

**Access to Justice Commission
2d Judicial District (Bernalillo County) Pro Bono Committee**

**2008 REPORT
(for the Period January 2008 to January 2009)**

I. MEMBERSHIP AND ORGANIZATION REPRESENTED

Chair: Judge Clay Campbell, 841-7434, albdpc@nmcourts.com
Members: Judge Nan Nash
Judge Frank Sedillo
Rosalie Fragoso, Law Access
Carol Garner, Law Access
Janay Haas, NM Legal Aid
Marcia Lieberman, NM Legal Aid
Judith Finfrock, 2d Judicial Dist. Ct.
Elizabeth McGrath, Pegasus
Renee Valdez, Metro Ct. Self-Help Division
Zachary Ives, Freedman, Boyd & Daniels
David Levin, 2d Jud. Dist., Ct. Alternatives
Lecrecia Jaramillo
Jane Wishner, SW Women's Law Center
Nita Taylor, State Bar
Todd Olmos, Legal FACS
Carter Clary
Cecilia Gonzales
Cherie Erikson Harris, Legal FACS
Gabe Campos, NM Legal Aid
Gretchen Elsner, SW Women's Law Center
Judy Olean
Lawrence Kronen, Pegasus
Laurel Nesbitt
Leigh Ann Chavez, CNM
Marie McGhee
Nathan Puffer, NM Legal Aid
Robin Gomez, CNM
Sherry Tenclay
Stephen Miller

The Committee met in-person 12 times during the reporting period, including one special meeting in December, 2008, described more fully below. On several occasions, and in order to disseminate information in a timely manner, the Committee conducted occasional "e-meetings," in which information was disseminated but no actual business was conducted.

On December 19, 2008, the Committee hosted a Holiday Lunch with the Judiciary, attended by Chief Justice Ed Chavez, Justice Petra Maes and Sarah Singleton (co-chair with Justice Maes of the statewide Access to Justice Commission). Also attending from the 2d Judicial District Court were Chief Judge William Lang, Presiding Civil Judge Ted Baca and Presiding Domestic Relations Judge Deborah Walker. The Committee presented their Volunteer Attorney Plan¹ (Attached) at the lunch to the following 20 lawyers, as representatives of the top law firms in the District, along with representatives of the New Mexico State Bar, the Albuquerque Bar Association, the New Mexico Defense Lawyers Association, the New Mexico Trial Lawyers Association, the County of Bernalillo, and the City of Albuquerque:

Patrick Allen
Jane Laflin
Stanley Hatch
Charles Archuleta
R.E. Thompson
Steven Scholl
John Bannerman
David Buchholtz
Robert Curtis
Dennis Jontz

Thomas Montoya
Thomas Peckham
Henry Narvaez
Ben Silva
Norman S. Thayer
Steven Vidmar
Henry Alaniz – President State Bar
Denise Trujillo – President NMTLA
Lisa Carrillo-President Albuquerque Bar Association
Gary Van Luchene - President NMDLA

In addition to presenting information on the Plan, the law firm representatives were asked to designate a member of their firm to attend future monthly Committee meetings. A similar plea was made at the January 6, 2009, Albuquerque Bar Luncheon, at which the Committee made another presentation of its Volunteer Lawyer Plan. As a result, a number of attorneys have asked to attend Committee meetings to be held in 2009.

II. MISSION STATEMENT

To establish a local plan for improving access to justice by persons of limited means, and to strengthen the commitment of lawyers within the 2d Judicial District to satisfying the currently aspirational goal of 50 *pro bono* hours per year for each lawyer or contributing \$500 to an organization that provides legal services to persons of limited means, as set forth in NMRA 16-601 & NMRA 24-108².

III. NEEDS ASSESSMENT AND PRIORITY AREAS

- a. Briefly describe the process used to determine the priority legal needs of persons of limited means in the district.
- b. List the priority legal needs to be addressed by the district pro bono plan.

¹ For more information, please visit www.lawhelpnewmexico.org/NM/index.cfm and click on the “2d Judicial Volunteer Attorney Project” on the right side of the screen.

² See Note 3, *infra*.

- c. Describe the process by which “persons of limited means” will be established.
- d. List any significant needs that the district pro bono committee is unable to address.

The Clerk’s Office for the 2d Judicial District Court reports a very large increase in civil case filings that necessarily involve District residents with income/debt issues. Foreclosure actions rose 29 % in 2008 over the previous year, to a total of 2,884, and debt actions rose 24 % in 2008 over the previous year, to a total of 6,510. The author of this report can confirm through personal experience on the bench and anecdotally through the other civil judges in the District that the vast majority of foreclosure and debt actions involve pro se defendants, most of whose financial circumstances preclude representation by paid lawyers.

