

M E E T I N G
T H E C H A L L E N G E

The First Status Report
on the Pro Bono Activities
of America's Major
Law Firms

1995 Law Firm Pro Bono Challenge Report

The Law Firm Pro Bono Project

A Project of the Pro Bono Institute and the
American Bar Association's Fund for Justice and Education
Standing Committee on Lawyers' Public Service Responsibility



Salute to Challenge Signatory Firms

Project Advisory Committee Members

**Standing Committee on Lawyers'
Public Service Responsibility**

The Law Firm Pro Bono Project Salutes the Challenge Signatory Firms

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Nevada

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◆ denotes Charter Signatories to the Challenge

* firm did not report pro bono activities in 1995

◆ indicates the firm has either dissolved, merged with another firm, or in two instances,
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Executive Summary

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Striving to meet the goals of the Law Firm Pro Bono Challenge, a national aspirational *pro bono* standard, 135 of the nation's largest law firms provided almost 1,600,000 hours in donated legal services to the poor and disadvantaged and charitable organizations in 1995, the first year of the Challenge.

The Law Firm Pro Bono Challenge, developed by law firm leaders and corporate general counsel, articulates a single national standard for one key segment of the legal profession—the nation's 500 largest law firms. These firms range in size from 70 to more than 1,000 lawyers. When compared to other aspirational *pro bono* standards, the Challenge is unique in several respects:

- It is national in scope, in recognition of the national practice of larger law firms and the multiple offices in several states maintained by many of these firms.
- It consciously targets one important segment of the bar and is tailored to the special concerns, resources, structure, and role of that segment.
- It uses a progressive standard—i.e., a target of either 3 or 5 percent of each firm's billable hours—rather than the hours-per-attorney standard commonly used in articulating *pro bono* goals. By using a percentage goal, the Challenge ties *pro bono* performance to firm productivity and profitability.
- It calls for an institutional commitment, rather than an individual lawyer goal, in recognition of the fact that the policies and practices of larger law firms are key to the ability and willingness of firm lawyers to undertake *pro bono* work.
- It creates goals not only with respect to the amount of *pro bono* work to be undertaken, but also with regard to the structural and policy elements that are essential for the creation and maintenance of a *pro bono*-friendly firm culture.
- It links Challenge firms to extensive technical assistance resources at the Law Firm Pro Bono Project.
- It includes an accountability mechanism and an outcome measurement through its annual reporting requirement.

While the performance of firms in 1995 was impressive, much remains to be accomplished by the firms and by the Law Firm Pro Bono Project in assisting firms to meet their Challenge goals. It is notable that 23% of firms reporting actually exceeded their Challenge goal of 3% or 5%. An additional 22% of these firms either met that goal or came within 0.5% of doing so. A majority of

firms, however, failed to meet the 3% or 5% goal. A substantial number of those firms have made significant changes in *pro bono* oversight, policies, and practices since they accepted the Challenge—changes that will, in future years, enable them to increase their *pro bono* contributions and meet their goal. A smaller number of firms are having difficulty in implementing the Challenge, and the Project will work closely with those firms over the next year to help them improve their performance. In addition, the Project is also working to ensure that firms that failed to provide their 1995 statistics are able to report in future years.

Both the Law Firm Pro Bono Project and the law firms participating in the Challenge understand that the goals adopted by the firms are ambitious and that meeting those goals will, for some firms, require additional effort. In light of the recent cutbacks in funding and heightened need for legal assistance for the disadvantaged, however, it is essential that additional resources in the form of increased *pro bono* work become available as soon as possible. That sense of immediacy will inform the Project's work with law firms.

While the data concerning quantifiable increases in *pro bono* work are an essential part of the Challenge, they do not tell the whole story. Firm reports clearly demonstrate that the Challenge has served as a catalyst not only for increased *pro bono* service, but also for heightened innovation in firm *pro bono* efforts, greater visibility and top-down support for *pro bono*, increasingly broad participation across specialties and at all levels of seniority, and more pro-active *pro bono* projects that are responsive to the critical legal needs of the communities in which these firms are located. There is an unparalleled atmosphere of momentum, excitement, and commitment to *pro bono* within larger law firms today. The results of this first year of Challenge reporting are important in establishing a baseline and assessing the progress of participating firms. The Challenge, however, is designed to be a long-lived phenomenon. The true measure of the Challenge will be whether, in the years to come, high performing law firms continue to maintain their efforts, other firms demonstrate a steady increase in *pro bono*, and all firm programs are characterized by the energy, creativity, and responsiveness to community needs that imbues the best of law firm *pro bono*.



