prepare and publish consumer legal education materials. And, they provide financial support to hardpressed advocacy and legal services groups. The results of the Challenge demonstrate that one outcome of the heightened sense of institutional responsibility is an increased willingness to make all kinds of firm resources available to those in need.

#### Heightened Accountability

The more formal, institutionalized approach to *pro bono* exemplified by the Challenge has resulted in more thoughtful firm oversight of the *pro bono* program. Firms, in many cases, now regularly review *pro bono* activities and time, taking appropriate action when the firm is "underspending" its *pro bono* budget.

#### Increased Pro Bono Hours

As noted in the discussion of Principle Two, many of the Challenge firms report a substantial increase in *pro bono* hours contributed. For a number of firms, even those increases were not sufficient to meet the Challenge goal. However, these firms have now put in place the structures and policies that will promote further growth in future years.

#### Innovation and Creativity in Structuring *Pro Bono* Involvement

Anecdotal information indicates that the Challenge offered firms the opportunity to assess and re-think their *pro bono* efforts. That re-examination has resulted in numbers of innovative approaches to *pro bono*. These innovations—firm signature projects, joint ventures with corporate clients, adopt-a-neighborhood programs, service as "general counsel" to community or neighborhood non-profit groups—are only the first wave of creative approaches by the firms.

Greater Impact on the Communities Served by these Firms

By providing firm-wide oversight of *pro bono* efforts, larger law firms have been able to coordinate their resources to have a greater impact on those they serve. While individual lawyers can continue to take on *pro bono* work of their own choosing, many firms, as part of their planning and assessment process, now seek to target some firm resources for the most critical legal problems in their community. That focus and oversight have enhanced the capacity of the firms to make more substantial and long-lasting contributions to their communities.

Although there is much good news in the firm reports for the 1995 calendar year, there are also indicators that additional work must be undertaken if the promise of the Challenge is to be met. These tasks, which must be undertaken by the firms themselves, as well as the Project and its Advisory Committee, include: Ensuring that All Challenge Firms Meet the Reporting Requirement.

Since assembling data on firms' Challenge performance and reporting that information are an integral part of the pledge taken by Challenge firms, the Project has already contacted each firm that failed to file a report in 1995 regarding their 1996 Challenge report. Some of the firms that failed to report had never before tracked their *pro bono* time. The Project is working with these firms to provide them with the tools to maintain accurate records of *pro bono* time that meets the Challenge definition. After reviewing the 1996 Challenge results, the Project's Advisory Committee will make recommendations regarding firms that fail to provide information to the Project.

#### Working to Ensure that Every Challenge Firm Meets Its Goals.

While the Challenge 3% or 5% goal is attainable by every firm, the Project acknowledges that some firms may need more time and guidance to achieve their goal. A number of firms that failed to meet their Challenge goal in 1995 have taken corrective action that they believe will enable them to succeed in 1996. The 1995 Challenge results offer previously unavailable baseline data that the Project can use to provide intensive assistance to firms that are having difficulty in meeting the goal. This includes information on successful approaches that can be replicated by firms to enable them to increase hours and institutionalize support for *pro bono.* The Advisory Committee will address the issue of the status of law firms that continue to fall short of their Challenge goal. Enrolling Additional Major Law Firms in the Challenge.

Many law firms of various sizes and in a wide range of communities throughout the nation have successfully addressed the elements of the Challenge. They did so without a negative impact on the fiscal health of the firm. Indeed, many firm leaders are now firmly convinced that *pro bono* provides substantial benefit to a law firm and its lawyers as well as to the community served. With that information now available, the Project will undertake a second recruitment effort designed to enlist more firms as Challenge Signatories.

## Maintaining the Excitement and Momentum Generated by the Challenge.

The Challenge has been a focal point for increased creativity in *pro bono* service and greater contributions of time and resources. The Project will use its publications and other forms of media to report on firm successes and to maintain increased visibility for *pro bono* among large law firms.

This initial report will now serve as a baseline for participating firms and the Project, so that future progress can be accurately assessed and new initiatives and ideas can be implemented. Firms will continue to work to meet their Challenge goals, and the Project will use its resources to assist them. At the one-year markan early stage in what we hope will be a long association-the Law Firm Pro Bono Challenge has provided some promising results as it strives to realize its full potential. We know, however, that the goals promulgated by the Project are realistic and that the principles articulated are essential in strengthening pro bono at major law firms. We know much more about what works in law firm pro bono and what does not. In holding the Challenge Signatory firms to the commitment they have made, the Project will also honor its commitment to work with these firms and others to expand the availability of pro bono service.



## Law Firm Pro Bono Project Founding Members

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## Special Pull-out Section

## The Law Firm Pro Bono Challenge: Law Firm Performance in 1996 and 1997

Editor's Note: With three full years of reports from Challenge Signatory law firms, the Law Firm Pro Bono Project now has available a wealth of comparative data on the pro bono activities of the nation's major law firms. To enable the Project's staff to most effectively and comprehensively analyze and report that information, the Project has solicited, and has now secured, pro bono assistance from an entity with the technical statistical capacity to generate a variety of detailed comparative analyses of the data. (Note that, to preserve the confidentiality of individual law firm reports, that information was first entered and categorized by the Project and provided in coded form that does not permit linkage with or identification of individual firms by anyone outside of the Project staff.) That analysis is currently under way. In addition, our pro bono statistical expert is working with the Project to develop computerized programs that will enable us to generate similarly complex information and analyses on our own in the future. The report below, while not fully inclusive of such comparative information, summarizes the information provided to the Project by law firms and offers some limited comparisons between law firm performance in the first three reporting years of the Challenge. It will be augmented in the future by the additional data analyses that are currently under development.

#### Introduction

The implementation phase of the Law Firm Pro Bono Challenge is still in its infancy. Most Challenge firms now have more than three years of experience in implementing the Challenge principles and in developing reporting formats that efficiently generate the informational reports required of all Challenge Signatory firms. However, three years is still too limited a time frame to permit an accurate assessment of long-term trends and definitive identification of those factors that are clearly linked to success in meeting Challenge goals.

The period between 1995 and the close of 1997 was, for many larger law firms, a time of unparalleled busyness and extraordinary financial success. Overall revenues for the top 100 grossing law firms in the nation, for example, rose by 13.7% in 1997, with many firms' revenues growing by more than 20 percent in that year. In coping with heightened client demands for services, however, many law firms were initially reluctant to substantially increase their attorney population, fearing that a downturn would result in another round of "rightsizing" as happened in the late 1980's and early 1990's. This cautious approach to additional hiring by major law firms is reflected in the data provided to the Project – in 1996, the number of lawyers at the 135 Challenge firms that reported that data actually <u>dropped</u>, despite the very robust legal economy that year.

The combination of more commercial work and a static attorney workforce resulted in a substantial increase, in virtually every city in the nation, in average billable hours per lawyer within major law firms in 1996 and 1997. That increase was particularly notable in firm offices located outside of New York City which had previously enjoyed a less pressured work environment. In a number of firms, average attorney hours substantially exceeded billable hour targets and expectations, as the same or fewer lawyers struggled to meet the demands of new client business. That level of pressure clearly had an impact on law firm *pro bono* performance in both 1996 and 1997 (despite the fact that the Challenge firms' attorney population did increase in 1997), with *pro bono* hours dropping at a number of firms and overall Challenge hours decreasing somewhat. However, initial 1998 data and anecdotal information from law firms indicate that 1996 and 1997 may have been anomalous years, due to the unanticipated volume of commercial work and the absence of compensating mechanisms to preserve *pro bono* activity. Many firms report that, having now hired additional attorneys to handle the volume of business and having adapted firm policies and procedures further to encourage and promote *pro bono* service even in these busy times, their *pro bono* performance improved in 1998 and will likely continue to improve in future years.

The experience of the past few years provides several important lessons for law firms striving to institutionalize and enhance *pro bono* within their firms and for the Project, in its efforts to support these firms. First, the fast-breaking changes – in economics, practice, and structure – that now confront major law firms clearly have an immediate and direct impact on *pro bono*, for good or for ill. When the Project first began operations, it focused its efforts on assisting firms in continuing to support pro bono work in the midst of an economic downturn. Now, the Project's efforts are directed at working with law firms to ensure that pro bono continues to flourish despite unparalleled demands on attorney time. Major firms and the Project must continue to remain alert and responsive to shifts and changes in the law firm environment. The second lesson is that law firm pro bono structures and policies that are highly effective today may be less effective and even counterproductive in future years, as firms continue to change and evolve. These programs cannot be static. They must be constantly reevaluated and revamped. For example, the current trend toward greater formality in pro bono governance and oversight is working well to insure more efficient, productive, and widely-supported pro bono efforts within firms. It is possible, however, that changes in the culture and economics of major law firms may, at some point in the future, require rethinking and retooling. Globalization, mergers, changes in practice, multi-disciplinary practice, the state of the overall economy-are all factors that, though difficult to predict, will inevitably shape the law firms of the next millennium. Law firm pro bono leaders and the Project must remain vigilant and be willing to re-invent their firm's pro bono efforts to accommodate and take advantage of these changes.

lthough it is somewhat risky to generalize A from only three years of information, particularly since these years may prove to be unique, the most significant overall trend that emerges from the 1995-1997 reports is the variability of firm pro bono performance. Although a minority of firms have reported pro bono hours that vary little from year from year, most firms typically experience significant variations in pro bono activities and hours from year to year. In discussions with law firms that have experienced these annual swings in performance, the potential causes for such noticeable variations included the downturn in pro bono hours that results when a major, time-consuming case or project is concluded, or, conversely, a dramatic increase that reflects the substantial start-up investment of time in a major new pro bono matter. Other causes may include sharp increases or decreases in attorney population, due to merger, opening of new offices, or loss of an entire department or practice area, implementation of new pro bono initiatives, such as rotation programs, that steeply increase pro bono time, and, for Challenge firms that are undertaking individual low-income pro bono work for the first time, an initial decrease in hours due to the lower time requirements per case for these types of pro bono matters (which is, in many firms, addressed over time by an increased volume of individual cases). If these distinct, and sometimes dramatic, annual varia-

tions in the overall level of *pro bono* activity within firms are, in fact, typical and likely to continue in the longer term, it is possible that in the future the Project should, in assessing law firm Challenge performance, take an "income-averaging" approach that looks at firm *pro bono* percentages and hours over the course of several years.

#### Challenge Performance in 1996

s noted above, for many law firms 1996 was **1** the first year in which firm commercial activity rose to a new level, as both firm revenues and individual attorney hours increased dramatically. The pressures of commercial practice clearly had an overall, but limited, detrimental impact on the level of pro bono activity. Total pro bono hours reported by Challenge law firms decreased somewhat from the 1995 level of 1,594,537 hours, as firms reported 1,567,871 hours in 1996. However, as noted above, the number of attorneys, including partners, associates, and counsel, employed by the Challenge Signatory firms actually dropped by 500 lawyers in 1996. As a result, the overall average number of pro bono hours per firm attorney among Challenge Signatory firms reporting in 1996 was 53 hours, the same overall average as in 1995.

Other indicia of *pro bono* performance, consistent with the Challenge principles, actually improved, albeit slightly, in 1996. While 66% of the total *pro bono* hours performed by firms in 1995 reflected *pro bono* work on behalf of low-income individuals or organizations, that figure rose to 66.5% in 1996 (or 1,1042,966.85 hours). In both years, that overall performance was substantially greater than the standard of a majority of hours spent on low-income *pro bono* work required by Principle 3 of the Challenge, although a number of law firms failed to meet the Challenge lowincome *pro bono* goal.

**B**readth of participation among partners and associates, litigators and non-litigators, a key element of the Challenge (see Principle 4), also improved slightly in 1996. In 1995, on average, 51% of partners in reporting firms participated in *pro bono*, while in 1996 the average rate of participation among partners was 52%. Similarly, in 1995, on average, 67% of associates participated in some form of *pro bono* work as defined by the Challenge, while in 1996 that average increased to 68% *pro bono* participation by associates.

A firm-by-firm comparison of performance with respect to the 3% or 5% Challenge *pro bono* goal (Principle 2) reflects the volatility of firm performance noted above. In 1996, 54 law firms undertook more *pro bono* work (defined in terms of total firm *pro bono* hours) than they had in 1995. In that same year, 48 firms did less *pro bono* work, while only 33 law firms did approximately the same level of *pro bono* work as in 1995 (defined as total *pro bono* hours that were within 500 hours of 1995 reported *pro bono* time).

Despite these indicators of steady or even increased law firm performance in 1996 on a number of the factors identified and measured by the Challenge, the sharp increase, at many firms, in total billable hours (even as attorney numbers dropped) resulted in fewer law firms meeting or exceeding the Challenge in 1996, since the Challenge goals of 3% or 5% of billable hours increase as billable hour totals climb. In 1995, 47 law firms met or exceeded their Challenge goal of 3 or 5 percent of total billable hours, with an additional 41 firms<sup>\*</sup> coming within one percentage point of their goal. In 1996, by contrast, only 43 law firms met or exceeded their Challenge goal, with 32 additional firms performing within one percentage point of their Challenge goal.

#### Challenge Performance in 1997

In 1997 the full impact of a robust legal economy upon *pro bono* was felt. Total reported *pro bono* time fell to 1,524,912.1, a drop of more than 40,000 hours from 1996 when the *pro bono* time reported was 1,567,871 hours, while *pro bono* time spent on matters involving low-income individuals and organizations fell from 1,042,966.85 hours in 1996 to 1,024,653.46 in 1997 (although, as a percentage of total billable hours, low-income *pro bono* time increased slightly to 67% of total *pro bono* time in 1997). Conversely, total attorneys at the Challenge reporting firms increased from 29,449 lawyers in 1996 to 30,102 lawyers in 1997.

s a result of the decrease in hours and A increase in number of attorneys, average pro bono hours per attorney in 1997 fell to 50.7 hours, still a very credible amount, but less than the 1996 average of 53 pro bono hours per lawyer. As overall attorney hours continued to rise, the decline in pro bono hours was amplified by the percentage goals of the Challenge. As many Challenge firms have noted, the percentage approach taken by the Challenge may understate firm achievement and actual increases in hours during a period when virtually all attorneys are working at a frantic pace well above prior years and billable hour targets. That distortion is evident in the statistics on compliance with the Challenge's percentage goals in 1997. While 43 law firms met or exceeded their 3% or 5% Challenge goal in 1996, only 35 firms did so in 1997, with an additional 27 law firms coming within one percentage point of their goal in that year. As in 1996, there was considerable volatility in firm performance from year to year. Even though

1997 was a difficult year in terms of percentages, many firms, in terms of hours of *pro bono* service, actually improved their overall performance, with 52 firms reporting more *pro bono* hours in 1997 than 1996. However, 36 law firms reported fewer hours in 1997, and 39 firms achieved approximately the same level of *pro bono* performance in 1997 as in the prior year (with the same level defined as within 500 hours, more or less, of the previous year's total).

The good news for 1997 is that overall *pro bono* participation rates for both partners and associates remained high. In that year, 55% of all partners at Challenge reporting firms, on average, undertook pro bono work, an increase over both 1995 and 1996, when the overall percentage for partners was 52%, while associate participation, though it remained quite high, dropped somewhat from 68% in 1996 to 64% in 1997. And, in a conscious or unconscious effort to compensate for the diminution in pro bono resulting from a unbelievably busy year, those law firms that reported their financial contributions to legal services and public interest groups serving low-income persons increased their contributions from \$6,800,903 (81 firms reporting that optional information) in 1996 to \$7,552,659 in 1997, with 78 firms providing financial information. The average amount contributed by law firms jumped from \$83,962 in 1996 to \$96,829 in 1997.

#### Trends to date in 1998

lthough the due date for 1998 Challenge A reports from law firms was June 30, 1999, the Project has received information from only 76 law firms as of August 20, 1999. That information, however, indicates that, as firms have reported anecdotally to the Project, many law firms have taken concrete and effective steps to neutralize, or at least minimize, the impact of heightened demands of commercial work on law firm pro bono commitments. To date, with only 56.7% of law firms that reported in 1997 having provided information to the Project, total hours reported in 1998 are already at 78% of the final 1997 Challenge hours. If the improvement in hours reflected in Challenge reports already received is matched by the law firms that have not yet filed their reports, total pro bono hours reported by Challenge law firms in 1998 will exceed two million hours - a very significant increase and the highest Challenge hourly total in the Project's history.

The preliminary Challenge data for 1998 reflect strong trends, as well, with respect to other principles of the Challenge. For example, low-income *pro bono* hours reported to date are more than 69% of total *pro bono* time, an all-time high commitment of *pro bono* resources to low-income persons and organizations. Partner participation, as reported in the preliminary data for 1998, is also at an all-time high, with firms reporting that, on average, more than 64% of firm partners participated in *pro bono* work. The 1998 data shows substantially increased associate participation as well, with almost 79% of associates reported as doing *pro bono* work. Overall, the firms providing information to date for 1998, on average, provided an astounding 87 hours of *pro bono* work per lawyer. In addition to *pro bono* performance, these firms were unparalleled in their financial contributions as well. With only 55 law firms reporting financial contributions to date, those contributions totaled an all-time high of \$8,732,198, an average of \$158,767 donated per law firm – an amount almost *twice* the average contribution amount in 1996.

The preliminary 1998 reports are highly encouraging, clearly indicating that a substantial number of law firms, having struggled in prior years to maintain and enhance *pro bono* service in these busy times, have now developed the policies and practices that will enable *pro bono* to flourish. In addition, these law firms have, more than ever, shared their economic good fortune with their colleagues at financially hardpressed public interest and legal services programs. The Project congratulates these law firms and thanks them for providing their Challenge information so promptly.

#### Possible Changes in the Challenge

uring the past year, and particularly at a session at the Project's annual seminar, a number of firms have proposed a variety of amendments to the Challenge definition or goals. While the leadership of the Law Firm Pro Bono Project is wary of undertaking changes in the Challenge at this early stage in its implementation, the Project's Advisory Committee will, this fall, take under consideration a few possible changes in interpretation of the Challenge and Challenge reporting that may be appropriate in light of changes in current law firm structure and environment. The Project will keep Challenge Signatory law firms advised of any changes that are finalized for the 2000 reporting year no later than December 1999, so that the firms have the lead time to incorporate these changes into their reporting systems for that year. To avoid confusion, any changes will be prospective in nature. Please do not contact the Project yet for more information on the possible changes. You will receive detailed information after a final determination is made. We appreciate your restraint.

\*

We implore <u>all</u> Challenge firms to submit their 1998 Challenge reports as soon as possible. While you will receive reminders from the Project, the process of additional solicitation and reminders is extremely time-consuming for the Project's very small staff. We want to spend our time providing Challenge Signatory firms with the latest and most useful information on building and maintaining successful law firm probono programs, rather than tracking down errant Challenge reports. Your timely cooperation will enable us to do so.

## Mark Your Calendars . . . February 25-26, 2000

The **Tenth Annual Law Firm Pro Bono Seminar** will be held in **Washington**, **DC** at the Willard Inter-Continental on **February 25-26**, **2000**. We are fortunate to be able to offer seminar attendees a **reception** in the **Great Hall** at the **U.S. Supreme Court** on **Friday**, **February 25**, **2000**.

Please note that because the seminar is a month earlier this year, deadlines for early registration discounts are also earlier. Registration materials will be mailed in November with registration deadlines as follows:

Early Registration Deadline:	January 14, 2000 (postmarked)
Housing Deadline:	January 29, 2000

Remember, if your firm is a Member firm, you will receive a 25% discount on registration fees for the seminar. Please check our web site (www.probonoinst.org) for an updated list of Member firms for the year 1999-2000. Additional information about the seminar will also be posted as it becomes available.



# 2007 Pro Bono Institute Law Firm Pro Bono Challenge<sup>SM</sup> Results Executive Summary

## **Introduction**

The Pro Bono Institute's Law Firm Pro Bono Challenge<sup>SM</sup> is a unique global aspirational pro bono standard. Developed by law firm leaders and corporate general counsel, the Challenge articulates a single, unitary standard for one key segment of the legal profession - the world's largest law firms. Major law firms that become Signatories to the Challenge acknowledge their institutional, firm-wide commitment to provide pro bono legal services to low income and disadvantaged individuals and families and non-profit groups. The Challenge includes an accountability mechanism and an outcome measurement tool through its annual reporting requirement. The following is an executive summary of the 2007 Challenge statistics reported by Challenge Signatories and compiled by the Law Firm Pro Bono Project.

## Challenge<sup>SM</sup> Performance

"Striving to meet the goals of the Law Firm Pro Bono Challenge<sup>SM</sup>, a national aspirational pro bono standard, 135 of the nation's largest law firms provided almost 1,600,000 hours in donated legal services to the poor and disadvantaged and charitable organizations in 1995, the first year of the Challenge."

That was the opening paragraph of the Executive Summary issued by the Pro Bono Institute in 1995, when it announced the amount of pro bono legal services contributed by PBI Challenge Signatory law firms in the first year of implementation of the Challenge. Between 1995 and 2007 there have been substantial changes in the size, culture, management, economics, and staffing of major law firms but arguably one of the most notable changes is the amount and nature of pro bono services performed by these firms. In 2007 (the most recent year for which annual statistics are available) 135 of the nation's largest law firms provided a total of 4,285,684 hours in pro bono legal services – a 170% increase over the 1,584,537 hours donated in 1995. Thirteen firms, slightly under 10% of all Challenge firms, did not report their 2007 numbers in time to be included in this summary.

In addition to establishing progressive benchmarks -3 or 5% of total billable hours - for overall pro bono participation, the Challenge also asks firms to devote a majority of their pro bono time to persons of limited means or to "charitable, religious, civic, community, governmental and educational organizations in matters which are designed primarily to address the needs of persons of limited means." In 2007, firms donated 2,756,330 hours of pro bono service to individuals of limited means or organizations serving them, 64% of total pro bono hours. This reflects an increase of more than 161% from 1995, when Signatory firms donated 1,052,806 hours to persons of limited means.

Not only have the number of hours donated by firms grown dramatically but the number of lawyers providing those hours of pro bono service has increased as well. In 1995, 7,270 partners and 10,504 associates (a total of 17,774) participated in the provision of pro bono legal services. In 2007, 17,514 partners and 29,638 associates (a total of 46,798) participated – a substantial 163% increase in participation. Some of the increase in participation is due to the growth in headcount at the participating firms, but that factor does not wholly account for the growth in participation. While there is no specific data available to date on the proportion of pro bono services being provided in litigation-

related versus transactional matters, anecdotally the upsurge in non-litigation pro bono is impressive.

The Law Firm Pro Bono Challenge<sup>SM</sup>, developed by law firm leaders and corporate general counsel, articulates a single standard for one critical segment of the legal profession –firms ranging in size from 50 to over 3500 lawyers. The Challenge has become the definitive aspirational pro bono standard for large law firms throughout the world. It is unique for several reasons:

- It uses a progressive standard i.e., a target of either 3 or 5 percent of a firm's billable hours (equivalent to 60 or 100 hours per attorney) which ties pro bono performance to firm productivity and profitability.
- It calls for an institutional commitment, rather than an individual lawyer goal, in recognition of the reality that the policies and practices of law firms are key to the ability and willingness of firm lawyers to undertake pro bono work.
- It creates goals not only with respect to the amount of pro bono work to be undertaken, but also with regard to the structural and policy elements that are essential for the creation and maintenance of a pro bono-friendly firm culture.
- It links Challenge firms to the extensive technical assistance resources available from the Pro Bono Institute and its Law Firm Pro Bono Project.

• It includes an accountability mechanism and an outcome measurement through its annual reporting requirement.

This year, for the first time, 55% or 74 of the Challenge Signatory firms met or exceeded their commitment to the Challenge; indeed, 11 firms surpassed their goal by more than 2%. This is a substantial improvement over 1995 when 23% of the firms exceeded their goals. Of the remaining firms who reported, 14 firms or 10% came within .5% of their goal, while 47 firms failed to reach their 3 or 5% goal by a factor of 1% or more.

In addition to the statistical information that Challenge firms are required to report, the firms also provide certain supplemental information, including an optional question regarding their financial contributions to legal services organizations. In 1996 (the first year in which this information is available), 81 firms reported that they had donated a total of \$6,800,902 to legal services organizations. In 2007, donations reported by 87 firms rose to \$30,415,616.

While statistics are clearly an important measurement tool, the Challenge<sup>SM</sup> is not limited to quantifiable goals. Rather, it provides a framework, set of expectations, and operational and policy elements that are the key to major law firms' ability to institutionalize and strengthen the culture and operations of their pro bono programs. Since the inception of the Challenge, the Pro Bono Institute has worked with law firms to promulgate pro bono policies, enhance their relationships with public interest, legal services, pro bono programs and other groups, including the courts and public legal agencies, improve the oversight and staffing of the firm's pro bono work, design and

implement pro bono partnerships with corporate legal departments, improve processes for planning and evaluating pro bono efforts, create more accurate time-keeping mechanisms, incorporate a number of innovative pro bono models – including signature projects, rotation/externship programs, global efforts, integration with other firm goals including professional development, diversity, and associate satisfaction, and more, and successfully encouraged many firms to expand the breadth and depth of their pro bono docket. Most recently, the Challenge's success in enhancing pro bono culture and performance has led our sister project, Corporate Pro Bono, a joint initiative of the Association of Corporate Counsel and the Pro Bono Institute, to launch the Corporate Pro Bono Challenge<sup>SM</sup> in 2005.

With only minimal changes required in the language and principles of the Challenge since its creation, the Law Firm Pro Bono Challenge has become the industry "gold standard" by which firms define, measure, and assess their pro bono achievements. It has also become a rallying point and a catalyst that enable firms to contribute meaningfully to their local communities, to the national justice system, and to communities around the world despite economic cycles and other pressures. We thank and congratulate the 135 Challenge Signatory Firms whose commitment to pro bono is reflected in this report, and we look forward to reporting even greater levels of performance and achievement for 2008.

\*Akin Gump Strauss Hauer & Feld LLP Alston & Bird LLP \*Arent Fox LLP Armstrong Teasdale LLP Arnall Golden Gregory LLP \*Arnold & Porter LLP Baker & Daniels LLP Baker & McKenzie Baker Botts L.L.P. Ballard Spahr Andrews & Ingersoll, LLP Beveridge & Diamond PC \*Bingham McCutchen LLP Blank Rome LLP Briggs and Morgan, PA Brown Rudnick LLP \*Bryan Cave LLP

Buchanan Ingersoll & Rooney PC \*Carlton Fields, P.A. Carrington, Coleman, Sloman & Blumenthal, L.L.P. Chadbourne & Parke LLP \*Cleary Gottlieb Steen & Hamilton LLP Coblentz, Patch, Duffy, and Bass LLP Cohen, Milstein, Hausfeld & Toll, P.L.L.C. Cooley Godward Kronish LLP \*Covington & Burling LLP Cozen O'Connor Crowell & Moring LLP Davis Wright Tremaine LLP Day Pitney LLP \*Debevoise & Plimpton LLP Dechert LLP Dewey & LeBoeuf LLP Dickstein Shapiro LLP \*DLA Piper \*Dorsey & Whitney LLP Dow Lohnes PLLC \*Drinker Biddle & Reath LLP Dykema Gossett PLLC Edwards Angell Palmer & Dodge LLP Faegre & Benson LLP Farella Braun + Martel LLP Fenwick & West LLP Finnegan, Henderson, Farabow, Garrett & Dunner, L.L.P. Foley & Lardner LLP Foley Hoag LLP Foster Pepper PLLC \*Fredrikson & Byron P.A. Fried, Frank, Harris, Shriver & Jacobson LLP Fulbright & Jaworski L.L.P. \*Garvey Schubert Barer \*Gibbons P.C. Gibson, Dunn & Crutcher LLP Goodwin Procter LLP Goulston & Storrs PC Graves, Dougherty, Hearon & Moody, P.C. \*Heller Ehrman LLP \*Hogan & Hartson LLP

\*Holland & Knight LLP Howard Rice Nemerovski Canady Falk & Rabkin Hughes Hubbard & Reed LLP \*Hunton & Williams LLP Husch Blackwell Sanders LLP \*Jenner & Block LLP Kaye Scholer LLP K&L Gates Kilpatrick Stockton LLP King & Spalding LLP Washington, DC Office Only Kirkland & Ellis LLP Kramer Levin Naftalis & Frankel LLP Latham & Watkins LLP Leonard, Street and Deinard Lindquist & Vennum PLLP Linklaters LLP New York Office Only Loeb & Loeb LLP Lowenstein Sandler PC Manatt, Phelps & Phillips, LLP Maslon Edelman Borman & Brand, LLP Mayer Brown LLP McCarter & English, LLP McDermott Will & Emery McGuireWoods LLP Michael Best & Friedrich LLP \*Miller, Canfield, Paddock and Stone, P.L.C. Miller & Chevalier Chartered Miller Nash LLP Mintz Levin Cohn Ferris Glovsky and Popeo P.C. Morgan, Lewis & Bockius LLP \*Morrison & Foerster LLP \*Munger, Tolles & Olson LLP \*Nelson Mullins Riley & Scarborough LLP Nixon Peabody LLP Nutter McClennen & Fish LLP O'Melveny & Myers LLP Oppenheimer Wolff & Donnelly LLP \*Orrick, Herrington & Sutcliffe LLP Patterson, Belknap, Webb & Tyler LLP Patton Boggs

Paul, Hastings, Janofsky & Walker LLP \*Paul, Weiss, Rifkind, Wharton & Garrison LLP Pepper Hamilton LLP Perkins Coie LLP Pillsbury Winthrop Shaw Pittman LLP \*Proskauer Rose LLP Quarles & Brady LLP \*Reed Smith LLP Robins, Kaplan, Miller & Ciresi L.L.P. Robinson & Cole LLP Saul Ewing LLP Schiff Hardin LLP Schnader Harrison Segal & Lewis LLP \*Shearman & Sterling LLP \*Shipman & Goodwin LLP Sidley Austin LLP Simpson Thacher & Bartlett LLP \*Skadden, Arps, Slate, Meagher & Flom LLP Smith, Gambrell & Russell, LLP Snell & Wilmer L.L.P. \*Sonnenschein Nath & Rosenthal LLP

\*Steptoe & Johnson LLP Strasburger & Price, LLP Sutherland Asbill & Brennan LLP Thompson Coburn LLP Tyler Cooper & Alcorn, LLP \*Venable LLP Vinson & Elkins L.L.P. Vorys, Sater, Seymour and Pease LLP Weil, Gotshal & Manges LLP White & Case LLP Wildman, Harrold, Allen & Dixon LLP Wiley Rein LLP \*Wilmer Cutler Pickering Hale and Dorr LLP Wilson Sonsini Goodrich & Rosati \*Winston & Strawn LLP Womble Carlyle Sandridge & Rice, PLLC Zuckerman Spaeder LLP

The following firms did not report in 2007 because it was their first year of participation in the Challenge. We look forward to including their data in next year's report.

