
NEW YORK STATE UNIFIED COURT SYSTEM

PRO BONO CONVOCATION:
WORKING TO DESIGN A PRO BONO SYSTEM *for* NEW YORK

STATE UNIVERSITY AT BUFFALO LAW SCHOOL • O'BRIAN HALL
BUFFALO, NEW YORK

PROGRAM

- REGISTRATION AND CONTINENTAL BREAKFAST** 8:30 A.M. – 9:00 A.M.
- OPENING REMARKS, KEYNOTE ADDRESS AND OVERVIEW OF PRO BONO MODELS** 9:00 A.M. – 10:00 A.M.
- Opening Remarks -*
Hon. Eugene F. Pigott, Jr., *Presiding Justice, Appellate Division Fourth Department*
- Keynote Speaker -*
Paul Michael Hassett, Esq., *Brown & Kelly*
- Overview Presenter -*
Cheryl Zalenski, Esq., *Assistant Staff Counsel, ABA Center for Pro Bono*
- WORKING GROUP SESSIONS** 10:00 A.M. – 12:00 P.M.
- Small breakout sessions to discuss panel presentation and begin addressing Working Group topics*
- I. Organizing a Statewide Pro Bono System: What Makes Sense for New York?
FACILITATORS: Hon. E. Jeannette Ogden and Cheryl Zalenski, Esq.
 - II. Overcoming the Obstacles to Providing Pro Bono Services: What are the Elements of an Ideal Pro Bono System?
FACILITATORS: Hon. Rose Sconiers and Paul Michael Hassett, Esq.
 - III. Facilitating Pro Bono Through Limited Representation: How can this be Accomplished in New York?
FACILITATORS: Hon. Fern Fisher and Sharon Thomas
- BUFFET LUNCH** 12:00 P.M. – 1:00 P.M.
- WORKING GROUP SESSIONS (CONTINUED)** 1:00 P.M. – 3:00 P.M.
- REPORTS OF WORKING GROUPS AND CLOSING REMARKS** 3:00 P.M. – 4:30 P.M.
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Keynote Address of Paul Michael Hassett, Esq.
New York State Unified Court System Pro Bono Convocation
State University at Buffalo Law School, October 15, 2002

I am flattered to have been asked to deliver this keynote address at the second ever in the history of the world conference on pro bono legal services and I have wrestled with the chore of finding an appropriate topic for this occasion for some time. I kept sticking articles in a file until it got so big that no one could distill the substance of them into a consistent message but I have been able to extract a few thoughts that I hope will be worth sharing with you this morning. I was heartened by a letter which we all received from Judge Newton last week describing the convocation in general terms and noting that it would begin with a brief presentation for background purposes before we split up into working groups and begin the real task of the convocation. I take it that I'm to deliver that brief presentation.

I have given considerable thought to our topic – creating a system for pro bono delivery and organizing efforts on a statewide level with appropriate roles for all collaborating partners. There are two major challenges embedded in that definitional statement: first, can we find an advantage in a statewide organizational effort? That is, is bigger always better? and second, even if it's better, is it possible to do it in a state so economically, geographically, politically and culturally diverse?

And even if it makes sense and if it can be so structured, will it be successful? Is there any way to increase, in a meaningful way, the not inconsiderable pro bono efforts already existing in our state? Perhaps the answer can be found in the tragic lessons we learned from the horrible events of a year ago and their effect on our profession, about which much as already been said and written, for example:

- Judge Kaye's masterful Marden lecture of last March at the City Bar which is posted on the website for this convocation and if you have not read it you certainly should and her remarks at Fordham last spring which we heard this morning.
- Reports of bar presidents and others detailing the magnificent pro bono effort resulting from the attacks - beginning almost immediately and continuing for months, even until today in some cases.
- The stirring account of Michael Miller, now president of the New York County Lawyers Association, in his message which has been often reprinted throughout the country.

I have to pause here to confess my total admiration for Michael, a man whom I am proud to call my friend, who has been a beacon for us all and whose service in Bosnia and Kosovo prefaced his weeks of devotion in New York City. I was most honored to be in attendance last August at the ABA Annual Meeting in Washington when he was presented with the Pro Bono Publico Award by the American Bar Association for his many efforts, especially during the World Trade Center attacks.

While Michael Miller was at the pinnacle of our profession's pro bono response, thousands more of our colleagues – from large firms, small firms, sole practitioners, government lawyers, law school faculty and students – gave freely and selflessly of their time and talent during those horrible and frightful weeks. In the words of Judge Kaye in the Marden lecture: “Never did I dream . . . that our values would be so tested by other nations or that in America we would see such an outpouring of patriotism, humanitarianism, professionalism.” And Michael Miller in his remembrances told us: “I find it difficult to reflect on September 11th without a rush of pride at the extraordinary legal relief effort. In fact, that effort, which continues today, is a dramatic reminder of that, more than any other profession, lawyers serve the public good. While the events of that morning were dreadful, it was also the beginning of one of the Bar's finest hours . . .” He continued: “While there are lessons to be learned, I believe two important messages emerged from those cowardly attacks. First, as lawyers, as New Yorkers, and as Americans, when things are at their worst, we are at our very best. Second, there is still a great nobility in our profession.”

