

Montana Pro Bono 2016 Annual Report

ATTORNEYS

1,561

PRO BONO HOURS

120,036

EQUIVALENT TO

58 Full-time Attorneys
Annually

WORTH

\$18 MILLION DOLLARS

49%

Percentage of active Montana
attorneys providing pro bono service
in 2016

50%

Provided free services to
non-profits and other
organizations assisting
people of limited means

Improving Pro Bono

30%
Finite Hours

31%
CLE/Training

23%
Staff Support

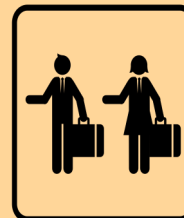
43%

Provided pro bono
services in
Family Law



The Montana Pro Bono Attorney

Most commonly a
sole practitioner in
practice for 25
years providing 36
hours of pro bono
service to a self-
referred client.



20%

Provided
Limited Scope
Representation

93%

Reported a positive
pro bono experience



30%

Attorneys who provided
reduced fee services

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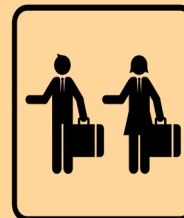
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2016 Montana Pro Bono Final Report

February 2016

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 2016 reporting forms. The highlights of the data are as follows:

Pro bono reporting information was received for a **total 2,376** attorneys with **1,945** (82 percent) reporting primary practice **in-state** and **431** (18 percent) **out-of-state** attorneys¹. The State Bar of Montana 2016 Attorney Membership Report is included as Attachment 1.

1,561 in-state attorneys **reported pro bono hours in at least one pro bono category** in 2016. In addition, **41 out-of-state** attorneys reported pro bono hours for the benefit of Montanans.

- **1,301** attorneys reporting Montana pro bono hours provided **70,706** hours of pro bono services ***without expectation of fee*** for individuals/families of limited means or organizations designed to assist people of limited means.
- **461** attorneys reporting Montana pro bono hours provided **22,144** 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.
- **582** attorneys reporting pro bono hours provided **15,284** hours of **free** pro bono services to charitable, religious, civic, community, governmental or educational organizations in furtherance of their organizational purposes.
- **81** attorneys reporting pro bono hours provided **11,902** hours of **reduced fee** services to charitable, religious, civic, community, governmental or educational organizations in furtherance of their organizational purposes.
- In addition to reported pro bono hours, **686** in-state attorneys reported **17,260** hours participating in volunteer activities for improving the law, legal system or legal profession.
- 93 percent of reporting attorneys described their pro bono experience as very positive or positive.

¹ 44 Out-of-State Attorneys provided pro bono services for the benefit of Montanans or Montana-based organizations

2016 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 | 70,706 | | |
| Free to charitable, religious, etc. in furtherance of their purposes | <u>15,284</u> | | |
| Total Free | | 85,990 | |
| Reduced to people/organizations to/for persons of limited means or charitable, religious, etc. serving people of limited means | 22,144 | | |
| Reduced to charitable, religious, etc. for furtherance of their purposes | <u>11,902</u> | | |
| Total Reduced Fee | | 34,046 | |
| TOTAL PRO BONO HOURS | | | 120,036 |

Analysis of Reported Pro Bono Publico Service Value

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

| | | |
|----------------------|--------------------------------------|------------------------|
| Free Services | 85,990 hours x \$175/hr ² | \$15,048,250.00 |
| Reduced fee services | 34,046 hours x \$85/hr ³ | <u>\$ 2,893,910.00</u> |
| TOTAL | | \$17,942,160.00 |

² Hourly rate based median hourly rate of responders to the 2014 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 calendar year 2016 pro bono hours. 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. The Pro Bono Coordinator is not responsible for compiling and analyzing data for IOLTA Compliance.

This report includes information for **2,376 attorneys**, including **1,945** in-state lawyers and 431 out-of-state attorneys received by January 31, 2017. This report does not exclude data received from attorneys with a status other than active.

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 participation in pro bono services and programs.

