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Do Good to Get Barred: The New Empire State Pro Bono Requirement and Its Potential Impact on Environmental Law Practitioners

By Kim Diana Connolly

From the start, these responsibilities of the profession must be a part of every lawyer's DNA—to support the values of justice, equality and the rule of law that make this state and this country great.¹

Aspiring attorneys sitting for the New York State bar examination in the summer of 2014 or thereafter will be required to affirm they have completed 50 hours (or more) of pro bono legal work before they will be admitted to practice.² The subject of much discussion,³ this new mandate, issued in 2012 by New York Chief Judge Jonathan Lippman,⁴ is intended to benefit the profession by increasing access to legal services while providing aspiring attorneys with both experience and exposure to social justice issues.⁵ The mandate can be satisfied only by "law-related" work⁶ that is "performed under the supervision" a law school faculty member (full time or adjunct), an admitted attorney in the jurisdiction where the work is performed, or (for clerkships) a judge or an attorney employed by the court system.⁷

Students interested in pro bono service in the environmental area will have opportunities to serve, but given the specialized nature of such practice and the parameters of the new rule, these opportunities may require investment in creating or modifying opportunities by both those seeking the credit and the licensed attorneys or other approved persons supervising them. Nevertheless, under this new rule, attorneys in agencies, public interest and private practice may have occasion to get involved in meaningful pro bono projects with law students over the years ahead.

This article begins by noting the history of pro bono work in the legal profession, and briefly explores its current place among legal practitioners and law students. It then surveys New York's new mandatory pro bono rule itself. The article closes with some observations and predictions about this new mandate for those who might seek to complete that work performing pro bono environmental law and related matters.

Pro Bono in History and Context

As law librarian Marlene Coir has noted, "the debate over which kind of legal aid and how much access to justice should be provided for those who cannot afford legal representation has continued for decades."⁸ Indeed, things are little changed from 1991, when Justice Sandra Day O'Connor remarked:

While lawyers have much we can be proud of, we also have a great deal to be ashamed of in terms of how we are responding to the needs of people who can't afford to pay our services. On the one hand, there is probably more innovative pro bono work being done right now than at any time in our history; on the other hand, there has probably never been a wider gulf between the need for legal services and the availability of legal services.⁹

Recent data-backed analyses of access to civil legal services demonstrate that poor and middle-income people lose out when it comes to lawyers. As the Legal Services Corporation's 2009 report titled *Documenting the Justice Gap in America: The Current Unmet Civil Legal Needs of Low-Income Americans* stated, "[t]here is now a substantial body of knowledge demonstrating that only a fraction of the legal problems experienced by low-income individuals is addressed with the help of an attorney."¹⁰ Likewise, the Consortium on Access to Justice's *Access to Justice: An Agenda for Legal Education and Research* states that "[f]or decades, bar studies have consistently estimated that over four fifths of the individual legal needs of the poor and a majority of the needs of middle-income individual[] Americans remain unmet."¹¹ Chief Judge Lippman intends that this new requirement address some of those needs.¹²

Scholars view motivations for pro bono service in different ways. In an interesting analysis of the evolution of pro bono work, Professor Russell Pearce concluded that while traditional concepts of lawyering meant attorneys "always placed the good above self-interest...[t]he pro bono lawyer serves the public primarily in her pro bono work. Otherwise, she is a hired gun for her clients. This distinction mirrors the shift in ideology among elite lawyers in the past generation."¹³ Professor Deborah Rhode has for years called for a re-visioning of pro bono, stating that a:

[T]rue commitment to pro bono service implies much more than the modest contributions of funds or time that are at issue in most bar ethical debates. The profession not only must support workplace and educational initiatives that will encourage charitable efforts, it must also direct some of those efforts to broader reforms in the delivery of legal services.¹⁴

Regardless of the motivation, however, pro bono is now mandatory for those who want to be admitted to practice law in the State of New York.