Barnes & Thornburg LLP Boult, Cummings, Conners & Berry, PLC Seyfarth Shaw LLP Troutman Sanders LLP Williams & Connolly LLP

These firms did not report in 2007:

Bass, Berry & Sims PLC \*Cummings & Lockwood LLC \*Holland & Hart LLP Howrey LLP Locke Lord Bissell & Liddell LLP McKenna Long & Aldridge LLP Milbank, Tweed, Hadley & McCloy LLP

Robinson, Bradshaw & Hinson, P.A. Rodey, Dickason, Sloan, Akin & Robb, P.A. Schwabe, Williamson & Wyatt Sheehan Phinney Bass + Green PA Van Cott, Bagley, Cornwall & McCarthy

\* denotes Charter Signatories to the Challenge

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## **Report on the 2008 Pro Bono Institute** Law Firm Pro Bono Challenge<sup>®</sup> Statistics

## **Introduction**

The Pro Bono Institute's Law Firm Pro Bono Challenge,<sup>®</sup> launched in 1993 and implemented in 1995, is a unique, aspirational pro bono standard. Developed by law firm leaders and corporate general counsel, the Challenge articulates a voluntary, single, unitary standard for one key segment of the legal profession – major law firms. (A copy of the Challenge language and principles may be found at

www.probonoinst.org/challenge.text.php.) Challenge Signatories publicly acknowledge their institutional, firm-wide commitment to provide pro bono legal services to lowincome and disadvantaged individuals and families and nonprofit groups. The Challenge includes a strict, but thoughtful, definition of pro bono, as well as an accountability mechanism and measurement tool through its annual reporting requirement. The Law Firm Pro Bono Project has compiled the following summary of the 2008 performance of the Signatory Law Firms.

## **Challenge Performance**

The legal profession, and particularly larger law firms, experienced many profound changes and dislocations in 2008, including the dissolution of several well-regarded law firms, the severe contraction of the legal market in the wake of historic economic woes, and, on the positive side, an extraordinary uptick in the number of hours of legal services donated to the poor and disadvantaged. The roster of Challenge Signatories was not unaffected by these changes, one charter Signatory firm dissolved, several others experienced mergers, and a number of firms had begun to see a marked decrease in revenue – a trend that was accelerated in 2009. Despite the uncertainties and depressing economic conclusion to the year 2008, Challenge Signatory firms donated a record number of hours of legal services to the poor and disadvantaged.

In 2008, 134 of the nation's largest law firms reported their pro bono statistics to the Pro Bono Institute and performed 4,844,097 total hours of pro bono work, as compared to 135 firms that performed 4,285,684 hours in 2007, an increase of 13% in pro bono time contributed by Challenge firms. Eleven firms, 7.5% of all Challenge firms, did not report their 2008 numbers in time to be included in this summary.

In addition to establishing ambitious progressive benchmarks – 3 or 5% of total billable hours – for overall pro bono participation, the Challenge also asks firms to devote a majority of their pro bono time to persons of limited means or to "charitable, religious, civic, community, governmental and educational organizations in matters which are designed primarily to address the needs of persons of limited means." In 2008, firms donated 3,761,722 hours of pro bono service to individuals of limited means or organizations serving them, over 77% of total pro bono hours, as compared to 2,756,330 hours (64% of total pro bono hours) of pro bono service to individuals of limited means or organizations serving them in 2007. In just one year the number of hours donated to

those of limited means or organizations serving them increased by over 1,000,000 hours a 36% increase – with one less firm reporting in 2008 than in 2007. Clearly, these firms recognized the profound and desperate impact of the economic downturn on the poor and, despite their own economic difficulties strove to focus more of their skills to help the most unfortunate.

Not only has the number of hours donated by firms grown dramatically since 2007, the number of lawyers providing those hours of pro bono service has increased as well. In 2007, 17,514 partners and 29,638 associates (a total of 47,152) participated, while in 2008 19,111 partners and 33,920 associates for a total of 52,912 participating attorneys (an over 12% increase in participation since 2007). This is a 9% increase in participation by partners and a 14% increase by associates.

For the first time in 2008, Challenge Signatory firms were asked to report how many hours they spent on litigation-related pro bono matters as opposed to non-litigation pro bono hours. Of the 134 firms reporting, 102 firms provided a statistical breakdown: over 1,566,586 hours were spent on litigation-related matters for the poor, and 703,367 hours were spent on non-litigation-related matters for individuals of limited means and organizations that serve them. Signatory firms were also asked for the first time to report how many of the pro bono hours they spent serving the poor were to organizational clients (i.e., nonprofit groups) and how many to individual clients. Again, not all firms reported these figures, but 83 firms reported that they donated 580,009 hours to organizations that serve those of limited means while 87 firms reported that they spent organizations. The numbers reflect, for the first time, what

has only been anecdotally reported for years: while the majority of pro bono work is litigation-oriented, there is a significant amount of non-litigation transactional pro bono being undertaken.

As discussed above, the Law Firm Pro Bono Challenge<sup>®</sup>, developed by law firm leaders and corporate general counsel, articulates a single standard for one critical segment of the legal profession – firms ranging in size from 50 to over 3,500 lawyers. The Challenge has become the definitive aspirational pro bono standard for large law firms throughout the world. It is unique for several reasons:

- It uses a progressive standard i.e., a target of either 3 or 5 percent of a firm's billable hours (equivalent to 60 or 100 hours per attorney) which ties pro bono performance to firm productivity and profitability.
- It calls for an institutional commitment, rather than an individual lawyer goal, in recognition of the reality that the policies and practices of law firms are keys to the ability and willingness of firm lawyers to undertake pro bono work.
- It creates goals not only with respect to the amount of pro bono work to be undertaken, but also with regard to the structural and policy elements that are essential for the creation and maintenance of a pro bono-friendly firm culture.
- It links Challenge firms to the extensive technical assistance resources available from the Pro Bono Institute and its Law Firm Pro Bono Project.

• It includes an accountability mechanism and an outcome measurement through its annual reporting requirement.

In 2008, 55% or 80 of the Challenge Signatory firms met or exceeded their commitment to the Challenge; indeed, 23 firms surpassed their goal by more than 2% (up significantly from 11 firms in 2007). Of the remaining firms, 10 firms, or over 6%, came within .5% of their goal, while 44 firms failed to reach their 3 or 5% goal by a factor of 1% or more (down from 47).

In addition to the statistical information that Challenge firms are required to report, the firms also have an opportunity to respond to several optional questions, including providing certain supplemental information regarding their financial contributions to legal services organizations. In 1996 (the first year in which this information is available), 81 firms reported that they had donated a total of \$6,800,902 (an average donation of \$83,961 per firm) to legal services organizations. In 2008, 74 firms reported that they had donated \$25,618,672 (an average donation of \$346,198 per firm) as compared to 2007 when 87 firms donated \$30,415,616 (an average donation of \$349,604 per firm), making 2008 the first time that average giving has declined since this information has been reported.

While statistics are clearly an important measurement tool, the Challenge is not limited to quantifiable goals. Rather, it provides a framework, set of expectations, and operational and policy elements that are the keys to major law firms' ability to institutionalize and

strengthen the culture and operations of their pro bono programs. Since the inception of the Challenge, the Pro Bono Institute has worked with law firms to promulgate pro bono policies, enhance their relationships with public interest, legal services, pro bono programs and other groups, including the courts and public legal agencies, improve the oversight and staffing of the firm's pro bono work, design and implement pro bono partnerships with corporate legal departments, improve processes for planning and evaluating pro bono efforts, create more accurate time-keeping mechanisms, incorporate a number of innovative pro bono models – including signature projects, rotation/externship programs, global efforts, integration with other firm goals including professional development, diversity, and associate satisfaction, and more, and successfully encouraged many firms to expand the breadth and depth of their pro bono docket. Most recently, the Challenge's success in enhancing pro bono culture and performance has led our sister project, Corporate Pro Bono, a joint initiative of the Association of Corporate Counsel and the Pro Bono Institute, to launch the Corporate Pro Bono Challenge<sup>SM</sup> in 2005.

With only minimal changes required in the language and principles of the Challenge since its creation, the Law Firm Pro Bono Challenge has become the industry "gold standard" by which firms define, measure, and assess their pro bono achievements. It has also become a rallying point and a catalyst that enable firms to contribute meaningfully to their local communities, to the national justice system, and to communities around the world despite economic cycles and other pressures. We thank and congratulate the 134 Challenge Signatory Firms whose commitment to pro bono is reflected in this report, and we look forward to even greater levels of performance and achievement in 2009.

Alston & Bird LLP \*Arent Fox LLP Armstrong Teasdale LLP Arnall Golden Gregory LLP \*Arnold & Porter LLP Baker & Daniels LLP Baker & McKenzie Baker Botts L.L.P. Ballard Spahr Andrews & Ingersoll, LLP Beveridge & Diamond PC \*Bingham McCutchen LLP Blank Rome LLP Bradley Arant Boult Cummings LLP Brown Rudnick LLP \*Bryan Cave LLP Buchanan Ingersoll & Rooney PC \*Carlton Fields, P.A. Carrington, Coleman, Sloman & Blumenthal, L.L.P. Chadbourne & Parke LLP \*Cleary Gottlieb Steen & Hamilton LLP Coblentz, Patch, Duffy, and Bass LLP Cohen Milstein Sellers & Toll PLLC Cooley Godward Kronish LLP \*Covington & Burling LLP Cozen O'Connor Crowell & Moring LLP Davis Wright Tremaine LLP Day Pitney LLP \*Debevoise & Plimpton LLP Dewey & LeBoeuf LLP Dickstein Shapiro LLP \*DLA Piper LLP (US) \*Dorsey & Whitney LLP Dow Lohnes PLLC \*Drinker Biddle & Reath LLP Dykema Gossett PLLC Edwards Angell Palmer & Dodge LLP Faegre & Benson LLP Farella Braun + Martel LLP Fenwick & West LLP Finnegan, Henderson, Farabow, Garrett & Dunner, L.L.P Foley & Lardner LLP Foley Hoag LLP Foster Pepper PLLC

\*Fredrikson & Byron P.A. Fried, Frank, Harris, Shriver & Jacobson LLP Fulbright & Jaworski L.L.P. \*Garvey Schubert Barer \*Gibbons P.C. Gibson, Dunn & Crutcher LLP Goodwin Procter LLP Goulston & Storrs PC Graves, Dougherty, Hearon & Moody, P.C. \*Hogan & Hartson LLP \*Holland & Knight LLP Howard Rice Nemerovski Canady Falk & Rabkin Howrey LLP Hughes Hubbard & Reed LLP \*Hunton & Williams LLP Husch Blackwell Sanders LLP \*Jenner & Block LLP Kaye Scholer LLP K&L Gates LLP Kilpatrick Stockton LLP King & Spalding LLP Washington, DC Office Only Kirkland & Ellis LLP Kramer Levin Naftalis & Frankel LLP Latham & Watkins LLP Leonard, Street and Deinard Lindquist & Vennum PLLP Linklaters LLP New York Office Only Lowenstein Sandler PC Manatt, Phelps & Phillips, LLP Maslon Edelman Borman & Brand, LLP Mayer Brown LLP McCarter & English, LLP McDermott Will & Emery McGuireWoods LLP McKenna Long & Aldridge LLP Michael Best & Friedrich LLP Milbank, Tweed, Hadley & McCloy LLP \*Miller, Canfield, Paddock and Stone, P.L.C. Miller & Chevalier Chartered Miller Nash LLP Mintz Levin Cohn Ferris Glovsky and Popeo P.C.

Morgan, Lewis & Bockius LLP \*Morrison & Foerster LLP \*Munger, Tolles & Olson LLP \*Nelson Mullins Riley & Scarborough LLP Nixon Peabody LLP Nutter McClennen & Fish LLP O'Melveny & Myers LLP Oppenheimer Wolff & Donnelly LLP \*Orrick, Herrington & Sutcliffe LLP Patterson, Belknap, Webb & Tyler LLP Patton Boggs LLP Paul, Hastings, Janofsky & Walker LLP \*Paul, Weiss, Rifkind, Wharton & Garrison LLP Pepper Hamilton LLP Perkins Coie LLP Pillsbury Winthrop Shaw Pittman LLP \*Proskauer Rose LLP Quarles & Brady LLP \*Reed Smith LLP Robins, Kaplan, Miller & Ciresi L.L.P. Robinson & Cole LLP Saul Ewing LLP Schnader Harrison Segal & Lewis LLP Seyfarth Shaw LLP \*Shearman & Sterling LLP

\*Shipman & Goodwin LLP Sidley Austin LLP Simpson Thacher & Bartlett LLP \*Skadden, Arps, Slate, Meagher & Flom LLP Smith, Gambrell & Russell, LLP \*Sonnenschein Nath & Rosenthal LLP Strasburger & Price, LLP Sutherland Thompson Coburn LLP Troutman Sanders LLP Van Cott, Bagley, Cornwall & McCarthy \*Venable LLP Vinson & Elkins L.L.P. Vorys, Sater, Seymour and Pease LLP Weil, Gotshal & Manges LLP White & Case LLP Wildman, Harrold, Allen & Dixon LLP Wiley Rein LLP Williams & Connolly LLP \*Wilmer Cutler Pickering Hale and Dorr LLP Wilson Sonsini Goodrich & Rosati \*Winston & Strawn LLP Womble Carlyle Sandridge & Rice, PLLC Zuckerman Spaeder LLP

These firms did not report in 2008:

\*Akin Gump Strauss Hauer & Feld LLP Barnes & Thornburg LLP Briggs and Morgan, PA Dechert LLP \*Holland & Hart LLP Loeb & Loeb LLP Rodey, Dickason, Sloan, Akin & Robb, P.A. Schiff Hardin LLP Schwabe, Williamson & Wyatt Snell & Wilmer L.L.P. \*Steptoe & Johnson LLP

\* denotes Charter Signatories to the Challenge

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July 2009





## **Report on the 2009 Pro Bono Institute** Law Firm Pro Bono Challenge<sup>®</sup> Statistics

## **Introduction**

The Pro Bono Institute's Law Firm Pro Bono Challenge,<sup>®</sup> launched in 1993 and implemented in 1995, is a unique, aspirational pro bono standard. Developed by law firm leaders and corporate general counsel, the Challenge articulates a voluntary, single, standard for one key segment of the legal profession – major law firms. (A copy of the Challenge language and principles may be found at

www.probonoinst.org/challenge.text.php.) Challenge Signatories publicly acknowledge their institutional, firm-wide commitment to provide pro bono legal services to lowincome and disadvantaged individuals and families and nonprofit groups. The Challenge includes a narrow, but thoughtful, definition of pro bono, as well as an accountability mechanism and measurement tool through its performance benchmarks and on annual reporting requirement.

In a year that saw a world-wide economic recession, significant lay-offs in the legal sector, dropping law firm revenues, deferred associate classes, shrinking staff at public interest organizations, and untold pressures on in-house legal departments to hold down costs that significantly reduced client demand for legal services, the pro bono performance of firms participating in the Law Firm Pro Bono Challenge is a bright spot.

The Institute's Law Firm Pro Bono Project is pleased to present the following summary of the 2009 performance of the Signatory Law Firms.

## **Challenge Performance**

The legal profession, and particularly larger law firms, continued to experience profound changes in 2009, most notably the layoffs of over 14,690 people, including 5,662 lawyers, and the deferral of numerous first year associates. Despite the uncertainties and depressing economic conclusion to the calendar year 2009, Challenge Signatory firms once again donated a record number of hours of legal services to the poor and disadvantaged.

In 2009, 134 of the nation's largest law firms reported their pro bono statistics to the Pro Bono Institute. Not all respondents provided information on every question. These firms performed a combined 4,867,820 total hours of pro bono work, as compared to 134 firms that performed 4,844,098 hours in 2008, an increase of 0.5% in pro bono time contributed by Challenge firms. While this percentage increase is statistically insignificant, it speaks volumes for the commitment to pro bono made by Challenge firms at a time when law firms and, indeed the world, were experiencing untold changes. There were 11 firms, or 7.5% of all Challenge firms, who did not report their 2009 numbers in time to be included in this summary.

#### Service to Persons of Limited Means

In addition to establishing ambitious progressive benchmarks -3 or 5% of total billable hours - for overall pro bono participation, the Challenge asks firms to devote a majority

of their pro bono time to persons of limited means or to "charitable, religious, civic, community, governmental and educational organizations in matters which are designed primarily to address the needs of persons of limited means." In 2009, firms donated 2,962,028 hours of pro bono service to individuals of limited means or organizations serving them, over 60% of total pro bono hours, as compared to 3,761,722 hours (77% of total pro bono hours) in 2008.

There could be a multitude of reasons for the decline in providing service to individuals of limited means, most notable the deep cuts at public interest organizations and the resulting impact on those organizations' abilities to screen clients and effectively utilize pro bono resources. One year's data does not provide enough information from which to base an opinion as to cause. This is not, in fact, the first time there has been a decline in the number of hours donated to individuals of limited means or organizations serving them. A similar decline also occurred in 2004 followed by an increase of almost 100,000 hours the following year. However, at a moment when the number of low-income people has increased substantially, this drop certainly raises concerns. The Pro Bono Institute will continue to track this metric and will address systemic issues related to representation of low-income clients.

#### Participation

The number of firm attorneys participating at Challenge firms in pro bono declined slightly in 2009 – an unsurprising decrease in light of the substantial reduction in law firm headcount, smaller incoming new associate classes, and the deferred associate phenomenon. However, the number of partners participating increased by over 800 partners. In 2009, 19,934 partners and 32,936 associates or a total of 52,871 attorneys

participated in pro bono as compared to 2008, where 19,111 partners and 33,920 associates, or a total of 52,912 participating attorneys (a decrease of .07% overall).

### Litigation/Non-Litigation Hours

For the second year, firms were asked to report how many hours they spent on litigationrelated pro bono matters as opposed to non-litigation pro bono hours. Of the 134 firms reporting, 87 firms provided a statistical breakdown: 1,527,633 hours were spent on litigation-related matters for the poor, a decrease of 38,953 hours from what was reported in 2008. Time spent on non-litigation related matters for individuals of limited means and organizations that serve them was reported by 85 firms who spent 661,487 hours in 2009 as compared to the 703,367 hours that were spent on non-litigation-related matters for individuals of limited means and organizations that serve them in 2008.

#### Service to Organizations/Individuals

Signatory firms were also asked to report how many of the pro bono hours they spent serving the poor were to organizational clients (i.e., nonprofit groups) and how many to individual clients. Again, not all firms reported these figures, but 84 firms reported that they donated 667,544 hours to organizations that serve those of limited means, an increase of 87,535 hours over 2008, while the same 84 firms reported that they spent over 1,408,932 hours serving individuals, a decrease of 40,862 hours from 2008. The numbers reflect that while the majority of pro bono work continues to be litigation-oriented, there is a significant amount of non-litigation transactional pro bono being undertaken.

### Regional Analysis<sup>1</sup>

The Law Firm Project assures firms that data provided to the Project will not be released in a disaggregated manner which limits some of the data we can report. However, additional analysis of 2009 Challenge data on a regional basis reveals the following:

- Firms in the West (18 total) had the highest average percentage of pro bono to billable hours at 4.47%. This equates to each firm, on average spending 51,052 hours on pro bono matters in 2009. These same firms were second in the percentage of pro bono hours spent on work for those of limited means 2.76% of the pro bono hours was spent on this type of work. They were also second in average donations to legal services organizations, with each firm donating, on average, \$237,939.
- Firms in the Northeast (42 firms, by far the most numerous region) had the second highest percentage of pro bono hours. On average, each firm donated 4.28% of its billable hours to pro bono, an average of 36,763 hours per firm. Firms in the Northeast were far in the lead in the percentage of pro bono hours delivered to those of limited means or organizations serving them. Their average was 3.14% or 27,143 hours. Firms in this region donated, on average \$355,735, to legal services organizations.

<sup>&</sup>lt;sup>1</sup> While it is now rare to find a firm claiming a particular city as its headquarters, historically firms have made that designation. The regional breakdown included in this analysis classifies the Challenge Signatory firms by their historical headquarters. With the globalization of the practice of law, categorizing firms in this manner may cause some inaccuracies, but still provides a snapshot of pro bono among Challenge firms in different parts of the United States.

The Mid-Atlantic Region is composed of firms in Maryland, New Jersey, Virginia and Washington, DC. The Midwest Region is composed of firms in Illinois, Indiana, Michigan, Minnesota, Missouri, Ohio, and Wisconsin.

The Northeast Region is composed of firms in Connecticut, Massachusetts, New York, and Pennsylvania. The Northwest Region is made up of firms in Oregon and Washington.

The Southeast Region is made up of firms in Alabama, Florida, Georgia, South Carolina, and North Carolina.

The Southwest Region is composed of firms in Arizona, New Mexico, and Texas.

The West Region is composed of firms in California, Colorado, and Utah.

- Firms in the Mid-Atlantic states (29 firms) were third in the ranking of percentage of pro bono hours, with an average of 4.26% or 56,713 hours. They ranked second in percentage of hours donated to those of limited means with an average of 2.62% or 19,306 hours. Donations to legal services organizations were, on average, \$140,532 per firm.
- The Midwest states with 15 firms donated an average of 3.49% of billable hours to pro bono, or 30,015 pro bono hours on average. At 2.61%, Midwest firms donated on average 20,335 pro bono hours to those of limited means. Legal services donations averaged \$120,440 per firm.

The Northwest (5 firms), Southeast (12 firms) and Southwest (8 firms) performance ranged from averages of 2.80% to 2.49% to 2.45% of billable hours spent on pro bono service. Firms in these three regions spent 1.15%, 1.62% and 1.51%, respectively, of their pro bono time providing service to those of limited means. On average, they gave \$83,900, \$145,277, and \$2,150, respectively, in donations to legal services organizations.

## **Uniqueness of the Challenge**

As discussed above, the Law Firm Pro Bono Challenge<sup>®</sup>, developed by law firm leaders and corporate general counsel, articulates a single standard for one critical segment of the legal profession – firms ranging in size from 50 to over 3,500 lawyers. The Challenge has become the definitive aspirational pro bono standard for large law firms throughout the world. It is unique for several reasons:

- It uses a progressive standard i.e., a target of either 3 or 5 percent of a firm's billable hours (equivalent to 60 or 100 hours per attorney) which ties pro bono performance to firm productivity and profitability.
- It calls for an institutional commitment, rather than an individual lawyer goal, in recognition of the reality that the policies and practices of law firms are keys to the ability and willingness of firm lawyers to undertake pro bono work.
- It creates goals not only with respect to the amount of pro bono work to be undertaken, but also with regard to the structural and policy elements that are essential for the creation and maintenance of a pro bono-friendly firm culture.
- It links Challenge firms to the extensive technical assistance resources available from the Pro Bono Institute and its Law Firm Pro Bono Project.
- It includes an accountability mechanism and an outcome measurement through its annual reporting requirement.

In 2009, over 58% or 85 of the Challenge Signatory firms met or exceeded their commitment to the Challenge; a 3% increase over the 80 firms who did so in 2008. Indeed, 24 firms surpassed their goal by more than 2% (down slightly from the 23 firms who reached that distinction in 2008). Of the remaining firms, 13 firms, or just under 9%, came within .5% of their goal, while 36 firms failed to reach their 3 or 5% goal by a factor of 1% or more (down from 44), and 11 firms failed to report at all.

In addition to the statistical information that Challenge firms are required to report, the firms also have an opportunity to respond to several optional questions, including providing certain supplemental information regarding their financial contributions to legal services organizations. In 1996 (the first year in which this information is available), 81 firms reported that they had donated a total of \$6,800,902 (an average donation of \$83,961 per firm) to legal services organizations. In 2009, 66 firms reported that they had donated \$27,609,877 an increase of \$1,991,205 over 2008's donation of \$25,618,672. In 2009, the average firm donated \$418,331, as compared to 2008 when 74 firms donated \$25,618,672 (an average donation of \$346,198 per firm).

While statistics are an important measurement tool, the Challenge is not limited to quantifiable goals. Rather, it provides a framework, set of expectations, and operational and policy elements that are the keys to major law firms' ability to institutionalize and strengthen the culture and operations of their pro bono programs. Since the inception of the Challenge, the Pro Bono Institute has worked with law firms to promulgate pro bono policies, enhance their relationships with public interest, legal services, pro bono programs and other groups, including the courts, improve the oversight and staffing of the firm's pro bono work, design and implement pro bono partnerships with corporate legal departments, improve processes for planning and evaluating pro bono efforts, create more accurate time-keeping mechanisms, incorporate a number of innovative pro bono models – including signature projects, rotation/externship programs, global efforts, integration with other firm goals including professional development, talent management, diversity, and associate satisfaction, and more, and successfully encouraged many firms

to expand the breadth and depth of their pro bono docket. Indeed, the Challenge's success in enhancing pro bono culture and performance has led our sister project, Corporate Pro Bono, a joint initiative of the Association of Corporate Counsel and the Pro Bono Institute, to launch the Corporate Pro Bono Challenge<sup>SM</sup> in 2005.

With only minimal changes made in the language and principles of the Challenge since its creation, the Law Firm Pro Bono Challenge has become the industry "gold standard" by which firms define, measure, and assess their pro bono achievements. It has also become a rallying point and a catalyst that enables firms to contribute meaningfully to their local communities, to the national justice system, and to communities around the world despite economic cycles and other pressures. We thank and congratulate the 134 Challenge Signatory Firms whose commitment to pro bono, even in the darkest of times, is positively reflected in this report, and we look forward to a reinvigorated and productive level of commitment in 2010.

\*Akin Gump Strauss Hauer & Feld LLP Alston & Bird LLP \*Arent Fox LLP Armstrong Teasdale LLP Arnall Golden Gregory LLP \*Arnold & Porter LLP Baker & Daniels LLP Baker & McKenzie Baker Botts L.L.P. Ballard Spahr, LLP Barnes & Thornburg LLP Beveridge & Diamond PC \*Bingham McCutchen LLP Blank Rome LLP Bradley Arant Boult Cummings LLP Briggs and Morgan, PA Brown Rudnick LLP \*Bryan Cave LLP Buchanan Ingersoll & Rooney PC

\*Carlton Fields, P.A. Chadbourne & Parke LLP \*Cleary Gottlieb Steen & Hamilton LLP Coblentz, Patch, Duffy, and Bass LLP **Cohen Milstein Sellers** & Toll PLLC Cooley Godward Kronish LLP \*Covington & Burling LLP Cozen O'Connor Crowell & Moring LLP Davis Wright Tremaine LLP Day Pitney LLP \*Debevoise & Plimpton LLP Dechert LLP Dewey & LeBoeuf LLP Dickstein Shapiro LLP \*DLA Piper LLP (US) \*Dorsey & Whitney LLP Dow Lohnes PLLC

\*Drinker Biddle & Reath LLP Dykema Gossett PLLC Edwards Angell Palmer & Dodge LLP Epstein Becker & Green, P.C. Washington, DC Office Only Faegre & Benson LLP Farella Braun + Martel LLP Fenwick & West LLP Finnegan, Henderson, Farabow, Garrett & Dunner, L.L.P Foley & Lardner LLP Foley Hoag LLP Foster Pepper PLLC \*Fredrikson & Byron P.A. Fried, Frank, Harris, Shriver & Jacobson LLP Fulbright & Jaworski L.L.P. \*Garvey Schubert Barer Gibson, Dunn & Crutcher LLP Goodwin Procter LLP Graves, Dougherty, Hearon & Moody, P.C. \*Hogan & Hartson LLP (now Hogan Lovells) \*Holland & Hart LLP \*Holland & Knight LLP Howard Rice Nemerovski Canady Falk & Rabkin Hughes Hubbard & Reed LLP \*Hunton & Williams LLP Husch Blackwell Sanders LLP \*Jenner & Block LLP K&L Gates LLP Kaye Scholer LLP Kilpatrick Stockton LLP King & Spalding LLP Washington, DC Office Only Kirkland & Ellis LLP Kramer Levin Naftalis & Frankel LLP Latham & Watkins LLP Leonard, Street and Deinard Lindquist & Vennum PLLP Linklaters LLP New York Office Only Loeb & Loeb LLP Lowenstein Sandler PC Manatt, Phelps & Phillips, LLP Maslon Edelman Borman & Brand, LLP

Mayer Brown LLP McCarter & English, LLP McDermott Will & Emery McGuireWoods LLP McKenna Long & Aldridge LLP Milbank, Tweed, Hadley & McCloy LLP Miller Nash LLP Mintz Levin Cohn Ferris Glovsky and Popeo P.C. Morgan, Lewis & Bockius LLP \*Morrison & Foerster LLP \*Munger, Tolles & Olson LLP \*Nelson Mullins Riley & Scarborough LLP Nixon Peabody LLP Nutter McClennen & Fish LLP O'Melveny & Myers LLP Oppenheimer Wolff & Donnelly LLP \*Orrick, Herrington & Sutcliffe LLP Patterson, Belknap, Webb & Tyler LLP Patton Boggs LLP Paul, Hastings, Janofsky & Walker LLP \*Paul, Weiss, Rifkind, Wharton & Garrison LLP Pepper Hamilton LLP Perkins Coie LLP Pillsbury Winthrop Shaw Pittman LLP \*Proskauer Rose LLP Quarles & Brady LLP \*Reed Smith LLP Robins, Kaplan, Miller & Ciresi L.L.P. Robinson & Cole LLP Saul Ewing LLP Schiff Hardin LLP Schnader Harrison Segal & Lewis LLP Seyfarth Shaw LLP \*Shearman & Sterling LLP \*Shipman & Goodwin LLP Sidley Austin LLP Simpson Thacher & Bartlett LLP \*Skadden, Arps, Slate, Meagher & Flom LLP Snell & Wilmer L.L.P. \*Sonnenschein Nath & Rosenthal LLP \*Steptoe & Johnson LLP Strasburger & Price, LLP

Sutherland Asbill & Brennan LLP Thompson Coburn LLP Troutman Sanders LLP \*Venable LLP Vinson & Elkins L.L.P. Vorys, Sater, Seymour and Pease LLP Weil, Gotshal & Manges LLP White & Case LLP

These firms did not report in 2009:

Carrington, Coleman, Sloman & Blumenthal, L.L.P. \*Gibbons P.C. Goulston & Storrs PC Howrey LLP Michael Best & Friedrich LLP Miller & Chevalier Chartered \*Miller, Canfield, Paddock and Stone, P.L.C. Rodey, Dickason, Sloan, Akin & Robb, P.A. Smith, Gambrell & Russell, LLP Van Cott, Bagley, Cornwall & McCarthy Wildman, Harrold, Allen & Dixon LLP Williams & Connolly LLP
\*Wilmer Cutler Pickering Hale and Dorr LLP
Wilson Sonsini Goodrich & Rosati
\*Winston & Strawn LLP
Womble Carlyle Sandridge & Rice, PLLC
Zuckerman Spaeder LLP

Wiley Rein LLP

\* denotes Charter Signatories to the Challenge

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# LAW FIRM PRO BONO PROJECT

**Report on the 2010 Pro Bono Institute** Law Firm Pro Bono Challenge<sup>®</sup> Statistics

June 2011

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The Pro Bono Institute, established in 1996, provides research, consultative services, analysis and assessment, publications, and training to a broad range of legal audiences.

#### Mission

The Pro Bono Institute (PBI) is mandated to explore and identify new approaches to and resources for the provision of legal services to the poor, disadvantaged, and other individuals or groups unable to secure legal assistance to address critical problems. We do so by supporting, enhancing, and transforming the pro bono efforts of major law firms, in-house corporate legal departments, and public interest organizations in the U.S. and around the world.