II. General Characteristics of Reporting Montana Attorneys

This section utilizes the pro bono reporting to present a general overview of practice types of Montana lawyers. Because of the substantial in-state attorney reporting volume, this data provides a general descriptive measure for the overall Montana attorney. Ninety-seven percent of in-state reporting attorneys responded to this question.

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

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

- **30** percent are **solo practitioners** and 89 percent reported pro bono hours in at least one category.
- **25** percent work in **government/public interest** employment and 47 percent reported pro bono hours in at least one category.⁴
- **13** percent are in **3-5 attorney** firms and 86 percent reported pro bono hours in at least one category
- **10** percent are in a **2-attorney firm** and 85 percent reported pro bono hours in at least one category
- **8** percent **6-10 attorney** firms and 84 percent reported pro bono hours in at least one category

⁴ 13% state government, 8% county/city government, 2% federal government and 2% other government/public interest

- The **remaining** percentage is disbursed relatively evenly throughout firm size larger than 10 attorneys and collectively 76 percent of this category reported pro bono hours in at least one category.

III. PRO BONO SERVICE STATEWIDE

This section presents the analyses result for the 2016 Pro Bono Report data for services provided and hours spent improving the law and the legal system (also found in the Executive Summary).

1,561 attorneys reported **Montana pro bono hours in at least one pro bono category** in 2016. In addition, **41 out-of-state** attorneys reported pro bono hours for the benefit of Montanans.

- **1,301** attorneys reporting Montana pro bono hours provided **70,706** of pro bono services ***without expectation of fee*** for individuals/families of limited means or organizations designed to assist people of limited means.
- **461** attorneys reporting Montana pro bono hours provided **22,144** 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.
- **582** attorneys reporting pro bono hours provided **15,284** hours of free pro bono services to charitable, religious, civic, community, governmental or educational organizations in furtherance of their organizational purposes.
- **81** attorneys reporting pro bono hours provided **11,902** hours of reduced fee services to charitable, religious, civic, community, governmental or educational organizations in furtherance of their organizational purposes.
- In addition to reported pro bono hours, **686** in-state attorneys reported **17,260** hours participating in volunteer activities for improving the law, legal system or legal profession.

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 **1,561** lawyers who reported pro bono in any category, **1,301** (83 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** represents 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 | 204 | 6,223 |
| Referred by organized local or state pro bono program | 143 | 2,894 |
| A court based program | 101 | 2,693 |
| Individuals/families self-referred/outside organized pro bono program | 1,065 | 38,542 |
| Charitable organizations that assist people of limited means | 243 | 5,152 |
| Religious organizations that assist people of limited means | 126 | 2,665 |
| Community organizations that assist people with limited means | 165 | 3,226 |
| Civic organizations that assist people of limited means | 72 | 1,298 |
| Governmental organizations that assist people of limited means | 52 | 1,290 |
| Educational Organizations that assist people of limited means | 95 | 1,977 |
| Organizations seeking to secure/protect civil or public rights and/or liberties | 96 | 4,746 |
| TOTAL | | 70,706 |

IV.2 Among the 1,593 lawyers who provided pro bono services in any category, **598** provided **20,740 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** 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 | 33 | 835 |
| Referred by organized local or state pro bono program | 22 | 654 |
| A court based program | 22 | 683 |
| Individuals/families of limited means outside organized pro bono | 383 | 15,255 |
| Charitable organizations that assist people of limited means | 36 | 742 |
| Religious organizations that assist people of limited means | 12 | 180 |
| Community organizations that assist people with limited means | 22 | 343 |
| Civic organizations designed to assist people of limited means | 11 | 286 |
| Governmental organizations that assist people of limited means | 24 | 2,468 ⁵ |
| Educational Organizations that assist people of limited means | 9 | 255 |
| Organizations to secure/protect civil/public rights/ Liberties | 12 | 443 |
| TOTAL | | 22,144 |

IV.3 Among the 1,561 lawyers who provided pro bono services in any category, **585** provided **15,284 hours of free legal services** and **81** provided **11,902 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.

⁵ This year's analytics allows filtering out of entries that likely do not meet the criteria of pro bono service resulting in a 90 percent reduction of hours in this category.

