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The Case for a Public Interest Law Practice

By Dan Stormer

On any given day the caseload at Hadsell Stormer Keeny Richardson & Renick would display a variety of public interest cases. You might see a case against huge corporations for aiding and abetting apartheid in South Africa, another case might involve representation of a prisoner at Guantanamo Bay, others might include an attack on California's English-only testing system under "The No Child Left Behind Act," cases involving the deprivation of free speech rights, villagers in Nigeria and Burma, the South Central Farmers, disabled prisoners needing access to rehabilitative programs, prisoners deprived of medical attention, slum housing inhabitants seeking relief, as well as persons suffering as victims of discrimination, harassment and retaliation.

You might also run across workers who are the victims of wage theft or who have had their privacy invaded by public employers conducting intrusive background investigations. This is the day-to-day caseload of my firm. It is what we now call public interest law and what used to be described as civil rights. It is not pro bono. What firms like ours do on a day-to-day basis is what constitutes pro bono work for many lawyers.

While I do not mean to disparage pro bono work, the aspirational 50 hours of pro bono work per year seems to me an inconsequential commitment to justice given the average lawyer's income. Pro bono is a concept with which I've always been uncomfortable - both as a life commitment and as a plan for assisting the poor and oppressed.

I have been practicing law for over 35 years and I have done very little pro bono work. Whether correctly or incorrectly, I have always viewed pro bono work as a form of "noblesse oblige" that ignores the greater responsibilities that attach to all of us who practice law. This is not to say that I don't appreciate it, respect it, or want it to discontinue. A great amount of spectacular work is being done on behalf of poor and oppressed people by highly compensated lawyers from firms where the vast majority of their time is spent protecting the rights of property over the rights of people.

In fact, my becoming a lawyer can be directly attributed to the pro bono work of a country lawyer who assisted my poverty stricken family in addressing a legal problem. I grew up in a very rural area in a family that had little or no funds. We were essentially squatters who lived a mile off the black top on a dirt road in an impoverished rural area. One day a state trooper drove up the mile long dirt road, faced off with 15 barking dogs, ignored the squealing pigs and dust, and served my parents with legal papers. What were we to do? We did not know a lawyer or have money to pay one. Instead, like poor people do, the whole family trooped off to the rural County Seat together and met with a country lawyer who volunteered her time assisting poor people. My parents told this lawyer our sad saga and, at the conclusion, she looked at us and said, "I think I can help." At that moment in my life, I had never met a lawyer, didn't know any lawyers, and had no understanding of what it meant to be a lawyer. I did understand that she had a very nice office and that she could help us. That very moment I decided I was going to become a lawyer. And, thereafter, never considered anything else (unless you include a brief foray into being a ski bum). It is a foundation of my belief system that a lawyer could make a living and make a difference.

When I graduated law school in the early 1970s it was much different from today. What we thought of as a civil rights lawyer was most often a criminal defense attorney. Our heroes of the time were people like Ben Margolis and John McTernan who had fought the House on Un-American Activities during the McCarthy era and who were among the founders of the National Lawyers Guild; other contemporaries of theirs include Leonard Boudin and Victor Rabinowitz. Closer to our generation we learned from attorneys like

William Kunstler and Leonard Weinglass, who represented the Chicago Seven, as well as civil rights workers in the turbulent late 1960s in the South. The idea of a career as a "public interest lawyer" is a recent development. In the early 1970s there were, to be sure, many legal services programs scattered about the nation, many receiving their funding from the Office of Equal Opportunity or local public agencies. But a national support system of legal services for the poor, however inadequate it presently is, was a dream yet to be implemented. New lawyers could do good work, but getting paid for it was not the norm. The day of my graduation I could not look forward and say that I would become a public interest lawyer.

Initially in the 1960s and 1970s there were a number of so called "Collectives" created by young lawyers in many places around the nation. These were the seed for the growth of future public interest law firms. My firm is a result of the knowledge gleamed from these collectives meshed with the survival based, progressively oriented pragmatism developed by people like Ben Margolis, John McTernan and others.

From this base public interest firms, both non-profit and profit, have grown and flourished throughout the nation. They are firms where lawyers have committed their lives to the betterment of society. Most of them do not do pro bono work "on the side," because they are committed full time to social justice cases. Like me, they are troubled by the contradiction of lawyers spending their days earning huge sums of money defending property rights and the status quo, and their limited free time assisting the under represented in achieving justice.

Recently several of us were asked to write letters to new public interest lawyers for the newly created "Los Angeles Public Interest Law Journal," a journal committed to issues of public interest, which is a collaboration of UCLA, USC, Loyola and Pepperdine law schools. In his letter, Sid Wolinsky, a long, long time public interest lawyer who is the co-founder of Disability Rights Advocates in Berkeley, describes, "The Myth of Pro Bono Work":

Some newly-minted lawyers think that they can have their cake and eat it too by making a high salary at a corporate firm and doing pro bono work to make a social contribution. Of course, this is the same reasoning that developers use to rape the environment and justify it by giving back a tiny park for the public. Who wouldn't want it both ways? But beware. What this really means in practice is that you'll have the chance to work on a public interest case late at night or on Sundays after you've logged in your requisite 45 billable hours a week... Public interest law does not merely offer the opportunity to do good work, but to practice law in a really exciting and meaningful way and in a manner more consistent with a better life quality.

I do not mean to diminish the work done by literally thousands of volunteer lawyers. This work is responsible for many precedent setting cases, as well as providing assistance to hundreds of thousands of poor people. They supplement the tremendously overburdened legal services and public defender programs. They also assist the hundreds of non-profit legal organizations nationwide who do wonderful work. What I am addressing is the fact that pro bono is often a transitional step from law school idealism to supposed "real life." Check to see how many partners in firms provide the same time commitment as the new associates. Very few. It does not have to be that way. A public interest practice provides a high quality of life existence that defeats that vicious enemy of our souls - cynicism. I love going to work. I love the work I do. The other lawyers in our firm are similar. We have selected a practice that does not have to be supplemented by pro bono work. I know hundreds of other lawyers like us. And, rest assured, as I can attest from my personal experience, you do not have to be intellectually exceptional or wealthy to do it. You just have to be truly committed to benefiting people of color, the poor, and the oppressed. There are now thousands of lawyers who have chosen a career fully committed to assisting others in need. They have rejected the short term commitment of pro bono work for a more complete approach.

I have heard the many arguments about why people go to large firms. These include loan commitments, training, prestige and money. I can tell you without equivocation that the vast majority of public interest lawyers are not wealthy, but neither are they untrained, unrecognized or languishing in debt. Loans can be paid off; public interest firms provide great training (it just doesn't include years of drudge discovery before you are allowed to even look at the courthouse); we receive recognition and we make money.

The practice of public interest law is a wonderful thing. You may not earn as much as the big firm lawyer but you'll make several times more than the average family of four in Los Angeles. You will love your work,

love your fellow lawyers and retain your soul. Pro Bono is good. It helps people. But I am not certain that it is best for society or for the individual lawyer.

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