Although a number of critics suggest that pre-admission is not good timing in terms of a pro bono experience,¹⁵ given the current professional market and the time it takes to start a successful practice, the choice to limit pro bono work early in one's career might be wise for some attorneys. As Gerald Goldberg suggests, it might be "important to be settled into one's career before undertaking the pro bono commitment. Once you start, you can't drop the ball. It is important to have your professional affairs in order so that you can give your pro bono case or cases full attention, just like the fee-paying cases."¹⁶ Of course, well-organized newly admitted attorneys may still be able to find time for pro bono work.

There are those who believe exposure to pre-admission pro bono work is vital to the future of the legal profession:

It is not excessively dramatic to say that a full appreciation of [community legal service] in all elements of our society may well be necessary to achieve the kind of stability and fairness that we all want. Professionalism among lawyers can properly be asked to lead us in that direction, and to be active about it.¹⁷

This sentiment is in line with the Chief Judge's Advisory Committee's observations about the new requirement presenting:

[A] great opportunity for the legal profession, organized bar, legal services providers, and all those devoted to improving the access to justice to work with law schools and their students to participate in a statewide initiative to imbue future generations of lawyers admitted to practice in New York State with the commitment to pro bono and public service work.¹⁸

As explored above, commitment to pro bono service has been a mantra of the legal profession for a long time. But it is also a modern view held by practicing lawyers. The American Bar Association's Model Rule 6.1 directs that "[e]very lawyer has a professional responsibility to provide legal services to those unable to pay."¹⁹ As adopted locally in 2005,²⁰ New York elected to substitute aspirational, rather than mandatory, language, and to set the suggested hours at 20 per year.²¹ The ABA's model rule suggests 50 hours per year, and defines pro bono to include "...individual and class representation, the provision of legal advice, legislative lobbying, administrative rule making and the provision of free training or mentoring to those who represent persons of limited means."²²

New York's rule has a slightly modified definition of pro bono for those already admitted to practice:

- (1) professional services rendered in civil matters, and in those criminal matters for which the government is not obliged to provide funds for legal representation, to persons who are financially unable to compensate counsel;
- (2) activities related to improving the administration of justice by simplifying the legal process for, or increasing the availability and quality of legal services to, poor persons; and
- (3) professional services to charitable, religious, civic and educational organizations in matters designed predominantly to address the needs of poor persons.²³

As discussed below, the work encompassed by the new pre-admission pro bono rule is even broader. It envisions many types of opportunities designed to expose future lawyers to meaningful work while also making achievement of the mandate more feasible for bar applicants.²⁴

The New Pro Bono Rule

In January 2013, Section 520.16 was added to Part 520 of the Rules of the Court of Appeals for the Admission of Attorneys and Counselors at Law.²⁵ Titled *Pro Bono Requirement for Bar Admission*, this new requirement directs that "every applicant admitted to the New York State bar on or after January 1, 2015...shall complete at least 50 hours of qualifying pro bono service prior to filing an application for admission with the appropriate Appellate Division department of the Supreme Court."²⁶ Applicants will be required to submit affidavits showing compliance with the requirement.²⁷

In September 2012, the Advisory Committee on New York State Pro Bono Bar Admission Requirements issued its *Report to the Chief Judge of the State of New York and the Presiding Justices of the Four Appellate Division Departments*.²⁸ The Advisory Committee issued a series of recommendations²⁹ that shaped the final rule:

- A. Qualifying work must be law-related;
- B. Law-related work can be performed in law school or in an employment setting so long as completed before application for bar admission;
- C. Requirement is effective now for first- and second-year law students;
- D. Qualifying work can be performed outside New York;

- E. Mandatory supervision is essential; and,
- F. Qualifying work is an essential part of education and should not be deferred until after admission.