Introduction

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Established in 1989 as an initiative of the American Bar Association's (ABA) Standing Committee on Lawyers' Public Service Responsibility (SCLPSR or the Committee), the Law Firm Pro Bono Project provides support, information and technical assistance to the nation's largest law firms in developing and enhancing the firms' *pro bono* programs. Originally targeted to address the needs of the 500 largest law firms in the nation, the Project has now expanded its focus to include all law firms in the United States with 50 or more attorneys.

The ABA Standing Committee on Lawyers' Public Service Responsibility

The American Bar Association has long led the effort to promote *pro bono publico* service by all segments of the legal profession. Its Standing Committee on Lawyers' Public Service Responsibility has as its charge to:

review, evaluate and foster the development of *pro bono publico* programs and activities by law firms, bar associations, corporate law departments and other legal practitioners; analyze and define the appropriate scope, function and objectives of *pro bono publico* programs; establish and develop liaison with state and local bar associations and other groups interested in such programs; propose and review legislation which impacts on the ability of lawyers to provide *pro bono publico* service; and undertake such further activities as may be necessary and proper in fulfillment of these responsibilities.

In furtherance of that mandate, the Committee sponsors a national *pro bono* conference on an annual basis and administers and presents the ABA's prestigious *Pro Bono Publico* Awards. On a policy level, the Committee led a successful effort to amend Model Rule 6.1 (Voluntary Pro Bono Publico Service) to establish a more concrete and quantifiable aspirational *pro bono* standard, worked with the Conference of Chief Justices to develop a resolution concerning the role of judges in promoting *pro bono*, and also successfully promoted the inclusion of

pro bono service in the ABA's accreditation standards for law schools. It has promulgated, for the first time, standards for legal services providers that sponsor organized *pro bono* programs. The Committee-sponsored Center for Pro Bono serves as a national support center for *pro bono* programs and a clearinghouse for information on *pro bono* issues. A SCLPSR subcommittee provides oversight and counsel to the Law Firm Pro Bono Project.

The Pro Bono Institute

The Pro Bono Institute (PBI) is a newly established non-profit group whose purpose is to identify new approaches to—and resources for—the provision of legal services to the poor, disadvantaged and other individuals or groups unable to secure legal assistance to address critical problems. The Institute not only undertakes research and scholarship, but also works with a wide range of legal institutions to ensure that promising methods are workable in the real world of legal services delivery. Foremost among the projects operating under the aegis of the Institute is the highly-regarded Law Firm Pro Bono Project which receives support and guidance from the American Bar Association Fund for Justice and Education and its Standing Committee on Lawyers' Public Service Responsibility. Other Institute projects involve analysis of current delivery methods used by legal services and *pro bono* programs, development of proposals to strengthen existing "best practices," and design and introduction of innovative delivery models. In its work, the Institute seeks to look objectively at the strengths and limitations of current models and, working with key decision makers and opinion leaders, to assess, improve, and re-think those systems and models to avoid stagnancy and to ensure responsiveness to new issues and opportunities.

The Law Firm Pro Bono Project

In light of the ABA's existing commitment to *pro bono*, why was a new project, focused on only one segment of the bar, considered necessary? The answer lies both in the unique role that larger law firms play in the overall legal community and in the dramatic changes in the structure and economics of law firm practice that occurred in the two decades preceding the creation of the Law Firm Pro Bono Project (the Project).

Larger law firms have traditionally served as the opinion leaders and catalysts for change within the legal profession. On a wide range of issues—from the heightened use of technology to the use of legal assistants—major law firms have often pioneered changes which then impacted the entire profession. In many respects, the larger law firms—in their practice, culture, economics, and structure—have represented a benchmark against which much of the profession measures its own activities and progress. The impact of major law firms has increased as they have grown. In the late 1950s only 38 firms in the United States had more than 50 lawyers; by 1995, that number had grown to more than 700 law firms.

The leadership role of these law firms has loomed particularly large in the context of the profession's commitment to voluntary service. If the most prosperous legal institutions are perceived as not doing their part, or if those institutions minimize the importance of *pro bono*, other lawyers may be less likely to contribute their services. A focus on these firms, therefore, is seen by the ABA as critical, not only to insure that their unparalleled resources are used effectively for *pro bono* service, but also to insure that the legal profession as a whole maintains a high level of commitment to *pro bono publico*.

During the past two decades, the structure and practice of larger law firms has changed dramatically. Firm size has increased exponentially, with several law firms breaking the 1,000 attorney plateau. This growth has been accompanied by a dramatic shift in the governance of these institutions. Detailed and well-publicized data on economic performance and pressure on firms to operate in a more business-like manner have brought about a more formalized management structure in most larger firms. Growth has also been marked by far greater mobility, the infusion of large numbers of laterals into the firms, and the creation of branch offices. As a result, the unique culture and traditions of many firms have been weakened.