#### The Law Firm Pro Bono Project

PBI's Law Firm Pro Bono Project is the only global effort designed to support and enhance the pro bono culture and performance of major law firms in the United States and around the world. The Project's goal is to fully integrate pro bono into the practice, philosophy, and culture of firms so that large law firms provide the institutional support, infrastructure, and encouragement essential to fostering a climate supportive of pro bono service and promoting partner and associate participation.

#### The Law Firm Pro Bono Challenge®

The Pro Bono Institute's Law Firm Pro Bono Challenge<sup>®</sup> launched in 1993 and implemented in 1995, is a unique, aspirational pro bono standard. Developed by law firm leaders and corporate general counsel, the Challenge articulates a voluntary, single standard for one key segment of the legal profession – major law firms. (A copy of the Challenge language and principles is attached or may be found at http://www.probonoinst.org/images/pdfs/law firm challenge 2010.pdf.) Challenge Signatories publicly acknowledge their institutional, firm-wide commitment to provide pro bono legal services to low-income and disadvantaged individuals and families and nonprofit groups. The Challenge includes a narrow, but thoughtful definition of pro bono that has become the industry standard for large law firms, as well as an accountability mechanism and measurement tool through its performance benchmarks and an annual reporting requirement.

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## **Executive Summary**

This report examines the statistical performance of firms that are Signatories to the Pro Bono Institute's Law Firm Pro Bono Challenge<sup>®</sup> during the 2010 calendar year. The Challenge is the industry gold standard for pro bono participation in large law firms (those with 50 or more attorneys). Challenge Signatory firms have committed to contribute 3 or 5% of their annual billable hours to pro bono as defined by the Challenge and report their numbers to PBI each year.

Below are several key performance measurements from the 138 reporting firms:

#### • Overall Challenge Performance

Reporting firms completed a total of 4,451,009 hours of pro bono work, the third highest year in the history of the Challenge.

#### • Service to Persons of Limited Means

Challenge firms increased their service to persons of limited means this year, donating 2,840,382 hours or 64%, an increase of 3% over the previous year.

#### Participation

Reduced headcounts at firms impacted the number of attorneys participating in pro bono, down slightly from 2009.

#### • Litigation/Non-Litigation Hours

Nearly 1.5 million hours were spent on litigation-related matters for the poor, while 595,415 hours were spent on non-litigation matters.

#### • Regional Analysis

Pro bono service is broken down by regions in the country, with firms in the Northeast (with the most firms – over 44 – reporting) having the highest percentage of pro bono hours, 4%.

## **Report on the 2010 Pro Bono Institute** Law Firm Pro Bono Challenge<sup>®</sup> Statistics

#### **Introduction**

The Pro Bono Institute's Law Firm Pro Bono Challenge<sup>®</sup> launched in 1993 and implemented in 1995, is a unique, aspirational pro bono standard. Developed by law firm leaders and corporate general counsel, the Challenge articulates a voluntary, single standard for one key segment of the legal profession – major law firms. (A copy of the Challenge language and principles is attached or may be found at <u>http://www.probonoinst.org/images/pdfs/law firm challenge 2010.pdf</u>.) Challenge Signatories publicly acknowledge their institutional, firm-wide commitment to provide pro bono legal services to low-income and disadvantaged individuals and families and nonprofit groups. The Challenge includes a narrow, but thoughtful definition of pro bono that has become the industry standard for large law firms, as well as an accountability mechanism and measurement tool through its performance benchmarks and an annual reporting requirement.

The Great Recession took its toll on the legal profession – and, most notably, major law firms – in 2008 and 2009 in many ways, including historically unprecedented drops in both profitability and headcount. The past year started slowly, but by the end of 2010 the first signs of an economic recovery were visible both in terms of client demand for law firm services and increasing firm headcounts. Despite the residual impact of the economic downturn and continuing uncertainty among firms about the nature and extent of the economic recovery, PBI Challenge Signatory firms not only continued to contribute pro bono services to those most in need, they provided substantial funding to the nonprofit legal groups – legal services programs, pro bono organizations, and public interest groups – that provide legal assistance at no cost to the poor and disadvantaged.

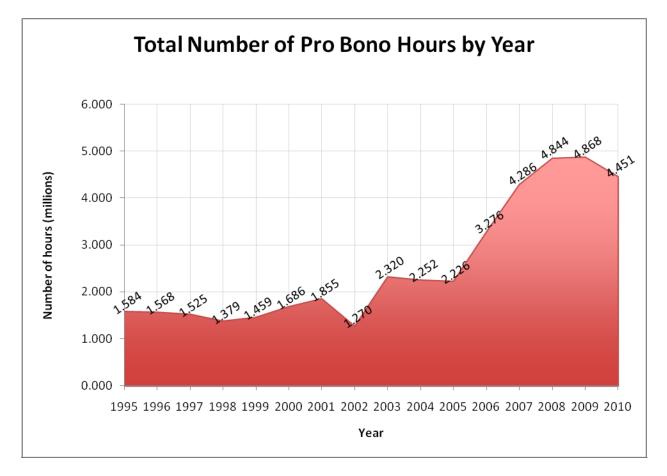
#### 2010 Challenge Performance Data

#### **Overall Pro Bono Performance**

Firm reports for calendar year 2010 reveal some troubling developments as well as some good news. A longitudinal analysis of law firm pro bono performance statistics since 1995 indicates that pro bono is typically a lagging indicator, declining at the conclusion, rather than in the midst, of economic recessions. Given this historical pattern, the total pro bono time donated by major law firms was down from the record-breaking highs of the previous two years, though still higher than any other year on record. On a more positive note, the percentage of overall pro bono time provided to those of limited means – the poor and near-poor as well as the nonprofit groups that provide vital services to that population who have been disproportionately negatively impacted by the economic downturn – increased in 2010. The total number of partners and associates at Challenge Signatory firms participating in pro bono declined somewhat, not a surprising development given the precipitous decline in total lawyers during the recession and, in particular, the continuing steep decline in the size of both incoming associate classes and summer associates.

In 2010, 138 of the nation's largest law firms reported their pro bono statistics to the Pro Bono Institute. Not all firms provided responses to every survey question. These firms performed a combined 4,451,009.52 total hours of pro bono work, as compared to 134 reporting firms that performed 4,867,820 hours in 2009, an 8.56% decrease in pro bono time contributed by Challenge firms. The 2009 figure represented the highest ever performance by Challenge firms

on quantitative measures used to evaluate Challenge Signatories. At a time when 80% – or more – of the poorest Americans cannot gain access to desperately needed legal services and the staffing and resources of legal services groups continue to decline, any decrease in pro bono hours is cause for concern. However, as discussed in the Data Analysis portion of this report, there are several unique factors that impacted pro bono performance in 2008 and 2009 that arguably make the performance statistics for those years somewhat anomalous. By comparison, 2010 pro bono hours are 35.88% higher than total pro bono hours in 2006 and 3.84% higher than 2007's numbers. Both of those years marked a significant increase over the amount of pro bono that had been reported in previous years by Challenge firms. This is not the first time there has been a decline in the number of hours donated. Similar declines also occurred in 1998 and 2004-5, only to be followed in 1999 and 2006 by significant upticks in time reported. (Chart 1)



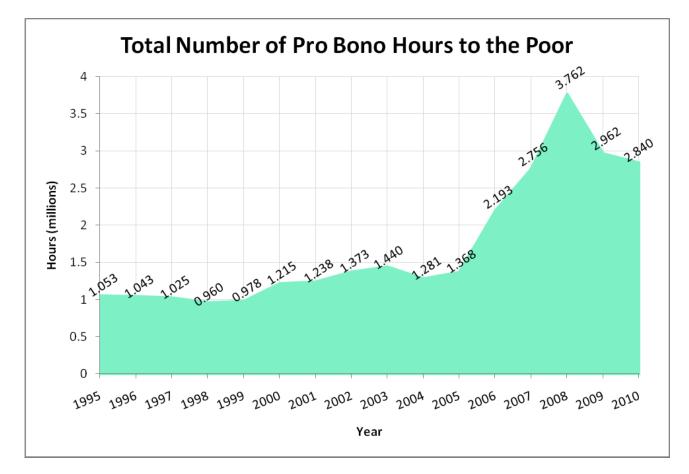
#### Chart 1

Consistent with the decline in overall pro bono hours, in 2010, more than 60% or 83 of the Challenge Signatory firms met or exceeded their commitment to the Challenge, a 16% decrease from the 72% or 96 of the Challenge Signatory firms who did so in 2009. Despite the lower overall figures in 2010, 24 firms again surpassed their goal by more than 2% – the same as in 2009. Of the remaining firms, 11 firms, or more than 7.5%, came within .5% of their goal, while 44 firms failed to reach their 3 or 5% goal by a factor of 1% or more (up from 36 in 2009), and 5 firms failed to report at all.

#### Service to Persons of Limited Means

In addition to establishing ambitious, progressive benchmarks -3 or 5% of total billable hours - for overall pro bono participation, the Challenge asks firms to devote a majority of their pro bono time to

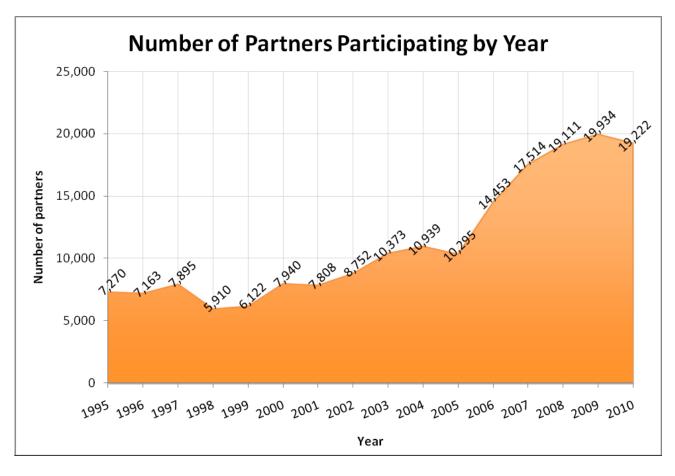
persons of limited means or to "charitable, religious, civic, community, governmental, and educational organizations in matters which are designed primarily to address the needs of persons of limited means." In 2010, while the absolute overall number of hours devoted to those of limited means declined from its high in 2008 and 2009, the percentage of overall pro bono time provided to this group increased. In 2010, firms donated 2,840,382.40 hours of pro bono service to individuals of limited means or organizations serving them, nearly 64% of total pro bono hours, as compared to 2,962,028 hours (or nearly 61% of total pro bono hours) in 2009. This is a bright spot in the data for 2010 – indicating a greater focus on the needs of individuals of limited means at a time when the U.S. poverty population is at an all-time high.





#### Participation

The number of total firm attorneys at Challenge firms participating in pro bono declined again in 2010 – reflecting the overall reduced headcount at law firms. In 2010, 19,222 partners and 31,367 associates or a total of 50,589 attorneys participated in pro bono as compared to 2009, where 19,934 partners and 32,936 associates, or a total of 52,871 attorneys participated in pro bono (a decrease of 4.3% from 2009 to 2010).



#### Chart 3

#### Litigation/Non-Litigation Hours

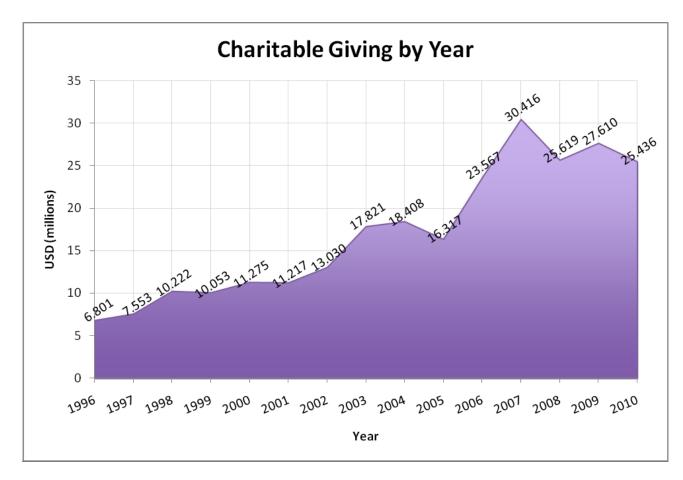
Firms were again asked to report how many hours they spent on litigation-related pro bono matters as opposed to non-litigation pro bono hours. Of the 138 firms reporting, 90 firms provided a statistical breakdown (up from the 87 firms who provided this information in 2009). Those firms reporting spent 1,462,621 hours on litigation-related matters for the poor, a decrease of 65,011 hours from 2009. Time spent on non-litigation-related matters for individuals of limited means and organizations that serve them was reported by 90 firms who spent 595,415 hours in 2010 as compared to the 661,487 hours that were spent on non-litigation-related matters for individuals of limited means and organizations that serve them in 2009.

#### Service to Organizations/Individuals

Signatory firms were also asked to report how many of the pro bono hours they spent serving the poor were to organizational clients (i.e., nonprofit groups) and how many to individual clients. Again, not all firms reported these figures, but 89 firms reported that they donated 713,118 hours to organizations that serve those of limited means, an increase of 45,575 hours over 2009 while 88 firms reported that they spent 1,409,235 hours serving individuals, a modest increase of 303 hours from 2009. The numbers reflect that, while the majority of pro bono work continues to be litigation-oriented, there is a significant amount of non-litigation pro bono being undertaken.

#### **Donations**

In addition to the statistical information that Challenge firms are required to report, the firms also have an opportunity to respond to several optional questions, including providing supplemental information regarding their financial contributions to legal services organizations. In 1996 (the first year for which this information is available), 81 firms reported that they had donated a total of \$6,800,902 (an average donation of \$83,961 per firm) to legal services organizations. In 2010, 75 firms reported that they had donated \$25,435,631, a decrease of \$2,174,246 from 2009's donations. In 2010, the average firm donated \$339,142 as compared to 2009 when 66 firms donated \$27,609,877 (an average donation of \$418,331 per firm).



#### Chart 4

*Regional Performance*<sup>1</sup>

The Law Firm Project assures firms that data provided to the Project will not be released in a disaggregated manner which limits some of the data we can report. However, additional analysis of 2010 Challenge data on a regional basis reveals the following:

<sup>&</sup>lt;sup>1</sup> While it is now rare to find a firm claiming a particular city as its headquarters, historically firms have made that designation. The regional breakdown included in this analysis classifies the Challenge Signatory firms by their historical headquarters. With the globalization of the practice of law, categorizing firms in this manner may cause some inaccuracies, but still provides a snapshot of pro bono among Challenge firms in different parts of the United States.

The Mid-Atlantic Region is composed of firms reporting in Maryland, Virginia, and Washington, DC.

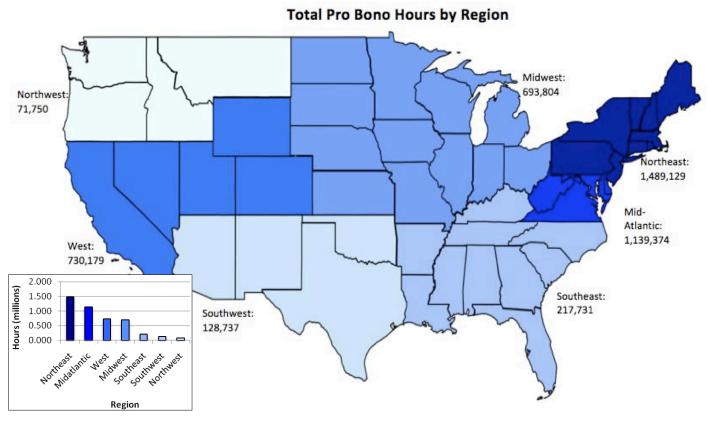
The Midwest Region is composed of firms reporting in Illinois, Indiana, Michigan, Minnesota, Missouri, Ohio, and Wisconsin.

The Northeast Region is composed of firms reporting in Connecticut, Massachusetts, New Jersey, New York, and Pennsylvania. The Northwest Region is made up of firms reporting in Oregon and Washington.

The Southeast Region is made up of firms reporting in Alabama, Florida, Georgia, South Carolina, and North Carolina.

The Southwest Region is composed of firms reporting in Arizona, New Mexico, and Texas.

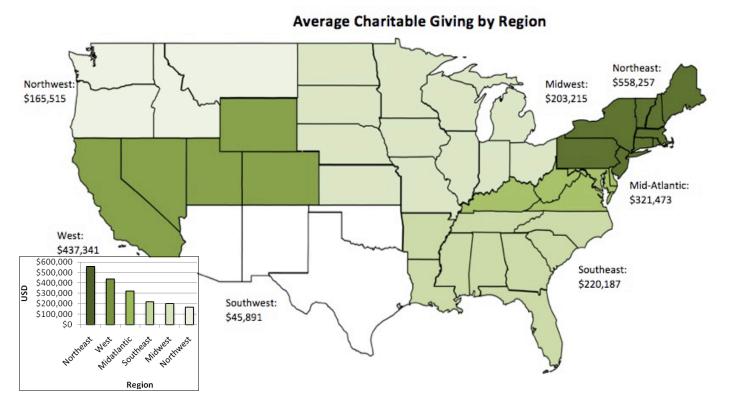
The West Region is composed of firms reporting in California, Colorado, and Utah.





- Firms in the Northeast (44 firms, by far the most numerous region) had the highest percentage of pro bono hours. On average, each firm donated 4.03% of its billable hours to pro bono, an average of 33,308 hours per firm. These numbers are in contrast to the 2009 numbers where 42 firms reported and the average percentage of pro bono to billable hours was 4.28% or 36,763 hours per firm. The Northeast region ranked second last year in percentage of pro bono hours to billable hours. Firms in the Northeast were again the leaders in percentage of pro bono hours delivered to those of limited means or organizations serving them. Their average was 2.84% or 23,220 hours. The 19 firms in this region responding to the question of how much a firm donated to legal services organizations, donated on average \$558,257, also a number one ranking.
- Firms in the Mid-Atlantic states (29 firms) were second in percentage of pro bono hours to billable hours, with an average of 3.91% or 37,514 hours. They also ranked second in percentage of hours donated to those of limited means with an average of 2.57% or 21,520 hours. Donations to legal services organizations were, on average, \$321,473 per firm (fourth in a regional ranking) with 15 of the 31 firms responding to this question. The Mid-Atlantic region ranked third in this area last year.
- Firms in the West (17 total) had the third highest average percentage of pro bono to billable hours at 3.81%. This equates to each firm, on average, spending 42,952 hours on pro bono matters in 2010, in contrast to the 4.47% or 51,052 hours on pro bono matters in 2009. These same firms were fourth in the percentage of pro bono hours spent on work for those of limited means 2.26% or 23,510 hours was spent on this type of work. They were second in average donations to legal services organizations, with each firm of the nine reporting firms donating, on average, \$437,341.

- The Midwest region, represented by 29 firms, donated an average of 3.06% of billable hours to pro bono, or 24,779 pro bono hours on average. At 2.23%, Midwest firms donated on average 16,449 pro bono hours to those of limited means. Legal services donations from the 17 reporting firms averaged \$203,215 per firm. In 2009 the Midwest region donated 3.49% of its total billable hours to pro bono (or an average of 30,015 hours); 2.61% (an average of 20,335 hours) of its pro bono hours were to those of limited means; and an average of \$120,440 per firm (15 firms reported this number) to legal services organizations.
- The Northwest (4 firms), Southeast (11 firms) and Southwest (7 firms) regions' performance ranged from averages of 2.47% to 2.29% to 3.21% of billable hours spent on pro bono service. Firms in these three regions spent 1.02%, 1.31% and 2.53%, respectively, of their pro bono time providing service to those of limited means. On average, firms in these three regions gave \$165,515 (3 firms responding), \$220,187 (nine firms responding), and \$45,891 (3 firms responding), respectively, in donations to legal services organizations. By contrast, these same regions (Northwest, 5 firms; Southeast, 12 firms; and Southwest, 8 firms) in 2009 had donated 2.80%, 2.49% and 2.45%, respectively of their billable hours to pro bono; 1.15%, 1.62% and 1.51%, respectively to pro bono hours serving those of limited means; and \$83,900, \$145,277, and \$2,150, respectively in donations to legal services organizations.





#### Data Analysis

The downturn in pro bono service reflected in the reports from Challenge Signatory firms for 2010 is cause for concern. However, an in-depth analysis of the statistics offers a basis for cautious optimism and a potential roadmap for the future of law firm pro bono. While the overall pro bono performance of major law firms declined significantly, careful analysis of the 2010 data as well as the longitudinal data

collected by the Pro Bono Institute since the full implementation of the Law Firm Pro Bono Challenge reveals several key findings:

- The record-breaking pro bono hours performed by law firms in 2008 and 2009 may, in retrospect, have been a unique phenomenon tied, in part, to the law firms' response to the economic downturn. In reacting to the precipitous drop in client work, a number of firms, for the first time, made the decision to continue to employ lawyers despite the lack of commercial work for them. Instead, many firms took the course of keeping these lawyers busy by securing and promoting a greater volume of pro bono work, which enabled the lawyers to enhance their professional skills and remain active despite the absence of paying client matters. In retrospect, that approach by firms was both a wise business investment as well as a unique stimulus to pro bono service. The drop in pro bono hours in 2010 should not diminish the fact that, despite the most difficult economic period since the Great Depression, the total number of pro bono hours contributed by major law firms during the past year was the third-highest total in the history of the Law Firm Pro Bono Challenge. That result indicates that the institutionalization of pro bono within law firms as a critical element of the firms' culture and work continues essentially unabated.
- PBI's longitudinal data (see Chart 1) reveals that pro bono performance does not and will not follow a clear and consistent upward trajectory. However, history demonstrates that the time period after a recession but before full recovery is often a difficult time for pro bono. Many firms experience an influx of new work, but, with an eye to the downturn, are often reluctant to staff up until they are convinced that the recovery is robust and reliable. As a result, firm lawyers may be understandably eager to maximize paying work and reluctant to take on significant pro bono matters during this time. History also demonstrates, however, that the downturns in pro bono that often characterize the post-recovery period are typically brief and are followed by periods of increased pro bono activity.
- More than any downturn in recent memory, the Great Recession has led at least temporarily to profound changes in large law firm practice and economics. While billable hours continue to be the most common basis for firm fees, a variety of alternative fee arrangements have become commonplace for the first time. Clients have become far more vocal and assertive in shaping the nature, scope, and staffing of their matters, and the legal market has become increasingly more competitive. As a result, in 2010 firms face a far different and more complex environment. Many aspects of law firm operations professional development, marketing, advancement to partnership, compensation, etcetera are under scrutiny and in flux. It is not surprising that law firm pro bono, as well, is in a period of transition. Times of change and instability pose challenges for pro bono, but they also offer opportunities.
- One change in law firm operations that had a substantial impact on pro bono performance was the dramatic reduction in the size of incoming new associate classes and summer associate hires. While the data indicates that law firm lawyers at all levels of seniority including a remarkable number of partners are engaged in pro bono, it is certainly the case that young associates are a critical element of firms' pro bono work. The demographics of large firm practice have changed and many firms have not yet revisited their pro bono engagements to insure that that change is reflected in the nature of the volunteer work they do.
- Sadly, 2010 was an even more difficult year for legal assistance organizations than the previous two years. Poverty in the United States reached an all-time high, while resources and staffing plunged to a new low. As a result, even more than in 2008 and 2009, many legal services and pro

bono programs had far less capacity to undertake the work – outreach to client communities, client intake and screening, training and mentoring, referrals, development of manuals and handbooks – that enable lawyers at major law firms and in other practice settings to undertake pro bono work competently, efficiently, and effectively. Although the need for free legal assistance has never been greater, the infrastructure and expertise provided by legal assistance groups has been seriously compromised. That loss has played a role in the decline in pro bono activity. Without the capacity provided by those who work full-time to serve the poor and disadvantaged, the ability to perform pro bono service is, inevitably, impaired.

#### **Future Directions**

The information, statistics, and analysis of the 2010 pro bono performance of major law firms reveals that, while the drop from the all-time high pro bono hours of 2009 is understandable, it is not inevitable. The fact that a number of large law firms improved their pro bono performance in 2010 is an indication that pro bono, re-imagined and restructured to take account of the changes in law firm practice, has a promising future. The stark difference in average pro bono performance among various regions of the country demonstrate that differences in culture, leadership, and availability of pro bono opportunities can make a real difference in pro bono participation and vitality.

At a moment in time when the human capital and expertise available at major law firms is more needed and more critical than ever before, law firms must continue to make pro bono a priority. Firms must ensure that their pro bono efforts remain vital and relevant and think strategically about using pro bono to serve not only their communities and neighbors but also to strengthen and inform ever more critically important firm activities such as talent management and enhanced client relationships. And, firm leadership must insure that they are sending strong, consistent, and crisp messages about the importance of pro bono and the value placed upon it by the firm as a whole.

The Pro Bono Institute will, at it has for the past fifteen years, play a key role as counselor, advisor, trainer, and catalyst, offering expert guidance on successful strategies for pro bono in 2011 and beyond. PBI will also serve as a convener, bringing together the top leaders of major law firms and corporate inhouse legal departments to promote a dialogue on how, working together, we can build upon the extraordinary strength and maturation of law firm pro bono and the exciting momentum of in-house corporate pro bono to strengthen our justice system and our people.

#### About the Law Firm Pro Bono Challenge®

As discussed above, the Law Firm Pro Bono Challenge<sup>®</sup>, developed by law firm leaders and corporate general counsel, articulates a single standard for one critical segment of the legal profession – firms ranging in size from 50 to more than 4,200 lawyers. The Challenge has become the definitive aspirational pro bono standard for large law firms throughout the world. It is unique for several reasons:

• It uses a progressive standard – i.e., a target of either 3 or 5 percent of a firm's billable hours (equivalent to 60 or 100 hours per attorney) which ties pro bono performance to firm productivity and profitability.

- It calls for an institutional commitment, rather than an individual lawyer goal, in recognition of the reality that the policies and practices of law firms are keys to the ability and willingness of firm lawyers to undertake pro bono work.
- It creates goals not only with respect to the amount of pro bono work to be undertaken, but also with regard to the structural and policy elements that are essential for the creation and maintenance of a pro bono-friendly firm culture.
- It links Challenge firms to the extensive consulting and technical assistance resources available from the Pro Bono Institute and its Law Firm Pro Bono Project.
- It includes an accountability mechanism and an outcome measurement through its annual reporting requirement.

While statistics are an important measurement tool, the Challenge is not limited to quantifiable goals. Rather, it provides a framework, a set of expectations, and operational and policy elements that are the keys to major law firms' ability to institutionalize and strengthen the culture and operations of their pro bono programs. Since the inception of the Challenge, the Pro Bono Institute has worked with law firms to promulgate pro bono policies, enhance their relationships with public interest, legal services, pro bono programs and other groups, including the courts, improve the oversight and staffing of the firm's pro bono work, design and implement pro bono partnerships with corporate legal departments, improve processes for planning and evaluating pro bono models – including signature projects, rotation/externship programs, global efforts, partnering with corporate clients, integration with other firm goals including professional development, talent management, diversity, and associate satisfaction, and more, and successfully encouraged many firms to expand the breadth and depth of their pro bono docket. Indeed, the Challenge's success in enhancing pro bono culture and performance has led our sister project, Corporate Pro Bono, a partnership project of the Pro Bono Institute and the Association of Corporate Counsel, to launch the Corporate Pro Bono Challenge<sup>SM</sup> in 2005.

With only minimal changes made in the language and principles of the Challenge since its creation, the Law Firm Pro Bono Challenge has become the industry "gold standard" by which firms define, measure, and assess their pro bono achievements. It has also become a rallying point and a catalyst that enables firms to contribute meaningfully to their local communities, to the national justice system, and to communities around the world despite economic cycles and other pressures.



# LAW FIRM PRO BONO PROJECT

# Report on the 2011 Pro Bono Institute Law Firm Pro Bono Challenge<sup>®</sup> Statistics

July 2012

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The Pro Bono Institute, established in 1996, provides research, consultative services, analysis and assessment, publications, and training to a broad range of legal audiences.

#### Mission

The Pro Bono Institute is mandated to explore and identify new approaches to and resources for the provision of legal services to the poor, disadvantaged, and other individuals or groups unable to secure legal assistance to address critical problems. We do so by supporting, enhancing, and transforming the pro bono efforts of major law firms, in-house corporate legal departments, and public interest organizations in the U.S. and around the world.

#### The Law Firm Pro Bono Project

PBI's Law Firm Pro Bono Project is the only global effort designed to support and enhance the pro bono culture and performance of major law firms in the U.S. and around the world. The Project's goal is to fully integrate pro bono into the practice, philosophy, and culture of firms so that large law firms provide the institutional support, infrastructure, and encouragement essential to fostering a climate supportive of pro bono service and promoting attorney participation at all levels.

#### The Law Firm Pro Bono Challenge®

PBI's Law Firm Pro Bono Challenge<sup>®</sup> launched in 1993 and implemented in 1995, is a unique, aspirational pro bono standard. Developed by law firm leaders and corporate general counsel, the Challenge articulates a voluntary, single standard for one key segment of the legal profession – major law firms. (A copy of the Challenge language and principles is attached.) Challenge Signatories publicly acknowledge their institutional, firm-wide commitment to provide pro bono legal services to low-income and disadvantaged individuals and families and nonprofit groups. The Challenge includes a narrow, but thoughtful definition of pro bono that has become the industry standard for large law firms, as well as an accountability mechanism and measurement tool through its performance benchmarks and an annual reporting requirement.

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## **Executive Summary**

The Report on the 2011 Pro Bono Institute Law Firm Pro Bono Challenge<sup>®</sup> statistics examines the pro bono performance of firms that are Signatories to the Law Firm Pro Bono Challenge<sup>®</sup> during the 2011 calendar year. The Challenge is the industry standard for pro bono participation in large law firms (those with 50 or more attorneys). Challenge Signatory firms have committed to contribute three or five percent (or 60 or 100 hours per attorney) of their annual billable hours to pro bono activities as defined by the Challenge and report their performance to PBI each year.

Pro bono performance remained steady in 2011, but faces some significant challenges moving forward. Below are several key performance measurements from Challenge Signatory firms:

#### **Overall Challenge Performance**

One hundred thirty-four participating firms reported in 2011, performing an aggregated total of 4,476,866 hours of pro bono work. This represents the third highest year's total since 1995, the inception of the Challenge.

#### Service to Persons of Limited Means

Service to persons of limited means or to charitable, religious, civic, community, governmental, and educational organizations in matters which are designed primarily to address the needs of persons of limited means decreased by 9.7% from 2010. Challenge firms donated 2,578,958 hours to these clients in 2011.

#### Participation

Attorney pro bono participation at Challenge firms increased slightly in 2011, with a total of 50,795 attorneys participating in pro bono compared to a total of 50,730 attorneys who participated in pro bono in 2010.

#### **Financial Donations**

Challenge firms increased the amount they donated to legal services organizations to \$28,654,304 – the largest amount of money given since 2007, and an increase of 12.7% over 2010.