The definition of “qualifying pro bono work” starts with work “performed in the service of low-income or disadvantaged individuals who cannot afford counsel and whose unmet legal needs prevent their access to justice” or involves working for non-profits organizations or “the court system or federal, state or local government agencies or legislative bodies.”³⁰ The court has identified law-school-sponsored clinics “that provide legal assistance to those who cannot afford representation,” certain externships or internship placements,³¹ and a limited number of other opportunities as appropriate for fulfilling the requirement.³²

There are, of course, unanswered questions about this new requirement. In addition to a thorough “Frequently Asked Questions” document issued by the court,³³ many New York law schools have responded with helpful documents and websites for students and others.³⁴ Likewise, legal research providers have indicated a willingness to allow students to use their services for free to complete the pro bono requirement, even over summers or after graduating from law school.³⁵ While it will doubtless take some time to iron out the kinks, the new pro bono rule as designed should not overburden the justice system and should provide some helpful legal resources in most cases.

Completing the Pro Bono Requirement Doing Environmental Law Work

In seeking to meet the new pro bono requirement, some law students or new graduates may seek to do environmental and related work. Environmental law is a multifaceted, dynamic and complex area of practice.³⁶ It is highly politicized,³⁷ and in many cases involves distinct “sides.”³⁸ Its nature, therefore, makes the practice rife with opportunities to make mistakes.³⁹

This might explain why generalized sites that focus on pro bono opportunities tend not to list “environmental” as a primary practice area and offer few, if any, environmentally focused activities.⁴⁰ But the nature of environmental law does not mean that meaningful pro bono work in the environmental arena is not available.

Most private firms with an environmental law practice focus attorney pro bono work outside traditional practice realms. For example, one of the largest national environmental law firms, Beveridge and Diamond, focuses its work in areas such as AIDS, migrant workers, and political asylum, and other non-environmental work.⁴¹ There is, nevertheless, precedent for attorneys doing some significant environmentally focused pro bono work

while in private practice. For example, Don Baur and associates in the energy, environment and natural resources practice area at the law firm Perkins Coie helped secure the domestic and international permitting necessary to the release of the famous whale Keiko,⁴² featured in “Free Willy.”⁴³

The reality is that actual, perceived or potential conflicts are likely to arise in many environmental practices,⁴⁴ so pro bono matters in such a setting must be carefully chosen. This is also true for those who practice as government attorneys, though John Cruden (currently President of the Environmental Law Institute),⁴⁵ who prioritized government pro bono when he was president of the D.C. Bar and deputy assistant attorney general of the Department of Justice’s Environment and Natural Resources Division in 2005, remarked that “we still need to break through the myth that government attorneys cannot participate in pro bono work.”⁴⁶

There are also challenges on the other “side” of environmental practice. Few public interest environmental organizations have in-house counsel, so those seeking pro bono hours would need to recruit a qualified supervisor to help them if they wanted to satisfy the pro bono requirement in such a setting. There may be ways that environmental groups can facilitate connections, such as the model for connecting environmental lawyers with community groups seeking pro bono work presented by the Massachusetts Environmental Justice Assistance Network.⁴⁷

In fact, during the height of the activity on environmental justice, a coalition of groups including several sections of the American Bar Association issued a Directory of Pro Bono Legal Services Providers for Environmental Justice.⁴⁸ The directory provided “information about law school programs (including clinics), non-profit organizations, law firms and individual lawyers, and Legal Services offices...” who had indicated willingness and ability to provide pro bono assistance on environmental justice matters.⁴⁹ Such clearinghouse operations will likely expand in New York, as will centralized locations to help encourage and direct pro bono, such as that run by Legal Services of NYC.⁵⁰ There are existing clearinghouses for information on pro bono opportunities statewide, such as the one run by a coalition including the New York Bar Association,⁵¹ but they tend not to have an environmental focus. This could change if lawyers and others with interest in supporting environmental pro bono were to invest time and resources in forming such opportunities.

Conclusion: “Good Lawyering and Lawyering for the Good”

Change is often challenging. The changes imposed by the new pro bono requirement will, of course, take some time to become part of the normal course of things in becoming an admitted attorney in the State of New York.