The changes in the economics of law practice at larger firms—dramatic increases in starting salaries, heightened expectations among seasoned lawyers regarding compensation, increased competition for “rainmakers,” and the costs of technological improvements—have created enormous financial pressures on law firms. The results of those pressures—the constant rise in billable hour expectations, an intensified focus on business generation skills, and, most notably, an increased willingness on the part of firms to dismiss both partners and associates who are seen as less productive—are manifestations of a singular focus on the bottom line. The recession of the late 1980s, which ended many years of rapid growth and prosperity in firms around the nation, underscored for many firm leaders the importance of maintaining a profit-oriented mentality. For many lawyers, the forced downsizing and firm dissolutions during that period permanently changed their view of law firms as stable and secure partnerships.

The Law Firm Pro Bono Project was created to serve as a national resource and as a counter-balance to these changes in large law firm practice which were at their peak in 1989. The American Bar Association, as well as The Ford Foundation which has served as the primary funding source for the Project since its inception, realized that absent an affirmative and aggressive approach to *pro bono*, the institutional changes in larger law firms might seriously impair the *pro bono* culture at some firms, while hindering the growth of *pro bono* at firms without an established culture. Time and financial pressures, as well as uncertainty about the future, could discourage lawyers from undertaking *pro bono* work. *Pro bono* work was particularly at risk in the late 1980s, because most law firm *pro bono* programs were then relatively unstructured and *ad hoc* in nature, relying on the firm's tradition of *pro bono* service to motivate continued service. These *pro bono* efforts—so antithetical to the structured, management-based environment that had evolved in most other areas of firm practice—were further placed at risk because of the large numbers of new lawyers less familiar with the firms' history and values who had joined the firms earlier in the decade.

When the Law Firm Pro Bono Project began there was virtually no information available on what major law firms were doing with respect to *pro bono publico* service. No national listing of *pro bono* committee chairs and coordinators responsible for their firms' *pro bono* work existed. Firms seeking to develop a *pro bono* policy, identify successful projects, or deal with an issue such as the treatment of attorneys' fees awarded in *pro bono* matters had nowhere to turn. Over the past eight years, the Project has developed and expanded its support services for firms. It maintains and continually updates its list of *pro bono* contacts and other firm leaders. It supports the only comprehensive clearinghouse of information on *pro bono* programs at larger law firms.

With the assistance of the law firms, that clearinghouse has grown over the years to include hundreds of law firm *pro bono* policies, information on more than two hundred firm-sponsored special projects, statistical information on trends in law firm *pro bono* programs, and descriptions of new *pro bono* initiatives, such as the increased use of the special skills of transactional lawyers to provide *pro bono* assistance to low-income communities. The Project initiated the first, and only, national forum for law firm leaders involved in the oversight of their firms' *pro bono* programs—an annual conference which now attracts representatives from more than 60 law firms.

The Project's publications—developed in response to the heightened activity and innovation among law firms—have become a critical source of information for thousands of law firm leaders. *What's New in Law Firm Pro Bono*, begun in 1994 and now published six times a year, is designed for managing partners, *pro bono* committee chairs, *pro bono* staff, and other firm leaders. *Signatories Update*, the Project's second newsletter, originally designed as an informal occasional periodical for those firms enrolled in the Law Firm Pro Bono Challenge®, is now published quarterly. Both publications include profiles of firms with successful *pro bono* programs, information on new initiatives and trends, and in-depth analyses by law firm leaders of issues impacting *pro bono* in firms. In addition to its newsletters, the Project also regularly publishes monographs, compilations of firm *pro bono* materials, and other reports. The Project also provides technical assistance tailored to individual law firms and/or to consortia of firms seeking to enhance the overall *pro bono* culture in their communities. Such assistance may include a selection of materials from the Project's clearinghouse, brief telephone advice, or extensive on-site assistance.

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Genesis of the Law Firm Pro Bono Challenge

One of the first activities of the Law Firm Pro Bono Project was its sponsorship of a series of regional and national conferences for managing partners and law firm *pro bono* contact persons. The discussions at these meetings identified the lack of any national normative standard for *pro bono* participation by large law firms. The conferences revealed that there were wide variations in the *pro bono* performance of larger firms resulting from economic factors, from the presence or absence of a strong local or firm culture supportive of *pro bono*, and from the availability—or absence—of a broad range of opportunities for *pro bono* service. Those striking disparities were confirmed by a survey conducted by the Project which found that, in larger firms, the percentage of total attorney time expended per firm on *pro bono* ranged from less than one-tenth of a percent to almost 10 percent. The Project also learned that the many state and local bar association aspirational resolutions promoting *pro bono* had little apparent impact on major law firms. This was due, in part, to the fact that those resolutions addressed the *pro bono* obligations of individual attorneys without speaking directly to the role to be played by the legal institutions that employed the attorneys. The variations among bar resolutions with respect to definitions of *pro bono* and aspirational goals created problems for firms with multiple offices in several states seeking to develop a coherent, firm-wide approach to *pro bono* service. In addition, larger firms typically looked to peer firms around the nation as exemplars, rather than the organized bar in their immediate community. Many firms represented at the Project's conferences called for a single national *pro bono* standard specifically tailored to the needs and resources of larger law firms.