IV.4 Hours Improving the Law or Legal System

In 2016, **686** reporting lawyers provided **17,260** 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 45 percent. Non-profit legal work has remained the second most common category for seven successive years and criminal law was the third largest category in 2016 followed closely by Landlord-Tenant. Table T.4 below provides percentages in all categories.

Table T.3 – Pro Bono Service by Category

| CATEGORY | Percentage | CATEGORY | Percentage |
|----------------------|------------|---|------------|
| Family Law | 45% | Self Help Support | 5% |
| Non-Profit | 23% | Conservatorship | 5% |
| Criminal Law | 20% | Adoption | 5% |
| Landlord-Tenant | 19% | ADR All Types | 5% |
| Estate Planning | 19% | Disability Rights | 5% |
| Business | 17% | Bankruptcy | 5% |
| Employment/Labor | 15% | Bankruptcy | 5% |
| Probate | 12% | Youth in Need of Care | 4% |
| Consumer Law | 12% | Military/Veterans | 4% |
| Guardianship | 12 | Tax | 4% |
| Insurance | 10% | Human Rights | 3% |
| All other categories | 9% | Social Security | 3% |
| Education | 9% | Indian Law | 3% |
| End of Life Planning | 8% | Health Law | 3% |
| Domestic Violence | 8% | Immigration | 2% |
| Civil Rights | 7% | Pro Bono Coordination or Administration | 1% |

VI. Years in Practice

Eighty six percent of reporting attorneys provided a response to the number of years in practice. The average of years in practice generally is 20.13.

VII. No Pro Bono

The Pro Bono Reporting Form allowed attorneys to indicate no reportable pro bono hours and offered options to indicate reasons for no pro bono hours. **Fifty-one percent** of no-pro bono hours responses came from **government/public service attorneys.** Note: most responses in the “Other” reason category would otherwise conform to a choice provided with selection boxes. The allocation of percentages across no pro bono service are illustrated in **Table T.5.**

Table T.4 – No Pro Bono Service

| REASONS | Percent |
|---|----------------|
| Other | 27% |
| Do not have time to do pro bono | 30% |
| Employment/employer prohibits pro bono | 12% |
| Cannot afford to do pro bono | 11% |
| Work outside the practice of law | 11% |
| Only recently been admitted to the practice of law | 9% |
| No opportunity given to me to provide pro bono | 9% |
| Only recently admitted to practice law | 8% |
| Lack necessary skills or training | 7% |
| No reason | 6% |
| No longer practice law | 5% |
| Specific rule or regulation prohibits participation | 5% |
| Do not believe pro bono is my professional responsibility | 2% |
| Unemployed | 1% |

Also of note are demographics of attorneys who did not submit a 2016 Pro Bono Report and whether this raises the presumption that those non-reporting attorneys did not have pro bono service hours to report.

XIII. PRO BONO SATISFACTION, IMPROVEMENT and LIMITED SCOPE REPRESENTATION

XIII.1 Pro Bono Experience

Approximately 70 percent of attorneys providing pro bono service rated their pro bono experience and **93 percent** of responses indicated the pro bono experience **positive or very positive**. Of those attorneys reporting negative or very negative experiences, 71 percent provided family law pro bono services. .

XIII.2 Improving Pro Bono

Attorneys were asked what could be done to improve the attorney’s ability to do pro bono work. Thirty-eight percent of reporting attorneys responded to this question. **Table T.5** below illustrates response percentages.

Table T.5 – How to Improve Pro Bono Participation

| REASONS | Percent |
|--|----------------|
| Additional Training/CLE | 31% |
| Opportunities for finite hour contributions (e.g. legal clinic, limited task representation) | 30% |
| Administrative/staff support for pro bono cases | 23% |
| Co-counsel/paralegal/law clerk | 21% |
| Experienced attorney mentor | 21% |
| Referrals from an organized program | 21% |
| Thorough case screening –merit and financial | 15% |
| Opportunities in my area of expertise | 13% |
| Ability to choose cases from a general solicitation | 12% |
| Use of office space or equipment | 9% |
| Other | 9% |
| Expanded opportunities in my geographic location | 8% |
| Accommodations from employer/changes in policies to permit pro bono | 8% |

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.

