



**DAVID M. SCHRAVER**

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June 26, 2013

Honorable Jonathan Lippman  
Chief Judge of the State of New York  
230 Park Avenue, Suite 826  
New York, New York 10169

**Re: Mandatory Reporting of Pro Bono Service and Contributions**

Dear Chief Judge Lippman:

Access to justice is a central focus of the New York State Bar Association's mission. Each year our members provide tens of thousands of hours of pro bono service and make substantial financial contributions to organizations providing civil legal services. To "do the public good," our Association's pro bono theme, reminds us why we entered the legal profession, and our Association has a deep appreciation for the emphasis you have placed on the expansion of pro bono service by attorneys to aid in the delivery of legal services to those in need and to provide additional funding for civil legal services.

Members of the legal profession take seriously their part in providing pro bono legal services to benefit poor persons under Rule 6.1 of the Rules of Professional Conduct, but ultimately the provision of legal services to the poor is a public responsibility. In that vein, I am writing to you to express our Association's opposition to the recent amendments to Part 118 of the Rules of the Chief Administrative Judge requiring attorneys to report on their biennial registration forms their voluntary pro bono service as well as voluntary financial contributions to organizations providing civil legal services. Our opposition to mandatory reporting, which dates to 2004, is based on several factors.

First and foremost, our Association objects to the fact that, by virtue of being included on the attorney registration form, lawyers' personal pro bono services and contributions will have to be reported and will be available to any member of the public and the media. Our members regard such reporting and disclosure as an invasion of privacy. In addition, public disclosure of only pro bono service and contributions significantly understates lawyers' additional volunteer activities and charitable contributions. Lawyers should not be subject to having their personal charitable work and contributions made public; while we recognize the important need for legal services funding, it cannot be achieved through breaching the privacy rights of individuals.

Second, lawyers are being placed in the position of facing potential disciplinary charges for failure to report voluntary service and contributions. This is far different from requiring

lawyers to report continuing legal education credits as a condition of maintaining their law licenses, as those requirements relate directly to a lawyer's competence in the practice of law.

Third, even though mandatory reporting is not the equivalent of mandatory pro bono service, the reporting requirement dilutes the voluntary nature of lawyers' pro bono service. One cannot deny the coercive effect of requiring lawyers to disclose their charitable works. We very strongly believe that lawyers should provide pro bono service because they recognize the critical importance of access to justice and lawyers' unique ability to assist – not because they feel pressured into doing so.

Finally, I note that, for the second time in the course of a year, court rules affecting lawyers and the practice of law were announced without any opportunity for the organized bar to provide comment or input. This runs counter to the statements previously made that proposed amendments to court rules would be published on the Unified Court System's website with an opportunity for review and submission of comments. The bar wants to partner with the courts in making improvements to the legal system and the delivery of legal services. However, partnership involves communication and consultation, and our members would have expected the court system to provide an opportunity for our input instead of presenting the bar with a final decision.

We do understand the need to assess lawyers' pro bono service and contributions. Our Association has taken the position that reporting of pro bono service should be done on a purely voluntary basis. In some states, this is done by asking lawyers, on a regular basis, to report pro bono service online. We believe the goal of measuring pro bono service could be accomplished without the coercive effect of mandatory reporting.

Our Association shares your focus on facilitating the delivery of legal services to those in need and will continue to support your efforts with respect to access to justice. I hope we can discuss the concerns of our Association's members as set forth above in the near future.

Respectfully,

A handwritten signature in black ink that reads "David M. Schrauer". The signature is written in a cursive, flowing style.

David M. Schrauer