A number of factors and concerns underscore the need for strengthening, rethinking, and revamping pro bono efforts at major law firms, including:

- changes in the economics of law practice;
- composition of law firms;
- changes in the policies and practices of large law firms; and
- deep cuts in funding, resources, and infrastructure at groups providing legal services to the poor.

## **Report on the 2011 Pro Bono Institute Law Firm Pro Bono Challenge<sup>®</sup> Statistics**

#### **Introduction**

In 2011 Pro Bono Institute Law Firm Pro Bono Challenge<sup>®</sup> Signatory firms not only continued to contribute almost 4.5 million hours of pro bono service to those in need, they also substantially increased the funding they provide to those legal organizations – legal services programs, pro bono groups, and public interest nonprofits – that are the essential backbone of our nation's system for the provision of legal assistance at no cost to the poor and disadvantaged.

## 2011 Challenge Performance Data

## Highlights of Overall Pro Bono Performance

The pro bono performance of Law Firm Pro Bono Challenge<sup>®</sup> Signatory firms showed little change from 2010 to 2011. Overall firm pro bono performance remained relatively steady at 4,476,866 in 2011, increasing from 2010 when firms reported 4,466,163 hours. Although there were five fewer firms reporting in 2011 (134 firms reported, six firms did not report, and one firm merged) than in 2010 (139 firms reported), that performance represents the third highest level of pro bono hours recorded since the Challenge began in 1995. Chart 1 shows the total pro bono hours provided by Challenge firms from 1995 to 2011. Table 1 provides the detailed figures for 2011 and 2010.

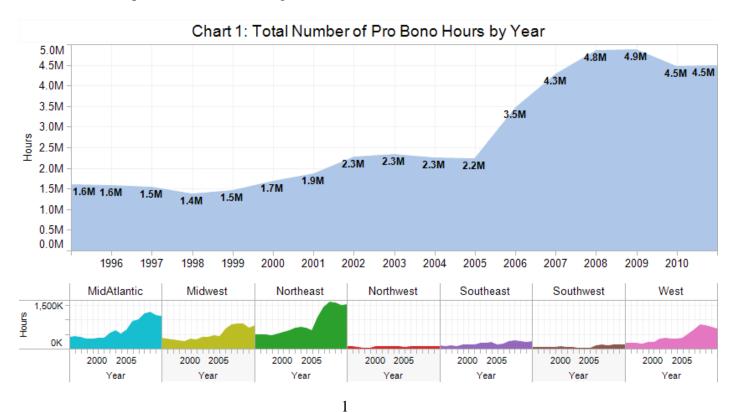


Chart 1 also shows the total number of pro bono hours by the seven geographic regions into which the firms are divided. Regionally, the Northeast, with 43 firms reporting, had the highest number of hours of pro bono, followed by the MidAtlantic with 30 firms reporting, the Midwest with 28 firms reporting, the West (15 firms), the Southeast (10 firms), the Southwest (4 firms), and the Northwest (4 firms). (States included in each region are delineated in the Methodology section.)

Tab	ole 1				
Region	2011 # of	2011	2010 # of	2010	% Increase/
	Firms	Pro Bono	Firms	Pro Bono	Decrease
	Reporting	Hours	Reporting	Hours	
MidAtlantic	30	1,107,100	30	1,139,374	-2.8%
Midwest	28	772,077	30	702,138	10.0%
Northeast	43	1,490,927	42	1,476,254	1.0%
Northwest	4	70,867	4	71,750	-1.2%
Southeast	10	231,468	10	217,731	6.3%
Southwest	4	129,744	6	128,737	0.8%
West	15	674,684	17	730,179	-7.6%
Totals	134	4,476,867	139	4,466,163	0.2%

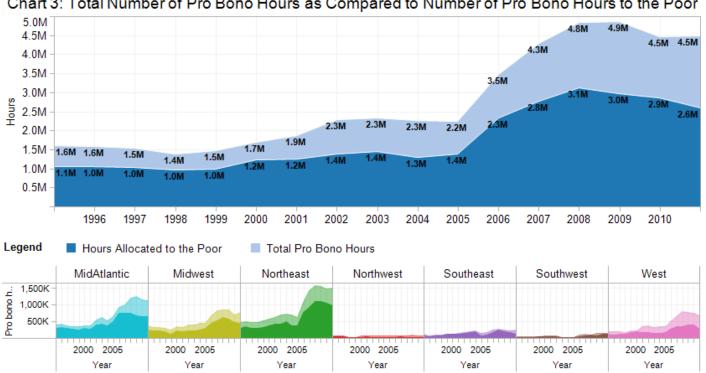
#### **Reaching the Challenge Goal**

As seen in Chart 2 below, 57% of Challenge firms who articulated a 3%/60 hour/attorney goal met or exceeded that Challenge goal in 2011, while 63% of the Challenge firms who articulated a 5%/100 hour/attorney goal met or exceeded that goal in 2011. This represents 77 firms that met or exceeded their Challenge goal in 2011, as compared with 83 of the firms in 2010, a decrease of 7.2%.



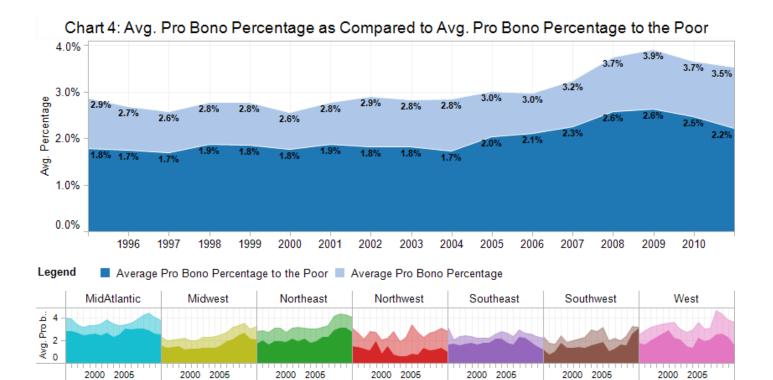
#### Service to Persons of Limited Means

In addition to establishing ambitious, progressive benchmarks – 3 or 5% of total billable hours – for overall pro bono participation, the Challenge asks firms to devote a majority of their pro bono time to persons of limited means or to "charitable, religious, civic, community, governmental, and educational organizations in matters which are designed primarily to address the needs of persons of limited means." Service to persons of limited means or organizations serving them dropped from 2,854,722 hours in 2010 to 2,578,958 in 2011, or a 9.7% decrease. This drop can be seen in Chart 3 and Table 2:



Tal	ble 2				
Region	2011 # of Firms Reporting	2011 Pro Bono Hours for the Poor	2010 # of Firms Reporting	2010 Pro Bono Hours for the Poor	% Increase/ Decrease
MidAtlantic	30	641,354	30	646,818	-0.8%
Midwest	28	451,406	30	464,989	-2.9%
Northeast	43	976,149	42	1,036,237	-5.8%
Northwest	4	13,931	4	22,536	-38.2%
Southeast	10	115,501	10	166,043	-30.4%
Southwest	4	121,481	6	118,438	2.6%
West	15	259,136	17	399,662	-35.2%
Totals	134	2,578,958	139	2,854,723	-9.7%

Chart 4 below shows a comparison of the average percentage of pro bono hours overall as compared to the average percentage of pro bono hours spent in service to those of limited means or organizations serving them. Firms in 2011 spent an average of 3.5% of their billable time on pro bono matters as defined by the Challenge. They spent an average of 2.2% of their billable time on pro bono matters serving those of limited means or to "charitable, religious, civic, community, governmental, and educational organizations in matters which are designed primarily to address the needs of persons of limited means." This is down from 3.7% and 2.5% in 2010, respectively.



Year

Year

Year

Year

Year

Year

Year

## **Participation**

Challenge Signatory firms reported total firm headcounts in 2011 of 70,647, an increase from 68,738 total attorneys in 2010. In 2011, a total of 50,795 attorneys participated in pro bono compared to a total of 50,730 attorneys who participated in pro bono in 2010. These numbers include 18,016 partners, 3,610 counsel, 27,741 associates, and 1,428 staff and other attorneys who participated in pro bono in 2011 as compared to 19,266 partners and 31,464 associates who participated in pro bono in 2010. As seen in Chart 5 below, associate participation has decreased in each of the past four years, while partner participation has increased over the past five years (with a slight downturn in 2010).

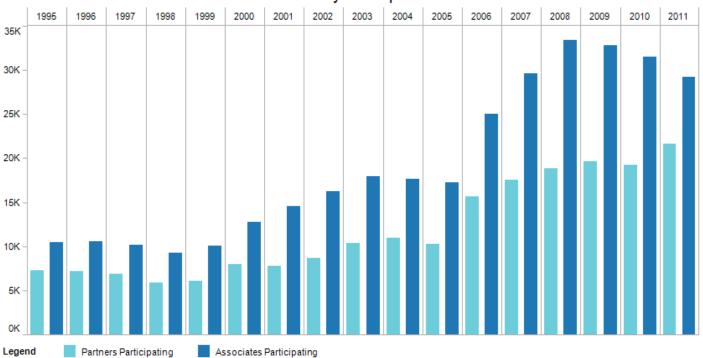
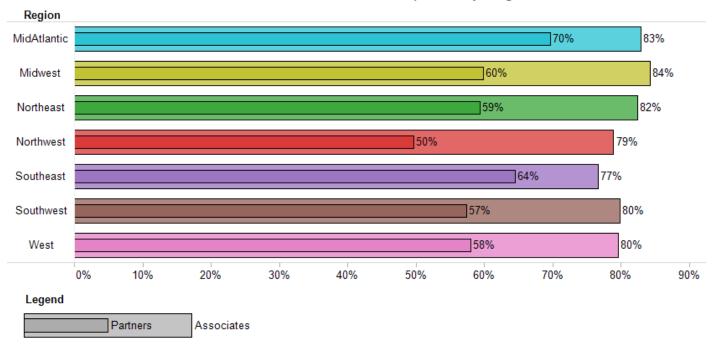


Chart 5: Attorney Participation Hours

Chart 6 below shows a graphical representation of the regional breakdown of partner/associate participation in pro bono. Regionally, associate participation is roughly the same although the regional leaders are the Midwest at 84%, the MidAtlantic at 83%, and the Northeast at 82% of associate participation. Partner participation is lower, but the top three regions are the MidAtlantic with 70%, the Southeast with 64%, and the Midwest with 60% partner participation.

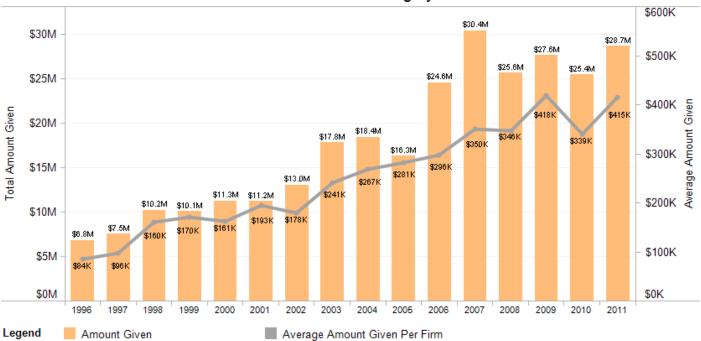


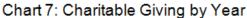
#### Chart 6: Partner/Associate Participation By Region

Table	e 3			
Region	Partner Participation Rate	Associate Participation Rate	Firm Participation Rate	# of Firms in Region Reporting
MidAtlantic	70%	83%	76%	30
Midwest	60%	84%	70%	28
Northeast	59%	82%	72%	43
Northwest	50%	79%	61%	4
Southeast	64%	77%	70%	10
Southwest	57%	80%	70%	4
West	58%	80%	70%	15

#### Financial Donations

In addition to the statistical information that the Challenge requires firms to report, firms also have an opportunity to respond to several optional questions, including providing supplemental information regarding their financial contributions to legal services organizations. In 1996 (the first year for which this information is available), 81 firms reported that they had donated a total of \$6,800,902 to legal services organizations. In 2011, 69 firms reported that they had donated \$28,654,304, an increase of \$3,218,763 (or 12.7%) from 2010. In 1996, the average contribution from a firm was \$84,000. In 2011, the average contribution was \$415,000. See Chart 7 below for a comparison of firm donations over the years.





## **Data Analysis**

Despite five fewer Challenge Signatory law firms reporting their 2011 performance to the Law Firm Pro Bono Project, the aggregated total pro bono hours contributed increased, albeit only very slightly, from the previous year. In a year marked by continued economic uncertainty in the U.S. and abroad; market volatility; softening of demand for legal services; an ever-more competitive environment and enhanced pressure for alternative and reduced fee arrangements; and the shock waves created by the precipitous demise of a major law firm, the fact that pro bono performance at large law firms emerged relatively unscathed and represents the third highest hourly contribution of time since 1995 – exceeding firms' pre-recession performance in 2007 – is significant.

However, other factors and concerns underscore the need for strengthening, rethinking, and revamping pro bono efforts at major law firms. These include:

**Profound changes in the economics of law practice** – PBI's longitudinal data (see Chart 1) indicates that pro bono performance has not and will not follow a clear and consistent upward trajectory. Outside factors – most notably the economy and its impact on the legal marketplace – directly impact pro bono performance. In the past, post-recession periods were characterized by downturns in pro bono, but, as the economy recovered, pro bono activity increased. While we are no longer in a deep recession, 2011 was hardly a year of robust economic recovery. And, in an increasingly global economy, the economic distress in the U.K. and Europe, as well as the turmoil in many other regions of the world, resulted in continued uncertainty and dampened client demand.

**Composition of law firms** – to ensure greater flexibility in headcount and personnel costs, many large law firms have drastically reduced the size of their incoming associate classes and their summer associate hires. In addition, due to the reductions in force undertaken by firms in 2008-2010, mid-level associate ranks at some firms are smaller, though increasing through lateral hires. At large firms, young and mid-level associates have been a critical part of pro bono work, and the changing demographics of firms, absent some reshaping of the firms' pro bono docket, will inevitably result in fewer pro bono hours. The positive news is that, with the exception of 2010, partner participation in pro bono has continued to increase. Partners, however, typically devote fewer hours to pro bono matters and are often attracted to more sophisticated pro bono engagements. Firms that have not revisited the scope and flow of pro bono work need to ensure that the changing demographics of the firm are reflected in a revised menu of pro bono options.

**Profound changes in the nature of large law firms** – at a time when corporate clients have become far more vocal and assertive in directing the work and compensation of outside law firms, firms face a far different, more complex, and challenging environment. Many aspects of law firm operations – professional development, marketing, advancement to partnership, career trajectories, compensation – are under scrutiny and in continued flux. As a result, law firm pro bono is in a period of transition. Times of change, uncertainty, and instability pose challenges for pro bono efforts, but they also offer new opportunities.

**Legal services to the poor** – the most troubling aspect of the 2011 data is the drop in the percentage of overall pro bono work undertaken on behalf of low-income individuals and families and the organizations that serve them. Poverty in the U.S. has reached a historic high. While legal services and public interest resources and staffing have been decimated, the law firm resources committed to this critical segment of pro bono have also substantially diminished. Discussions with public interest programs and law firms reveal two potential reasons for this tragic situation. First, as noted above, many

of these traditional poverty law cases are handled by young associates, and with the reduction in associate ranks, the number of these matters handled by law firms has decreased. Second, and of even greater concern, it appears that the loss of funding and staff at public interest organizations has seriously compromised their infrastructure and reduced their capacity to screen and refer pro bono clients and recruit, train, mentor, and support pro bono lawyers. Without the capacity and infrastructure provided by those who work full-time to serve the poor and disadvantaged, the ability to perform pro bono service, and the volume of service provided, is inevitably impaired.

One bright spot in the 2011 data is the increase in financial support provided by law firms to the nonprofit legal groups whose expertise and assistance makes law firm pro bono possible. The average amount contributed per law firm in 2011 was \$415,000, compared to \$339,000 per firm in 2010. While the almost \$29 million contributed in 2011 did not begin to replace the funding lost by these groups, it does indicate that law firms are increasingly focusing their charitable giving to support and strengthen pro bono infrastructure at legal aid and public interest groups.

## **Future Directions**

Although the 2011 pro bono performance data indicates essentially steady pro bono activity, further analysis reveals trends that, if not appropriately addressed, may weaken and diminish the vitally important pro bono service undertaken by major law firms. PBI, as it has for more than fifteen years, will continue to play a key role as counselor, advisor, trainer, and catalyst, offering firms expert guidance on how to re-imagine and restructure their pro bono programs to take account of the changes in law firm practice and economics. Those efforts will support the following:

\*Law firms must think and act strategically to use pro bono to address critical legal needs in their communities and, as well, to align with and support important firm goals, such as talent management and enhanced client relationships.

\*Firms need to ensure that every aspect of their pro bono programs – the range of matters, pro bono policies, staffing and governance, role of firm leadership – reflects the changed practices and environment at the firms. Despite the financial pressures of the past year, law firms have continued – and, in some cases, expanded – their investment in pro bono infrastructure. However, firms must also address the issue of whether and how existing administration and oversight of pro bono needs to change to accommodate other changes at the firms.

\*At a time of deeply diminished legal services and public interest budgets, firms must explore how they can best use their resources – financial and in-kind – and their human capital to lessen the time and cost of pro bono administration and infrastructure at these organizations. Firms must provide not only pro bono service to clients but more efficient pro bono administration and infrastructure as well, so that more matters can be more easily placed.

\*Firms need to carefully evaluate not only the amount of pro bono work they undertake but the outcomes and impact of that work, to ensure that they are making the highest and best use of their pro bono resources. At a time when the demand for legal help so greatly exceeds the available resources, it is essential that pro bono efforts, to the greatest extent possible, create the best possible results for the most people. To assist firms in this important task, PBI will begin working with them to provide the most accurate and useful data on their own pro bono performance and pro bono trends as a basis for evaluation and rethinking pro bono. We are also developing tools to assist firms in evaluating the impact of their work – tools that are simple to use and implement and tailored to the firm's pro bono program and goals. Together, PBI and the globe's most successful law firms can and will take pro bono to a new level in this new environment.

## About the Law Firm Pro Bono Challenge®

The Law Firm Pro Bono Challenge<sup>®</sup>, developed by law firm leaders and corporate general counsel, articulates a single standard for one critical segment of the legal profession – firms ranging in size from 50 to more than 4,200 lawyers. The Challenge has become the definitive aspirational pro bono standard for large law firms throughout the world. It is unique for several reasons:

- It uses a progressive standard i.e., a target of either 3 or 5 percent of a firm's billable hours (equivalent to 60 or 100 hours per attorney) which ties pro bono performance to firm productivity and profitability.
- It calls for an institutional commitment, rather than an individual lawyer goal, in recognition of the reality that the policies and practices of law firms are keys to the ability and willingness of firm lawyers to undertake pro bono work.
- It creates goals not only with respect to the amount of pro bono work to be undertaken, but also with regard to the structural and policy elements that are essential for the creation and maintenance of a pro bono-friendly firm culture.
- It links Challenge firms to the extensive consulting and technical assistance resources available from PBI and its Law Firm Pro Bono Project.
- It includes an accountability mechanism and an outcome measurement through its annual reporting requirement.

While statistics are an important measurement tool, the Challenge is not limited to quantifiable goals. Rather, it provides a framework, a set of expectations, and operational and policy elements that are the keys to major law firms' ability to institutionalize and strengthen the culture and operations of their pro bono programs. Since the inception of the Challenge, PBI has worked with law firms to promulgate pro bono policies, enhance their relationships with public interest, legal services, pro bono programs and other groups, including the courts, improve the oversight and staffing of the firm's pro bono work, design and implement pro bono efforts, create more accurate time-keeping mechanisms, incorporate a number of innovative pro bono models – including signature projects, rotation/externship programs, global efforts, partnering with corporate clients, integration with other firm goals including professional development, talent management, diversity, and associate satisfaction, and more, and successfully encouraged many firms to expand the breadth and depth of their pro bono docket. Indeed, the Challenge's success in enhancing pro bono culture and performance has led our sister project, Corporate Pro Bono, a partnership project of the PBI and the Association of Corporate Counsel, to launch the Corporate Pro Bono Challenge<sup>SM</sup> in 2005.

With only minimal changes made in the language and principles of the Challenge since its creation, the Law Firm Pro Bono Challenge has become the industry standard by which firms define, measure, and assess their pro bono achievements. It has also become a rallying point and a catalyst that enables firms to contribute meaningfully to their local communities, to the national justice system, and to communities around the world despite economic cycles and other pressures.

## **Methodology**

Firms participating in the Law Firm Pro Bono Challenge<sup>®</sup> report annual performance on a survey circulated by the Pro Bono Institute. Data is compiled into a central database and checked for quality issues. In cases of anomalous or missing data, numbers are derived from other data elements when possible. Additional follow-up with responding firms is conducted as necessary. The number of firms participating varies by year. All charts represent only the participating firms which reported the relevant metrics, or for which those metrics have been calculated mathematically. While maintaining complete confidentiality as promised to Challenge firms, the Project has begun a multi-year longitudinal analysis of Challenge data with the pro bono assistance of advisors from Deloitte Financial Advisory Services LLP. Some of the charts from that analysis are available in this report, while additional material will be forthcoming.

Prior to the current report, firms have historically been asked to report metrics for Partners and Associates. For the purposes of the current report, firms were asked to separately report Counsel and Staff/Other Attorneys as well. For purposes of analysis in the first year of this change, Counsel has been included with Partners and Staff/Other Attorneys with Associates.

While it is now rare to find a firm claiming a particular city as its headquarters, historically firms have made that designation. The regional breakdown included in this analysis classifies the Challenge Signatory firms by their historical headquarters. With the globalization of the practice of law, categorizing firms in this manner may cause some inaccuracies, but still provides a snapshot of pro bono among Challenge firms in different parts of the U.S. For purposes of analysis, firms are grouped by geographic region determined by the location of the firm's main office. In the 2011 data, one firm moved from the Northeast to the Midwest region.

- The MidAtlantic Region is composed of firms reporting in Maryland, Virginia, and Washington, D.C.
- The Midwest Region is composed of firms reporting in Illinois, Indiana, Michigan, Minnesota, Missouri, Ohio, and Wisconsin.
- The Northeast Region is composed of firms reporting in Connecticut, Massachusetts, New Jersey, New York, and Pennsylvania.
- The Northwest Region is made up of firms reporting in Oregon and Washington.
- The Southeast Region is made up of firms reporting in Alabama, Florida, Georgia, North Carolina, and South Carolina.
- The Southwest Region is composed of firms reporting in Arizona, New Mexico, and Texas.
- The West Region is composed of firms reporting in California, Colorado, Nevada, and Utah.

#### **Challenge Signatory Law Firms**

We thank and congratulate the 134 Challenge Signatory Firms whose commitment to pro bono, is positively reflected in this report, and we look forward to a renewed and expanded level of commitment in 2012.

\*Akin Gump Strauss Hauer & Feld LLP Alston & Bird LLP \*Arent Fox LLP Armstrong Teasdale LLP Arnall Golden Gregory LLP \*Arnold & Porter LLP **Baker & Daniels LLP** Baker & McKenzie Baker Botts L.L.P. Ballard Spahr, LLP Barnes & Thornburg LLP Beveridge & Diamond PC \*Bingham McCutchen LLP Blank Rome LLP Briggs and Morgan, PA Brown Rudnick LLP \*Bryan Cave LLP Buchanan Ingersoll & Rooney PC \*Carlton Fields, P.A. Chadbourne & Parke LLP \*Cleary Gottlieb Steen & Hamilton LLP Coblentz, Patch, Duffy, and Bass LLP Cohen Milstein Sellers & Toll PLLC Cooley LLP \*Covington & Burling LLP Cozen O'Connor Crowell & Moring LLP Davis Wright Tremaine LLP Day Pitney LLP \*Debevoise & Plimpton LLP Dechert LLP Dewey & LeBoeuf LLP Dickstein Shapiro LLP \*DLA Piper LLP (US) \*Dorsey & Whitney LLP Dow Lohnes PLLC \*Drinker Biddle & Reath LLP Dykema Gossett PLLC Edwards Wildman Palmer LLP

Epstein Becker & Green, P.C. Washington, D.C. Office Only Faegre & Benson LLP Farella Braun + Martel LLP Fenwick & West LLP Finnegan, Henderson, Farabow, Garrett & Dunner, L.L.P. Foley & Lardner LLP Foley Hoag LLP \*Fredrikson & Byron P.A. Fried, Frank, Harris, Shriver & Jacobson LLP Fulbright & Jaworski L.L.P. \*Garvey Schubert Barer \*Gibbons P.C. Gibson, Dunn & Crutcher LLP Goodwin Procter LLP Goulston & Storrs PC Graves, Dougherty, Hearon & Moody, P.C. \*Hogan Lovells \*Holland & Hart LLP \*Holland & Knight LLP Hollingsworth Hughes Hubbard & Reed LLP \*Hunton & Williams LLP Husch Blackwell Sanders LLP \*Jenner & Block LLP K&L Gates LLP Kaye Scholer LLP Kilpatrick Townsend & Stockton LLP King & Spalding LLP Washington, D.C. Office Only Kirkland & Ellis LLP Kramer Levin Naftalis & Frankel LLP Latham & Watkins LLP Leonard, Street and Deinard Lindquist & Vennum PLLP Linklaters LLP New York Office Only

Loeb & Loeb LLP Lowenstein Sandler PC Manatt, Phelps & Phillips, LLP Maslon Edelman Borman & Brand, LLP Mayer Brown LLP McCarter & English, LLP McDermott Will & Emery McGuireWoods LLP McKenna Long & Aldridge LLP Milbank, Tweed, Hadley & McCloy LLP Miller & Chevalier Chartered Miller Nash LLP Mintz Levin Cohn Ferris Glovsky and Popeo P.C. Morgan, Lewis & Bockius LLP \*Morrison & Foerster LLP \*Munger, Tolles & Olson LLP \*Nelson Mullins Riley & Scarborough LLP Nixon Peabody LLP Nutter McClennen & Fish LLP O'Melveny & Myers LLP Oppenheimer Wolff & Donnelly LLP \*Orrick, Herrington & Sutcliffe LLP Patterson, Belknap, Webb & Tyler LLP Patton Boggs LLP Paul, Hastings LLP \*Paul, Weiss, Rifkind, Wharton & Garrison LLP Pepper Hamilton LLP Perkins Coie LLP Pillsbury Winthrop Shaw Pittman LLP \*Proskauer Rose LLP

**Ouarles & Brady LLP** \*Reed Smith LLP Robins, Kaplan, Miller & Ciresi L.L.P. Robinson & Cole LLP Saul Ewing LLP Schiff Hardin LLP Seyfarth Shaw LLP \*Shearman & Sterling LLP \*Shipman & Goodwin LLP Sidley Austin LLP Simpson Thacher & Bartlett LLP \*Skadden, Arps, Slate, Meagher & Flom LLP Snell & Wilmer L.L.P. \*SNR Denton \*Steptoe & Johnson LLP Strasburger & Price, LLP Sutherland Asbill & Brennan LLP Thompson Coburn LLP Troutman Sanders LLP \*Venable LLP Vinson & Elkins LLP Vorys, Sater, Seymour and Pease LLP Weil, Gotshal & Manges LLP White & Case LLP Wiley Rein LLP Williams & Connolly LLP \*Wilmer Cutler Pickering Hale and Dorr LLP Wilson Sonsini Goodrich & Rosati \*Winston & Strawn LLP Womble Carlyle Sandridge & Rice, PLLC Zuckerman Spaeder LLP

\* denotes Charter Signatories to the Challenge

These firms did not report in 2011:

Bradley Arant Boult Cummings LLP
Carrington, Coleman, Sloman & Blumenthal, L.L.P.
Michael Best & Friedrich LLP
\*Miller, Canfield, Paddock and Stone, P.L.C.
Rodey, Dickason, Sloan, Akin, & Robb, PA
Van Cott, Bagley, Cornwall & McCarthy

Merged Firm Howard Rice Nemerovski Canady Falk & Rabkin

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# Report on the Law Firm Pro Bono Challenge®

The Pro Bono Institute, established in 1996, provides research, consultative services, analysis and assessment, publications, and training to a broad range of legal audiences.

#### Mission

The Pro Bono Institute is mandated to explore and identify new approaches to and resources for the provision of legal services to the poor, disadvantaged, and other individuals or groups unable to secure legal assistance to address critical problems. We do so by supporting, enhancing, and transforming the pro bono efforts of major law firms, in-house corporate legal departments, and public interest organizations in the U.S. and around the world.

#### The Law Firm Pro Bono Project

PBI's Law Firm Pro Bono Project is the only global effort designed to support and enhance the pro bono culture and performance of major law firms in the U.S. and around the world. The Project's goal is to fully integrate pro bono into the practice, philosophy, and culture of firms so that large law firms provide the institutional support, infrastructure, and encouragement essential to fostering a climate supportive of pro bono service and promoting attorney participation at all levels.

#### The Law Firm Pro Bono Challenge®

PBI's Law Firm Pro Bono Challenge<sup>®</sup> launched in 1993 and implemented in 1995, is a unique, aspirational pro bono standard. Developed by law firm leaders and corporate general counsel, the Challenge articulates a voluntary, single standard for one key segment of the legal profession – major law firms. (A copy of the Challenge is attached.) Challenge Signatories publicly acknowledge their institutional, firm-wide commitment to provide pro bono legal services to low-income and disadvantaged individuals and families and nonprofit groups. The Challenge includes a narrow, but thoughtful definition of pro bono that has become the industry standard for large law firms, as well as an accountability mechanism and measurement tool through its performance benchmarks and an annual reporting requirement.

Download additional copies of this report at www.probonoinst.org.

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## EXECUTIVE SUMMARY

The Report on the 2012 Pro Bono Institute Law Firm Pro Bono Challenge<sup>®</sup> statistics examines the pro bono performance of firms that were Signatories to the Law Firm Pro Bono Challenge<sup>®</sup> during the 2012 calendar year. The Challenge is the industry standard for pro bono participation in large law firms (those with 50 or more attorneys). Challenge Signatories have committed to contribute 3 or 5% (or at a few firms, 60 or 100 hours per attorney, respectively) of their annual billable hours to pro bono activities as defined by the Challenge and report their performance to PBI each year.

The 2012 data reveal that major law firms continue to maintain their pro bono commitment, culture, and infrastructure, despite a fragile economic recovery, major shifts in demographics and client demand, and great uncertainty about future directions.

#### Hours Per Attorney Increase

Average pro bono hours per attorney increased in 2012, albeit very modestly, to 62.2 hours per attorney, from 61.2 hours per attorney in 2011.

#### Participation Remains Stable

Despite reductions in attorney headcount, the overall number of firm attorneys actively engaged in pro bono remained essentially stable in 2012, with associate involvement experiencing a slight decline, while partner and counsel involvement increased.

#### Firms Improve Performance

Despite a difficult economic environment, many firms – almost half of those Challenge firms reporting – improved their pro bono performance in 2012.

#### **Overall Performance Remains High**

One hundred thirty-three participating firms reported in 2012, performing an aggregated total of 4,312,868 hours of pro bono work. This is the fifth-highest year's total since the inception of the Challenge in 1995.