XIII.3 Limited Scope Representation (LSR)

Seventy percent of reporting attorneys responded to this question and **twenty percent** indicated they provided pro bono LSR services and **eighty percent** did not.

IX. Recommendations

Support Systems: Based on the 2016 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. Continue expansion of **limited scope representation opportunities** without diluting full representation attorney resources;
2. **Expand attorney training opportunities** in the areas of greatest legal need;
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.
5. Create **signature programs** designed to align with **government and public interest lawyering** and remove impediments to participation in pro bono programs.
6. Update government agency pro bono policies to facilitate pro bono participation and develop education and outreach regarding adopted policies.

MEMBERSHIP INFORMATION REPORT

January 10, 2017

By: Jill Diveley

| MEMBERSHIP TYPE | "A" | "I" | "ID" | "E" | "J" | "AM" | "SU" | "R" | "S" | "P" | TOTAL |
|------------------------|-------------|------------|-------------|------------|------------|-------------|-------------|------------|------------|------------|--------------|
| Montana | 3159 | 337 | 12 | 5 | 199 | 3 | 176 | 222 | 122 | 157 | 4392 |
| Out-of-State | 748 | 636 | 1 | 2 | 20 | 26 | 377 | 337 | 82 | 1 | 2230 |
| TOTAL | 3907 | 973 | 13 | 7 | 219 | 29 | 553 | 559 | 204 | 158 | 6622 |

Membership Types: Active, Inactive, Inactive/Disability, Emeritus, Judicial, ActiveMilitary, Suspended, Resigned/Retired, Senior, Paralegal

(**GENDER & DISTRICT** includes Active, ActiveMilitary, Inactive & Senior members)

| GENDER | "M" | "F" | TOTAL |
|---------------|-------------|-------------|--------------|
| Montana | 2366 | 1255 | 3621 |
| Out-of-State | 970 | 522 | 1492 |
| TOTAL | 3336 | 1777 | 5113 |

(**DISTRICT** includes Active/ActiveMilitary, Inactive/Senior members)

| DISTRICT | "A" | "I" | TOTAL |
|-----------------|------------|------------|--------------|
| 1 | 566 | 79 | 645 |
| 2 | 81 | 7 | 88 |
| 3 | 25 | 8 | 33 |
| 4 | 649 | 89 | 738 |
| 5 | 45 | 11 | 56 |
| 6 | 43 | 8 | 51 |
| 7 | 32 | 3 | 35 |
| 8 | 219 | 35 | 254 |
| 9 | 35 | 5 | 40 |
| 10 | 22 | 1 | 23 |
| 11 | 247 | 38 | 285 |
| 12 | 31 | 5 | 36 |
| 13 | 529 | 74 | 603 |
| 14 | 6 | 3 | 9 |
| 15 | 16 | 0 | 16 |
| 16 | 26 | 3 | 29 |
| 17 | 18 | 0 | 18 |
| 18 | 369 | 57 | 426 |
| 19 | 18 | 3 | 21 |
| 20 | 80 | 9 | 89 |
| 21 | 60 | 15 | 75 |
| 22 | 45 | 7 | 52 |

| | | | |
|-----------------------|-----|------------------------|-----|
| BANKRUPTCY | 82 | NAT. RESOURCE/ENVIRON. | 116 |
| BETTR LAW | 222 | NEW LAWYERS | 298 |
| CONSTRUCTION LAW | 56 | NONPROFIT LAW | 41 |
| CRIMINAL LAW | 83 | PARALEGAL | 158 |
| FAMILY LAW | 169 | PUBLIC LAW | 67 |
| FEDERAL PRACTICE | 79 | SCHOOL LAW | 23 |
| HEALTH CARE LAW | 59 | VETERANS' LAW | 38 |
| INDIAN LAW | 82 | WOMEN'S LAW | 111 |
| INTELLECTUAL PROPERTY | 8 | | |

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