A Needs Assessment was conducted in 2008 by New Mexico Legal Aid. In discussing the results of the Assessment, the Committee concluded that it could not prioritize needs according to the Assessment until it had first created and implemented its Volunteer Attorney Pool. Furthermore, the ability of the lawyers in the Pool to address needs identified by the Assessment would depend, at least initially, on the interest and skill and experience of each volunteer lawyer. Eventually, with the expected smooth operation of the Volunteer Attorney Pool over the coming year, the Committee will be in a better position to encourage volunteer attorneys and provide training through existing legal services providers to address the low-income legal needs of the District in the priorities identified by the Assessment.

NM Legal Aid’s Needs Assessment, as presented to the Committee, is set forth in its entirety below:

The Second Judicial District component of the New Mexico Legal Aid low-income legal needs assessment has been finalized for 2008. Below are summaries of the information compiled in that process. The local component should be read in the context of the statewide profile (final results pending) for a more comprehensive picture.

The general process involved surveys of three segments of the community: judges, lawyers, and court personnel; social services providers; and low-income persons. All segments were asked which legal problems they believed were the most critical to low-income populations in the district.

The low-income population was asked not only what they perceived to be the most critical legal problems of the poor, but also which kinds of legal problems the respondents themselves had experienced during the past two years. This second aspect of the assessment is significant, first, in that it provides a snapshot of the incidence of legal issues in the lives of the poor. The low-income respondents reported more than six recent legal problems each on average. (The average statewide is 4.6.) Second, it offers a “reality check” on general perceptions of problems among this population. For example, it is widely believed that home foreclosures, bankruptcy, access to health care, and predatory lending are among the most significant problems among the poor because all of these issues have been widely discussed in the media during the past two years.

Survey responses came from 35 members of the bench, bar, and court services in both district and metro courts; from 19 agencies that serve low-income persons; and from 121 low-income persons. (Approximately 25 more responses had to be discarded as invalid because respondents did not follow the directions in the surveys and extrapolating from their responses with any assurance of consistency was not possible.)

According to the combined responses from agencies, bench, bar, and low-income respondents, The top five needs in descending order were:

1. lack of affordable housing
2. food stamps
3. domestic violence
4. Medicaid
5. child support; Social Security disability and SSI (tie)

Grouping the legal problems by general category provides this breakdown:

Family law generally: including domestic violence, divorce, custody and visitation, paternity, grandparent rights, guardianship, and child support—
209 “votes”

Housing generally: including affordability, public and subsidized housing, tenant rights, land sale purchases, and housing discrimination—
175 “votes”

Health generally: including Medicaid, Medicare, children’s health programs, access to health care, and mental health services—
143 “votes”

Public benefits and entitlements: including TANF, Social Security disability benefits and SSI, veterans’ benefits, and food stamps (but excluding Medicaid and Medicare)—
106 “votes”

Employment generally: including unpaid wages, farm working conditions (not migrants), and employment discrimination—
33 “votes”

Consumer generally: including unfair debt collection, repossession and garnishment, unfair trade practices, foreclosure, student loans, and predatory lending—
81 “votes”

Civil rights generally (excluding housing and employment discrimination): rights of persons with disabilities; special education in schools; public school discrimination; police misconduct, immigration, adult guardianship, and rights of tribal members—

78 “votes” (Note: nearly a third of these relates to police misconduct, more than ten times the rate in other judicial districts)

Next ten most frequently cited categories:

6. Medicaid
7. access to health care; unlawful debt collection
8. police abuse
9. custody/visitation; public housing
10. utilities
11. subsidized housing; rights of people with disabilities
12. government-sponsored health care coverage for children
13. Medicare
14. tenants’ rights
15. housing discrimination, divorce, special education, employment discrimination

Who has had the kinds of legal problems described in the needs survey? By percentage of low-income respondents:

- Affordable housing—33%
- Family violence—34%
- Child support—30%
- Medicaid—32%
- Divorce—18%
- Special education—17%
- Food stamps—44%
- custody/visitation—24%
- unfair debt collection—33%
- Medicare—11%
- Bankruptcy—11%
- Utilities—24%
- Social Security disability/SSI—32%
- Disability rights—23%
- unpaid wages—15%
- tenant rights—17%
- paternity—4%
- mental health services—29%
- employment discrimination—20%
- student loans—10%
- subsidized housing—16%
- land-sale contracts—5%
- rights of tribal members—4%
- government health insurance programs for children—7%
- repossession/garnishment—14%
- access to health care—26%

- veterans' benefits—2%
- home foreclosures—7%
- housing discrimination—17%
- immigration—0%
- public housing—18%
- earned income tax credit—13%
- other tax issues—17%
- farm work conditions—3%
- predatory lending—11%
- police misconduct—25%
- unfair sales practices—11%
- public education discrimination—lower than 1%
- adult guardianship—5%
- lack of municipal services—12%
- bankruptcy—11%
- unemployment benefits—11%
- earned income tax credit—13%
- other tax problems—17%
- Social Security disability/SSI—32%

IV. SHORT TERM GOALS AND PRIORITIES (NEXT 6 MONTHS) TO ADDRESS THE PRIORITY LEGAL NEEDS AND TO ENCOURAGE LAYWERS TO PARTICIPATE

- a. Briefly describe the plan to utilize voluntary pro bono attorney resources to address priority legal needs of persons of limited means.