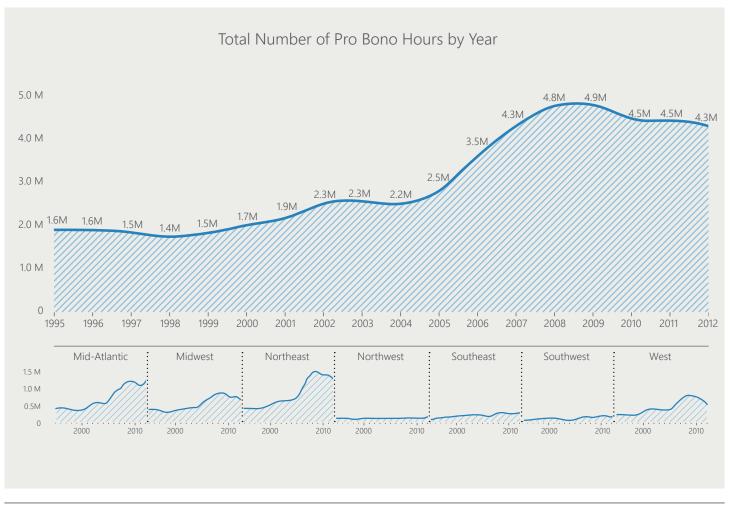
### INTRODUCTION

In 2012, Signatories to the Law Firm Pro Bono Challenge<sup>®</sup> contributed over 4.3 million hours of pro bono service to those in need. While this reflects a small decline in overall numbers from 2011, the average pro bono hours per attorney showed a slight increase.

### 2012 CHALLENGE PERFORMANCE DATA

### Highlights of Overall Pro Bono Performance

The pro bono performance of Law Firm Pro Bono Challenge<sup>®</sup> Signatories declined slightly from 4,484,508 in 2011 to 4,312,868 in 2012<sup>1</sup>. The demise of Dewey LeBoeuf eliminated more than 80,000 pro bono hours from the 2012 aggregated total, resulting in a significant difference between the two years' data. Two fewer firms reported in 2012 (133 firms reported, seven firms did not report, one firm merged, and one firm dissolved).



<sup>1.</sup> The total number of pro bono hours reported in 2011 was adjusted upwards from last year's report due to the inclusion of late-reporting firms.

From a regional perspective, the Northeast, with 41 firms reporting, had the highest number of hours of pro bono at 1,386,534 total hours, followed closely by the Mid-Atlantic region with 31 firms reporting an aggregate of 1,319,477 total pro bono hours, the Midwest (25 firms), the West (16 firms), and the Southeast (10 firms), Southwest (5 firms), and Northwest (5 firms) regions. (States included in each region are delineated in the Methodology section.)

Region	2012 # of Firms Reporting	2012 Pro Bono Hours	2011 # of Firms Reporting	2011 Pro Bono Hours	% Increase/ Decrease
Mid-Atlantic	31	1,319,477	30	1,107,100	19.2%
Midwest	25	639,887	28	772,077	-17.1%
Northeast	41	1,386,534	43	1,490,927	-7.0%
Northwest	5	105,732	4	70,867	49.2%
Southeast	10	202,893	11	239,110	-15.1%
Southwest	5	157,493	4	129,744	21.4%
West	16	500,852	15	674,684	-25.8%
Totals	133	4,312,868	135	4,484,508	-3.8%

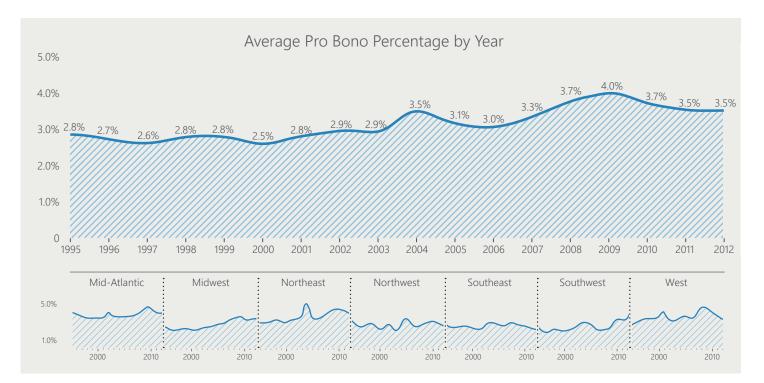
Total Pro Bono Hours by Region

The chart below shows the distribution of pro bono hours per attorney in 2012 for each of the Signatory Firms. The bottom 25% of reporting firms contributed between 7.2 and 35.9 hours per attorney. At the upper end of the scale, the top 25% of firms contributed between 72.9 and 184.7 hours per attorney in 2012. The median number of hours contributed in 2012 was 51.2.



### Pro Bono Percentages by Year

Viewed as a percentage of total client billable hours, pro bono hours remained steady from 2011 to 2012, with an average of 3.5% across all reporting firms. While there has been a decline in total pro bono hours since the high point in 2009, when viewed as a percentage of total client billable hours, pro bono has remained essentially steady.



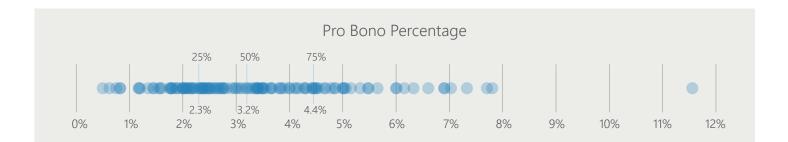
Regionally, the Southwest, with five firms reporting, was the leader in average pro bono percentage at 4.03%, followed closely by the Mid-Atlantic region with 29 firms at 3.96%, the Northeast (41 firms), the Midwest (25 firms), the West (15 firms), the Northwest (5 firms), and the Southeast (10 firms).

Region	2012 # of Firms Reporting	2012 Pro Bono Percentage	2011 # of Firms Reporting	2011 Pro Bono Percentage
Mid-Atlantic	29	3.96%	30	3.75%
Midwest	25	3.21%	28	3.22%
Northeast	41	3.84%	43	4.03%
Northwest	5	2.40%	4	2.75%
Southeast	10	2.08%	11	2.06%
Southwest	5	4.03%	4	3.88%
West	15	3.17%	15	3.59%
Totals	130 <sup>2</sup>	3.48%	135	3.55%

### Average Pro Bono Percentage

2 This number differs from the chart on the previous page due to incomplete reporting by three firms.

The following graph illustrates the distribution of pro bono percentages for all reporting firms in 2012. Percentages range from less than 1% of billable time to almost 12% of billable time. The median is 3.2% and the average is 3.47%. The top 25% of firms contributed at least 4.4% of their time to pro bono work.



### Reaching the Challenge Goal

The number of firms that met their stated Challenge goal decreased from 77 firms in 2011 to 62 firms in 2012, a drop of 19%. As seen below, 49% of Challenge firms which articulated a 3%/60 hour/attorney goal met or exceeded that Challenge goal in 2012, while 47% of the Challenge firms which articulated a 5%/100 hour/attorney goal met or exceeded that goal in 2012.



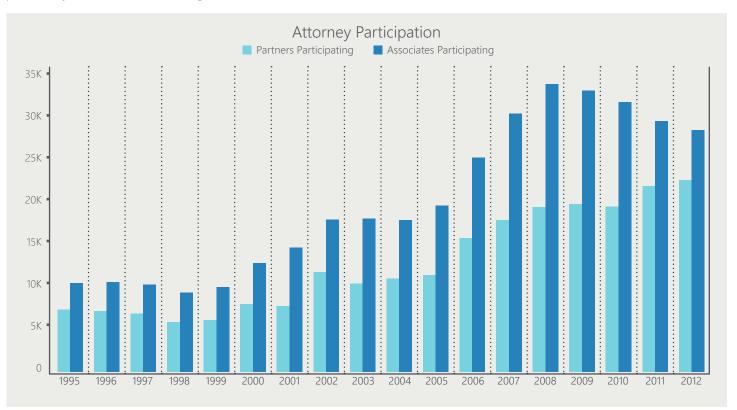
#### Service to Persons of Limited Means

In addition to establishing ambitious, progressive benchmarks – 3 or 5% of total billable hours – for overall pro bono participation, the Challenge asks firms to devote a majority of their pro bono time to persons of limited means or to "charitable, religious, civic, community, governmental, and educational organizations in matters which are designed primarily to address the needs of persons of limited means." This element of the Challenge is particularly critical at this time, when poverty in the U.S. remains high and resources for legal aid have been severely diminished.

For the first time since the Challenge was implemented, this report does not include data on the hours and percentage of total pro bono time committed to persons of limited means and the organizations that serve them. The failure of a number of Challenge Signatories to report specific or reliable data on this aspect of Challenge performance means that PBI, in turn, cannot provide reliable aggregated statistics. This failure to report hampers PBI's ability to ascertain whether the service to those of limited means or organizations that serve them has in fact declined or is a reflection of the decline in funding to legal services organizations.

### Participation

Challenge Signatories reported total firm headcounts in 2012 of 69,303, a decrease from 70,647 total attorneys in 2011. In 2012, a total of 50,771 attorneys participated in pro bono compared to a total of 50,795 attorneys who participated in pro bono in 2011. These numbers include 18,546 partners, 27,021 associates, 3,893 counsel, and 1,311 staff and other attorneys who participated in 2012 as compared to 18,016 partners, 27,741 associates, 3,610 counsel, and 1,428 staff and other attorneys who participated in pro bono in 2011. As seen below, associate participation has continued to decrease in each of the past five years, while partner participation has continued to increase over the past five years (albeit with a slight downturn in 2010).



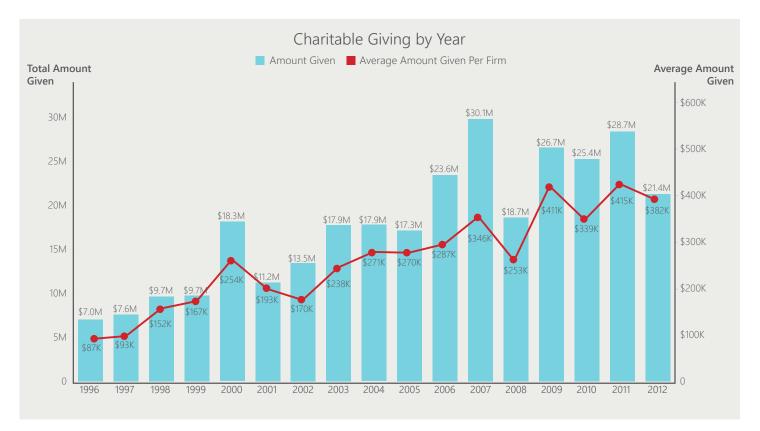
The chart below shows a graphical representation of the regional breakdown of partner/associate participation in pro bono. Regionally, associate participation is greatest in the Mid-Atlantic and Midwest regions, where associate participation was tied at 87% in each region. This is up from 83% and 84%, respectively, in 2011. The Northeast enjoyed an 83% associate participation rate in 2012 as compared to 82% associate participation rate in 2011. Partner participation showed a slight decline in the Mid-Atlantic region in 2012, 69% in 2012 as compared to 70% in 2011 and in the Southwest region, 50% in 2012 as compared to 57% in 2011, but all other regions either maintained the same level of participation or increased their level of partner participation in 2012.



Region	Partner Participation Rate	Associate Participation Rate	Firm Participation Rate	# of Firms in Region Reporting
Mid-Atlantic	69.4%	87.2%	78.0%	31
Midwest	64.0%	87.3%	73.7%	25
Northeast	64.1%	82.5%	74.4%	41
Northwest	50.4%	74.2%	60.2%	5
Southeast	65.0%	79.3%	71.0%	10
Southwest	50.4%	64.6%	57.7%	5
West	59.4%	78.4%	69.5%	15

### Financial Donations

Each year, in addition to asking Challenge Signatories to provide statistical information as required by the Challenge, firms are asked to respond to several optional questions, including providing supplemental information on financial contributions to legal services organizations. In 1996 (the first year for which this information is available), 81 firms reported that they had donated \$6,800,902 to legal services organizations. In 2012, 52 firms reported they had donated \$21,402,171 to legal services organizations. This total is down from 2011 when 69 firms reported donating \$28,654,304. In 2012 the average firm donation was \$382,000. In 2011, the average contribution was \$415,000. See the chart below for a comparison of firm donations over the years.



The graph below shows the distributions of charitable amounts reported in 2012. The figures range from a low of \$9,000 to a high of \$6.5 million. The median amount given is \$174,000 and the average amount given is \$382,000.



### DATA ANALYSIS

In a year marked by continued economic uncertainty in the U.S. and abroad; market volatility; softening of demand for legal services; an ever-more competitive environment with enhanced pressure for alternative and reduced-fee arrangements; and the shock waves created by the precipitous demise of a major law firm, that pro bono performance at large law firms emerged relatively unscathed and represents the fifth-highest hourly contribution of time since 1995 – exceeding firms' pre-recession performance in 2007 – is significant.

However, other factors and concerns underscore the need for strengthening, rethinking, and revamping pro bono efforts at major law firms. These include:

### Profound changes in the economics of law practice

PBI's longitudinal data (pg. 2) indicates that pro bono performance has not and will not follow a clear and consistent upward trajectory. Outside factors – most notably the economy and its impact on the legal marketplace – directly impact pro bono performance. In the past, post-recession periods were characterized by downturns in pro bono, but as the economy recovered, pro bono activity increased. While we are no longer in a deep recession, 2012 was hardly a year of robust economic recovery. And, in an increasingly global economy, the economic distress in the UK and the EU, as well as the turmoil in many other regions of the world, resulted in continued uncertainty and dampened client demand.

### Composition of law firms

To ensure greater flexibility in headcount and personnel costs, many large law firms have drastically reduced the size of their incoming associate classes and their summer associate hires. In addition, due to the reductions in force undertaken by firms in 2008-2010, mid-level associate ranks at some firms are smaller, though increasing through lateral hires. At large firms, young and mid-level associates have been a critical part of pro bono work, and the changing demographics of firms, absent some reshaping of the firms' pro bono docket, will inevitably result in fewer pro bono hours. The positive news is that, with the exception of 2010, partner participation in pro bono has continued to increase. Partners, however, typically devote fewer hours to pro bono matters and are often attracted to more sophisticated pro bono engagements. Firms that have not revisited the scope and flow of pro bono work need to ensure that the changing demographics of the firm are reflected in a revised menu of pro bono options.

### Far-reaching changes in the nature of large law firms

At a time when corporate clients have become more vocal and assertive in directing the work and compensation of outside law firms, firms face a different, more complex, and challenging environment. Many aspects of law firm operations – professional development, marketing, pricing, advancement to partnership, career trajectories, compensation – are under scrutiny and in flux. As a result, law firm pro bono is in a period of transition as well. Times of change, uncertainty, and instability pose challenges for pro bono efforts, but they also offer new opportunities.

#### Legal services to the poor

As noted in the report, the number of firms reporting the percentage and number of pro bono hours provided to persons/institutions of limited means declined significantly this year, while some firms provided information that reflected inaccurate data collection. As a result, we could not include reliable information on this important facet of Challenge pro bono performance. While legal services and public interest resources and staffing have been decimated, Challenge data for 2010 and 2011 indicate the law firm resources committed to this critical segment of pro bono have also substantially diminished. Discussions with legal aid and public interest programs and law firms reveal three potential reasons for this tragic and untenable situation:

- First, many of these traditional poverty law cases are handled by associates, and with the reduction in associate ranks, it appears that the number of these matters handled by law firms has decreased.
- Second, and of even greater concern, it appears that the loss of funding and staff at legal aid organizations has seriously compromised their infrastructure and reduced their capacity to screen and refer pro bono clients and recruit, train, mentor, and support pro bono lawyers. Without the capacity and infrastructure provided by those who work full-time to serve the poor and disadvantaged, the ability to perform pro bono service, and the volume of service provided, is inevitably impaired.
- Finally, there is a trend, particularly notable among legal aid providers, to increasingly focus on time-limited pro bono opportunities, such as advice-only clinics. While many potential clients may benefit from brief advice and counsel, there remains a great and unmet need for more extensive and time-intensive representation. It is unclear whether legal aid programs are relying on time-limited engagements in response to signals and demand from potential volunteers or whether they are simply making assumptions about what types of pro bono matters lawyers will accept.

One of the great strengths of major law firms is the breadth of their human resources and their unparalleled capacity to take on time-consuming and complex litigation and transactional matters. The increasing disconnect between what firm lawyers are asked to accept and what they have the capacity and skills to undertake must be addressed.

### Financial contributions

Another area of concern is the level of financial support provided by law firms to the nonprofit legal groups whose expertise and assistance makes law firm pro bono possible. The average amount contributed per law firm in 2012 decreased to \$382,000 from \$415,000 per firm in 2011. Reporting of financial contributions is optional for Challenge Signatories, and substantially fewer firms reported this statistic in 2012 (52 firms versus 69 reporting in 2011), making it difficult to draw any conclusions from limited data submitted this past year. However, given the fact that firm contributions are essential to maintaining an effective pipeline and support network for legal services, any decline in contributions is of great concern.

## FUTURE DIRECTIONS

Although the 2012 pro bono performance data indicate essentially steady pro bono activity, further analysis reveals trends that, if not urgently and appropriately addressed, may weaken and diminish the vitally important pro bono service undertaken by major law firms. PBI, as it has for more than fifteen years, will continue to play a key role as counselor, advisor, trainer, and catalyst, offering firms expert guidance on how to re-imagine and restructure their pro bono programs to take account of the changes in law firm practice and economics. Those efforts will support the following:

- Law firms must think and act strategically towards pro bono so it addresses critical legal needs in their communities and aligns and supports important firm goals, such as talent management and enhanced client relationships.
- Firms need to ensure that every aspect of their pro bono programs the range of matters, pro bono policies, staffing and governance, role of firm leadership reflects the changed practices and environment at the firms. Despite the financial pressures of the past year, law firms have continued and, in some cases, expanded their investment in pro bono infrastructure. However, firms must also address the issue of whether and how existing administration and oversight of pro bono needs to change to accommodate other changes at the firms.
- At a time of deeply diminished legal services and public interest budgets, firms must explore how they can best
  use their resources financial and in-kind and their human capital to lessen the time and cost of pro bono
  administration and infrastructure at these organizations. Firms must provide not only pro bono service to clients
  but more efficient pro bono administration and infrastructure as well, so that more matters can be more easily
  placed.
- Firms must maximize their charitable contributions to legal aid, public interest, and pro bono organizations to maintain the quality and integrity of their own pro bono efforts.
- Firms need to carefully evaluate not only the amount of pro bono work they undertake but also the outcomes
  and impact of that work, to ensure that they are making the highest and best use of their pro bono resources.
  At a time when the demand for legal help so greatly exceeds the available resources, it is essential that pro bono
  efforts create the best possible results for the most people. To assist firms in this important task, PBI will begin
  working with them to provide the most accurate and useful data on their own pro bono performance as a basis
  for evaluation and rethinking pro bono. We are also developing tools to assist firms in evaluating the impact of
  their work tools that are simple to use and implement and tailored to each firm's pro bono program and goals.
- Firms must ensure that the information and data they are compiling about their pro bono performance is as accurate, consistent, and reliable as possible. With so many requests for pro bono information from bar associations, law schools, and others, law firms may be experiencing "reporting fatigue." For the Pro Bono Institute and the firms with whom it works accurate, comprehensive data is critical. We use that information to identify new opportunities, successes, and obstacles to pro bono service. We will be working closely with law firms in 2013 to provide consultative services and guidance on how to simply and efficiently collect and report their pro bono data so that they and we can take pro bono to the next level in this new environment.

### ABOUT THE CHALLENGE

The Law Firm Pro Bono Challenge<sup>®</sup>, developed by law firm leaders and corporate general counsel, articulates a single standard for one critical segment of the legal profession – firms ranging in size from 50 to more than 4,000 lawyers. The Challenge has become the definitive aspirational pro bono standard for large law firms throughout the world. It is unique for several reasons:

- It uses a progressive standard i.e., a target of either 3 or 5% of a firm's billable hours (equivalent to 60 or 100 hours per attorney) which ties pro bono performance to firm productivity and profitability.
- It calls for an institutional commitment, rather than an individual lawyer goal, in recognition of the reality that the policies and practices of law firms are keys to the ability and willingness of firm lawyers to undertake pro bono work.
- It creates goals not only with respect to the amount of pro bono work to be undertaken, but also with regard to the structural and policy elements that are essential for the creation and maintenance of a pro bono-friendly firm culture.
- It links Challenge firms to the extensive consultative services and resources available from PBI and its Law Firm Pro Bono Project.
- It includes an accountability mechanism and an outcome measurement through its annual reporting requirement.

While statistics are an important measurement tool, the Challenge is not limited to quantifiable goals. Rather, it provides a framework, a set of expectations, and operational and policy elements that are the keys to major law firms' ability to institutionalize and strengthen the culture and operations of their pro bono programs. Since the inception of the Challenge, PBI has worked with law firms to promulgate pro bono policies; enhance their relationships with public interest, legal services, pro bono programs and other groups, including the courts; improve the oversight and staffing of firms' pro bono work; design and implement pro bono partnerships with corporate legal departments; improve processes for planning and evaluating pro bono efforts; create more accurate time-keeping mechanisms; incorporate a number of innovative pro bono models – including signature projects, rotation/externship programs, global efforts, integration with other firm goals including professional development, talent management, diversity, and associate satisfaction, and more; and successfully encourage many firms to expand the breadth and depth of their pro bono docket. Indeed, the Challenge's success in enhancing pro bono culture and performance led our sister project, Corporate Pro Bono, a partnership project of PBI and the Association of Corporate Counsel, to launch the Corporate Pro Bono Challenge<sup>SM</sup> in 2005.

With only minimal changes made in the language and principles of the Challenge since its creation, the Law Firm Pro Bono Challenge<sup>®</sup> has become the industry standard by which firms define, measure, and assess their pro bono achievements. It has also become a rallying point and a catalyst that enables firms to contribute meaningfully to their local communities, to the national justice system, and to communities around the world despite economic cycles and other pressures.

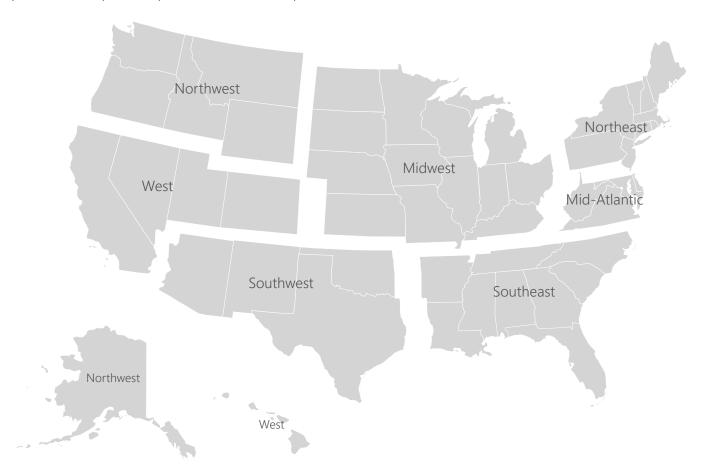
### METHODOLOGY

This year marked the first time the survey was exclusively distributed in an electronic format. This method increased not only the efficiency of the data gathering process, but also the accuracy of the data, since responses for all submissions were standardized. In particular, the improved accuracy lays an excellent foundation for PBI to do more complex aggregate analyses going forward and provides Signatories with additional valuable insights concerning trends in pro bono activities.

While maintaining complete confidentiality as promised to Challenge firms, the Project continues a multi-year longitudinal analysis of Challenge data with the pro bono assistance of advisors from Deloitte Financial Advisory Services LLP. Some of the charts from that analysis are available in this report, while additional material will be forthcoming.

Prior to the current report, firms have historically been asked to report metrics for Partners and Associates. For the purposes of the current report, firms were asked to separately report Counsel and Staff/Other Attorneys as well. For purposes of analysis, attorneys designated as Counsel have been included with Partners and Staff/Other Attorneys with Associates.

While it is now rare to find a firm claiming a particular city as its headquarters, historically firms have made that designation. The regional breakdown included in this analysis classifies firms by their historical headquarters. With the globalization of the practice of law, categorizing firms in this manner may cause some inaccuracies, but still provides a snapshot of pro bono in different parts of the U.S.



### CHALLENGE SIGNATORY LAW FIRM REPORTERS

We thank and congratulate the 133 Challenge Signatory Firms whose commitment to pro bono is positively reflected in this report, and we look forward to a renewed and expanded level of commitment in 2013.

\*Akin Gump Strauss Hauer & Feld Alston & Bird \*Arent Fox Armstrong Teasdale Arnall Golden Gregory \*Arnold & Porter Baker & McKenzie Baker Botts Ballard Spahr Barnes & Thornburg Beveridge & Diamond \*Bingham McCutchen Blank Rome Bradley Arant Boult Cummings Briggs and Morgan Brown Rudnick \*Bryan Cave Buchanan Ingersoll & Rooney \*Carlton Fields \*Cleary Gottlieb Steen & Hamilton Coblentz, Patch, Duffy, & Bass Cooley \*Covington & Burling Cozen O'Connor Crowell & Moring Davis Wright Tremaine Day Pitney \*Debevoise & Plimpton Dechert \* Dentons US Dickstein Shapiro \*DLA Piper (US) \*Dorsey & Whitney Dow Lohnes \*Drinker Biddle & Reath Dvkema Gossett Edwards Wildman Palmer Epstein Becker & Green Washington, DC Office Only Faegre Baker Daniels Farella Braun + Martel Fenwick & West Foley & Lardner Foley Hoag \*Fredrikson & Byron Fried, Frank, Harris, Shriver & Jacobson Fulbright & Jaworski

\*Garvey Schubert Barer \*Gibbons Gibson, Dunn & Crutcher Goodwin Procter **Goulston & Storrs** Graves, Dougherty, Hearon & Moody \*Hogan Lovells \*Holland & Hart \*Holland & Knight Hollingsworth Hughes Hubbard & Reed \*Hunton & Williams Husch Blackwell Irell & Manella \*Jenner & Block K&L Gates Kave Scholer Kilpatrick Townsend & Stockton King & Spalding Washington, DC Office Only Kirkland & Ellis Kramer Levin Naftalis & Frankel Latham & Watkins Leonard, Street and Deinard Lindquist & Vennum Linklaters New York Office Only Loeb & Loeb Lowenstein Sandler Manatt, Phelps & Phillips Maslon Edelman Borman & Brand Mayer Brown McCarter & English McDermott Will & Emery **McGuireWoods** McKenna Long & Aldridge Michael Best & Friedrich Milbank, Tweed, Hadley & McCloy Miller & Chevalier Miller Nash Mintz, Levin, Cohn, Ferris, Glovsky and Popeo Morgan, Lewis & Bockius \*Morrison & Foerster \*Munger, Tolles & Olson \*Nelson Mullins Riley & Scarborough

Nixon Peabody Nutter McClennen & Fish O'Melveny & Myers **Oppenheimer Wolff & Donnelly** \*Orrick, Herrington & Sutcliffe Patterson Belknap Webb & Tyler Patton Boggs Paul Hastings \*Paul, Weiss, Rifkind, Wharton & Garrison Pepper Hamilton Perkins Coie Pillsbury Winthrop Shaw Pittman \*Proskauer Rose Quarles & Brady \*Reed Smith Robins, Kaplan, Miller & Ciresi Robinson & Cole Saul Ewing Schiff Hardin Schnader Harrison Segal & Lewis Sevfarth Shaw \*Shearman & Sterling \*Shipman & Goodwin Sidley Austin Simpson Thacher & Bartlett \*Skadden, Arps, Slate, Meagher & Flom Snell & Wilmer \*Steptoe & Johnson LLP Sutherland Asbill & Brennan Thompson Coburn Troutman Sanders Van Cott, Bagley, Cornwall & McCarthy \*Venable Vinson & Elkins Vorys, Sater, Seymour and Pease Weil, Gotshal & Manges White & Case Wiley Rein Williams & Connolly \*Wilmer Cutler Pickering Hale and Dorr Wilson Sonsini Goodrich & Rosati \*Winston & Strawn Womble Carlyle Sandridge & Rice Zuckerman Spaeder

\* denotes Charter Signatories to the Challenge

These firms did not report in 2012:

Carrington, Coleman, Sloman & Blumenthal Chadbourne & Parke Cohen Milstein Sellers & Toll Finnegan, Henderson, Farabow, Garrett & Dunner \*Miller, Canfield, Paddock and Stone Rodey, Dickason, Sloan, Akin, & Robb Strasburger & Price

Merged Firm

Baker & Daniels

### **Dissolved Firm**

Dewey & LeBoeuf

\* denotes Charter Signatories to the Challenge

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September 2013



# LAW FIRM PRO BONO PROJECT



# Report on the Law Firm Pro Bono Challenge®

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The Pro Bono Institute, established in 1996, provides research, consultative services, analysis and assessment, publications, and training to a broad range of legal audiences.

#### Mission

The Pro Bono Institute is mandated to explore and identify new approaches to and resources for the provision of legal services to the poor, disadvantaged, and other individuals or groups unable to secure legal assistance to address critical problems. We do so by supporting, enhancing, and transforming the pro bono efforts of major law firms, in-house corporate legal departments, and public interest organizations in the U.S. and around the world.

#### The Law Firm Pro Bono Project

PBI's Law Firm Pro Bono Project is the only global effort designed to support and enhance the pro bono culture and performance of major law firms in the U.S. and around the world. The Project's goal is to fully integrate pro bono into the practice, philosophy, and culture of firms so that large law firms provide the institutional support, infrastructure, and encouragement essential to fostering a climate supportive of pro bono service and promoting attorney participation at all levels.

#### The Law Firm Pro Bono Challenge®

PBI's Law Firm Pro Bono Challenge<sup>®</sup>, launched in 1993 and implemented in 1995, is a unique, aspirational pro bono standard. Developed by law firm leaders and corporate general counsel, the Challenge articulates a voluntary, single standard for one key segment of the legal profession – major law firms. (A copy of the Challenge is attached.) Challenge Signatories publicly acknowledge their institutional, firm-wide commitment to provide pro bono legal services to low-income and disadvantaged individuals and families and nonprofit groups. The Challenge includes a narrow, but thoughtful definition of pro bono that has become the industry standard for large law firms, as well as an accountability mechanism and measurement tool through its performance benchmarks and an annual reporting requirement.

Download additional copies of this report at www.probonoinst.org.

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### EXECUTIVE SUMMARY

The Report on the 2013 Pro Bono Institute Law Firm Pro Bono Challenge<sup>®</sup> statistics examines the pro bono performance of Signatories to the Law Firm Pro Bono Challenge<sup>®</sup> during the 2013 calendar year. Challenge Signatories have committed to contribute 3 or 5 percent (or at a few firms, 60 or 100 hours per attorney) of their annual total paying client billable hours to pro bono activities as defined by the Challenge and report their performance to PBI's Law Firm Pro Bono Project each year.

In 2013, Challenge Signatories maintained their pro bono commitment, culture, and infrastructure, despite a fragile economic recovery, major shifts in demographics and client demand, and continued uncertainty about future directions.

### Hours Per Attorney Increase

Average pro bono hours per attorney increased in 2013 to 65 hours per attorney, from 62.2 hours per attorney in 2012.