Engaging those already in practice could help move the process along. As Nelson P. Miller writes in the introduction to his 2012 book *BUILDING YOUR PRACTICE WITH PRO BONO*, “[p]ro bono practice challenges lawyers to build new skills, use new tools, and form new relationships with new service communities.”⁵²

If there is sufficient engagement from the entire bar, more quickly than some might anticipate, this new requirement could come to benefit all stakeholders: those in need of legal services, those seeking to become good lawyers, and others in the profession. In other words, as research on mandatory pro bono in law schools suggests, there are “distinct narratives of the meaning of pro bono: good lawyering and lawyering for the good.”⁵³ Both can, and I hope will, be achieved in the years ahead in New York.

Endnotes

1. Chief Judge Jonathan Lippman, *Law Day 2012*, available at <http://www.nycourts.gov/whatsnew/Transcript-of-LawDay-Speech-May1-2012.pdf>.
2. See generally NYCourts.gov, *Pro Bono Bar Admission Requirements*, <http://www.nycourts.gov/attorneys/probono/baradmissionreqs.shtml>. For a media account announcing this new requirement, see Anne Barnard, *Top Judge Makes Free Legal Work Mandatory for Joining State Bar*, N.Y. TIMES, May 1, 2012, available at http://www.nytimes.com/2012/05/02/nyregion/new-lawyers-in-new-york-to-be-required-to-do-some-work-free.html?_r=0.
3. See, e.g., Staci Zaretsky, *New York's Pro Bono Requirement Unlikely To Close The 'Justice Gap'*, Above the Law, Oct. 15, 2012, <http://abovethelaw.com/2012/10/new-yorks-pro-bono-requirement-unlikely-to-close-the-justice-gap/> (“Although the rule that we’ll now dub ‘Lippman’s Law’ was originally expected to add as much as 500,000 new hours of pro bono service each year, law school officials are now saying that it’s unlikely to deliver on that lofty goal, specifically due to the fact that the rule’s definition of ‘pro bono work’ is so broad.”); Gina DeChiario, *New York State Adopts Pro Bono Requirement*, Human Rights First Blog, Sept. 28, 2012, <http://www.humanrightsfirst.org/2012/09/28/new-york-state-adopts-pro-bono-requirement/> (“Human Rights First welcomes the recent announcement that applicants to the New York State bar will be required to complete 50 hours of pro bono service before they will be admitted to practice law.”); Matt Leichter, *New York's New Mandatory Pro Bono Requirements a Step in the Wrong Direction*, THE AM LAW DAILY, Sept. 26, 2012, http://www.americanlawyer.com/PubArticleALD.jsp?id=1202572739617&New_Yorks_New_Mandatory_Pro_Bono_Requirements_a_Step_in_the_Wrong_Direction&slreturn=20130224231234, (“...New York’s pro bono rule is a bellwether for the direction the state’s judiciary thinks law licensing should go: more arbitrary rules and barriers for law students to meet. Other states might adopt their own pro bono requirements, and because New York is a destination state for many law graduates who did not go to law school there—especially those from elite law schools—it’s possible that the rule will cause a cascade of changes to how many law schools operate.”).
4. Court of Appeals, State of New York, Chief Judge Jonathan Lippman, <http://www.nycourts.gov/ctapps/jlippman.htm>.
5. The “Frequently Asked Questions” document published by the NY State Bar quotes Chief Judge Lippman as saying “[t]he new pro bono service requirement for admission to the New York bar serves to address the state’s urgent access to justice gap, at the same time helping prospective attorneys build valuable skills and imbuing in them the ideal of working toward the greater good. It is so important that the next generation of lawyers in New York

embraces the core values of our profession that so fundamentally include pro bono legal assistance.” New York State Bar Admission: Pro Bono Requirement FAQs (Oct. 1, 2012 rev.), available at <http://www.nycourts.gov/attorneys/probono/FAQsBarAdmission.pdf>. Judge Lippman has further opined that the requirement makes sense “for new lawyers, for the profession as a whole, for the legal services providers, [and] for the judges.” Joel Stashenko and Christine Simmon, *Lippman Unveils Rule Detailing Bar Admission Pro Bono Mandate*, N.Y. LAW JOURNAL, Sept. 20, 2012.