The Committee looks forward to the successful launch of its Volunteer Attorney Pool, whereby volunteer lawyers are matched -- according to their interest and through various legal services providers -- to the needs of low income residents. See attached Plan. At least the next 6 months are expected to be devoted to ironing out kinks, exterminating bugs, and developing plans and programs that compliment and augment the Volunteer Attorney Pool. An example of such a plan is an anticipated effort to incorporate volunteer paralegals and paralegal students into the Pool. An example of such a program is an anticipated effort to train lawyers to provide legal services in at least one “high need” area, as determined by the Needs Assessment discussed above.

- b. Briefly describe the plan to encourage more lawyers in the district to provide voluntary pro bono service and/or contribute to a civil legal aid organization.

The Committee obtained the support of 30 judges in the District, who signed onto a letter addressed to the lawyers in the District encouraging support for the Volunteer Attorney Pool. See Letter attached to Plan. The letter has been and is expected to continue to be an effective tool for encouraging lawyers to provide voluntary pro bono services. As they did during the last two

months of 2008, members of the Committee will continue to speak to various civic and bar groups, and news media, advising the respective audiences of the legal needs of low income residents and the corresponding need for volunteer lawyers to assist those low income residents. Whenever non-judge members of the Committee give presentations, they make every effort to remind lawyers that if they do not volunteer, they should consider contributing financially to low-income legal services providers of their choice.

V. LONG TERM GOALS AND OBJECTIVES (NEXT 2 YEARS) TO ADDRESS PRIORITY LEGAL NEEDS AND TO ENCOURAGE LAWYERS TO PARTICIPATE

- a. Briefly describe the plan to develop activities and programs to expand the utilization of voluntary pro bono attorney resources to address the civil legal needs of persons of limited means in the district.

The Volunteer Attorney Pool created by the Committee and administrated by Rose Fragoso of NM Law Access is the chief component of the Committee's long-term approach to the needs of low-income residents. See 2007 Annual Report, and the Volunteer Attorney Plan attached to this Report. As the Pool grows and is increasingly used by legal services providers, it is expected to evolve (with guidance by the Committee) along with ancillary activities and programs designed to supplement and augment the overarching objective set forth above in the Committee's Mission Statement.

- b. Briefly describe the plan to address obstacles to voluntary pro bono service by lawyers in the district and describe long term recruitment plans.

The Committee believes that as its Volunteer Attorney Pool is implemented, real (as opposed to theoretical) bugs and kinks will materialize, which will be addressed efficiently utilizing energy focused by the lens of practicality, as should happen whenever an abstract idea transmogrifies into concrete reality. The Committee believes it has identified potential issues already, and is and will continue working on viable solutions to those issues. For a discussion of those issues, see the Committee's 2007 Annual Report. That said, the next big issue the Committee intends to tackle is how to utilize the services of volunteer paralegals and paralegal students, either within the framework of the Volunteer Attorney Pool or separately. To that end, a number of Committee members are themselves paralegals and/or representatives from CNM's paralegal studies program.

VI. FUNDING REQUIREMENTS

- a. Briefly describe 2009 funding requirements for resources needed to further implement your pro bono plan, and the resulting detriment to your program without such funding. (There is no guarantee that funding can be made available.)

Obtaining funding for an administrator for the Volunteer Attorney Pool has been a priority of the Committee since its creation. Please see the Committee's Report for last year. Without an administrator the Pool cannot exist and without a Pool, none of the short term or long term objectives of the Committee can be realized. See 2007 Annual Report and attached Plan.

The Committee has come to realize that meeting the record-keeping and information-gathering apparently expected of it requires far greater manpower and temporal resources than the Committee has available on a volunteer basis. If the future reporting requirements of the Committee remain as currently extant, funding may be required to hire staff to gather and compile the required data. The Committee believes, however, that any funding would be best used in support of programs that actually increase the provision of legal services to low income residents rather than merely reporting on such efforts.

