

Executive Summary

Rule 6.1 of the Montana Rules of Professional conduct states that Montana attorneys authorized to practice law in the state should provide 50 hours of *pro bono publico* service with the substantial majority of those hours devoted to provision of legal services to people of limited means. This summary report outlines results from the data collected from attorney 2013 reporting forms. The highlights of the data are as follows:

Pro bono reporting information was received for a **total 3,488** attorneys. **2,773** (80 percent) reported primary practice **in-state** and **685** (20 percent) indicating primarily **out-of-state** practice. The State Bar of Montana 2013 Attorney Membership Report is included as Attachment 1.

2,387 (84 percent)¹ in-state attorneys **reported pro bono hours in at least one pro bono category** in 2014.

- **1,643** (69 percent) attorneys reporting pro bono hours provided **84,161** hours of pro bono services ***without expectation of fee*** for individuals/families of limited means or organizations designed to assist people of limited means.
- **902** (38 percent) attorneys reporting pro bono hours provided **37,628** hours of pro bono service ***at a substantially reduced fee*** to people/families of limited means or organizations designed to assist people of limited means.
- **844** (35 percent) attorneys reporting pro bono hours provided **18,068** hours of **free** pro bono services to charitable, religious, civic, community, governmental or educational organizations in furtherance of their organizational purposes.
- **418** (18 percent) attorneys reporting pro bono hours provided **9,635** hours of **reduced fee** services to charitable, religious, civic, community, governmental or educational organizations in furtherance of their organizational purposes.
- There was a **decrease** of 5 percent in total reported pro bono hours from 2013 but a 14 percent **increase** in the number of attorneys providing services in 2014 as compared to 2013.
- In addition to reported pro bono hours, **319** (13 percent) of all in-state attorneys reported **19,688** hours participating in volunteer activities for improving the law, legal system or legal profession.
- 94 percent of reporting attorneys described their pro bono experience as very positive or positive.

¹ 74 out-of-state attorneys reported pro bono hours for the benefit of Montanans. Total attorneys with Montana pro bono is 2,847.

2014 Pro Bono Hours Recapitulation

CATEGORY	Hours	Category	Total
Without expectation of fees to/for persons of limited means or charitable, religious, etc. serving people of limited means	84,161		
Free to charitable, religious, etc. in furtherance of their purposes	<u>18,068</u>		
Total Free		102,229	
Reduced to people/organizations to/for persons of limited means or charitable, religious, etc. serving people of limited means	37,628		
Reduced to charitable, religious, etc. for furtherance of their purposes	<u>9,635</u>		
Total Reduced Fee		47,263	
TOTAL PRO BONO HOURS			149,492

Analysis of Reported Pro Bono Publico Service Value

(Does not include Volunteer Activities for improving the law, legal system, legal profession)

Free Services	102,229 hours x \$150/hr ²	\$15,334,350.00
Reduced fee services	47,263 hours x \$75/hr ³	<u>\$ 3,554,725.00</u>
TOTAL		\$18,879,075.00

² Hourly rate based on approximate average hourly rate of responders to the 2011 Montana State Bar Membership Survey

³ Reduced rate services calculated at one-half the average hourly rate

I. INTRODUCTION

The Pro Bono Reporting process is managed jointly by the State Bar of Montana and the Montana Supreme Court Office of the Court Administrator through its Statewide Pro Bono Coordinator. The Statewide Pro Bono Coordinator was responsible for compiling and analyzing the data. This report summarizes the results of the 2014 pro bono reporting year (fiscal year ending November 30, 2013). Pro Bono Reporting is conducted in conjunction with the annual Interest On Lawyers Trust Account (IOLTA) certification. IOLTA reporting is mandatory pursuant to Rule 1.18 of the Rules of Professional Conduct. Pro Bono reporting is voluntary.

An initial postcard mailing was sent on October 31, 2014 to all licensed Montana attorneys with instructions on reporting protocols and included a link to the electronic reporting portal on the State Bar of Montana website. Pro Bono and IOLTA reporting were linked one to the other. Reporting attorneys were guided through the Pro Bono Reporting Form and upon completion, redirected automatically to the IOLTA Compliance Certificate. Paper copies of the Pro Bono Reporting Form were made available on the State Bar of Montana website together with overviews and Q & A about pro bono *publico* and reporting generally. The Statewide Pro Bono Coordinator is not responsible for compiling and analyzing data for IOLTA reporting. Reporting protocols were also printed in November's issue of *The Montana Lawyer* and a reporting reminder was sent by email to State Bar sections and through local bar associations in late November.