6. The Pro Bono Requirement FAQ document states that:

[w]ith adequate training and supervision, some examples of eligible activities include: helping a low-income person complete court forms; assisting an attorney with trial preparation; helping litigants prepare for court appearances; engaging in witness interviewing and investigation; participating in a community legal education project; drafting court or transactional documents; or engaging in legal research. You may also perform law-related assignments or make court appearances that are authorized under student practice orders issued by the Appellate Division of the New York Supreme Court for the specific program in which you are performing pro bono work.

Keep in mind that the purpose of the Pro Bono Requirement is to enhance the provision of legal resources available to persons who would otherwise not be able to access or afford legal assistance. Toward this objective, you should seek pro bono work with programs or entities that aim to improve access to justice, are engaged in the representation of low-income or disadvantaged individuals or provide government services in furtherance of these objectives.

Pro Bono Requirement FAQ, available at <http://www.nycourts.gov/attorneys/probono/FAQsBarAdmission.pdf>.
7. 22 NYCRR § 520.16(c).
8. Marlene Coir, *Pro Bono and Access to Justice in America: A Few Historical Markers*, MICH. BAR. J. 54 (Oct. 2011), available at <http://www.michbar.org/journal/pdf/pdf4article1916.pdf>.
9. Justice Sandra Day O’Connor, *Pro Bono Work—Good News and Bad News* remarks at Pro Bono Awards Assembly Luncheon of the American Bar Association, Aug. 12, 1991 (unpublished), quoted in Kelsey M. Russell, *The Plight of the Poor in America’s Legal System: A Study of the Incentives at Work in the Legal Representation of Indigent Clients in America*, Economics Senior Thesis, University of Puget Sound, May 8, 2006, available at http://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=2&ved=0CDUQFjAB&url=http%3A%2F%2Fwww.pugetsound.edu%2Ffiles%2Fresources%2F1359_ThePlightofthePoorinAmerica.doc&ei=tcdPUb7aDqPk4AOCqYHYCg&usq=AFQjCNHJ7yrhp_YKe7ZQuNAKQM_rJD_TGg&sig2=6_WdAI0dXmb8CZ0eu2ixCA&bvml=bv.44158598.d.dmg.
10. Legal Services Corporation, *Documenting the Justice Gap In America: The Current Unmet Civil Legal Needs of Low-Income Americans* 27 (Sept. 2009), available at http://www.lsc.gov/sites/default/files/LSC/pdfs/documenting_the_justice_gap_in_america_2009.pdf. The report also notes that “state studies, sponsored by equal justice commissions, state bar associations and legal aid programs, have drawn this conclusion, contribute to a body of work building since 1994, and reinforce a key finding of the 2005 Justice Gap Report. Nationally, on average, only one legal aid attorney is available to serve 6,415 low-income people. In comparison, there is one private attorney providing personal legal services for every 429 individuals in the general population.” *Id.*
11. Deborah L. Rhode for the Consortium on Access to Justice, *Access to Justice: An Agenda for Legal Education and Research* 1, available at http://www.law.harvard.edu/programs/plp/pdf/Access_to_Justice.pdf. See also AMERICAN BAR ASSOCIATION, LEGAL NEEDS AND

CIVIL JUSTICE: A SURVEY OF AMERICANS, MAJOR FINDINGS FROM THE COMPREHENSIVE LEGAL NEEDS STUDY CONSORTIUM ON LEGAL SERVICES AND THE PUBLIC, 1994, available at <http://www.americanbar.org/content/dam/aba/migrated/legalservices/downloads/sclaid/legalneedstudy.authcheckdam.pdf>.

