

Leading by example

LISA CLEARY '83 DISCUSSES BUILDING AND LEADING A PRO BONO POWERHOUSE

FIRST AS PRO BONO CHAIR and then as managing partner, Lisa Cleary '83 has helped instill service into her law firm's culture.

As a young lawyer in private practice, Cleary spent 10 years helping an elderly, disabled man with mental illness and developmental disabilities secure safe housing and benefits that substantially improved his quality of life. The experience cemented both her commitment to pro bono service and her connections with public interest lawyers in New York City. Over 20 years as chair of the Pro Bono Committee at Patterson Belknap Webb & Tyler and now as the firm's co-chair and managing partner, Cleary, a litigator who concentrates her practice in commercial and employment law, has been instrumental in building a pro bono powerhouse, one routinely acknowledged as such in national surveys. For 11 consecutive years, all 200 attorneys have participated in the firm's pro bono program, engaging in direct-client representation on such matters as housing, benefits, asylum, not-for-profit incorporation, and misdemeanor and criminal appeals and capital cases; in impact litigation in areas affecting civil rights, disability rights, special education, and housing; and in cases involving children and adults with mental illness, one of Cleary's personal passions. In 2014, Patterson Belknap lawyers logged more than 22,000 pro bono hours — an average of more than 110 apiece — and 15, including Cleary, were honored with Pro Bono Publico Awards from the Legal Aid Society.

"We're a law firm of approximately 200 lawyers, and we pack a mighty punch," Cleary says. She discussed her firm's pro bono culture with *Duke Law Magazine*.

Duke Law Magazine: How do you get busy lawyers to participate in your pro bono program to the extent that you do?

LISA CLEARY: In my first decade as chair of the Pro Bono Committee, firm partners, counsel, and associates were already tremendously active in pro bono projects. Then, 13 years ago, the executive director of Volunteers of Legal Service, Inc., reached out to our then-chair of the firm to challenge us to achieve 100 percent attorney participation.

For the next three years, we asked that every partner engage in pro bono work. All of them did. Once we had established this track record of partner participation, we decided it was reasonable and appropriate to ask our associates and counsel to join us in meeting the 100 percent challenge. The Pro Bono Committee identified many opportunities that tapped into individual lawyers' skill sets as well as their passions and interests. In 2003, we achieved full 100 percent attorney participation and have done so every year since.

DLM: How do you factor pro bono into billable-hour expectations for associates?

Can we
close the
justice
gap?



Lisa Cleary, center, with members of a Patterson Belknap Webb & Tyler pro bono team

Photo: Sam Hollenshead

CLEARY: Internally, we have asked that lawyers spend at least 30 hours annually on pro bono matters, which is the aspirational goal that Volunteers of Legal Service suggested many years ago to private law firms in New York City. In practice, we encourage more extensive participation and, generally, get more from every firm lawyer. Of course, people have years when work for clients is extremely demanding and they are unable to reach 30 hours of pro bono work. We have found in those cases that they make up for it in the following year.

Our firm asks each attorney to meet an annual goal of 1,850 billable hours and 250 related non-billable hours. The expectation is that the 250 hours will be spent primarily on pro bono projects. In cases in which a lawyer has not met the 1,850 billable target, but has spent a significant amount of time on pro bono efforts, we give that work special consideration when determining whether they've met their overall goals. Each year, there are a number of associates for whom we count pro bono hours for purposes of their annual discretionary bonus.

DLM: How do you manage the pro bono cases and supervise junior lawyers?

CLEARY: Firm attorneys work in teams. Every case has at least one responsible partner as well as a range of junior, mid-level, and/or senior associates. Legal assistants and practice-support personnel also assist on e-discovery and related matters. For example, we currently have a team of 12, including three senior associates, working with me on a case pending in the Eastern District of New York involving runaway and homeless youth for whom the City of New York has not been providing shelter and appropriate supportive services. The City contests the claims we have asserted in our complaint and we are vigorously advocating for changes to the system. On a special education law reform case in New Orleans, on which we are partnering with the Southern Poverty Law Center and the Lawyers' Committee for Civil Rights Under Law, we have a team of 10. We also have 10 or 12 attorneys working on a death-penalty case in Alabama.

Because every matter requires partner supervision, no associate is left without adequate support. For example, a mid-level associate recently made his first argument in a state appellate court on a pro bono criminal appeal. The week before the argument, I organized six partners to moot him at our offices. By the time he got to court he was very well prepared and felt confident. One of our partners attended the hearing and wrote a wonderful email to the rest of us praising his stellar performance.

We all feel strongly, and I personally feel passionately, that every pro bono client deserves the same kind of sweat and toil that our paying clients receive from us.

DLM: How did your own commitment to pro bono service evolve?

CLEARY: My first pro bono client was then a man in his 60s, dual-diagnosed with mental retardation and mental illness. After his parents died he was placed in an adult home called "The Garden of Eden" that was anything but that — living conditions for people with mental illness residing in the home were terrible. Even so, the home tried to evict him and litigation ensued. I became a guardian ad litem and then some, spending 10 years preventing an eviction that would have forced him out onto the streets and advocating for other benefits for him. I was able to find an appropriate placement for him and secured government benefits so that he could get van transportation to a sheltered workshop to improve the quality of his life. I kept in touch with him until his death.

Through that case, I became involved with MFY Legal Services, Inc., which represented him in this adult-home litigation. Staff attorneys at MFY asked me to join their board and that eventually led to my becoming board chair. I was in that role when I joined Patterson Belknap.

At the firm, we subsequently litigated a major four-year case with MFY in which we obtained a \$10 million settlement for 17 mentally ill men whom we alleged were subjected to unnecessary prostate surgery at the hands of the adult home where they resided, a social services agency providing services to them, and the

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doctors who were involved in the surgery. It was an atrocity. We put the settlement proceeds into a supplemental-needs trust for the benefit of our clients. We also secured significant attorneys' fees and our firm made the decision to donate our fees to MFY and to the other legal services provider that co-counseled the case with us. MFY graciously established the Patterson Belknap Fellowship in our firm's honor.

There is no question that from the desire to assist even one person, systemic changes can ultimately result. And each individual victory can help improve the lives of the people involved in important ways that would otherwise have been impossible but for our legal advocacy. Looking back from my first pro bono matter to all of the wonderful accomplishments of the teams with which I have been fortunate enough to work, I am reminded that from little acorns mighty oak trees grow.

DLM: New York now mandates pro bono service as a condition for bar admission. Should pro bono be required of all lawyers?

CLEARY: I don't believe so. My view is that if you lead by good example, enthusiasm for helping others is contagious. We don't require people to take on projects they're not happy to work on. Also, one important reason that attorneys choose to practice at Patterson Belknap is because they know we strongly support and encourage pro bono service. We believe that it is a professional obligation we have for the privilege of practicing law. It would be difficult for the court system or anyone else to engender the kind of quality legal representation needed by low-income New Yorkers by making pro bono work mandatory. Our role should be to educate lawyers as to how pro bono work hones critical legal skills and fosters connections in the community, while making invaluable contributions to those less fortunate than ourselves. All the laudable goals behind why we became lawyers — those are the things that should motivate people to do pro bono, not a mandate from on high. ♡ — *F.P.*