This report includes information for 3,488 total reports, including 2,773 in-state lawyers received by January 31, 2015. This report does not exclude data received from attorneys with a status other than active. The overall percentage of online filing was 99.5 percent and remaining .5 percent filed the Pro Bono Report through mail or email submission. The quality of the data compiled has increased substantially over the electronic reporting years greatly improving data integrity and analyzing capabilities.

The purposes of reporting are:

1. to identify and evaluate the status of pro bono service in the Montana by Montana attorneys;
2. to assess the time attorneys spend providing pro bono *publico* and volunteer services, in what categories and to whom those services are provided;
3. to assess the financial impact of pro bono contributions by Montana attorneys;
4. to identify ways to improve pro bono participation and experiences among Montana attorneys;
5. to identify areas of improvement for promoting pro bono services and programs.

II. General Characteristics of Montana Attorneys

This section presents a general overview of practice types of Montana lawyers, using the pro bono reporting data. Because reporting volume of in-state attorneys is substantial, reporting data provides a general descriptive measure for the overall Montana attorney population.

II.1 Firm Size/Employment – Generally (Montana only)

The most common firm type/employment status and correlating percentages for reporting attorneys are⁴:

- 29 percent are **solo practitioners** and 87 percent reported pro bono hours in at least one category.
- 25 percent work in **government/public service** and 51 percent reported pro bono hours in at least one category.
- 12 percent are in **3-5 attorney** firms and 88 percent reported pro bono hours in at least one category
- 9 percent are in a **2-attorney firm** and 90 percent reported pro bono hours in at least one category

III. PRO BONO SERVICE STATEWIDE

This section presents the analyses result for the 2014 Pro Bono Report data for pro bono services provided and hours spent improving the law and the legal system (also found in the Executive Summary).

2,387 (84 percent) in-state attorneys **reported pro bono hours in at least one pro bono category** in 2014 and 94 percent reported their pro bono experience was very positive or positive.

- **1,643** (69 percent) attorneys reporting pro bono hours provided **84,161** hours of pro bono services ***without expectation of fee*** for individuals/families of limited means or organizations designed to assist people of limited means.
- **902** (38 percent) attorneys reporting pro bono hours provided **37,628** hours of pro bono service ***at a substantially reduced fee*** to people/families of limited means or organizations designed to assist people of limited means.
- **844** (35 percent) attorneys reporting pro bono hours provided **18,068** hours of free pro bono services to charitable, religious, civic, community, governmental or educational organizations in furtherance of their organizational purposes.
- **418** (18 percent) attorneys reporting pro bono hours provided **9,635** hours of reduced fee services to charitable, religious, civic, community, governmental or educational organizations in furtherance of their organizational purposes.
- There was a **decrease** of 5 percent in total reported pro bono hours from 2013 but a 14 percent **increase** in the number of attorneys providing services in 2014 as compared to 2013.
- In addition to reported pro bono hours, **319** (13 percent) of all in-state attorneys reported **19,688** hours participating in volunteer activities for improving the law, legal system or legal profession.

⁴ This was not a required question and 17 percent of in-state attorneys did not respond to this question. Percentages are based on those responding only.

IV. BENEFICIARIES OF PRO BONO SERVICE

The Pro Bono Reporting Form contains of a series of questions regarding to whom pro bono service was provided and distinguishes between services without the expectation of fee and substantially reduced fees. Responses were not mutually exclusive.

IV.1 Among the 2,387 lawyers who reported pro bono in any category, 1,643 (69 percent) provided services **without the expectation of fee** to people of limited means or organizations designed to assist people of limited means. Table T.1 below represents how those free pro bono hours were distributed across the question base using this category response total. Responses were not mutually exclusive.

Table T.1 – Pro Bono Hours - Without Expectation of Fee – Limited Means

CATEGORY	# Attorneys	Total Hrs.
Referred by MLSA or one of its programs	243	5,146
Referred by organized local or state pro bono program	182	3,602
A court based program	149	3,575
Individuals/families self-referred/outside organized pro bono program	1,068	46,297
Charitable organizations that assist people of limited means	285	6,737
Religious organizations that assist people of limited means	166	3,457
Community organizations that assist people with limited means	174	4,180
Civic organizations that assist people of limited means	95	2,031
Governmental organizations that assist people of limited means	64	2,404
Educational Organizations that assist people of limited means	105	2,119
Organizations seeking to secure/protect civil or public rights and/or liberties	112	4,343
TOTAL		81,960

IV.2 Among the 2,387 lawyers who provided pro bono services in any category, 902 (38 percent) provided **35,546 hours** of services **at a substantially reduced fee** to people of limited means or organizations designed to assist people of limited means. Table T.2 below represents how those substantially reduced fee hours were distributed across the question base using this category response total. Responses were not mutually exclusive.