Other than ensuring continued funding for an administrator of the Volunteer Attorney Pool (see attached Plan), which remains the highest priority of the Committee, the Committee is confident every legal services provider in Bernalillo County could find a good use for additional funding, including the potential to assist attorneys with out-of-pocket litigation expenses incurred as a result of their pro bono efforts.

In addition, the Committee has been quick to realize that any real (as opposed to theoretical) effort toward helping low income residents meet their legal needs, or enhancing lawyer participation more broadly in pro bono activities, requires funding. By way of trivial example, the luncheon described above in Section I required funding. Simple tasks such as the photocopying of meeting agendas require either funding or the donations of resources by the members of the Committee.

The Committee itself has thus far been blessed by the generosity and support of its members, and other entities and organizations such as the New Mexico Supreme Court, the State Bar and the Albuquerque Bar. Any funding for Committee-sponsored activities such as mailers (to pro se litigants or prospective volunteer lawyers), informational clinic/seminar materials for pro se litigants and prospective volunteer lawyers, even refreshments for any meetings, clinics or seminars, would naturally be welcomed and greatly appreciated.

VII. RESOURCES COMMITTED BY THE DISTRICT PRO BONO COMMITTEE PARTICIPANTS

- a. List the participant and nature of resources committed to the district voluntary pro bono attorney plan by all legal assistance providers that are to participate in the district pro bono plan and provide coordination and administrative support to pro bono attorneys in the district.

Many legal assistance providers in the District participate in the Second Judicial District Committee and have helped develop the Volunteer Attorney Plan, contributing the most important resources of hard work, ideas, time and energy. Members of the Committee have tirelessly made presentations on behalf of the Committee's efforts at creating the Volunteer Attorney Pool, as further described in this Report. Legal services providers, as beneficiaries of

the Volunteer Attorney Plan, can be expected to continue to participate in helping to shape the Plan's successful transition from idea to reality. The main administrative support for the Plan comes from Law Access New Mexico, which was funded to provide coordination and administrative support for the Plan. See discussion above in Section VI and attached Plan.

- b. Where more than one legal aid provider organization exists within the district, describe the plan for cooperation and coordination that avoids duplication among such providers.

Please see attached Plan. Presumably, participation on the Committee itself allows legal services providers to network and discuss their individual efforts. Another presumption of the Committee is that "market forces," such as federal and state funding opportunities and the needs of low-income residents would provide adequate pressure on legal services providers to efficiently provide their services. Regardless, the Committee does not understand that it has any authority to dictate or even encourage with any real impact any existing legal services provider to change its existing charter, charge, mission or manner of conducting business.

VIII. SUPPORT FOR PRO BONO ACTIVITIES

- a. In implementing the district pro bono plan, the following support services are available (check all available). Please provide brief description of activities for all checked responses.

Providing intake, screening and referral of prospective clients.

Please see attached Plan & Pro Bono Volunteer Form. Please note that the Plan is prospective for 2009. 2008 was spent developing the plan and soliciting volunteer attorneys for inclusion in the Pool.

Matching cases with individual attorney expertise, including establishment of specialized panels.

Please see attached Plan & Pro Bono Volunteer Form. Please note that the Plan is prospective for 2009. 2008 was spent developing the plan and soliciting volunteer attorneys for inclusion in the Pool.

Providing resources for litigation and out-of-pocket expenses for pro bono cases.

Please see the general description of funding needs in Section VI, above regarding the ability of the Committee or any of its members to meet this goal. The Volunteer Lawyer Pool and Plan do not intend, however, to

alter a lawyer's discretion pursuant to NMRA 16-108(E) and its permissive use of the word "may."

- Providing legal education and training for pro bono attorneys in specialized areas of law useful in providing pro bono legal services.

Please see attached Plan & Pro Bono Volunteer Form. Please note that the Plan is prospective for 2009. 2008 was spent developing the plan and soliciting volunteer attorneys for inclusion in the Pool. Please also see Section IV, above.

- Providing the availability of consultation with attorneys who have expertise in areas of law with respect to which a volunteer lawyer is providing pro bono legal service.

Please see attached Plan & Pro Bono Volunteer Form. Please note that the Plan is prospective for 2009. 2008 was spent developing the plan and soliciting volunteer attorneys for inclusion in the Pool.

- Providing malpractice insurance for volunteer pro bono lawyers with respect to their pro bono legal service.

Please see attached Plan. Please note that the Plan is prospective for 2009. 2008 was spent developing the plan and soliciting volunteer attorneys for inclusion in the Pool.

- Establishing procedures to ensure adequate monitoring and follow-up for assigned cases and to measure client satisfaction.

Please see attached Plan & discussion below in Section X. Please note that the Plan is prospective for 2009. 2008 was spent developing the plan and soliciting volunteer attorneys for inclusion in the Pool.

