

# 2009 SUMMARY OF LOCAL PRO BONO COMMITTEES ANNUAL REPORTS

## **OVERVIEW**

**Reports Submitted.** A total of thirteen local pro bono committees timely submitted their 2009 Annual Reports to the ATJ Commission. The reports were submitted on behalf of seven Phase 1 Judicial Districts; First, Second, Third, Sixth, Eighth, Eleventh (San Juan County) and Thirteenth; and six Phase 2 committees; Fourth, Fifth (Chaves, Eddy and Lea Counties individually), Eleventh (McKinley County) and Twelfth. All Annual Reports are posted on the State Bar of New Mexico website, <http://www.nmbar.org/Attorneys/AccessJusticecommission.html>. In 2008, the Commission reviewed the Annual Reports submitted by the Phase 1 local pro bono committees, applauded their efforts and in some circumstances, made recommendations for improvement. The Phase 2 local pro bono committee reports are their initial reports to the Commission. The Phase 3 Judicial Districts, Seventh, Ninth and Tenth, will submit 2010 annual reports as determined by the Commission.

**Committee Structure.** Each Committee Chair determines the size and structure of the district's committee, as well as the frequency of the meetings. The committees range in size from 7 to 30 members, totaling 179 across the state. Attendance at meetings averages approximately 70%, and meeting frequency ranges from monthly to quarterly. Collectively, the attendance across the state for the 70 local pro bono committee meetings held in 2008 totaled 529.

**Attorney Interest Surveys.** A number of attorney surveys were developed and administered throughout the state to gauge interest level and willingness to participate in community pro bono projects. The results provided intelligence regarding not only the area of legal expertise, but also the type of activity in which each attorney wished to participate, such as conducting clinics, presenting workshops to other attorneys, providing full case or limited representation for a client. To date 4,125 attorneys received surveys from local pro bono committees; 689 (17%) responded, and 590 (14%) expressed a willingness to help. By district, the response rate varied from 4% to 63%. The higher response rates were normally attributed to the persistency of the Chair and committee members to follow up with non-respondents. A number of the Annual Reports contain district-specific information on the surveys.

**Funding Requirements.** A new section (VI) was introduced in the 2009 Annual Report to provide the judicial districts with an opportunity to describe funding requirements for resources needed to further implement their individual pro bono plans. Most of the districts identified resources needed, but few were able to quantify the cost of obtaining the resources. The proposed additional resources include: 1) court personnel to coordinate, administer, implement and manage the plan; 2) administrative support to ensure adequate record-keeping, monitoring and follow-up; 3) instructional videos, training materials and PDF forms that could be filled out at a kiosk or stand-alone computer; 4) on-staff personnel to attend court hearings when both litigants are self represented (prepare court orders); 5) court costs and discovery costs a pro bono attorney incurs for indigent client; 6) malpractice insurance. Those resources quantified totaled approximately \$250,000 (including the continued funding for the 2d Judicial District's Volunteer Attorney Pool). The larger portion of the resources identified were not quantified. Details are contained in each of the Annual Reports.

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**Phase I Committees.**

**1<sup>st</sup> Judicial District.** The Commission recommended that the district expand its efforts beyond pro se clinics to develop a pro bono direct representation plan including intake, screening and referral processes, and to include non-domestic matters. The 1<sup>st</sup> Judicial District has acted on the Commission's recommendation, has identified a priority non-domestic matter to address, and has polled its attorney base to gauge interest and willingness to participate. It is developing its process for intake, screening, and referral. The committee continues to refine and grow its program for volunteer attorneys and mediators to appear for Show Cause hearings in Family Court to help the litigants settle their differences. Through its various programs, including forms distribution, the 1<sup>st</sup> Judicial District estimates it has assisted approximately 15,000 persons seeking pro bono assistance.

**2<sup>nd</sup> Judicial District.** The district was able to create its Volunteer Lawyer Program after funding was awarded to Law Access New Mexico by Civil Legal Services to administer the pro bono intake and referral process. The committee initially obtained the support of 30 judges in the District to sign a letter addressed to all attorneys in the district requesting participation in the program. These letters were delivered to over 2800 attorneys with 253 attorneys to date responding positively. The pool is growing every day and the implementation processes are in place. They intend to begin intake, screening and referral in early 2009.

**3<sup>rd</sup> Judicial District.** The district continues to have a strong pro se program in place. The Commission advised the committee to expand its focus beyond domestic relations, to determine who is willing to be in the attorney pool, to develop an intake and referral system that could include opting in to a statewide process, and to develop tracking mechanisms. The 3<sup>rd</sup> Judicial District has acted on the Commission's recommendations, has identified priority non-domestic relations matters to address, has conducted an attorney survey resulting in an attorney pool of 55 attorneys willing to donate pro bono hours and is working closely with New Mexico Legal Aid to set up its intake, screening and referral process.