### **Overall Performance Remains High**

One hundred twenty-eight participating firms reported in 2013, performing an aggregated total of 4,335,429 hours of pro bono work, a slight increase in total pro bono hours over 2012, even with five fewer firms reporting in 2013 than in 2012.

### Meeting Their Challenge Goal

Among those firms that reported, 59% of the Challenge firms that articulated a 3%/60 hours/attorney goal met or exceeded that Challenge goal in 2013, up significantly from 47% in 2012.<sup>1</sup> The percentage of Challenge firms that articulated a 5%/100 hours/attorney goal and met or exceeded that goal declined slightly from 47% in 2012 to 45% in 2013.

### Charitable Giving Numbers Increase

Although fewer firms reported their donations to legal services organizations in 2013, the total amount of charitable giving increased to \$24,500,422 from \$21,402,171 in 2012. This represents a 14.5% increase over 2012 giving, with an average firm donation of \$471,162.



<sup>1.</sup> Due to a clerical error, the 2012 Report on the Law Firm Pro Bono Challenge<sup>®</sup> Statistics inaccurately reported that 49% of firms that articulated a 3%/60 hours/attorney goal met or exceeded that Challenge goal.

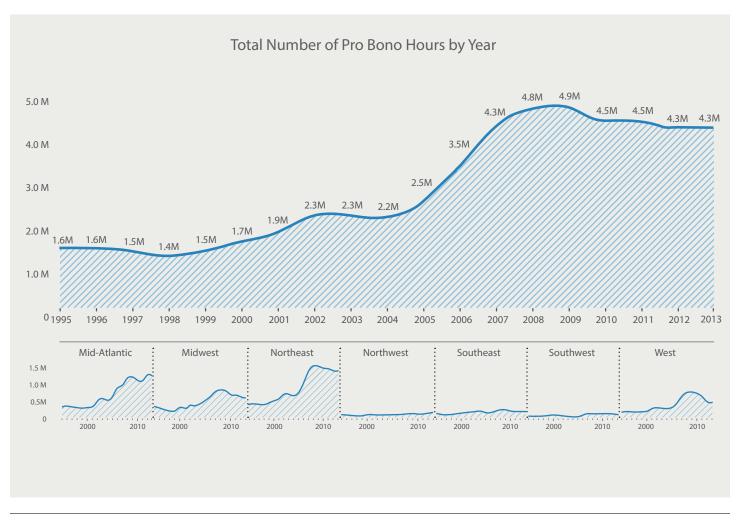
### INTRODUCTION

In 2013, Signatories to the Law Firm Pro Bono Challenge<sup>®</sup> contributed over 4.3 million hours of pro bono service. Although the difference is statistically insignificant, there was a small increase in overall pro bono hours from 2012.

### 2013 CHALLENGE PERFORMANCE DATA

### Highlights of Overall Pro Bono Performance

One hundred twenty-eight participating firms reported in 2013, performing an aggregated total of 4,335,429 hours of pro bono work, approximately 22,500 hours more than in 2012, when 133 participating firms reported an aggregated total of 4,312,868 hours of pro bono work. Although the total hours reported represents a minimal increase, the increase is notable because it occurred despite five fewer firms reporting (128 firms reported, 11 firms did not report, and one firm merged).<sup>2</sup>



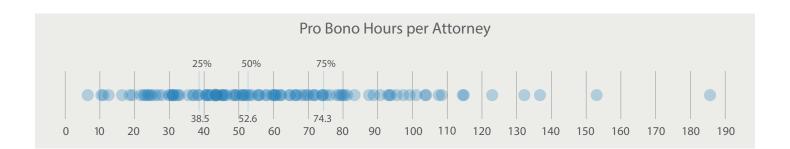
2. See Appendices i and ii for lists of firms that reported and those that did not.

From a regional perspective, the Northeast, with 42 firms reporting, had the highest number of hours of pro bono at 1,402,955 total hours, followed by the Mid-Atlantic region with 27 firms reporting an aggregate of 1,277,743 total pro bono hours, the Midwest (23 firms), the West (16 firms), the Southeast (10 firms), the Southwest (5 firms), and the Northwest (5 firms) regions. (States included in each region are delineated in the Methodology section at page 14.)

			, .		
Region	2013 # of Firms Reporting	2013 Pro Bono Hours	2012 # of Firms Reporting	2012 Pro Bono Hours	% Increase/ Decrease
Mid-Atlantic	27	1,277,743	31	1,319,477	-3.16%
Midwest	23	654,664	25	639,887	2.31%
Northeast	42	1,402,955	41	1,386,534	1.18%
Northwest	5	125,214	5	105,732	18.43%
Southeast	10	202,566	10	202,893	-0.16%
Southwest	5	159,941	5	157,493	1.55%
West	16	512,346	16	500,852	2.29%
Totals	128	4,335,429	133	4,312,868	0.52%

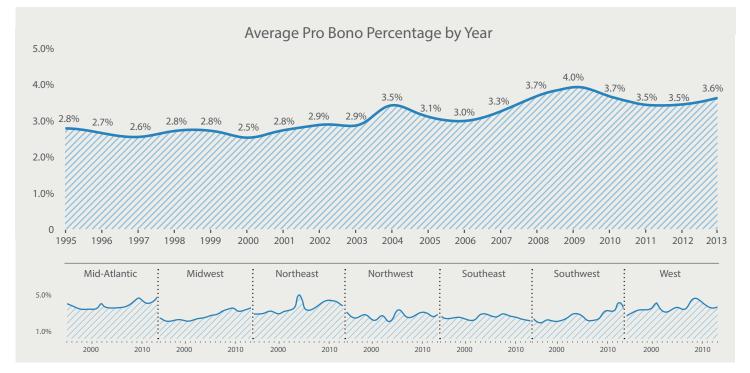
### Total Pro Bono Hours by Region

The chart below shows the distribution of pro bono hours per attorney in 2013 for each of the Challenge Signatories. The bottom 25% of reporting firms contributed between 6.5 and 38.5 hours per attorney. At the upper end of the scale, the top 25% of firms contributed between 74.3 and 185.7 hours per attorney in 2013. The median number of hours contributed in 2013 was 52.6.



#### Pro Bono Percentages by Year

Viewed as a percentage of total paying client billable hours, pro bono hours again show a slight increase in 2013 from 2012, with an average of just over 3.6% for all firms, despite five fewer firms reporting in 2013.



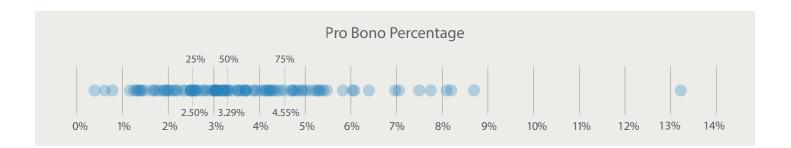
Regionally, the Mid-Atlantic, with 26 firms reporting, was the leader in average pro bono percentage at 4.65%, followed by the Northeast (41 firms) at 3.68% and the Southwest (5 firms) at 3.60%. The Midwest (23 firms) was marginally lower with an average pro bono percentage of 3.48%, while the West (15 firms) reported an average of 3.28% and the Northwest (5 firms) reported an average of 2.76% of their total paying client billable hours was spent on pro bono. The Southeast with 10 firms responding spent an average of 2.05% of their total paying client billable hours on pro bono. As compared with 2012, the Mid-Atlantic firms experienced the greatest increase in percentage of total paying client billable hours spent on pro bono, while the Southwest experienced the greatest decline.

#### Average Pro Bono Percentage

Region	2013 # of Firms Reporting	2013 Average Pro Bono Percentage	2012 # of Firms Reporting	2012 Average Pro Bono Percentage	% Increase/ Decrease
Mid-Atlantic	26	4.65%	29	3.96%	17.42%
Midwest	23	3.48%	25	3.21%	8.41%
Northeast	41	3.68%	41	3.84%	-4.17%
Northwest	5	2.76%	5	2.40%	15.00%
Southeast	10	2.05%	10	2.08%	-1.44%
Southwest	5	3.60%	5	4.03%	-10.67%
West	15	3.28%	15	3.17%	3.47%
Totals	125 <sup>3</sup>	3.63%	130	3.48%	4.31%

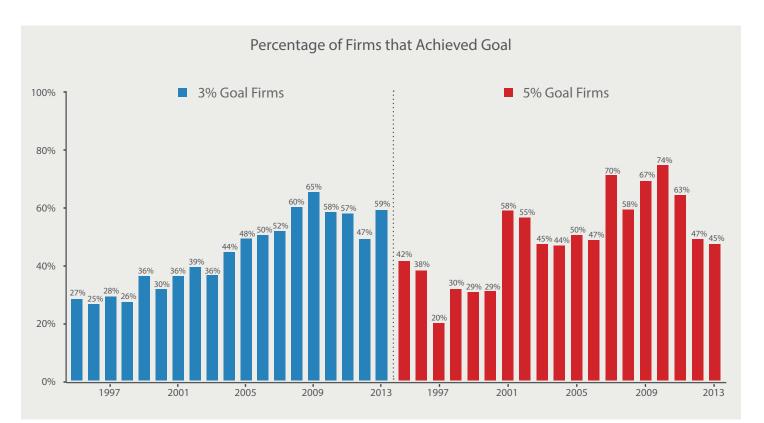
3. Total number of firms reporting in 2013 and 2012 differs from the the previous chart due to incomplete reporting by three firms each year.

The following graph illustrates the distribution of pro bono percentages for all reporting firms in 2013. Percentages range from less than 1% to more than 13% of total paying client billable hours. The median is 3.29% and the average is 3.63%. The top 25% of firms contributed at least 4.55% of their time to pro bono work.



### Reaching the Challenge Goal

Seventy-six firms met or exceeded their stated Challenge goal in 2013, an increase of 22.6% over the 62 firms that met or exceeded their Challenge goal in 2012. As seen below, 59% of Challenge firms that articulated a 3%/60 hour/attorney goal met or exceeded that Challenge goal in 2013, while 45% of the Challenge firms that articulated a 5%/100 hour/ attorney goal met or exceeded that goal in 2013.

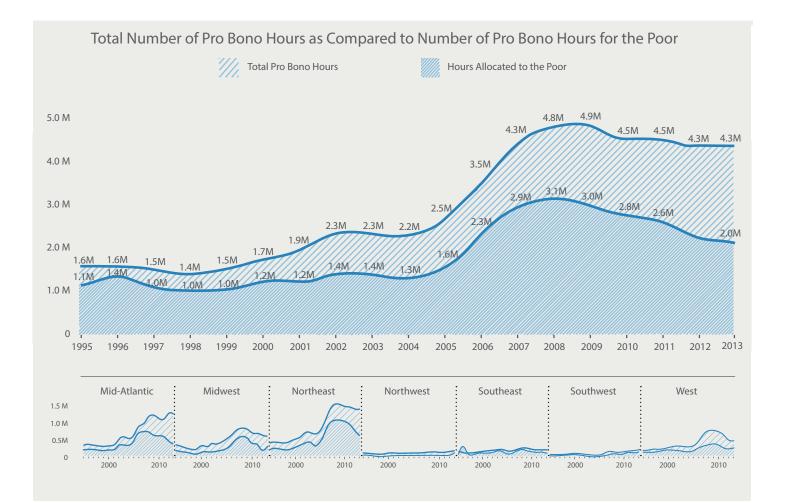


#### Service to Persons of Limited Means

In addition to establishing ambitious, progressive benchmarks – 3 or 5% of total paying client billable hours – for overall pro bono participation, the Challenge asks firms to devote a majority of their pro bono time to persons of limited means or to "charitable, religious, civic, community, governmental, and educational organizations in matters which are designed primarily to address the needs of persons of limited means." This element of the Challenge is particularly critical at this time, when poverty in the U.S. remains high and resources for legal aid have been severely diminished.

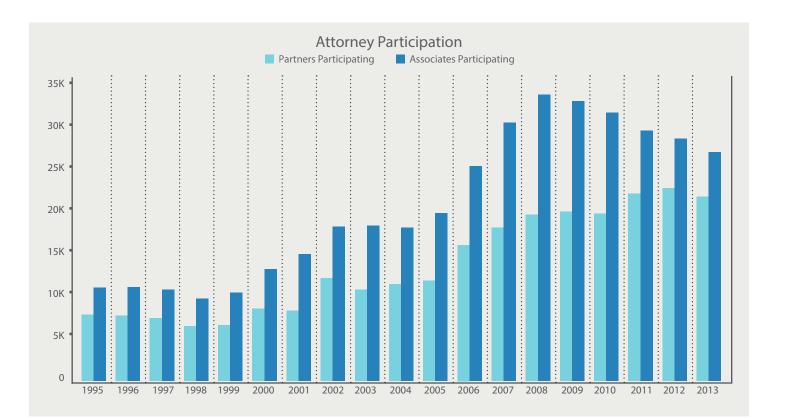
In 2012, for the first time since the Challenge was implemented, this Report did not include data on the hours and percentage of total pro bono time committed to persons of limited means and the organizations that serve them. The failure of a large number of Challenge Signatories to report specific or reliable data on this question meant that PBI, in turn, could not provide reliable aggregated statistics. In 2013, over one-half of the Challenge Signatories (80 firms) did report this data, allowing for at least a partial report.

In 2013, 80 firms reported that they provided 1,995,772 hours of service to persons of limited means or organizations serving them.



### Participation

Challenge Signatories reported total firm headcounts in 2013 of 66,695, a decrease from 69,303 total attorneys in 2012. In 2013, a total of 48,151 attorneys participated in pro bono compared to a total of 50,771 attorneys who participated in 2012. These numbers include 17,883 partners, 25,332 associates, 3,530 counsel, and 1,406 staff and other attorneys who participated in 2013 as compared to 18,546 partners, 27,021 associates, 3,893 counsel, and 1,311 staff and other attorneys who participated in 2012. As seen below, associate participation has continued to decrease in each of the past six years. Partner participation had shown an increase in each of the three previous years, however partner participation decreased in 2013.



The chart below shows a graphical representation of the regional breakdown of partner/associate participation in pro bono. Regionally, associate participation is greatest in the Mid-Atlantic and Midwest regions, where associate participation was 86.44% and 87.15% respectively. The West, Southeast, and Northeast regions were in a virtual three-way tie in the level of associate participation in 2013 at 80.19%, 80.96%, and 78.88% respectively. The Northwest and Southwest regions reported 69.99% and 68.25% associate participation respectively. The Mid-Atlantic at 70.69%, the Northeast at 64.60%, the Southeast at 62.91%, and the Midwest at 61.98% led the way in partner participation while the West, Northwest, and Southwest remained fairly consistent with 2012 levels of partner participation.

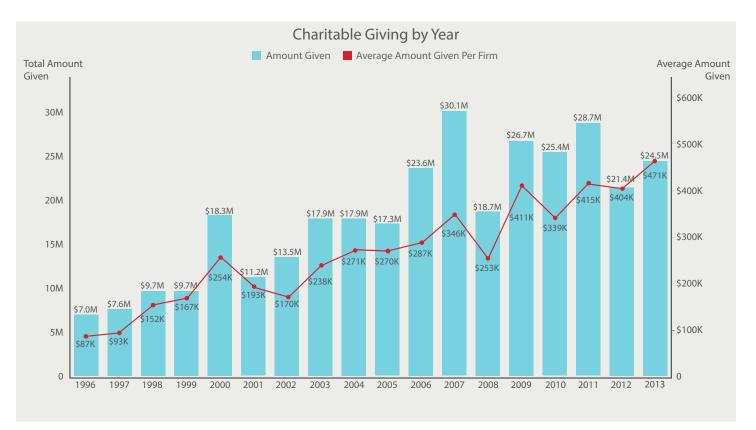


#### 2013 Participation Rates

Region	# of Firms in Region Reporting	Partner Participation Rate	Associate Participation Rate	Firm Participation Rate
Mid-Atlantic	27	70.69%	86.44%	78.56%
Midwest	23	61.98%	87.15%	72.29%
Northeast	42	64.60%	78.88%	72.39%
Northwest	5	50.41%	69.99%	58.48%
Southeast	10	62.91%	80.96%	70.59%
Southwest	5	48.31%	68.25%	58.99%
West	14	56.45%	80.19%	68.92%
Totals	126	63.27%	81.40%	72.20%

### Charitable Donations

In addition to asking Challenge Signatories to provide statistical information as required by the Challenge, PBI asks firms to respond to several optional questions, including providing supplemental information on charitable donations to legal services organizations. In 1996 (the first year for which this information is available), 81 firms reported that they had donated \$6,800,902 to legal services organizations. In 2013, 52 firms reported they had donated \$24,500,422 to legal services organizations. This total is up from 2012, when 53 firms reported donating \$21,402,171. In 2013, the average firm donation was \$403,815.<sup>4</sup> See the chart below for a comparison of firm donations since 1996.



The graph below shows the distributions of charitable amounts reported in 2013. The figures range from a low of \$10,000 to a high of \$8.9 million. The median amount given is \$173,510 and the average amount given is \$471,162.



3. Due to a clerical error, the 2012 Report on the Law Firm Pro Bono Challenge<sup>®</sup> Statistics inaccurately reported that the average firm donation was \$382,000.

LAW FIRM PRO BONO PROJECT

### TAKEAWAYS AND ACTION ITEMS

The pro bono performance of Challenge Signatories in 2013 offers a basis for cautious optimism and underscores the need for rethinking and reaffirming pro bono efforts at major law firms.

### Pro Bono is a Core Value

- The Law Firm Pro Bono Project's longitudinal data indicates that law firm pro bono does not follow an unswerving, upward trajectory. Therefore, it is encouraging that pro bono performance in 2013 improved over the prior year and appears healthy and steady, with several firms showing significant expansion (in excess of 20% over 2012). These results indicate that the institutionalization of pro bono within law firms as a critical element of their culture, identity, and work generally continues unabated.
- Differences in pro bono performance among various regions of the country demonstrate that differences persist in culture, leadership, and availability of pro bono opportunities, which greatly impact on pro bono participation, vitality, and outcomes.
- Law firm probono efforts are having an impact on local, regional, national, and global scales. Lives are being improved and justice is being served every day. Inspiring and creative innovations to advance access to justice are being developed and replicated; new collaborations and partnerships, with both familiar and unconventional stakeholders, are being advanced; and new delivery systems are being tested and tweaked. This period of experimentation is exhilarating and motivating; to riff on the classic commercial: this is not your father's (or mother's) law firm pro bono program any more.

### *Vigilance in Light of Continued Economic Uncertainty*

- By any measure, 2013 continued to be a challenging one for major law firms. By most indicators, 2013 was another flat year for economic growth in U.S. law firms, with continuing sluggish demand, persistent challenges of low productivity, ongoing corporate client pushback on rate increases, and a continuing struggle to maintain discipline on expenses. Against this backdrop, it is significant that pro bono performance emerged relatively strong and represents the fifth-highest hourly contribution of time since 1995. Although we all would have wished for greater growth in pro bono hours, the more than 4.3 million hours of pro bono reported in 2013 is a notable accomplishment in this unsettled business climate.
- Challenge Signatories continue to report changed demographics, with headcounts down in 2013 from 2012. With fewer lawyers, it is remarkable that both aggregated total pro bono hours and average pro bono hours per attorney increased in 2013.
- One cautionary sign is a possible pattern of decreasing associate participation in pro bono. This is explained partly by overall reductions in headcounts (especially in sizes of incoming new associate classes) and business pressures. 2013 saw a continuation of the familiar pattern of associate billable hours exceeding those of equity partners by 100-120 hours per year according to some estimates. While the data indicates that law firm lawyers at all levels of seniority, including a significant number of partners, are engaged in pro bono, many associates simply do not have the capacity to take on major pro bono commitments. In light of these demographic changes, firms must revisit their pro bono policies, practices, and offerings, to ensure that they accommodate the current reality.

- On the business side, firms are making decisions about the future in the context of clear strategic visions of market segments that they can realistically expect to serve. Likewise, pro bono decisions need to be made, not as growth for growth's sake, but according to a viable and consensus-driven strategy, with clearly articulated goals.
- Many aspects of law firm operations (i.e., client relationships, business development, compensation, professional development, talent management, recruiting and retention, diversity, marketing, pricing, project management, advancement to partnership, career trajectories, etc.) are under review and in flux. The pro bono program should reflect and be aligned with these changed practices and new environment.
- Firms must address whether and how all aspects of the pro bono program, including administration and oversight, need to adapt to accommodate new firm realities and emerging priorities. To ensure that pro bono efforts remain vital and relevant, leaders must think strategically about using pro bono to not only service their communities and enhance access to justice, but also to strengthen and inform critical firm priorities, such as talent management and client relationships. To that end, firm leadership (at all levels and in all offices and practice groups) must continue to send strong and consistent messages about the importance of pro bono and the value placed on it by the firm.
- Times of transition and change, however, pose challenges and offer opportunities for pro bono. Firms need to continue to carefully evaluate not only the amount of pro bono work they perform, but the efficacy of their efforts to ensure that they are making the highest and best use of their finite pro bono resources. Now is the time to evaluate the impact of your work and make informed, educated, and possibly difficult decisions moving forward.

### Enhancing Access to Justice through Service and Charitable Giving

- The Challenge asks firms to devote a "majority" of their pro bono hours to persons of limited means or to organizations which serve them. This element of the Challenge is particularly critical at this time, when poverty in the U.S. remains high and resources for legal aid have been severely diminished.
- After a year (2012) in which we could not include reliable information on this metric due to insufficient and inaccurate reporting, this year the information provided indicates that this critical segment of pro bono work is fragile. Based on the information provided, on a cumulative basis, Challenge Signatories fell short of contributing a majority of their pro bono work to persons of limited means. There are several underlying reasons and confounding variables: (1) this data set is still limited and we will continue to work with firms to gather comprehensive and accurate information in response to this critical question from which we will be able to draw more definitive conclusions; (2) individual poverty law cases were traditionally handled by associates, and with the reduction in associate capacity discussed above, these matters may have been disproportionately affected or lost their appeal; (3) cut-backs in staffing and capacity at legal services organizations have reduced their ability to screen and refer these pro bono clients and to recruit, train, mentor, and support pro bono attorneys; and (4) a pronounced trend in certain quarters towards time-limited pro bono offerings, such as brief advice clinics, at the expense of more intensive and time-demanding representations and projects.
- Firms should ensure that the information and data they are compiling about their pro bono performance is as accurate, consistent, and reliable as possible. In particular, reliable information on pro bono work for people of limited means is critical to efforts to advocate for increased funding for legal services organizations. The access to justice community must be able to convincingly demonstrate that the legal profession supports work for low-income Americans, that we pro bono assistance for low-income citizens is being maximized, and that funding dollars are being leveraged with significant in-kind private contributions. Conversely, an inability to collect and report comprehensive information from Challenge Signatories about their pro bono work for people of limited means contributes to the perception that large firms are not supporting legal aid programs as much as they could, and that they should do more before other funding streams, especially public ones, be made available.

A significant brightspot is the level of financial support provided by law firms to nonprofit legal groups whose expertise and assistance make law firm pro bono possible. The total amount of charitable giving increased to \$24,500,422 from \$21,402,171 in 2012. This represents a 14.5% increase over 2012 giving, with an average firm donation of \$471,162. Reporting of financial contributions is optional for Challenge Signatories, making it difficult to draw definitive conclusions from the data. However, because firm contributions are essential to maintaining an effective pipeline and support network for legal services, and, in return for law firm pro bono efforts, this large increase in contributions is encouraging. Legal aid, pro bono, and public interest organizations are essential parts of the pro bono infrastructure, and their loss of capacity directly and negatively impacts the pro bono efforts of major law firms. We applaud the increase in financial support from firms at a time when all expenses are being carefully scrutinized.

#### The Year Ahead

- The Law Firm Pro Bono Project will continue to serve as a counselor, resource, strategic advisor, trainer, and catalyst
  and offer expert guidance on law firm pro bono in the short and long-terms. We will also serve as a convener of
  leaders and key stakeholders to promote experimentation, dialogue, and collaboration on how, working together,
  we can build on the strength, dedication, creativity, and maturation of law firm pro bono to strengthen access to
  justice.
- As we have written elsewhere, the legal market may be currently poised for what could be a reordering based on the same type of disruptive forces that have restructured other businesses and industries. It is intriguing to consider how pro bono could be part of – or even be a leading disruptive force. Rather than exclusively trying to build a "bigger" pro bono program, firms should be focused on building "better" pro bono programs.
- We will continue to work with firms to collect accurate and comprehensive data, to streamline and simplify our
  collection and reporting tools, and to use this vital information to assess and make informed recommendations
  about pro bono service. Although the Challenge data is not perfect, it provides the reliability and rigor that are
  essential to tracking performance, identifying trends, obstacles, and opportunities, and enabling all of us to use
  that information to enhance pro bono.
- 2015 will mark the 20th year since the implementation of the Law Firm Pro Bono Challenge<sup>®</sup>. We look forward to exploring this milestone through both historic, longitudinal scholarship and forward-looking, agenda-setting advocacy, and welcoming even more firms as Challenge Signatories.

Law Firm Pro Bono Project Pro Bono Institute 1025 Connecticut Ave., NW Suite 205 Washington, DC 20036 202.729.6699 probono@probonoinst.org www.probonoinst.org October 2014

### ABOUT THE LAW FIRM PRO BONO CHALLENGE®

The Law Firm Pro Bono Challenge<sup>®</sup>, developed by law firm leaders and corporate general counsel, articulates a single standard for one critical segment of the legal profession – firms ranging in size from 50 to more than 4,000 lawyers. The Challenge has become the definitive aspirational pro bono standard for large law firms throughout the world. It is unique for several reasons:

- It uses a progressive standard i.e., a target of either 3 or 5 percent of a firm's total paying client billable hours (equivalent to 60 or 100 hours per attorney) which ties pro bono performance to firm productivity and profitability.
- It calls for an institutional commitment, rather than an individual lawyer goal, in recognition of the reality that the policies and practices of law firms are keys to the ability and willingness of firm lawyers to undertake pro bono work.
- It creates goals not only with respect to the amount of pro bono work to be undertaken, but also with regard to the structural and policy elements that are essential for the creation and maintenance of a pro bono-friendly firm culture.
- It links Challenge Signatories to the extensive consultative services and resources available from PBI and its Law Firm Pro Bono Project.
- It includes an accountability mechanism and an outcome measurement through its annual reporting requirement.

While statistics are an important measurement tool, the Challenge is not limited to quantifiable goals. Rather, it provides a framework, a set of expectations, and operational and policy elements that are the keys to major law firms' ability to institutionalize and strengthen the culture and operations of their pro bono programs. Since the inception of the Challenge, PBI has worked with law firms to promulgate pro bono policies; enhance their relationships with public interest, legal services, pro bono programs and other groups, including the courts; improve the oversight and staffing of firms' pro bono work; design and implement pro bono partnerships with corporate legal departments; improve processes for planning and evaluating pro bono efforts; create more accurate time-keeping mechanisms; incorporate a number of innovative pro bono models – including signature projects, rotation/externship programs, global efforts, integration with other firm goals including professional development, talent management, diversity, and associate satisfaction, and more; and successfully encourage many firms to expand the breadth and depth of their pro bono docket. Indeed, the Challenge's success in enhancing pro bono culture and performance led Corporate Pro Bono, the global partnership project of PBI and the Association of Corporate Counsel, to launch the Corporate Pro Bono Challenge\* in 2005.

With only minimal changes made in the language and principles of the Challenge since its creation, the Law Firm Pro Bono Challenge<sup>®</sup> has become the industry standard by which firms define, measure, and assess their pro bono achievements. It has also become a rallying point and a catalyst that enables firms, despite economic cycles and other pressures, to contribute meaningfully to their local communities, to the national justice system, and to communities around the world.

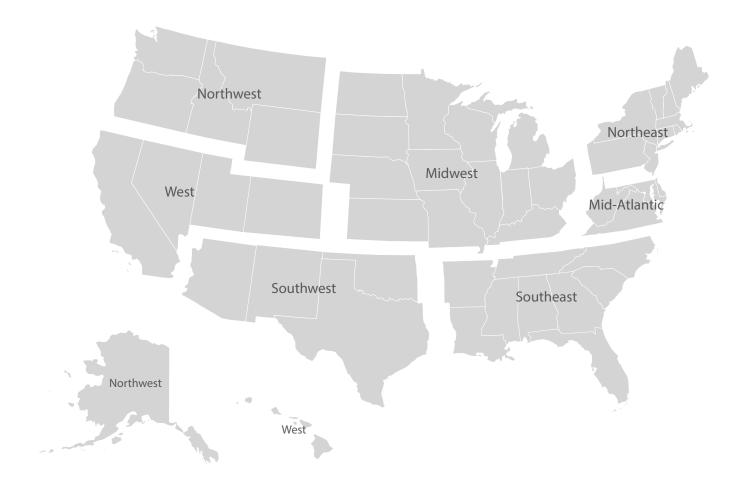
### METHODOLOGY

This year was the second time the survey was exclusively distributed in an electronic format. This method increased not only the efficiency of the data-gathering process, but also the accuracy of the data, since responses for all submissions were standardized. In particular, the improved accuracy lays a solid foundation for PBI to do more complex aggregate analyses going forward and provides Signatories with additional valuable insights concerning trends in pro bono activities.

While maintaining complete confidentiality as promised to Challenge Signatories, the Project continues a multi-year longitudinal analysis of Challenge data with the pro bono assistance of advisors from Deloitte Financial Advisory Services LLP.

Prior to the current Report, firms have historically been asked to report metrics for Partners and Associates. For 2013, firms were asked to separately report Counsel and Staff/Other Attorneys as well. For purposes of analysis during this transition, attorneys designated as Counsel have been included with Partners and Staff/Other Attorneys with Associates.

The regional breakdown included in this analysis classifies firms by their historical headquarters, although it is now rare for a firm to claim a particular city as its headquarters. With the globalization of the practice of law, categorizing firms in this manner may cause some inaccuracies, but still provides a snapshot of pro bono in different parts of the U.S.



### 2013 REPORTING CHALLENGE SIGNATORIES

We thank and congratulate the 128 Challenge Signatories whose commitment to pro bono is positively reflected in this Report, and we look forward to a renewed and expanded level of commitment in 2014.