___ Recognizing pro bono legal service by lawyers.

This is a topic discussed at length at many Committee meetings³. The Committee believes that recognition at some annual ceremony and/or publication in the leading legal periodicals would be very helpful to the success of its Plan, but premature until the Plan has been “actualized” – i.e., we get started matching volunteers to low income clients through the various legal services providers. Please also see the general description of funding needs in Section VI, above. The Committee also believes that if CLE credits could be obtained for pro bono service, the incentive for lawyers to participate would be long-lasting and profound. See 2007 Annual Report.

___ Other.

IX. PRO BONO SERVICE OPPORTUNITIES

- a. The district pro bono plan offers the following opportunities through which lawyers can participate in providing pro bono legal service to persons of limited means (check all that apply): Please provide brief description of activities for all checked responses.

X Representing clients through case referral.

Please see attached Plan & Pro Bono Volunteer Form. Please note that the Plan is prospective for 2009. 2008 was spent developing the plan and soliciting volunteer attorneys for inclusion in the Pool.

³ There are two pertinent ideal, or pure, worlds and one real world. One ideal world is the altruistic, happy-skippy world in which, as ee cummings said, “it’s always Spring and the flowers pick themselves.” In this world, NMRA 16-601 and 24-108 are redundant verbiage, unnecessary because every lawyer in this world already devotes more than 50 hours per year assisting indigent clients in need. The second ideal or pure world is one entirely venal, of completely selfish existence in which the “aspirational” words of NMRA 16-601 & 24-108 are wasted verbiage because they carry no incentive for fulfillment. We live somewhere between those worlds, in a land where some of us need no encouragement to help the helpless, some others of us can abide by our best intentions and look to mere guidelines for inspiration, but some others of us will always require a “shall” and whistle blissfully past “may.” In discussing incentives and rewards for pro bono activity, the Committee has discussed the strong possibility that more of us may fall into the latter category than we care to admit. The Committee remains absolutely committed to its planned method of encouraging lawyers to meet their aspirational goals, by simply reminding them of the goals, informing them of the needs that would be addressed by meeting those goals, and conducting an awards banquet and providing other forms of official recognition and sanction for those who fall far into the first category discussed, the altruistic idealists. But for the people in the middle group, the Committee believes that providing a stronger incentive such as CLE credits for pro bono work would be most effective. See 2007 Annual Report. And for those of us who seem perpetually to fall into the last group discussed, perhaps if NMRA 16-601 & 24-108 were made mandatory

Interviewing prospective clients.

Please see attached Plan & Pro Bono Volunteer Form. Please note that the Plan is prospective for 2009. 2008 was spent developing the plan and soliciting volunteer attorneys for inclusion in the Pool.

Acting as co-counsel on cases or matters with legal aid providers and other pro bono lawyers.

Please see attached Plan & Pro Bono Volunteer Form. Please note that the Plan is prospective for 2009. 2008 was spent developing the plan and soliciting volunteer attorneys for inclusion in the Pool.

Providing consultation services to legal aid providers for case reviews and evaluations.

Please see attached Plan & Pro Bono Volunteer Form. Please note that the Plan is prospective for 2009. 2008 was spent developing the plan and soliciting volunteer attorneys for inclusion in the Pool.

Providing limited representation.

Please see attached Plan & Pro Bono Volunteer Form. Please note that the Plan is prospective for 2009. 2008 was spent developing the plan and soliciting volunteer attorneys for inclusion in the Pool.

Providing pro se assistance.

It is not clear what is intended by this sub-category, as this would appear to subsume all of the other sub-categories above and below. Nonetheless, **please see attached Plan & Pro Bono Volunteer Form.** Please note that the Plan is prospective for 2009. 2008 was spent developing the plan and soliciting volunteer attorneys for inclusion in the Pool.

Conducting a clinic for self-represented litigants.

Please see attached Plan & Pro Bono Volunteer Form. Please note that the Plan is prospective for 2009. 2008 was spent developing the plan and soliciting volunteer attorneys for inclusion in the Pool. Please also see discussions above in Sections IV & VI, and the District's 2007 Report.

- Participating in policy, systemic advocacy, and activities which improve the law and the legal system.

It would seem that the very existence of the Committee and participation therein by its members furthers this goal. Certainly the existence of the Volunteer Attorney Pool provides attorneys the opportunity to “participat[e] in policy, systemic advocacy, and activities which improve the law and the legal system.”

- Providing training to staff of legal aid providers and other pro bono attorneys.

Please see attached Plan & Pro Bono Volunteer Form. Please note that the Plan is prospective for 2009. 2008 was spent developing the plan and soliciting volunteer attorneys for inclusion in the Pool. Please also see discussions above in Sections IV & VI, and 2007 Report.