Table T.2 – Substantially Reduced Fee – Limited Means

CATEGORY	# Attorneys	Hours
Referred by MLSA or one of its programs	36	1,457
Referred by organized local or state pro bono program	22	1,996
A court based program	22	2,211
Individuals/families of limited means outside organized pro bono	458	17,923
Charitable organizations that assist people of limited means	42	889
Religious organizations that assist people of limited means	20	207
Community organizations that assist people with limited means	35	1,040
Civic organizations designed to assist people of limited means	20	304
Governmental organizations that assist people of limited means	46	8,461
Educational Organizations that assist people of limited means	17	346
Organizations to secure/protect civil/public rights/ Liberties	31	2,794
TOTAL		37,628

IV.3 Among the 2,387 lawyers who provided pro bono services in any category, 514 (22 percent) provided **17,732 hours of free legal services** and **117** (5 percent) provided **9,511** hours of **substantially reduced fee** service to charitable, religious, civic, community, governmental or educational organizations in furtherance of their organizational purposes, where payment of fees would greatly deplete their economic resources. Responses to this question were not mutually exclusive.

IV.4 Hours Improving the Law or Legal System

In 2014, 319 (13 percent of total in-state reports) reporting lawyers provided **19,688** hours participating in **volunteer activities for improving the law, legal system or legal profession.**

V. PRO BONO SERVICE BY LEGAL TYPE

Family law continues to lead legal type category of individual pro bono service at 44.2 percent. Non-profit legal work has remained the second most common category for six successive years and Landlord-Tenant remains the third largest category in 2013. Table T.4 below provides percentages in all categories.

Table T.3 – Pro Bono Service by Category

CATEGORY	Percentage	CATEGORY	Percentage
Family Law	44%	All other Categories	8%
Non-Profit	22%	Civil Rights	8%
Landlord-Tenant	21%	Adoption	6%
Criminal Law	21%	Bankruptcy	6%
Estate Planning	19%	ADR	5%
Business	18%	Disability Rights	5%
Employment/Labor	15%	Self-Help Support	5%
Probate	13%	Health Law	4%
Real Estate/Foreclosure	13%	Human Rights	4%
Guardianship	12%	Military/Veterans	4%
Elder Law	11%	Social Security	4%
Consumer Law	11%	Tax	4%
End of Life Planning	10%	Youth in Need of Care	4%
Insurance	9%	Indian Law	4%
Education	9%	Immigration	1%
Domestic Violence	8%	Pro Bono Coordination or Administration	1%

VI. PRO BONO SERVICE BY FIRM SIZE

The Pro Bono Reporting Form queries lawyers for firm size or employment type. The numbers provided in this report reflect in-state attorney responses only. The table below illustrates provision of pro bono services based on the size of a firm or employment status and the percentage denominator is the number of attorneys providing any pro bono service hours in the respective firm size category.⁵

Table T.4 – Pro Bono Service by Firm Size

Firm Size	Without Fee to people and organizations of limited means	Substantially Reduced Fee to people and organizations of limited means	Free to charitable, religious, etc. for organizational purposes	Substantially Reduced Fee to charitable, religious, etc. for organizational purposes
Solo Firm	85%	53%	38%	19%
Two-Attorney	91%	58%	36%	17%
3-5 Attorney	92%	43%	32%	17%
6-10 Attorney	81%	37%	32%	15%
11-15 Attorney	76%	36%	51%	42%
16-20 Attorney	88%	40%	39%	18%
20+ ⁶	77%	35%	41%	22%
Government/Public Service	51%	26%	33%	20%
In-House/Corp.	69%	23%	48%	32%
Non-Profit	75%	39%	42%	15%
Retired	53%	15%	31%	7%

VII. Years in Practice

Approximately 71 percent of in-state attorneys responded to the question about how many years in practice. The average years of practice for responders generally were 19.

VIII. No Pro Bono

The Pro Bono Reporting Form allowed attorneys to indicate no pro bono hours to report and were offered options to indicate reasons for no pro bono hours. Approximately 47 percent of no-pro bono hours responses came from government/public service attorneys. Of note is that a percentage of those indicating a reason for not providing pro bono hours had hour entries in at least one pro bono category. This suggests attorneys with few hours, or hours in categories to people/organizations of limited means provided a reason response. In addition, most responses in the “Other” reason

⁵⁵ This was not a required question and responses were not received from all responders.