In response, the Project's Advisory Committee, composed of managing partners of firms around the nation as well as general counsel of major corporations, designed a national set of normative principles for larger law firms engaged in *pro bono publico* service. Those principles, representing a distillation of the elements common to successful law firm *pro bono* programs, are unique among *pro bono* aspirational guidelines in addressing not only the appropriate level of *pro bono* participation by larger law firms, but also the activities,

policies, and procedures which larger firms must undertake to create an infrastructure which promotes and protects *pro bono* service. Numerous drafts and re-drafts of what came to be known as the Law Firm Pro Bono Challenge were broadly disseminated, reviewed and revised.

After the Challenge was finalized by the Advisory Committee, a select number of firms around the country—primarily those viewed as *pro bono* leaders in their communities—were invited to serve as Charter Signatories to the Challenge. Approximately sixty such firms were identified, with forty-eight agreeing to enroll in the Challenge. The Project then contacted the managing partners of the nation's 500 largest law firms to solicit their firms' participation in the Challenge. James W. Jones, Chair of the Project's Advisory Committee and then-Managing Partner of Washington, DC's Arnold & Porter, and Curtis M. Caton, Project Chair and then-Managing Partner of Heller, Ehrman, White & McAuliffe, a leading San Francisco law firm, criss-crossed the nation holding meetings with firm representatives in every city in the United States with a substantial number of larger law firms. In addition, the President of the American Bar Association sent a personal letter to each managing partner urging that their firm sign on, as did the late Associate Supreme Court Justice William J. Brennan, Jr., long a forceful voice for equal access to justice.

Not surprisingly in light of the Challenge's unique approach to *pro bono*, a number of the Challenge's provisions, including the definition of *pro bono*, were not well understood or had become controversial. To assist firms in responding to the Challenge, the Project developed an accompanying commentary and a question and answer format that addressed commonly asked questions or misperceptions.

The response to the Challenge from major law firms was extraordinary. When the Challenge was formally announced, on April 30, 1993, at a Law Day ceremony that included Attorney General Janet Reno, then-ABA President J. Michael McWilliams, Justice Brennan, and many other leaders of major firms and the bar, more than 170 major law firms had enrolled as Signatories to the Challenge.

What is the Law Firm Pro Bono Challenge?¹

As noted above, the Law Firm Pro Bono Challenge is unique, as an aspirational *pro bono* standard, in several respects. The Challenge:

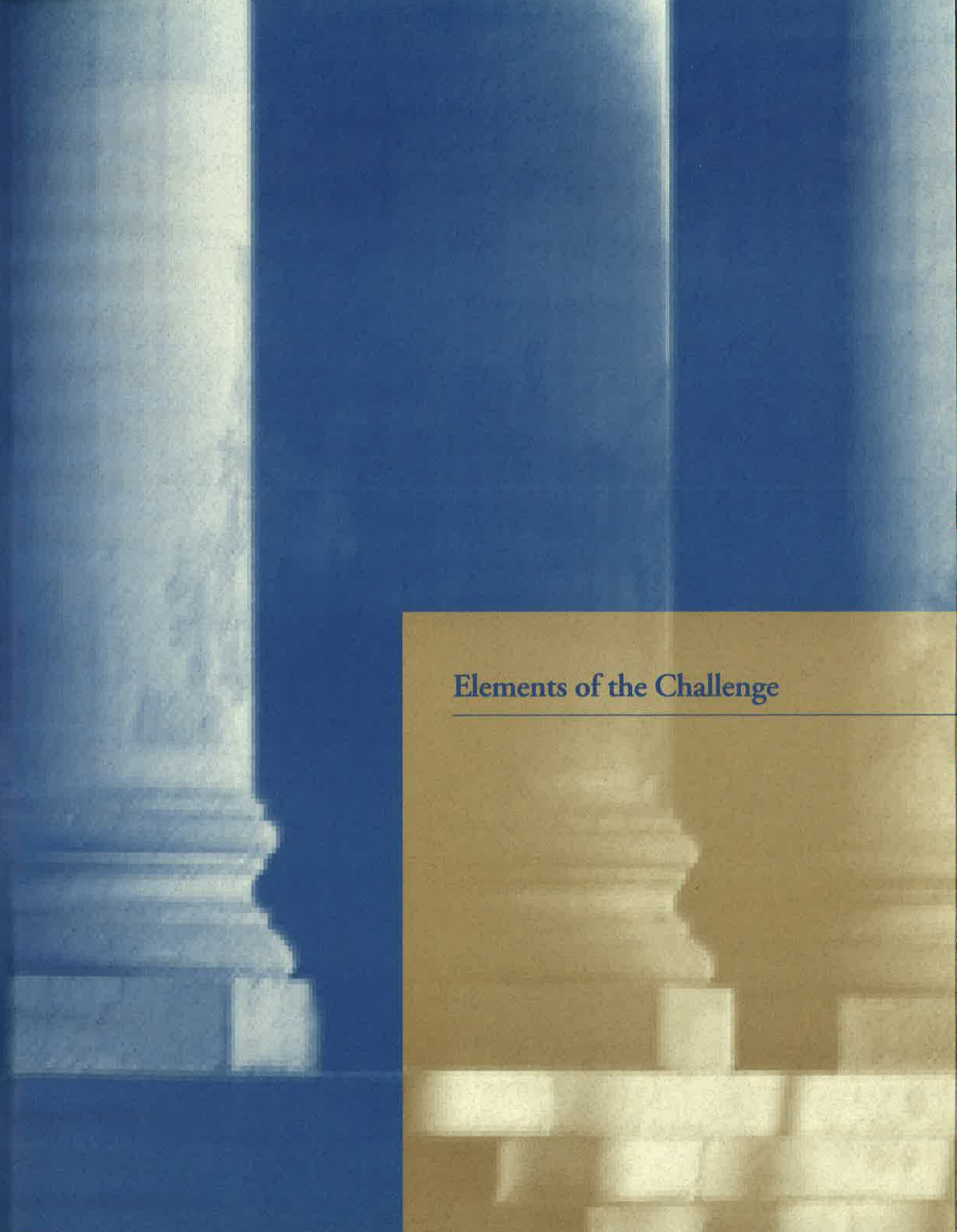
- is nationwide in scope, in recognition of the fact that major firms often have a national practice and that many of these firms have multiple offices in several states;
- consciously targets one important segment of the bar and is tailored to the special concerns, resources, structure and culture of that segment;
- utilizes a progressive standard for *pro bono* service: i.e., by establishing a percentage of total billable hours as a target, rather than a flat hours-per-attorney standard, the Challenge ties *pro bono* commitment to the productivity and profitability of the firm;
- creates an institutional commitment, rather than a personal goal, in recognition of the fact that the policies, practices, and culture of larger law firms as employers uniquely contribute to—or can be detrimental to—the ability and willingness of lawyers in those firms to undertake *pro bono* work;
- addresses not only the amount of the *pro bono* commitment, but also the structural and policy elements that must be present to enable firms to realistically meet that commitment;
- links firms to an extensive technical assistance resource that provides a wealth of information, consultation, training, and support; and
- includes an accountability mechanism and an outcome measurement, in the form of an annual reporting requirement that enables both the individual firm and the Project to assess whether firms met the commitment and what difference that has made.

Methodology

This document—the first report of the activities undertaken by the law firms who participate as Signatories to the Law Firm Pro Bono Challenge—contains statistical information on the progress made by these firms in meeting the Challenge goals. To enable readers to clearly understand the goals and impact of the Challenge, the data is augmented by brief descriptions of the initiatives undertaken by some of these firms. We have highlighted these initiatives because they effectively illustrate the purpose and elements of the Challenge. We regret that space and cost considerations make it impossible to detail in this report the outstanding work of the many Challenge firms that are making such effective contributions to their communities. In keeping with the general agreement not to provide disaggregated statistical information, activities and data of specific law firms described in the report have been reviewed and approved by those firms prior to publication.

This report is organized around the seven principles that make up the Law Firm Pro Bono Challenge. For each principle, the report discusses the purpose and rationale behind the goals articulated in that principle, followed by statistical information on the rate of success of Challenge firms in addressing that principle and anecdotal descriptions of one or more firms whose activities illustrate the principle. To provide a clear picture of the results of this first year of implementation, the Challenge principles are discussed in a different order than they appear in the Challenge itself, with Principle Seven, which sets out the overall definition of *pro bono*, discussed before Principle Three which incorporates the concept of a special emphasis, within the overall definition, on legal services to those of limited means.

¹The full text of the Law Firm Pro Bono Challenge and the accompanying commentary are reproduced on page 27.



Elements of the Challenge

Responding to the Challenge at Graves, Dougherty

A Charter Signatory to the Law Firm Pro Bono Challenge, Graves, Dougherty, Hearon & Moody in Austin, Texas has long been recognized for its history of *pro bono* involvement and leadership. The development and adoption by the firm of a Statement of Policy Concerning *Pro Bono* Activities was an important cornerstone of the firm's implementation of its commitment to the Challenge. That policy is designed to "demonstrate its [the firm's] commitment to provide *pro bono* services, to encourage each of its attorneys to participate in *pro bono* activities, and to facilitate participation in such activities by providing organization and support."