\*Akin Gump Strauss Hauer & Feld Alston & Bird \*Arent Fox Armstrong Teasdale Arnall Golden Gregory \*Arnold & Porter Baker & McKenzie Baker Botts Ballard Spahr Barnes & Thornburg Beveridge & Diamond \*Bingham McCutchen Blank Rome **Bradley Arant Boult Cummings Brown Rudnick** \*Bryan Cave Buchanan Ingersoll & Rooney \*Carlton Fields Jorden Burt Chadbourne & Parke \*Cleary Gottlieb Steen & Hamilton Coblentz, Patch, Duffy, & Bass Cohen Milstein Sellers & Toll Cooley \*Covington & Burling Cozen O'Connor Crowell & Morina Davis Wright Tremaine Day Pitney \*Debevoise & Plimpton Dechert \* Dentons US Dickstein Shapiro \*DLA Piper (US) \*Dorsey & Whitney \*Drinker Biddle & Reath Dykema Gossett Edwards Wildman Palmer Epstein Becker & Green Washington, DC Office Only Faegre Baker Daniels Farella Braun + Martel Fenwick & West Foley Hoag \*Fredrikson & Byron Fried, Frank, Harris, Shriver & Jacobson

\*Garvey Schubert Barer \*Gibbons Gibson, Dunn & Crutcher Goodwin Procter Goulston & Storrs Graves, Dougherty, Hearon & Moodv \*Hogan Lovells \*Holland & Hart \*Holland & Knight Hughes Hubbard & Reed \*Hunton & Williams Husch Blackwell Irell & Manella \*Jenner & Block K&L Gates Kaye Scholer Kilpatrick Townsend & Stockton King & Spalding Washington, DC Office Only Kirkland & Ellis Kramer Levin Naftalis & Frankel Latham & Watkins Lindquist & Vennum Linklaters New York Office Only Loeb & Loeb Lowenstein Sandler Manatt, Phelps & Phillips Maslon Edelman Borman & Brand Maver Brown McCarter & English McDermott Will & Emery **McGuireWoods** \*McKenna Long & Aldridge Milbank, Tweed, Hadley & McCloy Miller & Chevalier Miller Nash Mintz, Levin, Cohn, Ferris, Glovsky and Popeo Morgan, Lewis & Bockius \*Morrison & Foerster \*Munger, Tolles & Olson \*Nelson Mullins Riley & Scarborough Nixon Peabody

Norton Rose Fulbright Nutter McClennen & Fish O'Melveny & Myers **Oppenheimer Wolff & Donnelly** \*Orrick, Herrington & Sutcliffe Patterson Belknap Webb & Tyler Paul Hastings \*Paul, Weiss, Rifkind, Wharton & Garrison Pepper Hamilton Perkins Coie Pillsbury Winthrop Shaw Pittman \*Proskauer Rose Quarles & Brady \*Reed Smith Robins, Kaplan, Miller & Ciresi Saul Ewing Schiff Hardin Schnader Harrison Segal & Lewis Seyfarth Shaw \*Shearman & Sterling \*Shipman & Goodwin Sidley Austin Simpson Thacher & Bartlett \*Skadden, Arps, Slate, Meagher & Flom Snell & Wilmer Squire Patton Boggs \*Steptoe & Johnson LLP Stinson Leonard Street Sutherland Asbill & Brennan Thompson Coburn **Troutman Sanders** Van Cott, Bagley, Cornwall & McCarthy \*Venable Vinson & Elkins Vorys, Sater, Seymour and Pease White & Case Wiley Rein Williams & Connolly \*Wilmer Cutler Pickering Hale and Dorr Wilson Sonsini Goodrich & Rosati \*Winston & Strawn Womble Carlyle Sandridge & Rice Zuckerman Spaeder

\* denotes Charter Signatories to the Challenge

### 2013 NON-REPORTING CHALLENGE SIGNATORIES

These firms did not report in 2013:

Briggs and Morgan Carrington, Coleman, Sloman & Blumenthal Finnegan, Henderson, Farabow, Garrett & Dunner Foley & Lardner Hollingsworth Michael Best & Friedrich \*Miller, Canfield, Paddock and Stone Robinson & Cole Rodey, Dickason, Sloan, Akin, & Robb Strasburger & Price Weil, Gotshal & Manges

### **Merged Firms**

Dow Lohnes

\* denotes Charter Signatories to the Challenge



## LAW FIRM PRO BONO PROJECT



# Report on the Law Firm Pro Bono Challenge®



The Pro Bono Institute, established in 1996, provides research, consultative services, analysis and assessment, publications, and training to a broad range of legal audiences.

#### Mission

The Pro Bono Institute is mandated to explore and identify new approaches to and resources for the provision of legal services to the poor, disadvantaged, and other individuals or groups unable to secure legal assistance to address critical problems. We do so by supporting, enhancing, and transforming the pro bono efforts of major law firms, in-house legal departments, and public interest organizations in the U.S. and around the world.

#### Law Firm Pro Bono Project

PBI's Law Firm Pro Bono Project is the only global effort designed to support and enhance the pro bono culture and performance of major law firms in the U.S. and around the world. The Project's goal is to fully integrate pro bono into the practice, philosophy, and culture of firms so that large law firms provide the institutional support, infrastructure, and encouragement essential to fostering a climate supportive of pro bono service and promoting attorney participation at all levels.

#### Law Firm Pro Bono Challenge®

PBI's Law Firm Pro Bono Challenge<sup>®</sup>, launched in 1993 and implemented in 1995, is a unique, aspirational pro bono standard. Developed by law firm leaders and corporate general counsel, the Challenge articulates a voluntary, single standard for one key segment of the legal profession – major law firms. (A copy of the Challenge is attached.) Challenge Signatories publicly acknowledge their institutional, firm-wide commitment to provide pro bono legal services to low-income individuals and nonprofit groups that serve them. The Challenge includes a narrow, but thoughtful definition of pro bono that has become the industry standard for large law firms and others, as well as an accountability mechanism and measurement tool through its performance benchmarks and annual reporting requirement.

Download additional copies of this Report at www.probonoinst.org.

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# **EXECUTIVE SUMMARY**

The Report on the 2014 Pro Bono Institute Law Firm Pro Bono Challenge<sup>®</sup> statistics examines the pro bono performance of Signatories to the Law Firm Pro Bono Challenge<sup>®</sup> during the 2014 calendar year. Challenge Signatories have committed to contribute 3 or 5% (or at a few firms, 60 or 100 hours per attorney) of their annual total paying client billable hours to pro bono activities as defined by the Challenge and report their performance to PBI's Law Firm Pro Bono Project each year.

In 2014, Challenge Signatories maintained their pro bono commitment, culture, and infrastructure, while experiencing an increase in client demand and without a significant increase in headcount.

## **Overall Performance**

Total pro bono hours remained steady in 2014. One hundred thirty-three firms reported performing an aggregated total of 4,207,551 hours of pro bono work in 2014, a slight decrease in total pro bono hours from 2013.

## Participation

The percentage of attorneys engaged in pro bono remained steady in 2014. The percentage of partners participating in pro bono increased to 65.0% from 63.3% in 2013, while the percentage of associates participating in pro bono decreased slightly to 81.1% from 81.4% in 2013. The cumulative participation rate increased, with 73.0% of attorneys participating in pro bono in 2014, compared to 72.2% in 2013.

## Pro Bono for Those of Limited Means

In 2014, 121 firms reported on pro bono hours to those of limited means and the organizations serving them, up significantly from 80 firms in 2013. The total number of these hours increased from 2.0 million hours in 2013 to 2.9 million hours in 2014. Sixty-nine percent of all pro bono time was devoted to those of limited means and the organizations serving them in 2014.

## Meeting Their Challenge Goal

Fifty-three percent of the Challenge Signatories that articulate a 3%/60 hours/attorney goal met or exceeded that Challenge goal in 2014, down from 59% in 2013. The percentage of Challenge Signatories that articulate a 5%/100 hours/attorney goal and met or exceeded that goal increased slightly from 45% in 2013 to 47% in 2014.



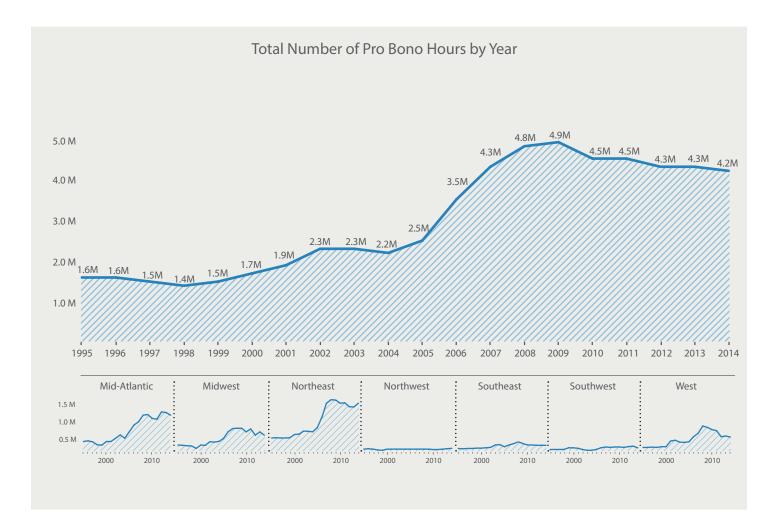
## INTRODUCTION

In 2014, Signatories to the Law Firm Pro Bono Challenge<sup>®</sup> contributed more than 4.2 million hours of pro bono service. Although the difference is statistically insignificant, there was a small decrease (2.95%) in total pro bono hours from 2013.

## 2014 CHALLENGE PERFORMANCE DATA

### Highlights of Overall Pro Bono Performance

One hundred thirty-three firms reported in 2014, performing an aggregated total of 4,207,551 hours of pro bono work, approximately 127,900 hours less than in 2013, when 128 participating firms reported an aggregated total of 4,335,429 hours of pro bono work.<sup>1</sup>



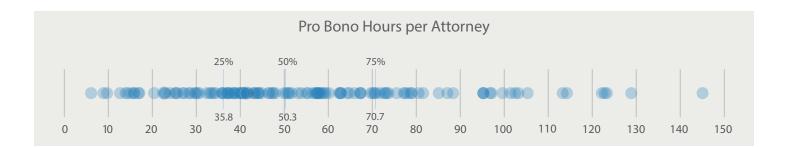
<sup>1.</sup> See Appendices B and C for lists of firms that reported and those that did not.

From a regional perspective, the Northeast, with 43 firms reporting, had the highest number of hours of pro bono at 1,473,480 total hours, followed by the Mid-Atlantic region with 30 firms reporting an aggregate of 1,236,053 total pro bono hours, the Midwest (23 firms), the West (16 firms), the Southeast (10 firms), the Northwest (5 firms), and the Southwest (6 firms) regions.<sup>2</sup>

			nours by negion			
Region	2014 # of Firms Reporting	2014 Pro Bono Hours	2013 # of Firms Reporting	2013 Pro Bono Hours	% Increase/ Decrease	
Mid-Atlantic	30	1,236,053	27	1,277,743	-3.26%	
Midwest	23	609,640	23	654,664	-6.88%	
Northeast	43	1,473,480	42	1,402,955	5.03%	
Northwest	5	137,771	5	125,214	10.03%	
Southeast	10	210,703	10	202,566	4.02%	
Southwest <sup>3</sup>	6	71,863	5	159,941	-55.07%	
West	16	468,041	16	512,346	-8.65%	
Totals	133	4,207,551	128	4,335,429	-2.95%	

### Total Pro Bono Hours by Region

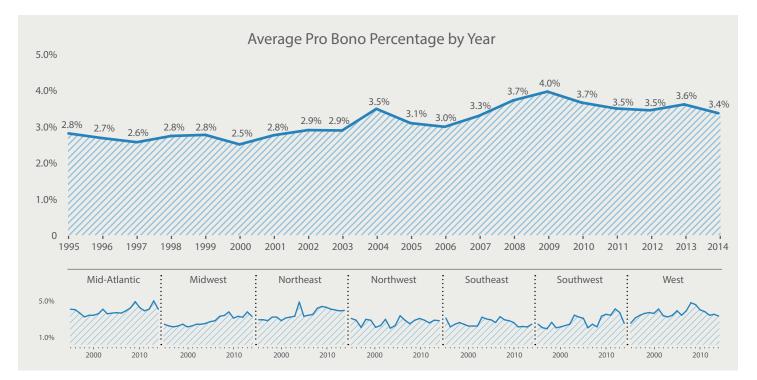
The graph below shows the distribution of pro bono hours per attorney in 2014 for each Challenge Signatory. The bottom 25% of reporting firms contributed between 6.0 and 35.8 hours per attorney. At the upper end of the scale, the top 25% of firms contributed between 70.7 and 145.1 hours per attorney. The median number of hours contributed per attorney in 2014 was 50.3 and the average was 60.1.



2. The states included in each region are delineated in the Methodology section at Appendix A.

3. The pro bono performance of the Southwest region was disproportionately affected by incomplete reporting for 2014.

### Pro Bono Percentages by Year



Viewed as a percentage of total paying client billable hours, pro bono hours showed a slight decrease in 2014, with an average of 3.39%.

Regionally, the Mid-Atlantic, with 29 firms reporting, was the leader in average pro bono percentage at 3.88%, followed by the Northeast (43 firms) at 3.72% and the Midwest (23 firms) at 3.23%. The West (15 firms) reported an average of 3.08%, while the Northwest (5 firms) reported an average of 2.75%. The Southeast (9 firms) and the Southwest (6 firms) reported that an average of 2.28% and 2.22%, respectively, of their total paying client billable hours was spent on pro bono. As compared with 2013, the Southeast firms experienced the greatest increase in percentage of total paying client billable hours spent on pro bono, while the Southwest experienced the greatest decline.

Average	Pro	Bono	Percentage
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Region	2014 # of Firms Reporting	2014 Average Pro Bono Percentage	2013 # of Firms Reporting	2013 Average Pro Bono Percentage	% Increase/ Decrease	
Mid-Atlantic	29	3.88%	26	4.65%	-16.56%	
Midwest	23	3.23%	23	3.48%	-7.18%	
Northeast	43	3.72%	41	3.68%	1.09%	
Northwest	5	2.75%	5	2.76%	-0.36%	
Southeast	9	2.28%	10	2.05%	11.22%	
Southwest	6	2.22%	5	3.60%	-38.33%	
West	15	3.08%	15	3.28%	-6.10%	
Totals	130 <sup>4</sup>	3.39%	125	3.63%	-6.61%	

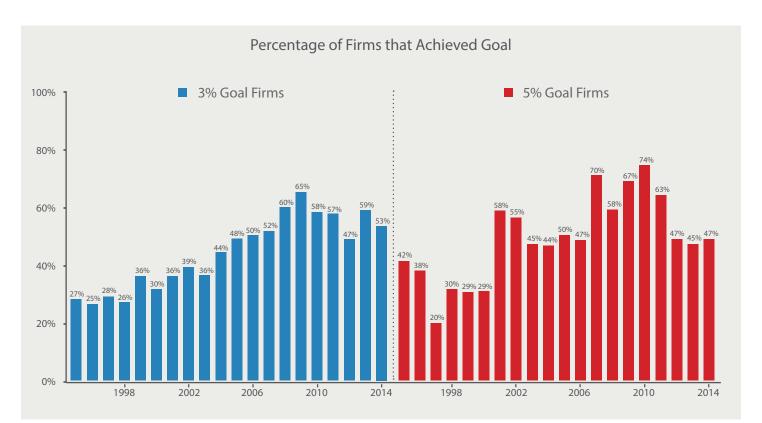
4. The total number of firms reporting in 2014 and 2013 differs from the the previous chart due to incomplete reporting by three firms each year.

The following graph illustrates the distribution of pro bono percentages for all reporting firms in 2014. Percentages range from less than 1% to more than 8% of total paying client billable hours. The median is 3.13% and the average is 3.39%. The top 25% of firms contributed at least 4.39% of their time to pro bono work.



### Reaching the Challenge Goal

Sixty-eight firms met or exceeded their stated Challenge goal in 2014, a decrease of 10.5% from the 76 firms that met or exceeded their Challenge goal in 2013. As seen below, 53% of Challenge Signatories that articulate a 3%/60 hour/ attorney goal met or exceeded that Challenge goal in 2014, while 47% of the Challenge Signatories that articulate a 5%/100 hour/attorney goal met or exceeded that goal in 2014.

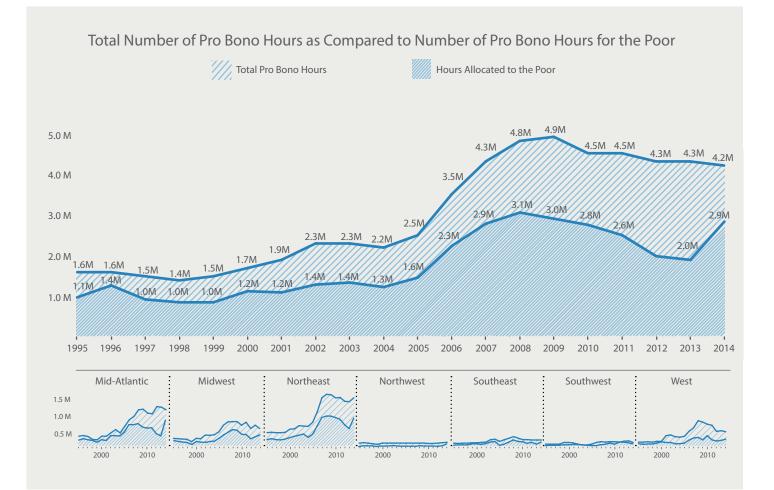


#### Service to Persons of Limited Means

In addition to establishing ambitious, progressive benchmarks – 3 or 5% of total paying client billable hours – for overall pro bono participation, the Challenge (Principle 3) asks firms to devote a majority of their pro bono time "to persons of limited means or to charitable, religious, civic, community, governmental, and educational organizations in matters which are designed primarily to address the needs of persons of limited means." This element of the Challenge remains particularly critical at this time, when poverty in the U.S. remains high and resources and staffing for legal aid have been severely diminished.

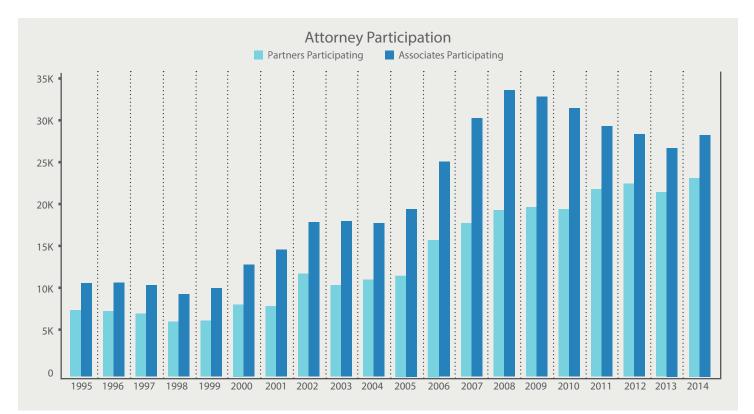
For several years, the failure of a large number of Challenge Signatories to report reliable data on the hours and percentage of total pro bono time committed to persons of limited means and the organizations that serve them meant that PBI, in turn, could not provide reliable aggregated statistics. PBI made a concerted effort in 2014 to encourage and work with Challenge Signatories to report these hours.

In 2014, 121 Challenge Signatories reported 2,915,044 actual or estimated hours of service to persons of limited means and the organizations that serve them, an increase of 41 additional reporting firms and an increase of 919,272 hours of service to persons of limited means and the organizations that serve them. Sixty-nine percent of all pro bono time was devoted to those of limited means and the organizations serving them in 2014. Collectively, Signatories are meeting their Challenge commitment to devote a "majority" of their pro bono time to people of limited means.

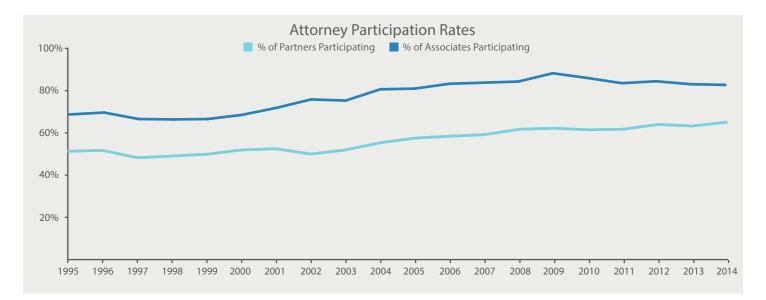


### Participation

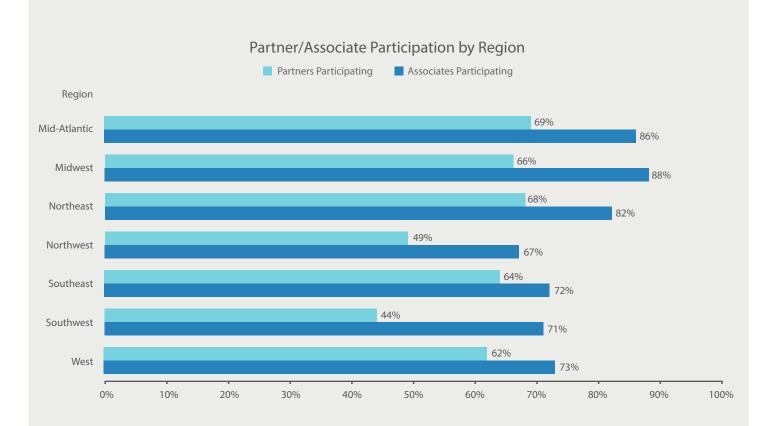
Challenge Signatories reported total firm headcounts in 2014 of 69,961, an increase from 66,695 total attorneys in 2013. In 2014, a total of 51,079 attorneys participated in pro bono compared to a total of 48,151 attorneys who participated in 2013. These numbers include 18,825 partners; 26,263 associates; 3,997 counsel; and 1,995 staff and other attorneys who participated in 2014 as compared to 17,883 partners; 25,332 associates; 3,530 counsel; and 1,406 staff and other attorneys who participated in 2013.



Participation rates in 2014 increased for partners and remained steady for associates, decreasing only slightly from 2013. As seen below, 65.0% of partners and 81.1% of associates participated in pro bono in 2014, compared to 63.3% and 81.4%, respectively, in 2013. Collectively, 73.0% of attorneys participated in pro bono in 2014, up from 72.2% in 2013.



The graph below shows a regional breakdown of partner/associate participation in pro bono. Regionally, associate participation is greatest in the Midwest, Mid-Atlantic, and Northeast regions, where associate participation was 88.0%, 85.6%, and 81.7%, respectively. The West, Southeast, and Southwest regions were in a virtual three-way tie in the level of associate participation in 2014 at 72.5%, 71.7%, and 70.6%, respectively. The Northwest region reported 67.0% associate participation. The Mid-Atlantic at 68.5%, the Northeast at 67.8%, the Southeast at 62.9%, and the Midwest at 65.6% led the way in partner participation.



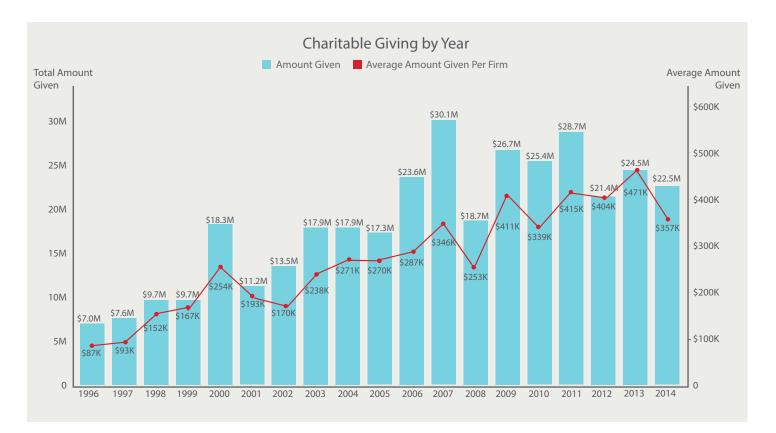
### 2014 Participation Rates

Region	2014 # of Firms Reporting	2014 Partner Participation Rate	2014 Associate Participation Rate	2014 Firm Participation Rate	2013 # of Firms Reporting	2013 Partner Participation Rate	2013 Associate Participation Rate	2013 Firm Participation Rate
Mid-Atlantic	30	68.5%	85.6%	76.9%	27	70.7%	86.4%	78.6%
Midwest	23	65.6%	88.0%	74.7%	23	62.0%	87.2%	72.3%
Northeast	43	67.8%	81.7%	75.7%	42	64.6%	78.9%	72.4%
Northwest	5	49.2%	67.0%	56.6%	5	50.4%	70.0%	58.5%
Southeast	10	64.4%	71.7%	67.5%	10	62.9%	81.0%	70.6%
Southwest	б	44.4%	70.6%	57.9%	5	48.3%	68.3%	59.0%
West	15	61.6%	72.5%	67.4%	14	56.5%	80.2%	68.9%
Totals	132 <sup>5</sup>	65.0%	81.1%	73.0%	126	63.3%	81.4%	72.2%

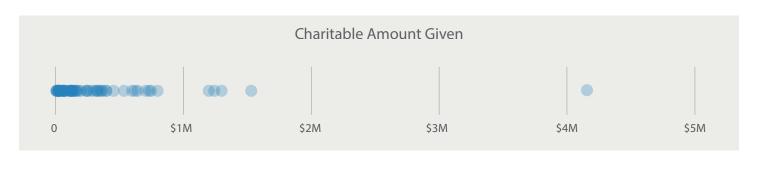
<sup>5.</sup> The total number of firms reporting in 2014 and 2013 differs from the total numbers of firms reporting overall due to incomplete reporting by one firm in 2014 and two firms in 2013.

### Charitable Donations

In addition to asking Challenge Signatories to provide statistical information as required by the Challenge, PBI asks firms to respond to several optional questions, including providing supplemental information on charitable donations to legal services organizations. In 1996 (the first year for which this information is available), 81 firms reported that they had donated \$6,800,902 to legal services organizations. In 2014, 63 firms reported that they had donated \$22,459,684 to legal services organizations. This total is down from 2013 when 52 firms reported they had donated \$24,500,422 to legal services organizations.<sup>6</sup> In 2014, the average firm donation was \$356,503, down from from 2013, when the average firm donation was \$471,162. See the graph below for a comparison of firm donations since 1996.



The graph below shows the distribution of charitable amounts reported in 2014. The figures range from a low of \$7,500 to a high of \$4.2 million. The median amount given is \$155,000 and the average amount given is \$356,503.



6. The decline in raw giving numbers may be misleading and requires additional context to be accurately interpreted. Real world factors such as firms prepaying commitments and making advance or multiple payments in any calendar or fiscal year account for a portion of the year-to-year fluctuation in charitable donations, but stability in the overall amounts being donated.

LAW FIRM PRO BONO PROJECT

# TAKEAWAYS AND ACTION ITEMS

Law firm pro bono in 2014 can best be described as "stable," which, for the most part, is good news. Although the slim decrease in aggregate hours may, at first blush, appear to be cause for concern and other outlets may characterize 2014 as a "down year" for pro bono, in-depth analysis of the data offers a basis for cautious optimism and underscores the need for vigilance and long-term, strategic thinking.

### Pro Bono is a Core Value

- The Law Firm Pro Bono Project's longitudinal data indicate that law firm pro bono does not follow an unswerving, upward trajectory. While total hours (with five additional firms reporting) declined slightly, other aspects of pro bono performance in 2014 improved over the prior year. Pro bono appears healthy and steady, with numerous firms showing significant expansion (in excess of 20% over 2013), demonstrating that growth is feasible.
- A majority of Challenge Signatories reported level or improved pro bono performance over 2013, which is a clear
  indication that pro bono is being re-imagined and restructured to take into account changes in law firm practice.
  This metric is a positive sign for the future. When coupled with the increase in partner-level and total attorney
  participation rates, these data points indicate that the institutionalization of pro bono within law firms as a critical
  element of their culture, identity, and work generally continues unabated. Pro bono is integral to how these firms
  are doing business and operate.
- Pro bono performance varies greatly by geographic region, which demonstrates the need to address persistent differences in culture, leadership, infrastructure, and the availability of pro bono opportunities.
- As we celebrate the 20th anniversary of the implementation of the Challenge, a look back provides some needed perspective and context: the first data collection from 1995 yielded information from 135 Challenge Signatories, who reported 1.6 million pro bono hours and an average of 53.3 pro bono hours per attorney. In 2014, 133 Challenge Signatories reported 4.2 million pro bono hours and an average of 60 pro bono hours per attorney.
- Law firm pro bono efforts are having an impact on local, national, and global scales. Lives are being improved, rights are being protected, and access to justice is being advanced every day. Inspiring and creative innovations are being developed, assessed, and replicated; collaborations and partnerships, with both familiar and unconventional stakeholders, are being formed; and delivery systems are being tested and tweaked. This period of experimentation is exhilarating and motivating and should be acknowledged and celebrated. In short, the impact of pro bono goes beyond the numbers.

### Resilience in Light of Continued Economic Challenges

Albeit modestly better than 2013, 2014 continued to be a challenging one for major law firms, marked by lackluster financial performance. By most indicators, the year was characterized by, at best, modest growth in the demand for legal services, persistent softness in the market for litigation services, the decision by many corporate clients to shift more legal work in-house, the growing willingness of clients to disaggregate services among many different providers, the growth in market share of non-traditional competitors, and a continuing struggle to maintain discipline on expenses. Against this backdrop, it is significant that pro bono performance emerged relatively strong. Although we all would have wished for growth in aggregate pro bono hours, the more than 4.2 million hours of pro bono reported in 2014, combined with increased lawyer participation rates, is a notable accomplishment in this unrelentingly difficult business climate. (Total pro bono hours in 2013 included hours reported by Bingham McCutchen. The dislocation of that firm's lawyers resulted in fewer reported pro bono hours in 2014, an anomaly that does not necessarily reflect overall law firm pro bono performance.)

- Challenge Signatories reported an increase in client demand, as reflected in two million additional billable hours, with only a small uptick in lawyer "headcount." With law firm lawyers working at full capacity, it is remarkable that pro bono performance remained steady in 2014.
- The increase in partner participation in pro bono is also encouraging. Despite acute business pressures, the participation rate for partners rose from 63% to 65% in 2014 (associate participation held steady at 81%, and combined participation rose slightly to 73%). Partners, however, typically devote fewer hours to pro bono matters and are often attracted to more sophisticated pro bono engagements. While law firm lawyers at all levels of seniority are engaged in pro bono, firms should continue to revisit and assess their pro bono policies, practices, and offerings to ensure that they accommodate current reality and demographics. Firms that have not revisited the scope, sources, or flow of pro bono work recently would be well served to ensure that all firm lawyers are addressed and accommodated by an updated menu of pro bono opportunities.
- Law firm operations (i.e., client relationships, business development, geographic footprint, compensation, professional development, talent management, recruiting and retention, diversity, marketing, pricing, project management, advancement to partnership, career trajectories, etc.) are in flux. The pro bono program should reflect and be aligned with any changed practices and new environment.
- Firms must address whether and how all aspects of the pro bono program, including administration and oversight, need to adapt to accommodate new firm realities and emerging priorities. To ensure that pro bono efforts remain vital and relevant, leaders must think strategically about using pro bono to not only service their communities and enhance access to justice, but also to strengthen and inform critical firm priorities, such as talent management and client relationships. To that end, firm leadership (at all levels and in all offices and practice groups) must continue to send authentic, strong, frequent, and consistent messages about the importance of pro bono as a core firm value.
- As the numbers demonstrate, declines in pro bono performance are not inevitable. Conduct a self-assessment and go data-mining. Firms need to continue to carefully evaluate the efficacy of their efforts to ensure that they are making the highest and best use of their finite pro bono resources. Now is the time to evaluate the impact of your pro bono work and make informed, educated, and possibly difficult decisions. What is working well and what is not? Which segments of the firm are improving their pro bono performance and which are lagging? What are you doing to re-engage lawyers who have not been actively involved in pro bono recently? How are you acclimating laterals? How are you addressing emerging legal issues in your community? If your program is static, your pro bono performance will lag. The status quo is not inevitable. As many Challenge Signatories are demonstrating every day, law firm pro bono can flourish and grow.