- Making presentations to groups of persons of limited means regarding their rights and obligations under the law.

This has been a significant topic of discussion at Committee meetings. Once the Volunteer Attorney Plan is up and running, the Committee believes it can coordinate the creation of such presentations by volunteer lawyers. For example, discussions centering on a “foreclosure workshop” were temporarily sidelined for the more pressing goal of creating the Volunteer Attorney Pool. Those discussions are expected to resume as early as the Committee’s February 2009 meeting.

- Providing legal research.

Please see attached Plan & Pro Bono Volunteer Form. Please note that the Plan is prospective for 2009. 2008 was spent developing the plan and soliciting volunteer attorneys for inclusion in the Pool.

- Providing guardian ad litem services.

Please see attached Plan & Pro Bono Volunteer Form. Please note that the Plan is prospective for 2009. 2008 was spent developing the plan and soliciting volunteer attorneys for inclusion in the Pool. Please also note that various legal services providers already provide these services, or arrange them through their auspices, sometimes with limited payment to the attorneys made through state agencies. Individual judges also

occasionally seek out pro bono guardians ad litem in a number of otherwise difficult cases arising under the Probate Code.

Providing mentoring to law students and new lawyers.

Please see the Pro Bono Volunteer Form, attached to the Plan. Volunteer attorneys may agree to act as resources for other volunteer lawyers, and will be encouraged to do so, especially where one lawyer has considerable expertise in an area of the law that is in high demand according to the priorities of the Needs Assessment discussed above.

Providing public education.

As part of the means for implementing the Committee's Volunteer Attorney Pool, a number of representatives of the Committee have frequently spoken to various civic and bar groups, and news media, advising the respective audiences of the legal needs of low income residents and the corresponding need for volunteer lawyers to assist those low income residents.

Providing assistance in the formation and operation of legal entities for groups of persons of limited means.

Because the resources of the Volunteer Attorney Pool are limited only by the interests and participation of its volunteer lawyers, the Committee sees no reason to believe this goal cannot be realized. **Please see attached Plan & Pro Bono Volunteer Form.**

Participating in Bar committees or on boards of pro bono committees or legal service programs.

Lawyers are encouraged to participate in this Committee's monthly meetings. See discussion in Section I, above.

Serving as a mediator or arbitrator at no fee to the client-eligible party.

The 2d Judicial District Court has an extensive program for both free mediations regardless of the means of any party (called "Settlement Week," though it lasts for the month of October each year) and free to low-cost arbitrations.

The arbitration program is mandatory for all cases (regardless of the means of the parties) involving amounts in controversy above \$10,000 but below \$25,000. Any lawyer in the County licensed to practice law for more than five years is required to participate in the program as an Arbitrator. While Arbitrators may seek a fee of \$100, the fee is often waived. From a practical

perspective, even payment of \$100 to a lawyer acting as an arbitrator amounts figuratively to pro bono service. Please see LR2-603 for more information.

For mediations, the Second Judicial District Court is expanding the opportunities for lawyers to provide pro bono legal services to persons of limited means through the Settlement Facilitation Programs administered by Court Alternatives.

Settlement Facilitation is offered through four programs. Each program has provisions for lawyers to serve as pro bono settlement facilitators. Two of the programs are Settlement Week for Family Court and Settlement Week for Civil Court. While there are substantive and procedural differences, the pro bono component of these programs have the same essential features:

- Lawyers who serve as paid facilitators in the Year Round Programs are required to volunteer their time as Settlement Week Facilitators;
- Local practice among judges is to refer cases to Settlement Week for people of limited means.

Year Round Settlement Facilitation for Family Court has a policy that if an attorney receives three paid assignments, then the attorney is expected to serve as a facilitator for a pro bono case. Judicial officers identify cases with people of limited to means for a pro bono referral. In Year Round Settlement Facilitation for Civil Court, a judge may assign a case for pro bono facilitation on a more ad hoc basis.

Court Alternatives also has a new Mediation Program. This new program primarily serves low income and self-represented litigants. While the present mediators are court employees, the goal is to have a pool of pro bono mediators as well, where lawyers will have opportunities to provide pro bono services.

- b. List other pro bono service opportunities provided under the district pro bono plan:

Please see attached Plan & Pro Bono Volunteer Form. Please note that the Plan is prospective for 2009. 2008 was spent developing the plan and soliciting volunteer attorneys for inclusion in the Pool.