12. See Law Day 2012, *supra* n. 1 at 4.
13. Russell G. Pearce, *The Lawyer and Public Service*, 9 AMERICAN UNIV. J. OF GENDER SOCIAL POLICY & LAW 171, 175 (2001).
14. Deborah Rhode, *Pro Bono in Principle and Practice*, June 2003, Stanford Law School, Public Law Working Paper No. 66 (June 2003), http://papers.ssm.com/sol3/papers.cfm?abstract_id=458360.
15. See, e.g., the suggestion by the author of the Law School Tuition Bubble blog that proclaiming "poverty should be eased by throwing a lump of work-hours by soon-to-be lawyers supervised by paid lawyers at the problem is a political statement, and not a very noble one," Matt Leichter, *New York's New Mandatory Pro Bono Requirements a Step in the Wrong Direction*, THE AM LAW DAILY, Sept. 26, 2012, http://www.americanlawyer.com/PubArticleALD.jsp?id=1202572739617&New_Yorks_New_Mandatory_Pro_Bono_Requirements_a_Step_in_the_Wrong_Direction&slretu rn=20130226191153.
16. GERALD G. GOLDBERG, PRACTICAL LAWYERING: THE SKILLS YOU DID NOT LEARN IN LAW SCHOOL 97 (2009).
17. Donald W. Hoagland, *Community Service Makes Better Lawyers*, in THE LAW FIRM AND THE PUBLIC GOOD 123 (Ed. Robert A. Katzmann, 1995).
18. Advisory Comm. on N.Y. State Pro Bono Bar Admission Requirements, *Report to the Chief Judge of the State of New York and the Presiding Justices of the Four Appellate Division Departments*, 2, Sept. 2012, available at <http://www.nycourts.gov/attorneys/probono/ProBonoBarAdmissionReport.pdf>.
19. ABA Model Rule 6.1 goes on to say that:

In fulfilling this responsibility, the lawyer should:

 - (a) provide a substantial majority of the (50) hours of legal services without fee or expectation of fee to:
 - (1) persons of limited means or
 - (2) charitable, religious, civic, community, governmental and educational organizations in matters which are designed primarily to address the needs of persons of limited means; and
 - (b) provide any additional services through:
 - (1) delivery of legal services at no fee or substantially reduced fee to individuals, groups or organizations seeking to secure or protect civil rights, civil liberties or public rights, or charitable, religious, civic, community, governmental and 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;
 - (2) delivery of legal services at a substantially reduced fee to persons of limited means; or
 - (3) participation in activities for improving the law, the legal system or the legal profession.
20. A helpful summary of the state pro bono rule by the New York State Bar Association is available at <http://www.nysba.org/Content/ContentFolders/CommitteestandardsofAttorneyConduct2/Rule6.1.pdf>.
21. The actual language reads:

Lawyers are strongly encouraged to provide pro bono legal services to benefit poor persons.

 - (a) Every lawyer should aspire to:
 - (1) provide at least 20 hours of pro bono legal services each year to poor persons; and
 - (2) contribute financially to organizations that provide legal services to poor persons.