The policy continues: "[T]he Firm is committed to delivering an annual amount of *pro bono* legal services that, in total, exceeds 3% of the Firm's total billable hours with at least half of this amount directed to legal services for persons of limited means. This commitment is consistent with the Firm's participation in the ABA Law Firm Challenge. The Firm expects each shareholder, associate, and legal assistant to help fulfill this commitment." The policy defines *pro bono* activities by utilizing the Challenge definition and noting that "[P]ro bono legal services should not be confused with other worthy services performed without compensation. For example, services as an officer or director of a charitable or civic organization do not generally qualify as *pro bono* legal services. Similarly, involvement in professional activities is a separate service not within the definition of *pro bono* legal services."

PRINCIPLE ONE: AN INSTITUTIONAL COMMITMENT

Our firm recognizes its institutional obligation to encourage and support the participation by all of its attorneys in pro bono publico activities. We agree to promulgate and maintain a clearly articulated and commonly understood firm policy which unequivocally states the firm's commitment to pro bono work.

One of the major innovations of the Law Firm Pro Bono Challenge—and one element that distinguishes it from any other *pro bono* standard developed to date—is the fact that it is the law firm, as an institution, that makes the commitment to abide by the principles of the Challenge. This institutional commitment is, in many respects, the most critical element of the Challenge. It recognizes that, because of the unique structure of larger law firms and the economics of law practice within these firms, a commitment to *pro bono* on the part of individual lawyers, or even the aggregation of those individuals' willingness to do *pro bono* work, is not sufficient to ensure substantial, long-term *pro bono* participation. It is essential that the firm commit its institutional resources to affirmatively promote *pro bono* service. The firm must examine and, if necessary, revise its policies, procedures, compensation scheme, and structure to ensure that none of these inadvertently undermine the ability of the firm's lawyers to participate in *pro bono* service. Instead, these policies and practices should consciously promote *pro bono* service and make it as easy and desirable as possible for firm attorneys to undertake that service. The quantitative commitment to *pro bono* established by the Challenge underscores the institutional nature of this initiative. Rather than establishing a per-attorney goal or an aggregation of individual attorney hours, it establishes a target percentage of total billable hours and places the burden of meeting that percentage on the firm as a whole.

The most concrete embodiment of the firm's institutional commitment is its promulgation of a policy that strongly and clearly articulates the firm's support for *pro bono* service. An effective policy statement is, of course, only one element of a firm's commitment to *pro bono*. Other firm policies and practices, as well as the statements and actions of the firm leadership, must be consistent with the position taken in the policy if the policy is to have any impact. A formal articulation of support through a clear, consistent, and commonly understood statement of policy regarding *pro bono* work is, however, the first building block in the establishment of institutional support.

PRINCIPLE ONE: RESULTS

Fittingly, the most notable response to the Challenge has been the development and revision of *pro bono* policies on the part of Challenge firms. The very process of discussing and articulating the firm's *pro bono* commitment has become a critical element in communicating the importance of *pro bono* to the firm and its leadership. Prior to the Challenge, many firms had no established *pro bono* policy, relying instead on the firm's oral tradition of commitment to *pro bono*—a tradition not easily communicated or understood as firms expanded, merged, and grew. For these firms, developing a coherent policy was an important first step.

Even among firms that had long-standing policies, however, the Challenge often prompted a re-assessment and thorough revision of those policies. The most widespread change, of course, was the inclusion of the Challenge definition of *pro bono* and the articulation in the policy of the firm's quantitative Challenge goal. Equally, or perhaps even more important, however, were the profound changes in the nature of *pro bono* policies. Earlier policies were often no more than brief statements encouraging participation in *pro bono* service.

The policies developed by law firms in response to the Challenge are, typically, far more detailed and more concrete, in an effort to demystify *pro bono* work and to reassure firm lawyers and other staff that articulations of firm support are more than mere lip service. More evolved policies typically begin with a definition of *pro bono* work. If the firm is committed to providing parity for time spent on *pro bono*, it is essential that the members and staff of the firm have a common understanding of the scope of *pro bono* service.

Mature policies also include specific information on the procedures for selection, approval, review, supervision, reporting of time spent, and evaluation of work done in *pro bono* matters, as well as policies regarding payment of expenses in *pro bono* matters, disposition of any attorneys' fees awarded in these matters, and availability of support staff and other firm resources for cases or projects handled on a *pro bono* basis. In addition, these policies often include information on the firm's treatment of time spent on *pro bono* work, to ensure that some or all *pro bono* hours are credited in the same manner as work for paying clients.