- c. Describe the activities which encourage the division of responsibility of pro bono activities among the courts, the local bar association, the private bar, legal aid providers, and the public:

As part of the plan for implementing the Volunteer Attorney Pool, a number of representatives of the Committee have frequently spoken to various civic and bar groups, and news media, advising the respective audiences of the legal needs of low income residents and the corresponding need for volunteer lawyers to assist those low income residents. Presentations

have been made by Committee members to CLE programs at the State Bar, with the New Mexico Defense Lawyers Association, the New Mexico Trial Lawyers Association, and the Albuquerque Bar Association. Thirty Judges (both District and Metropolitan Court) signed on to a letter encouraging lawyers to consider volunteering into the Volunteer Attorney Pool, and that letter was included in e-mail “blasts” sent to all members of the State Bar with office addresses in Bernalillo County, as well as to the memberships of the Albuquerque Bar, the NMDLA, and the NMTLA. See Letter attached to Plan. It is the belief of the Committee that these formal and informal presentations and correspondence encourage each audience to consider their responsibilities for increasing pro bono activities among lawyers. To the extent, however, that encouraging a “*division* of responsibility” suggests a fragmentation of effort, it has always been the Committee’s understanding that its own *raison d’etre* has been to consolidate pro bono efforts within the judicial district so that efforts can be efficiently presented to and coordinated among the various organizations and so that the needs of low income residents can be met in a most efficient and expeditious manner. Furthermore, the Committee does not understand that it has any authority to “encourage” with real impact any existing legal services provider to change its existing charter, charge or mission. Please see attached Plan.

- d. Describe the activities under the pro bono plan designed to encourage lawyers who cannot or do not choose to contribute their time to pro bono legal service to persons of limited means to make monetary contributions in order to satisfy their pro bono professional responsibility:

Non-judge members of the Committee making presentations at various CLE and other Bar and legal organization events make sure to remind the lawyers that they are encouraged to give either 50 hours of volunteer time or contributing \$500 to an organization that provides legal services to persons of limited means, as set forth in NMRA 16-601 & 24-108.

X. NUMBER OF PERSONS BENEFITTED BY PRO BONO EFFORTS

NOTE: Implementation or “actualization” of the Volunteer Attorney Pool envisioned and created by the Committee and now administered by NM Law Access did not truly begin until January 20, 2009. Therefore the numbers sought by this section cannot, in good faith, be offered by the Committee as though a product of the Committee’s work or efforts. Furthermore, obtaining the numbers sought by this section from each and every known low-income legal services provider in the District has proven to be a Herculean task beyond the resources of the Committee. See “Funding Requirements,” Section VI above. The Committee understands that much of the information requested in this section of the Report is currently available from Civil Legal Services Corporation as it pertains to the efforts of any particular legal services provider. Because the efforts of the Committee, through the unique structure of the Volunteer Attorney Plan, are aimed primarily at matching attorneys with potential “clients” under the auspices of 30 or more legal services providers, much of the information sought cannot be obtained through the Committee, but must be sought through the individual legal services providers. The Committee will nonetheless attempt to provide as much of the requested information as possible, at least as it pertains directly to efforts of the Committee generally and as it is attributable directly to the

services of the Volunteer Attorney Pool specifically, in its 2009 Report. The Committee can, for example, track the number of attorneys volunteering to assist low-income residents through the Pool, and can likewise track the number of attorneys actually assigned to assist legal services providers, and the number of attorneys participating in various Committee-sponsored clinics and CLE programs.

- a. Provide the number of persons seeking pro bono assistance during the report period.

In tandem with the Committee's Pro Bono plan for the creation of a volunteer lawyer pool, committee members conducted a County-wide survey to identify agencies that provided pro bono representation. The agencies identified provide a variety of representation, both full and unbundled, to service areas that include, but are not exclusive to, Bernalillo County. The Committee accrued the following list:

Advocacy, Inc.

Albuquerque Bar Association's Lawyer Referral Service

Bridge to Justice Legal Assistance Programs (State Bar Program)

Catholic Charities --VAWA Immigration Project

DNA legal Services

Enlace Comunitario

Equal Justice Works Fellowship (State Bar program)

Grandparents and Relatives Outreach Project (GRO)

The Guardianship Project/Advocacy Inc.

Guardianship Legal Helpline

KOB Lawline 4

Law Access New Mexico

Lawyer Referral for the Elderly Program (State Bar Program)

Legal Assistance for the Military

Legal FACS

Native American Protection & Advocacy Project

Native American Disability Law Center

NM Center on Law and Poverty

NM Christian Legal Aid

NM Commission on the Status of Women

New Mexico Landlord/Tenant Hotline

New Mexico Legal Aid

New Mexico Resources For Renters

Office of Guardianship Services

Pegasus Legal Services for Children

Protection & Advocacy

Resources, Inc.