<http://www.nycourts.gov/attorneys/probono/Rule6.1.pdf>.
22. *Id.* The ABA goes on to note that "[t]he variety of these activities should facilitate participation by government lawyers, even when restrictions exist on their engaging in the outside practice of law."
23. 22 NYCRR Part 1200, Rule 6.1(b).
24. As the ABA Journal describes it, "The new rule broadly defines pro bono service to include work performed for people of limited means, not-for-profit organizations, and other individuals or groups seeking to promote access to justice. Legal assistance work performed through law school legal clinics or government entities also would qualify." James Podgerts, *New York's new rule requires bar applicants to perform 50 hours of pro bono*, ABA J., Mar. 2012, available at http://www.abajournal.com/mobile/mag_article/new_yorks_new_rule_requires_bar_applicants_to_perform_50_hours_of_pro_bono.
25. 22 NYCRR Part 520.
26. § 520.16 Pro Bono Requirement for Bar Admission (a) Fifty-hour pro bono requirement. Note that "applicants for admission without examination pursuant to section 520.10 of this Part" are exempt. *Id.*
27. The Form Affidavit of Compliance can be found at http://www.nycourts.gov/attorneys/probono/AppForAdmission_ProBonoReq_Fillable.pdf. Note that applicants should likely also simultaneously fill out the Form Affidavit as to Applicant's Law-Related Employment or/or Solo Practice: <http://www.nycourts.gov/courts/ad4/Clerk/AttyMtrrs/employment.pdf>.
28. See *Report to the Chief Judge of the State of New York and the Presiding Justices of the Four Appellate Division Departments*, *supra* n. 18. The Committee members are Hon. Victoria A. Graffeo, Associate Judge, Court of Appeals of the State of New York (co-chair); Alan Levine, Esq., Partner, Cooley LLP (co-chair); Steven Banks, Esq., Attorney-in-Chief, Legal Aid Society; Helaine M. Barnett, Esq., Chair, Task Force to Expand Access to Civil Legal Services in New York; Hon. Betty W. Ellerin, Former Presiding Justice, Appellate Division, First Department, Senior Counsel, Alston & Bird LLP; John D. Feerick, Esq., Norris Professor of Law and Founder and Director of the Feerick Center for Social Justice, Fordham University School of Law; Hon. Fern A. Fisher, Deputy Chief Administrative Judge for New York City Courts and Director, New York State Courts Access to Justice Program; Sharon Katz, Esq., Special Counsel for Pro Bono, Davis Polk & Wardwell LLP; Hon. George H. Lowe, Co-Chair, New York State Bar Association, President's Committee on Access to Justice, Bond, Schoeneck & King, PLLC; Dean Makau W. Mutua, SUNY Buffalo Law School; Lillian M. Moy, Esq., Executive Director, Legal Aid Society of Northeastern New York; Jerold R. Ruderman, Esq., Of Counsel, Wilson Elser Moskowitz Edelman & Dicker LLP; William M. Savino, Esq., Managing Partner, Rivkin Radler LLP; Samuel W. Seymour, Esq., Partner, Sullivan & Cromwell LLP; and, Stephen P. Younger, Esq., Partner, Patterson Belknap Webb & Tyler LLP.
29. *Id.* at 5-8.
30. Pro Bono Requirement FAQs, *supra* n. 5, available at <http://www.nycourts.gov/attorneys/probono/FAQsBarAdmission.pdf>.
31. *Id.* The list of qualifying externships is:
 - i. not-for-profit provider of legal services for the poor and low-income individuals;
 - ii. law firm, only if the work is performed for a pro bono matter being handled by that firm and the pro bono client is not paying a fee;
 - iii. not-for-profit organization, only if the work is related to a legal matter for which no fee is being paid;