While the Challenge does not specify that a firm's *pro bono* policy be in writing, virtually all major firms have developed a written policy. Since so many other firm procedures are reduced to writing, creating a written *pro bono* policy is an indication of the importance the firm places on the issue. A number of firms have gone beyond simply developing a policy. They have produced policy and procedures manuals that provide a comprehensive guide to *pro bono* work at the firm. These manuals often include information on sources of *pro bono* work, mentors, library materials, training programs, and forms specifically tailored to *pro bono* work. In addition to the manuals, a growing number of firms now use technology to provide detailed and up-to-date information on the firm's commitment to *pro bono*. At the Chicago office of Baker & McKenzie, for example, each attorney, upon logging on to her or his computer in the morning, receives a "*pro bono* resources" icon. Using that icon, the attorney has access to sample pleadings and forms in the substantive areas most common to *pro bono* work. A complete list of mentors is also available to assist the *pro bono* attorney in handling cases efficiently and to provide high quality, timely service to the firm's *pro bono* clients.

Other portions of the policy address the manner in which *pro bono* matters are to be undertaken. "*Pro bono* matters are Firm matters that are to be handled in the Firm's name and with the same high degree of professionalism that would be expected from any attorney in the Firm. The Firm expects to provide appropriate supervision to associates who undertake *pro bono* activities and to assure that *pro bono* work is evaluated on the same basis as work on other Firm matters." The policy further provides clear guidance on crediting *pro bono* hours, the allocation of firm resources and funds to support and pay expenses in *pro bono* matters, and the firm's willingness to reimburse the cost of tuition and expenses for continuing legal education seminars that relate to *pro bono* activities. Although Graves, Dougherty's size places it among the smaller Challenge firms, the time and thought that the firm gave to preparing a thorough delineation of its position and policies with respect to *pro bono* service has been an important factor in insuring a strong and productive *pro bono* program. In 1995, Graves, Dougherty, Hearon & Moody met and exceeded its Challenge goal, and every attorney in the firm participated in the effort to do so.

One Firm's Experience in Meeting the Challenge Goal

The practice of law is a service to society. Commitment to the highest professional standards when serving business clients is not alone sufficient to nurture a wholesome and worthy institution. We must also recognize as a core value of Hunton & Williams our companion commitment to serve the public welfare. When a citizen's access to justice is thwarted by inability to pay a legal fee, the fabric of our free society suffers. We as lawyers are obliged to use our best efforts to see that the economically disadvantaged receive adequate legal services.²

While Richmond-based Hunton & Williams had a long-standing commitment to pro bono service, the firm's reaffirmation of that commitment, in agreeing to become a Charter Signatory to the Law Firm Pro Bono Challenge in 1993, served as a critical catalyst that motivated the firm to dramatically expand its pro bono service.

By adhering to the Challenge principles, this 472-lawyer firm was able to revamp, strengthen, and enhance its *pro bono* program. How did this firm achieve such dramatic results in so short a period of time? Hunton & Williams enlisted the active support of the firm's leadership. In 1993, it formed a firm-wide community service committee charged with promoting the firm's *pro bono* efforts, increasing its level of service, and coordinating the activities of the *pro bono* committees established in each of the firm's offices. Recognizing the complexity of administering a *pro bono* program in a large, multi-office firm, Hunton & Williams expanded its professional *pro bono* staff, employing a full-time partner and a part-time assistant to work with committee members. The firm initiated a *pro bono* newsletter, established a firm-sponsored *pro bono* award, and began publishing an annual *pro bono* report.

PRINCIPLE TWO: A QUANTIFIABLE, FIRM-WIDE GOAL

To underscore our institutional commitment to pro bono activities, we agree to use our best efforts to ensure that, by no later than the close of calendar year 1995, our firm will either:

_(1) annually contribute, at a minimum, an amount of time equal to 5 percent of the firm's total billable hours to pro bono work;

or

_(2) annually contribute, at a minimum, an amount of time equal to 3 percent of the firm's total billable hours to pro bono work.

To enable firms to assess the overall effectiveness and impact of their *pro bono* efforts, the Challenge includes a quantifiable, firm-wide aspirational goal. Unlike other *pro bono* aspirational resolutions addressed to the practicing bar as a whole, the Challenge goal is expressed as a percentage of total hours billed annually, rather than as hours per individual attorney. The percentage goal was selected for two reasons. First, use of a percentage underscores the institutional nature of the commitment undertaken. Just as the firm establishes a goal for revenues, and, as an institution, works to meet that goal, a firm, through its management and leadership, bears the ultimate responsibility for meeting its Challenge goal. In addition, a percentage goal avoids the regressive nature of a fixed hour-per-attorney target. The Challenge percentage insures that firms' *pro bono* responsibilities increase as their productivity and prosperity increase. While some firms have expressed concern about the percentage goal, arguing that its use penalizes the busiest law firms, most firms now seem comfortable with the Challenge approach since it complements each firm's culture regarding work expectations.