### Enhancing Access to Justice through Service and Charitable Giving

- The Challenge asks firms to devote a "majority" of their pro bono hours to persons of limited means or to organizations which serve them. This element of the Challenge is particularly critical at this time, when poverty levels remain high and resources for legal aid are inadequate.
- After a hiatus during which we could not include reliable information on this metric due to insufficient and inaccurate reporting, the information provided in 2013 indicated that this critical segment of pro bono work was fragile. Last year on a cumulative basis, Challenge Signatories fell short of contributing a majority of their pro bono work to persons of limited means. In 2014, it appears, based on the actual and estimated figures reported, that poverty law work rebounded to approximately 69% of overall pro bono work. This is an encouraging sign, based on an increasingly robust and reliable data set.

- Firms should continue to ensure that the information and data they are compiling about their pro bono performance
  is accurate and reliable. In particular, information on pro bono work for people of limited means is critical to efforts
  to advocate for increased funding for legal services organizations. The access to justice community must be able
  to convincingly demonstrate that: (1) the legal profession supports legal services for low-income Americans; (2) we
  are maximizing pro bono assistance for low-income individuals; and (3) funding dollars are being leveraged with
  significant in-kind private contributions. Conversely, an inability to collect and report comprehensive information
  from Challenge Signatories about their pro bono work for people of limited means contributes to a perception that
  large firms are not adequately supporting legal aid programs, and that they should do more before other funding
  streams, especially public ones, are made available.
- The financial support provided by law firms to nonprofit legal groups whose expertise and assistance make law firm pro bono possible requires monitoring. The average amount contributed per law firm in 2014 decreased to approximately \$356,500. Reporting of financial contributions is optional for Challenge Signatories and does not, for the most part, consider in-kind donations, making it difficult to draw definitive conclusions. For example, the spike in 2013 may have simply reflected a bump in the litigation cycle, with the donation of one-time attorneys' fee awards collected in pro bono matters during the course of that year. Additionally, as part of our due diligence and vetting of the data, we discovered that one firm's charitable donations from year to year may fluctuate, leading to reasonable variances in the data, but stability in the amounts of funds actually donated.
- Firm contributions are critical to maintaining an effective pipeline and support network for legal services, and, in
  return for law firm pro bono efforts. Legal aid and public interest organizations are essential parts of the pro bono
  infrastructure, and any loss of capacity on their end directly and negatively impacts the pro bono efforts of major
  law firms. Even at a time when all expenses are being carefully scrutinized, we encourage firms to evaluate their
  financial and in-kind support for legal services organizations and consider creative and stretch increases when
  possible to maintain the quality and integrity of their own pro bono efforts.
- Until we achieve full funding for legal services, firms should continue to explore how they can best deploy their
  resources financial and in-kind and their human capital to lessen the time and cost of pro bono administration
  and infrastructure demands on legal services and public interest organizations. Firms should provide not only
  outstanding pro bono service to clients, but more efficient pro bono administration and infrastructure, so that
  more matters can be placed more easily.

### The Year Ahead

- 2015 marks the 20th year since the implementation of the Law Firm Pro Bono Challenge<sup>®</sup>. We look forward to exploring this milestone through both historic, longitudinal scholarship and forward-looking, agenda-setting advocacy, and welcoming even more firms as Challenge Signatories.
- As noted above and contrary to our assessment, we anticipate that other outlets will characterize 2014 as a "down" year for pro bono. Overall, we are heartened that Challenge Signatories are generally more successful than their peers who have not yet enrolled in the Challenge. While we do not claim causality, the correlation is notable. As Signatories often confirm, making a public commitment to the Challenge heightens awareness of pro bono internally, increases attorney participation, engages firm leadership, and sets a clear and shared goal for success. All of these elements combine to make it more likely that a firm's pro bono program will grow and succeed. For firms that have not yet joined because of a concern that you cannot meet the Challenge goals, we encourage you to sign on and use this tool to advance pro bono at your firm. There is no downside to enrolling, as we do not publish disaggregated statistics, nor do we in any way identify individual firms as having met or not met their Challenge goals.

- The Law Firm Pro Bono Project will continue to serve as a counselor, resource, strategic advisor, trainer, and catalyst
  and offer expert guidance on law firm pro bono in the short and long-terms. We will also serve as a convener of
  leaders and key stakeholders to promote experimentation, dialogue, and collaboration on how, working together,
  we can build on the strength, dedication, creativity, and maturation of law firm pro bono to strengthen access to
  justice.
- As we have written elsewhere, rather than exclusively trying to build "bigger" law firm pro bono programs, we
  advocate a focus on building "better" pro bono programs. This process requires being open to experimentation and
  evaluation and resisting the pull of the status quo and the power of the fear of failure to try new ideas to provide
  improved services to our pro bono clients. We cannot enable "entrenched success" to make law firm pro bono
  vulnerable or be blinded by past success. In other words, law firm pro bono programs cannot rest on their laurels.
- Hours, hours, hours. Metrics create incentives and shape behaviors. To the extent they capture and measure incomplete or wrong inputs, they can lock in inefficient ways of working and thinking and produce resistance to change. Should we regard a firm as providing higher value because its lawyers clock more pro bono hours? Should a year be looked at more favorably simply because Challenge Signatories reported more aggregated total pro bono hours? The Challenge looks at several nuanced metrics to evaluate pro bono performance, but it is (past) time to assess the metrics themselves. Let's carefully evaluate not only the amount of pro bono work being undertaken, but also the outcomes and impact of that work to ensure that we are making the highest and best use of our pro bono performance and service to clients: Quality and consistency of work? Timeliness and helpfulness of services provided? Efficiency with which services are performed? The skill with which projects are managed? The worth to the client or results obtained? The "social good"? The quality of the volunteer experience, engagement, and impact on the firm? PBI will continue our ongoing effort to address these complicated and compelling questions.
- Although the Challenge data is not perfect, it provides the reliability and rigor that are essential to tracking performance; identifying trends, obstacles, and opportunities; and enabling us to use that information to enhance pro bono and better serve our pro bono clients. We will continue to recruit additional Signatories, work with firms to collect accurate and comprehensive data, to streamline and simplify our collection and reporting tools, and to use this information to assess and make informed recommendations about pro bono service.

Law Firm Pro Bono Project Pro Bono Institute 1025 Connecticut Ave., NW Suite 205 Washington, DC 20036 202.729.6699 probono@probonoinst.org www.probonoinst.org June 2015

## METHODOLOGY

Once again, the survey was distributed in an electronic format, which allows for greater efficiency in the data-gathering process and improved accuracy of the data, which is carefully vetted prior to analysis. Additionally, the survey was more streamlined this year, with fewer questions.

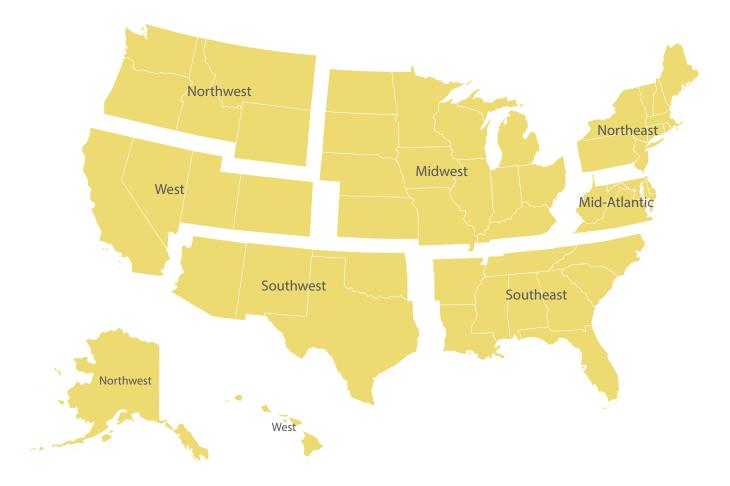
Some firms report attorney participation rates higher than 100%. For example, this occurs if the firm's headcount at the end of the year is smaller than the total number of attorneys who participated in pro bono throughout the year. For the purposes of data analysis in the Report, however, attorney participation was capped at 100%.

In 2014, aggregated data collected on pro bono hours devoted to those of limited means included both tracked and estimated data. The Project will continue to work with firms to develop comprehensive and accurate tracking systems.

Firms have historically been asked to report metrics for Partners and Associates. Since 2011, firms have been asked to separately report Counsel and Staff/Other Attorneys as well. For purposes of analysis, attorneys designated as Counsel have been included with Partners and Staff/Other Attorneys with Associates.

While maintaining complete confidentiality as promised to Challenge Signatories, the Project continues a multi-year longitudinal analysis of Challenge data with the pro bono assistance of advisors from Deloitte Financial Advisory Services LLP and is grateful for their support.

The regional breakdown included in this analysis classifies firms by their historical headquarters, although it is now rare for a firm to claim a particular city as its headquarters. With the globalization of the practice of law, categorizing firms in this manner may cause inaccuracies, but still provides a snapshot of pro bono in different regions of the U.S.



# 2014 REPORTING CHALLENGE SIGNATORIES

We thank and congratulate the 133 Challenge Signatories whose commitment to pro bono is positively reflected in this Report, and we look forward to a renewed and expanded level of commitment in 2015.

\*Akin Gump Strauss Hauer & Feld Alston & Bird \*Arent Fox Armstrong Teasdale Arnall Golden Gregory \*Arnold & Porter Baker & McKenzie Baker Botts Ballard Spahr Barnes & Thornburg Beveridge & Diamond Blank Rome **Bradley Arant Boult Cummings** Briggs and Morgan **Brown Rudnick** Brownstein Hyatt Farber Schreck \*Bryan Cave Buchanan Ingersoll & Rooney \*Carlton Fields Jorden Burt Carrington, Coleman, Sloman & Blumenthal Chadbourne & Parke \*Cleary Gottlieb Steen & Hamilton **Coblentz Patch Duffy & Bass** Cohen Milstein Sellers & Toll Cooley \*Covington & Burling Cozen O'Connor Crowell & Morina **Davis Wright Tremaine** Day Pitney \*Debevoise & Plimpton Dechert \* Dentons US Dickstein Shapiro \*DLA Piper (US) \*Dorsey & Whitney \*Drinker Biddle & Reath Dykema Gossett Epstein Becker & Green Washington, D.C. Office Only Faegre Baker Daniels Farella Braun + Martel Fenwick & West Finnegan, Henderson, Farabow, Garrett & Dunner Foley & Lardner Foley Hoag \*Fredrikson & Byron

Fried, Frank, Harris, Shriver & Jacobson \*Garvev Schubert Barer \*Gibbons Gibson, Dunn & Crutcher **Goodwin Procter** Goulston & Storrs Graves, Dougherty, Hearon & Moody \*Hogan Lovells \*Holland & Hart \*Holland & Knight Hollingsworth Hughes Hubbard & Reed \*Hunton & Williams Husch Blackwell Irell & Manella \*Jenner & Block K&L Gates **Kaye Scholer** Kilpatrick Townsend & Stockton King & Spalding Washington, D.C. Office Only Kirkland & Ellis Kramer Levin Naftalis & Frankel Latham & Watkins Lindquist & Vennum Linklaters New York Office Only Loeb & Loeb Lowenstein Sandler Manatt, Phelps & Phillips Maslon Mayer Brown McCarter & English McDermott Will & Emery **McGuireWoods** \*McKenna Long & Aldridge Michael Best & Friedrich Milbank, Tweed, Hadley & McCloy Miller & Chevalier Miller Nash Graham & Dunn Mintz, Levin, Cohn, Ferris, Glovsky and Popeo Morgan Lewis & Bockius \*Morrison & Foerster \*Munger, Tolles & Olson \*Nelson Mullins Riley & Scarborough

Nixon Peabody Nutter McClennen & Fish O'Melvenv & Mvers **Oppenheimer Wolff & Donnelly** \*Orrick, Herrington & Sutcliffe Patterson Belknap Webb & Tyler Paul Hastings \*Paul, Weiss, Rifkind, Wharton & Garrison Pepper Hamilton Perkins Coie Pillsbury Winthrop Shaw Pittman \*Proskauer Rose Quarles & Brady \*Reed Smith **Robins Kaplan** Robinson & Cole Saul Ewing Schnader Harrison Segal & Lewis Seyfarth Shaw \*Shearman & Sterling \*Shipman & Goodwin Sidley Austin Simpson Thacher & Bartlett \*Skadden, Arps, Slate, Meagher & Flom Snell & Wilmer Squire Patton Boggs \*Steptoe & Johnson LLP Stinson Leonard Street Strasburger & Price Sutherland Asbill & Brennan Thompson Coburn **Troutman Sanders** Van Cott, Bagley, Cornwall & McCarthy \*Venable Vinson & Elkins Weil, Gotshal & Manges White & Case Wiley Rein Williams & Connolly \*Wilmer Cutler Pickering Hale and Dorr Wilson Sonsini Goodrich & Rosati \*Winston & Strawn Womble Carlyle Sandridge & Rice Zuckerman Spaeder

\* denotes Charter Signatories to the Challenge

# 2014 NON-REPORTING CHALLENGE SIGNATORIES

These new Signatories enjoyed a reporting grace period in 2014:

Baker, Donelson, Bearman, Caldwell & Berkowitz Foley & Mansfield

These firms did not report in 2014:

\*Miller, Canfield, Paddock and Stone Norton Rose Fulbright Rodey, Dickason, Sloan, Akin, & Robb Schiff Hardin Vorys, Sater, Seymour and Pease

### **Dissolved Firm**

\*Bingham McCutchen

Merged Firm

Edwards Wildman Palmer

\* denotes Charter Signatories to the Challenge

# ABOUT THE LAW FIRM PRO BONO CHALLENGE®

The Law Firm Pro Bono Challenge<sup>®</sup>, developed by law firm leaders and corporate general counsel, articulates a single standard for one critical segment of the legal profession – firms with 50 or more lawyers. The Challenge has become the definitive aspirational pro bono standard for large law firms throughout the world. It is unique for several reasons:

- It uses a progressive standard i.e., a target of either 3 or 5% of a firm's total paying client billable hours (equivalent to 60 or 100 hours per attorney) which ties pro bono performance to firm productivity and profitability.
- It calls for an institutional commitment, rather than an individual lawyer goal, in recognition of the reality that the policies and practices of law firms are keys to the ability and willingness of firm lawyers to undertake pro bono work.
- It creates goals not only with respect to the amount of pro bono work to be undertaken, but also with regard to the structural and policy elements that are essential for the creation and maintenance of a pro bono-friendly firm culture.
- It links Challenge Signatories to the extensive consultative services and resources available from PBI's Law Firm Pro Bono Project.
- It includes an accountability mechanism and an outcome measurement through its annual reporting requirement.

While statistics are an important measurement tool, the Challenge is not limited to quantifiable goals. Rather, it provides a framework, a set of expectations, and operational and policy elements that are the keys to major law firms' ability to institutionalize and strengthen the culture and operations of their pro bono programs. Since the inception of the Challenge, PBI has worked with law firms to promulgate pro bono policies; enhance their relationships with public interest, legal services, pro bono programs and other groups, including the courts; improve the oversight and staffing of firms' pro bono work; design and implement pro bono partnerships with corporate legal departments; improve processes for planning and evaluating pro bono efforts; create more accurate time-keeping mechanisms; incorporate a number of innovative pro bono models – including signature projects, rotation/externship programs, global efforts, integration with other firm goals including professional development, talent management, diversity, and associate satisfaction, and more; and successfully encourage many firms to expand the breadth and depth of their pro bono docket. Indeed, the Challenge's success in enhancing pro bono culture and performance led Corporate Pro Bono, the global partnership project of PBI and the Association of Corporate Counsel, to launch the Corporate Pro Bono Challenge<sup>®</sup> in 2005.

With only minimal changes made in the language and principles of the Challenge since its creation, the Law Firm Pro Bono Challenge<sup>®</sup> has become the industry standard by which firms define, measure, and assess their pro bono achievements. It has also become a rallying point and a catalyst that enables firms, despite economic cycles and other pressures, to contribute meaningfully to their local communities, to the national justice system, and to communities around the world.

# Law Firm Pro Bono Challenge®

Recognizing the growing severity of the unmet legal needs of the poor and disadvantaged in the communities we serve, and mindful that major law firms must – in the finest traditions of our profession – play a leading role in addressing these unmet needs, our firm is pleased to join with other firms across the country in subscribing to the following statement of principles and in pledging our best efforts to achieve the voluntary goals described below.

- 1. Our firm recognizes its institutional obligation to encourage and support the participation by all of its attorneys in pro bono publico activities. We agree to promulgate and maintain a clearly articulated and commonly understood firm policy which unequivocally states the firm's commitment to pro bono work.
- 2. To underscore our institutional commitment to pro bono activities, we agree to use our best efforts to ensure that, by no later than the close of the calendar year, our firm will either:
  - (1) annually contribute, at a minimum, an amount of time equal to 5% of the firm's total billable hours or 100 hours per attorney to pro bono work; or
  - (2) annually contribute, at a minimum, an amount of time equal to 3% of the firm's total billable hours or 60 hours per attorney to pro bono work.
- 3. In recognition of the special needs of the poor for legal services, we believe that our firm's pro bono activities should be particularly focused on providing access to the justice system for persons otherwise unable to afford it. Accordingly, in meeting the voluntary goals described above, we agree that a majority of the minimum pro bono time contributed by our firm should consist of the delivery of legal services on a pro bono basis to persons of limited means or to charitable, religious, civic, community, governmental, and educational organizations in matters which are designed primarily to address the needs of persons of limited means.
- 4. Recognizing that broad-based participation in pro bono activities is desirable, our firm agrees that, in meeting the minimum goals described above, we will use our best efforts to ensure that a majority of both partners and associates in the firm participate annually in pro bono activities.
- 5. In furtherance of these principles, our firm also agrees:
  - a. To provide a broad range of pro bono opportunities, training, and supervision to attorneys in the firm, to ensure that all of our attorneys can avail themselves of the opportunity to do pro bono work;
  - b. To ensure that the firm's policies with respect to evaluation, advancement, productivity, and compensation of its attorneys are compatible with the firm's strong commitment to encourage and support substantial pro bono participation by all attorneys; and
  - c. To monitor the firm's progress toward the goals established in this statement and to report its progress annually to the members of the firm and to the Law Firm Pro Bono Project.

- 6. This firm also recognizes the obligation of major law firms to contribute financial support to organizations that provide legal services free of charge to persons of limited means.
- 7. As used in this statement, the term "pro bono" refers to activities of the firm undertaken normally without expectation of fee and not in the course of ordinary commercial practice and consisting of (i) the delivery of legal services to persons of limited means or to charitable, religious, civic, community, governmental, and educational organizations in matters which are designed primarily to address the needs of persons of limited means; (ii) the provision of legal assistance to individuals, groups, or organizations seeking to secure or protect civil rights, civil liberties, or public rights; and (iii) the provision of legal assistance to charitable, religious, civic, community, governmental, or educational organizations in matters in furtherance of their organizational purposes, where the payment of standard legal fees would significantly deplete the organization's economic resources or would be otherwise inappropriate.

FIRM
PARTNER EXECUTING ON BEHALF OF FIRM
ADDRESS
ADDRESS (CONT.)
CITY / STATE / ZIP
PHONE / EMAIL
DATE

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# Law Firm Pro Bono Challenge<sup>®</sup> Commentary to Statement of Principles

### Principle 1

Our firm recognizes its institutional obligation to encourage and support the participation by all of its attorneys in pro bono publico activities. We agree to promulgate and maintain a clearly articulated and commonly understood firm policy which unequivocally states the firm's commitment to pro bono work.

### COMMENTARY

### An Institutional Commitment

We ask that each law firm recognize and structure an active institutional commitment to pro bono publico service, rather than simply accommodating the interest and commitment of its individual attorneys. The goal of such institutional support is to ensure that the special resources and expertise of the firm are collectively focused on the management and implementation of an effective and productive pro bono effort and on the reduction or elimination of barriers to pro bono work. It is also designed to develop and nurture a firm culture in which pro bono service is a routine and valued part of each individual's professional life. The leadership of the firm should convey, in clear, unambiguous terms, the firm's commitment as an institution as well as its expectation that each individual will strive to help fulfill the firm-wide commitment. Many firms have found that a comprehensive written pro bono policy is an excellent vehicle for communicating that commitment. The firm should then implement its policy through a structured program that fosters pro bono work.

### Principle 2

To underscore our institutional commitment to pro bono activities, we agree to use our best efforts to ensure that, by no later than the close of calendar year 2011, our firm will either:

- (1) annually contribute, at a minimum, an amount of time equal to 5 percent of the firm's total billable hours or 100 hours per attorney to pro bono work; or
- (2) annually contribute, at a minimum, an amount of time equal to 3 percent of the firm's total billable hours or 60 hours per attorney to pro bono work.

### COMMENTARY

### Quantifying the Commitment

We believe that the establishment of a concrete, quantifiable, firm-wide aspirational goal will assist firms in communicating support for pro bono and in assessing the overall effectiveness of their pro bono programs. The expression of that goal as a percentage of total billable hours, rather than as a goal of hours per individual attorney, underscores the institutional nature of the commitment. While we believe that it is both feasible and appropriate for major law firms to contribute 5 percent of their billable hours to pro bono activities, we recognize that substantial differences exist among firms with respect to their current levels of pro bono activity. Accordingly, we have provided firms with a choice between two alternative aspirational goals - a goal of 5 percent of total billable hours or a goal of 3 percent of total billable hours. Many firms already report contributions of pro bono time far in excess of either of these goals. Indeed, several major firms presently expend 8 percent or more of their time on pro bono activities. For other firms, accepting the challenge to aspire to even the lower of the two goals represents a dramatic expansion of their current level of effort. These levels are consonant with existing aspirational bar resolutions which call for annual goals of up to 80 hours per attorney.

For example, we anticipate that the 3 percent aspirational goal will translate into a per-attorney goal somewhat in excess of 50 hours annually, a commitment that is consistent with the aspirational goals established by the American Bar Association and many state and local bar associations. Many major law firms have established branch offices in foreign countries. Recognizing that pro bono service may not be feasible for attorneys in these offices, the 5 percent/3 percent goals should be applied only to the total billable hours performed by firm attorneys working in the United States, unless the firm specifically elects to report the time of all its attorneys regardless of location. In 2000, the Advisory Committee of the Project amended the Challenge to allow firms the option of selecting either a 5 percent/3 percent goal or a100/60 hours per attorney goal.

### Principle 3

In recognition of the special needs of the poor for legal services, we believe that our firm's pro bono activities should be particularly focused on providing access to the justice system for persons otherwise unable to afford it. Accordingly, in meeting the voluntary goals described above, we agree that a majority of the minimum pro bono time contributed by our firm should consist of the delivery of legal services on a pro bono basis to persons of limited means or to charitable, religious, civic, community, governmental, and educational organizations in matters which are designed primarily to address the needs of persons of limited means.

### COMMENTARY

### Pro Bono - Meeting the Need

While we recognize and applaud the rich diversity of pro bono activities undertaken by law firms, with respect to the minimum aspirational goal established by the Challenge, we strongly support a special emphasis by firms on the legal problems of persons of limited means. Studies routinely report that more than 80% of the civil legal needs of the poor are not presently being met. The resources and expertise of leading law firms should be brought to bear to assist the most vulnerable of our citizens in securing their rights. Legal services, as used in this Commentary, consists of a broad range of activities, including, among others, individual and class representation, legislative lobbying and administrative rulemaking, as well as legal assistance to organizations seeking to develop low-income housing, improve community services, or increase the financial resources of persons of limited means. Many activities traditionally viewed by firms as falling in other pro bono categories such as civil rights or civil liberties cases, environmental claims, community economic development, and consumer protection matters can, in fact, often also be accurately described as falling within the priority for legal services to persons of limited means. Emphasis on the legal needs of persons of limited means is not intended to supplant the involvement of firms in complex pro bono matters for other populations. Many major law firms have a strong commitment to public interest litigation and projects, including high impact class action suits and policy advocacy, that promote essential public policies and ensure that our society functions equitably. Firms undertaking these complex and time-consuming matters often commit resources far in excess of the Challenge's minimum goals.

### **Principle 4**

Recognizing that broad-based participation in pro bono activities is desirable, our firm agrees that, in meeting the minimum goals described above, we will use our best efforts to ensure that a majority of both partners and associates in the firm participate annually in pro bono activities.

### COMMENTARY

Broadbased Participation in Pro Bono

While we urge the firm's institutional support for pro bono, that support will be enhanced if pro bono publico service is the concern of all lawyers in the firm rather than only a few highly committed individuals. Experience has demonstrated that broadbased participation at all levels, including the most senior members of the firm, is a key element in developing and nurturing a successful firm pro bono program. Myriad opportunities for service exist - opportunities that will interest and challenge senior partners as well as young associates, business and tax lawyers as well as litigators. Broadbased participation in pro bono service promotes firm-wide support for that activity and serves as a concrete and visible affirmation of the firm's institutional commitment. Finally, by involving lawyers with a broad range of interests and skills, the firm can enrich its service to the community.

### **Principle 5**

In furtherance of these principles, our firm also agrees:

a. To provide a broad range of pro bono opportunities, training, and supervision to attorneys in the firm, to ensure that all of our attorneys can avail themselves of the opportunity to do pro bono work;

b. To ensure that the firm's policies with respect to evaluation, advancement, productivity, and compensation of its attorneys are compatible with the firm's strong commitment to encourage and support substantial pro bono participation by all attorneys; and

c. To monitor the firm's progress toward the goals established in this statement and to report its progress annually to the members of the firm and to the Law Firm Pro Bono Project.

### COMMENTARY

Promoting and Recognizing Pro Bono Service

a. We encourage firms actively to seek out a broad range of pro bono opportunities for their lawyers and to provide or secure the necessary support, training, and supervision so that lawyers will be encouraged to take on these cases or projects. Pro bono matters should be administered in the same manner as commercial work. All of the firm's resources and support services should be available to the pro bono attorney, and the matter should be subject to the firm's oversight and quality control procedures. It is especially important that all pro bono matters be supervised in a manner consistent with the firm's overall supervision requirements. One obstacle that often limits participation in pro bono work is the concern that a firm lacks sufficient substantive expertise in particular areas of law. Many firms have taken steps to ensure that the necessary substantive supervision is available by identifying experts within or outside of the firm or by providing or securing training for firm attorneys. A number of firms have established a pro bono committee, identified an individual to serve as the firm's pro bono coordinator, or otherwise formally assigned someone in the firm the responsibility for ensuring that the firm offers interesting pro bono opportunities and supports its lawyers in undertaking pro bono work. A formalized structure for identifying, screening, and monitoring pro bono work strengthens the visibility and effectiveness of the firm's overall pro bono effort.

b. In an era of increased expectations with respect to billable hours, receipts, or similar measures, a firm's commitment to pro bono must include positive incentives to perform that work. Whether this takes the form of billable hours credit, receivables equivalent credit, or some other form of recognition for time spent on pro bono work will depend on the firm's existing incentives system. It is equally important that participation in pro bono work be identified as one criterion for positive evaluations and advancement in the firm. Many firms have developed systems to ensure that such evaluations explicitly include assessment of pro bono work. Firms have also established supplemental efforts to promote recognition of pro bono work, such as firm-wide pro bono awards and bonus programs.

c. As part of its institutional commitment, the firm should monitor its progress in meeting its aspirational minimum goal, as well as its level of involvement in legal services to persons of limited means, and should disseminate information on the status of the pro bono program broadly within the firm. To assist the Law Firm Pro Bono Project in assessing the impact of the Law Firm Challenge on the availability of pro bono firm resources, the firm will also provide information to the Project. That information will be confidential and will not be released in any form which identifies a specific firm.

### Principle 6

This firm also recognizes the obligation of major law firms to contribute financial support to organizations that provide legal services free of charge to persons of limited means.

### COMMENTARY

### **Financial Support**

The level of firm pro bono commitment identified in the Law Firm Challenge is not intended to replace or diminish a firm's monetary contributions to organizations that provide legal services to persons of limited means. The Challenge commitment is one of actual service and personal involvement in pro bono work. We strongly encourage law firms to continue and expand their financial support of legal services organizations. These organizations need both service and monetary contributions from major law firms.

### Principle 7

As used in this statement, the term pro bono refers to activities of the firm undertaken normally without expectation of fee and not in the course of ordinary commercial practice and consisting of (i) the delivery of legal services to persons of limited means or to charitable, religious, civic, community, governmental and educational organizations in matters which are designed primarily to address the needs of persons of limited means; (ii) the provision of legal assistance to individuals, groups, or organizations seeking to secure or protect civil rights, civil liberties or public rights; and (iii) the provision of legal assistance to charitable, religious, civic, community, governmental, or educational organizations in matters in furtherance of their organizational purposes, where the payment of standard legal fees would significantly deplete the organization's economic resources or would be otherwise inappropriate.

### COMMENTARY

### Definition of Pro Bono

The definition of pro bono contained in the Challenge, although somewhat revised, tracks existing policy definitions adopted by the American Bar Association, state and local bar associations, and many law firms. The definition ensures that the firm and its attorneys can utilize varied legal skills to undertake a broad range of activities in meeting their pro bono responsibility.

For-profit business ventures are rarely eligible for pro bono legal services. However, where the individuals behind the venture themselves would be eligible for pro bono legal services or where the venture benefits society and is the functional equivalent of a non-profit, the for-profit business could be eligible for pro bono legal services associated with that venture. In order to be eligible for pro bono legal services, if the individuals creating the business do not themselves qualify for pro bono legal services:

- (1) the business venture would have to have as its primary mission and purpose the enhancement of the economic, health, or social condition and overall well-being of low-income and disadvantaged people and groups;
- (2) the revenues from the business venture, if any, would have to be used to support that mission and directly assist persons of limited means and the disadvantaged;
- (3) the business or particular venture would have to possess insufficient operating funds to pay for legal and other professional services and would not be paying legal or other professional fees; and
- (4) the pro bono relationship would be viewed, from the beginning, as being "time bound" to last only until the business becomes successful and can pay for counsel without sacrificing its mission.

These relationships require careful ongoing monitoring. Eligibility determinations will be made on a case-by-case basis and re-evaluated regularly over time.

Activities under clause (i) of the definition clearly fall within the recommended priority for legal services to persons of limited means, as do some of the activities under clause (ii). In the vast majority of all matters, the firm's pro bono participation will be undertaken without a fee or any expectation of a fee. However, there are very limited instances in which the acceptance of a fee award will not disqualify a matter from inclusion in the definition of pro bono. Post-conviction capital appeals, for example, where firms contribute thousands of hours without compensation but may receive the limited fees available to counsel under the Criminal Justice Act, are clearly pro bono cases for persons of limited means.

Similarly, the award of attorneys' fees in an employment discrimination or environmental protection case originally taken on by a firm as a pro bono matter and not in the course of the firm's ordinary commercial practice would not disqualify such services from inclusion as pro bono work. Firms that receive fees in such cases are strongly encouraged to contribute an appropriate portion of those fees to organizations or projects that provide services to persons of limited means.