- iv. judge or a court system;
- v. Legal Aid, a civil or criminal legal services organization that serves low-income clients, a Public Defender, a Conflict Defender, a U.S. Attorney, a District Attorney or a State Attorney General; or
- vi. federal, state or local government agency or a legislative body.
32. These additional opportunities include:
- Law school sponsored projects or programs that serve the poor or disadvantaged, provided the work is law-related and supervised in compliance with the Pro Bono Requirement.
- d. Law-related work for a not-for-profit organization qualifying as tax exempt under Internal Revenue Code § 501(c)(3) and
- i. providing free civil legal services for low-income individuals;
- ii. providing criminal legal services for the indigent; or
- iii. serving the poor or disadvantaged or otherwise promoting access to justice.
- e. Law-related work in connection with a pro bono matter undertaken by a member of a law school faculty, including adjunct faculty, or an instructor employed by a law school. *Id.*
33. *See id.*
34. *See, e.g.,* SUNY Buffalo Law School, Pro Bono Requirements, <http://www.law.buffalo.edu/current/pro-bono.html#background>.
35. Rules for Use of Selected Online Resources while Fulfilling New York's Pro Bono Requirement, <http://lawlib.buffalo.libguides.com/content.php?pid=438782>.
36. *See generally* RICHARD J. LAZARUS, THE MAKING OF ENVIRONMENTAL LAW (2004). For a list of various laws, agencies, see Environmental Protection Agency, *Law and Executive Orders*, <http://www.epa.gov/lawsregs/laws/index.html>, EcoEmploy, *Federal Environmental Government Agencies: Part I*, and Global Legal Resources, <http://www.ecoemploy.com/agency.html>, *Environment Law - Environmental and Natural Resources Law*, <http://www.hg.org/environ.html>. For an excellent exploration of international environmental law, see Tseming Yang & Robert V. Percival, *The Emergence of Global Environmental Law*, 36 ECOLOGY L.Q. 615 (2009).
37. Zygmunt J.B. Plater, *Environmental Law in the Political Ecosystem—Coping with the Reality of Politics*, 19 PACE ENVTL. L. REV. 423 (2002).
38. *See generally* John E. Bonine, *The Divergent Paths of Environmental Law Practice: A Reply to Professor Manaster*, 28 PACE ENVTL. L. REV. 265 (2010).
39. J.B. Ruhl, *Malpractice and Environmental Law: Should Environmental Law "Specialists" Be Worried?*, 33 HOUS. L. REV. 173, 175 (1996).
40. *See, e.g.,* <http://www.probono.net/ny/>.
41. *See* Beveridge & Diamond, *Pro Bono*, <http://www.bdlaw.com/practices-probono.html>.
42. *See* FindLaw, *Baur, Donald*, http://pview.findlaw.com/view/1283246_1.
43. *Free Willy* (1993), <http://www.imdb.com/title/tt0106965/>.
44. Christopher Davis, *The Challenges and Rewards of Environmental Pro Bono Work*, American College of Env'tl. Lawyers, Dec.10, 2009:
- One problem, particularly in a large law firm, is conflicts. In addition to the obvious ethical prohibition on handling matters directly adverse to a firm's clients, proposed environmental pro bono work often raises "issue conflicts" where the proposed representation would involve representing an organization or position that might be considered generally adverse to the interests of the firm's current or prospective clients (e.g., real estate developers, power companies or manufacturers), have the potential to create an adverse precedent for an important industry, or involve representation of interests and positions that some clients (or partners) do not like. In theory, pro bono clients and representations should be subject to the same ethical and conflicts standards as work for paying clients, but in practice this can be difficult to achieve given the politics and economics involved.
45. *See* http://www.eli.org/About/Board/cruden_john.cfm.
46. Kathryn Alfisi, *Government Attorneys and Pro Bono: An Untapped Resource*, WASHINGTON LAWYER (Dec. 2005), available at http://www.dcbbar.org/for_lawyers/resources/publications/washington_lawyer/december_2005/govtprobono.cfm.
47. BostonBar, *ACE Makes the Case for Environmental Pro Bono Work*, The Sustainability Network, (Mar. 14, 2012), <http://thesustainablelawyer.wordpress.com/2012/03/14/ace-makes-the-case-for-environmental-pro-bono-work/>.
48. Elissa C. Lichtenstein, ed., DIRECTORY OF PRO BONO LEGAL SERVICES PROVIDERS FOR ENVIRONMENTAL JUSTICE (AMERICAN BAR ASSOCIATION, Standing Committee on Environmental Law, Section of Litigation, and Section on Natural Resources, Energy and Environmental, Center on Race, Poverty and the Environment, California Rural Legal Assistance Foundation, 1996).
49. *Id.* at iii.
50. *See* Legal Services of NYC, *Pro Bono and Volunteer Service*, available at http://www.legalservicesnyc.org/index.php?option=com_content&task=view&id=55&Itemid=84.
51. *See* New York Pro Bono Opportunities Guide, available at http://www.probono.net/ny/nylj_oppsguide/.
52. NELSON P. MILLER, BUILDING YOUR PRACTICE WITH PRO BONO 6 (2012).
53. Robert Granfield and Philip Veliz, *Good Lawyering and Lawyering for the Good: Lawyer's Reflections on Mandatory Pro Bono in Law School*, in PRIVATE LAWYERS AND THE PUBLIC INTEREST: THE EVOLVING ROLE OF PRO BONO IN THE LEGAL PROFESSION 67 (Robert Granfield and Lynn Mather, eds., 2009).

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