⁶ Does not include a single report submitted for 100+ attorney firm

category would otherwise conform to a choices provided with selection boxes. The allocation of percentages across reasons for no pro bono are illustrated in Table T.5 below and 36 percent indicated more than one reason for no pro bono service.

Table T.5 – No Pro Bono Service

REASONS	Percent
Do not have time to do pro bono	29%
Other	22%
Employment/employer prohibits pro bono	15%
Work outside the legal profession at this time	12%
Cannot afford to do pro bono	11%
Only recently been admitted to the practice of law	11%
No opportunity given to me to provide pro bono	10%
Lack necessary skills or training	7%
No reason	5%
Specific rule/regulation prohibits participation	5%
No longer practice law	4%
Unemployed	3%
Do not believe pro bono is my professional responsibility	1%

Also of note are demographics of attorneys who did not submit a 2014 Pro Bono Report and whether this raises the presumption that those non-reporting attorneys did not have pro bono service hours to report.

IX. PRO BONO SATISFACTION AND IMPROVEMENT

IX.1 Pro Bono Experience

Approximately 66 percent of attorneys providing pro bono service rated their pro bono experience and 94 percent of responses indicated the pro bono experience positive or very positive. The vast majority of attorneys provided comment for negative or very negative experience indicate clients unwilling to compromise, take advantage of attorneys' time or fail to recognize the value of the service provided.

IX.2 Improving Pro Bono

Attorneys were asked what could be done to improve the attorney's ability to do pro bono work. The Reporting Form was revised in 2013 to provide a menu of options rather than previous years' open-ended response. The 2013 response rate to this questions improved from 10 percent in 2012 to 34 percent in 2014 (956). Responders could choose multiple responses. Table T.6 below illustrates response percentages.

Table T.6 – How to Improve Pro Bono Participation

REASONS	Percent
Additional Training/CLE	28%
Opportunities for finite hour contributions (e.g. legal clinic, limited task representation)	27%
Administrative/staff support for pro bono cases	22%
Co-counsel or assistance from a paralegal or law student	12%
Experienced attorney mentor	19%
Opportunities in my area of expertise	18%
Referral from an organized program	17%
Thorough screening of cases – financial and merit	12%
Ability to choose cases from general solicitation from organized programs	11%
Accommodations from employer or changes to department policies to accommodate pro bono	11%
Use of office space or equipment	8%
Expanded opportunities in geographic location	6%

Generally, responses not offering a viable opportunity for us to improve ability to do pro bono work (winning the lottery or more hours in a day) were included in the “other” category.

X. Comparisons, Trending and Recommendations

X.1 Three-Year-Comparison (with adjustments)

CATEGORY	2014	2013	2012
Total attorneys reporting pro bono hours in any category	2,387	2,025	1,618
Total Free Hours	102,229	106,892	93,384
Total Substantially Reduced Hours	47,263	50,571	48,603
Total Pro Bono Hours	149,492	157,463	142,587

Number providing pro bono services: While the total number of pro bono hours in 2014 decreased by 5 percent, the number of attorneys reporting pro bono hours in at least one category increased by 14 percent. This data suggests the number of attorneys providing pro bono services is increase, but spend fewer hours on respective pro bono cases. This data also suggests that more individuals may be receiving pro bono services with concentrated efforts on limited tasks and legal clinics.

Category of Services: Attorneys providing assistance without the expectation of fee is within one percentage point of 2013, but there is a 5 percent increase in the number of attorneys providing substantially reduced fee services to people of limited means or organizations designed to assist people of limited means.

X.III Recommendations

Support Systems: Based on the 20143 reporting data, it is recommended that those working in the access to justice arena in Montana consider concentrating development efforts or support allocation for attorneys as follows:

1. Increase available training or Continuing Legal Education (CLE) opportunities in legal areas of the greatest need;
2. Develop pro bono opportunities for limited scope representation or discrete tasks such as limited scope representation panels, LSR components to existing program/organization formal referral protocols and additional permanent or event-based advice clinics across the state;
3. Development of supportive non-attorney legal professional and law student modules for existing pro bono programs to offer assistance to attorneys taking pro bono cases;
4. Creation or expansion of mentor-mentee protocols and opportunities in pro bono programs to provide support to new lawyers and as well as lawyers who wish to provide services in an unfamiliar legal area.

Of note, recommendations above are based on overall response statistics. However, when filtered by those attorneys indicating they did not provide pro bono hours, opportunities for discrete tasks or finite hour contributions tripled any other category, and included a majority response from government/public service attorneys.

Because the new attorney age demographic (5 years or less) demonstrates the least incidence of pro bono service, special attention should be focused on engaging this age demographic and developing opportunities and services outlined in item four above.