**6<sup>th</sup> Judicial District.** The district took the initiative to survey its low income population, finding that 22% of the legal needs were for family matters, with the remainder including consumer protection, public benefits, real estate, estate/wills and employment. The results illustrated that if the pro bono focus were limited solely to family matters, nearly 80% of other legal needs would go unmet. The Commission found this survey should be considered a best practice for those judicial districts wanting to determine local needs by polling its own low income population. The Commission recommended the Committee focus on its laudable goal of obtaining participation of all lawyers in the 6<sup>th</sup> Judicial District. The district has acted on that and has obtained the highest attorney response rate to date in the state: 63% of the attorney base responded to the attorney interest survey and the district now has an attorney pool of 27. The district is trialing a process that utilizes sub-committee members to review cases for referral to a pro bono attorney and making the initial match between the pro bono attorney and the client. The case will then be sent back to Legal Aid for actual referral.

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**8<sup>th</sup> Judicial District.** The Commission expressed concern about the minimal number of clients being served and the effectiveness of the referral process. It appeared to have been stymied by the limited areas of expertise offered by the 39 attorneys in the pool. The Commission recommended training opportunities be made available in order to ensure that the pro bono attorneys were adequately competent to handle poverty law issues. The 8<sup>th</sup> Judicial District acted on the Commission's recommendation and requested training from New Mexico Legal Aid (NMLA) regarding matters such as Unfair Debt Collection or housing issues so more attorneys can help. NMLA sponsored its first accredited CLE on "Fair Housing and New Mexico's Elders" on October 8<sup>th</sup>; other sessions are joint efforts of NMLA and UNM Law School. In addition, the 8<sup>th</sup> Judicial District has a domestic violence workshop for attorneys scheduled in early 2009. The district has also begun expanding its program to Colfax and Union Counties.

**11<sup>th</sup> Judicial District, San Juan County.** The Commission found that the attorney questionnaire assessing attorney interest and willingness to participate should be considered a best practice; it has been used or modified for use by several other judicial districts. 48 lawyers responded positively to the questionnaire. Their plan includes a variety of activities, including direct pro bono representation in conjunction with legal services providers, increased court clinics and recruitment and mentoring. Unsure of the degree of implementation of any of the activities, the Commission recommended the San Juan County team focus on one of its projects for aggressive implementation. The Committee has acted on that and is developing a unique process of utilizing the local Public Defender's office to conduct referrals when a case has a conflict with the local DNA office. The committee also completed its video that provides an overview of the procedure for domestic violence cases.

**11<sup>th</sup> Judicial District, McKinley County.** The pro bono committee continues to work with the UNM Paralegal Division in Gallup to establish a program enabling paralegals to assist pro se litigants with filling out forms and to broaden the pro bono pool to review the paralegal students' work. The district continues to utilize its Administrative Order allowing it to appoint attorneys to pro se cases.

**13<sup>th</sup> Judicial District** has developed court clinics using pro bono attorneys. To fully implement the Ten Step Plan, the Commission recommended that the committee expand its efforts beyond clinics to develop a pro bono direct representation plan including screening, intake and referral processes. The Committee acted on this recommendation by developing and administering an attorney interest survey to over 400 attorneys appearing in its Court; 97 attorneys stated a willingness to help. The District continues to schedule pro se dockets for divorce and parentage once a month in each county, with mediators present to help negotiate any conflict.

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***Phase II committees.***

***4<sup>th</sup> Judicial District.*** Volunteer attorneys continue to conduct a pro se clinic monthly in domestic matters, and might expand to include foreclosure and other debt collection matters. The Committee has conducted an attorney interest survey that has resulted in an attorney pool of 19 lawyers.

***5<sup>th</sup> Judicial District*** consists of three separate committees, one each in Chaves, Eddy and Lea County. Each committee has conducted attorney surveys with 41 attorneys, collectively, agreeing to participate, and is preparing to move forward with implementation in 2009.

***12<sup>th</sup> Judicial District*** has evaluated attorney willingness to assist and in what areas, has a pool consisting of 26 lawyers, and plans to move forward with implementation in early 2009.

***General Comments.*** As mentioned earlier, a major accomplishment in 2008 was the development, distribution, follow-up and compilation of attorney interest surveys that provided both awareness to the attorney population of the unmet legal needs in their individual judicial district, and awareness to Local Pro Bono Committees of the willingness to help from the private bar, which will drive the obtainable level of success. The committees recognize that continued efforts to increase the response rate and the willingness to participate are key to success. The main reasons expressed by the 118 lawyers responding negatively, are 1) they already do pro bono work, 2) they are prohibited by law to such practice due to being employed by government and 3) they are not currently practicing.

Those Judicial Districts having chosen to assign key responsibilities tied to Pro Bono Committee activity to court personnel have complemented the efforts of the Judges sitting as Chair(s), and have generally had the greatest degree of success in moving forward. Committees structured in such a manner include the 1<sup>st</sup> Judicial District with the Director – Court Constituent Services being integral to the team; the 3<sup>rd</sup> Judicial District with the Program Manager of the Self Represented Litigant Division a key member of the team; the 11<sup>th</sup> Judicial District with the Judicial Manager serving in a coordination and implementation role ; and the 13<sup>th</sup> Judicial District with the Staff Attorney serving as Co-chair.