Senior Citizens' Law Office

Southwest Women's Law Center

Univision Channel 41

UNM Law Clinic

Of the agencies contacted, via email or telephone, only two responded. Though response was extremely limited, the agencies responding were instructive. The Committee learned that statistics are not kept in a uniform manner. For example, Univision Channel 41 presents a program where volunteer attorneys answer legal questions the 3rd Wednesday of each month. The number of volunteers varies per program as do the number of calls, and statistics are not kept in a manner that establishes significant information. Calls are not limited by residence. Agencies also do not use uniform reporting years. Some, like Pegasus Legal Services for Children, keep statistics by county and fiscal year (i.e., Pegasus served 365 client in FY08), while others use calendar years. There is a need for a dialogue on meaningful statistics. However, all legal services providers have been informed of the existence of the Volunteer Attorney Pool and the Committee's efforts to both fill the Pool and to allow legal services providers access to the Pool. The Committee understands that much of the information requested in this section of the Report is available from Civil Legal Services Corporation. The Committee will nonetheless attempt to provide the requested information, as it pertains to efforts of the Committee generally and as it is attributable to the services of the Volunteer Attorney Pool specifically, in its 2009 Report.

- b. Of the persons seeking pro bono assistance, provide the number who actually received appropriate legal assistance, and describe the nature of assistance provided:

Again, our sample base is too small to provide meaningful numbers here, but efforts did yield something of value. Agencies providing in-house service, for example, such as Legal Aid, would report no statistics in the "referral to pro bono private attorney" category, while Legal FACS would report statistics that consist solely of outside referrals. In future years, information will be available concerning the number of cases referred to volunteer attorneys through the Plan. It is doubtful, however, that "the specific nature of assistance provided" can be effectively transmitted for each individual, or even described generally given the sheer number of legal services providers in the County and the unique nature of most legal services.

- c. Of the persons who received appropriate legal assistance, what is the total number of persons who benefited from the assistance, for example, if the client needed help defending against an eviction and four persons lived in the dwelling, then four people would have benefited from the legal assistance.

The Committee's agency list included those agencies funded by Civil Legal Services Corporation. To the best of our knowledge, these are:

- Advocacy, Inc.
- Catholic Charities
- DNA Legal
- Enlace Comunitario
- Law Access
- Native American Disability Law Center
- NM Center on Law and Poverty

NM Legal Aid
NM State Bar Foundation
State Bar Lawyer LREP
Pegasus Legal Services
Protection & Advocacy System
Senior Citizen Law Office
Southwest Woman's Law Center
United South Broadway

These agencies apparently already report annually to the ATJ Commission either directly or via the CLSC.

- d. Describe the logistics of operations, e.g., tracking calls, doing a conflict-of-interest check, screening for income eligibility, making appropriate referrals (to pro bono attorneys, to legal aid providers, to social service agencies, etc.), following up on referrals to ensure clients don't fall through the cracks, tracking the number of cases opened and closed during the reporting period, etc.

Much of this information is addressed in different ways by each of the low-income legal services providers. The Committee does not understand its "charge" to be micromanaging legal services providers already operating within the District, or to have any authority to require those providers to report this information to the Committee. However, administration of the Volunteer Lawyer Pool does implement data collection analogous but not identical to that requested by this section. See attached Plan. The administrator for the Volunteer Attorney Pool has also set up screening processes inclusive of statistics to identify type of service, eligibility by county, tracking of service provided to include statistics on whether full representation, consultation only, unbundled services, etc. were provided. Screening of the Volunteer Attorney Pool will also include identifying unmet needs. It is anticipated that as the Pool grows and evolves, so too will the logistics and reportability of operations.

Please see the attached Plan for more information.

XI. PRO BONO ATTORNEY INVOLVEMENT

- a. Provide a list of lawyers who signed up to participate in the program to provide pro bono legal service to persons of limited means, and a list of lawyers who actually provided legal assistance to a person of limited means.

The Committee is excited to report, as of January 16, 2009, the following 223 lawyers have signed up to provide pro bono legal services in the coming year: See Attached List.

Implementation or "actualization" of the Volunteer Attorney Pool envisioned and created by the Committee and now administered by NM Law Access did not really begin until January 20, 2009, so the Committee has no attorney names to offer for 2008, other than those members of the Committee itself – See Section I, above. The Committee did not attempt to keep track of

individual lawyers actually providing pro bono services through the myriad legal services providers, community organizations and churches, or on their own, for 2008. Such record-keeping for all of Bernalillo County is far beyond the resources of the Committee, but is believed to be available through the State Bar and the self-reporting of attorneys in connection with the 2009 Dues and Licensing Form. Please see Funding Requirements in Section VI above.

- b. Provide a list of lawyers who participated in conducting clinics.

There have been no Committee-sponsored clinics in 2008. Please see discussion above in Section IX.

Respectfully submitted,

Clay Campbell
Chair, Bernalillo County Pro Bono Committee
Second Judicial District Court Judge