It is clear that the World Trade Center attacks were the catalyst for the most stirring example of pro bono activity ever, proof positive that it can be done – New York lawyers in large numbers will volunteer to help those in need who cannot afford to pay for legal services: the families of victims, neighbors of the Trade Center, small businesses, police and fire personnel and their families. The day the attacks occurred I was in Albany at an Access to Justice conference. Judge Kaye was there. Judge Lipmann was there. Judge Newton was there, as were many other lawyers and judges interested in access to justice. Sometime during that morning, a decision was made by Judge Kaye and Judge Lipmann to keep the courts open and open they were, sometimes without power - without telephones – without transportation in the red zone. That they remained open for the transaction of business stood as a symbol of our refusal to allow the horrid perpetrators of that tragedy to succeed in deterring one of the proudest accomplishments of our democracy - access to our justice system.

In the days following, when the magnitude of the profession's response became obvious I remember thinking: “How can we bottle this? How can we preserve it so that when we return to normalcy lawyers will remember and continue this burst of volunteerism?” What made that effort so different, so dramatic? Let me offer a couple of thoughts:

- In responding to the Trade Center disasters, lawyers felt the immediacy of the need - the certainty that their assistance would make a difference in the lives of those whom they helped;
- In responding to the Trade Center disasters, lawyers were reacting to a tremendous patriotic urge, an urge to fight against an attack on our fundamental American values, on our freedom, on our whole system of law and justice.

But is it really any different if you and I show up at Bob Elardo's door tomorrow and offer to help a family about to be evicted from their home or a parent facing bankruptcy with small children to support or a young mother seeking assistance in Family Court?

We all know that programs like Bob's can help only a small portion of those who need us; and that most of these programs stop taking calls from new clients in the first half-hour or so of every day. But the reality is that those whom we cannot help face futures every bit as bleak as those faced by our unfortunate neighbors who suffered from the great tragedy of September, 2001.

And are we really any less patriotic, any less devoted to our fundamental American values, when we offer to help a pro bono client with an adoption, with an employment or immigration matter, and in doing so, ensure that our American ideal of equal justice, of equal access to our system of civil dispute resolution, is available to all of our citizens not just those who have the means to afford our services? I suggest that there is no fundamental difference in the motivations of those who stood in line to help the victims of the attacks on the Trade Center from the motivations of those of us who add their names to the Roster of the Erie Bar's Volunteer Lawyers Project.

So, how do we convince New York's lawyers that the motivation and the reward for us, here in Buffalo, are identical to the motivation and reward of our colleagues who poured forth in New York City a year ago? That, my friends, is the task we face and it is by no means an easy one. We have to do it without the help of the media who kept everyone's attention rooted on the need. We have to do it for clients whose problems are not constantly at the forefront of our awareness. We have to do it all by ourselves, remembering how important our help is to those who need us and acknowledging our obligation as members of a proud and honorable profession.

I might suggest a few basic principles that must be incorporated in our solution:

- Any system of pro bono delivery must involve all of the traditional providers of pro bono service: bar associations, law firms, law schools, the court system - all of which are independent of each other and whose participation must therefore be absolutely voluntary.
- Many of you may know about the work of the New York State Planning Steering Committee and its efforts over the past couple of years to comply with the Legal Service Corporation's mandate to re-configure New York State and to develop a comprehensive plan for the delivery of civil legal services. Judge Newton has been an essential part of that effort and I have had the opportunity to participate in the last several months. The result is an impressive comprehensive statewide plan and the effort of the Steering Committee will continue towards developing a statewide structure, one without any inherent authority but instead a representative body working to support existing legal services providers. Pro bono is a part of

that planning effort and much can be gained by cooperating in that process because much of the groundwork has already been done. I hope you will consider that during your deliberations today.

- Finally, I have been reading a book (and I read books over the course of many days, sometimes weeks, and sometimes I read the end before the beginning so I am not sure exactly how far along I am in it) but the book is by Steven Sample, former president of the State University at Buffalo and for the last 10 years president of the University of Southern California. Dr. Sample's book is about leadership and in it he espouses something which he calls "thinking free" - free that is from all prior restraints. He says that it's somewhat akin to "thinking out of the box" or "brainstorming," but thinking free takes that process of inventiveness to the next level. He tells us that the key to thinking free is first to allow your mind to contemplate really outrageous ideas and only subsequently apply the constraints of practicability, legality, cost, time and ethics. He tells his readers that the most important inventions in a particular field are often made by people who are new to that field - people who are too naive and ignorant to know all of the reasons why something can't be done and who are therefore able to think more freely about seemingly intractable problems.

I am hopeful that among us today are some who are too naive and too ignorant to know why we can't accomplish our objective – why we can't think free of all the constraints and come up with some fresh approaches to the problem of pro bono legal service delivery in New York State and make Michael Miller's observation that: "There is a great nobility in our profession," prove true. Thank you all for coming and joining in that effort.

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