The Challenge provides firms with a choice between two alternative minimum goals—a goal of either 5 percent or 3 percent of total billable hours. Thirty-five firms, or 20% of all Challenge firms, have selected the higher goal, while 138 firms (80%) have chosen the 3% goal. This two-tiered approach is in response to the wide disparity that has existed among firms around the nation with respect to past levels of *pro bono* participation. While many firms, particularly those in cities with a strong tradition of *pro bono* service, have consistently contributed *pro bono* service that substantially exceeds the higher Challenge goal, for other firms accepting the lower of the two goals represents a commitment to dramatically expand their existing level of effort.

In implementing the Challenge, a number of firms, for the first time, established an overall annual *pro bono* budget for the firm based on projections of billable hours for the year that included a total number of donated hours, as well as additional funds for administration, staffing, publications, training, and litigation expenses.

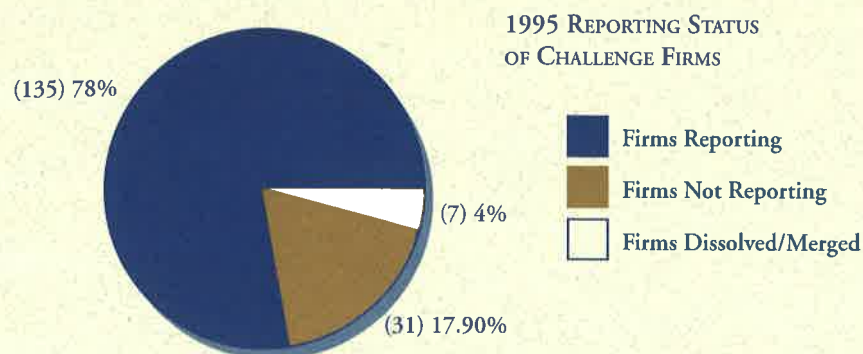
The goal of 3% or 5% of billable hours, it should be noted, represents a substantial contribution of resources. For example, a single 200-lawyer firm that selects the 3% goal has made a commitment to provide donated legal services valued at approximately \$2.5 million annually.³

²From Hunton & Williams' *pro bono* policy adopted by the firm's Executive Committee on April 11, 1994.

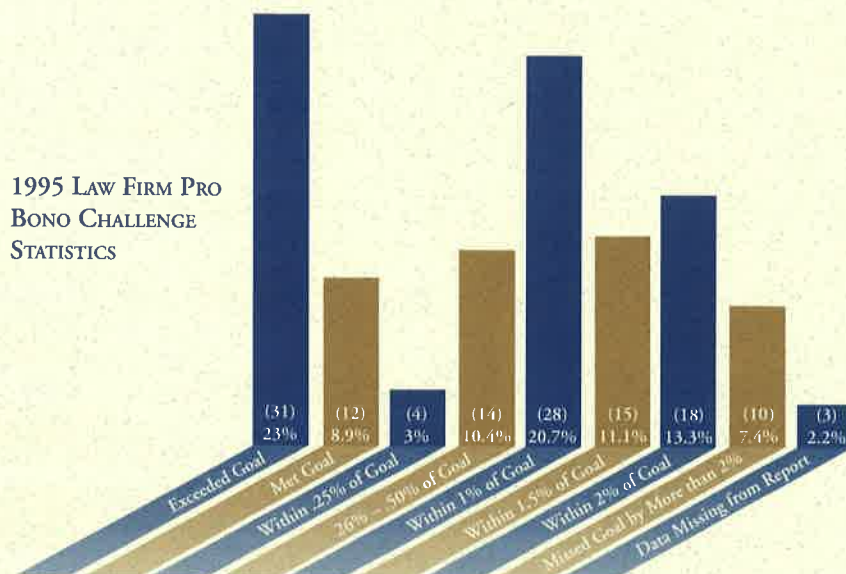
³The estimated value of annual donated services was arrived at using the following assumptions: Large firm lawyers bill, on average, 2,000 hours annually. Accordingly, a 200-lawyer firm's annual billable hours would total 400,000. Three percent of that figure is 12,000 hours. Using a blended partner/associate hourly billing rate of \$210, the value of the *pro bono* time contributed would be \$2,520,000.

PRINCIPLE TWO: RESULTS

Of the 173 law firms which originally signed on to the Law Firm Pro Bono Challenge, the Project received reports on the 1995 year from 135 firms. An additional 31 firms did not respond, and seven firms have either merged with other firms or have dissolved.⁴



Forty-three firms, or 31.9% of those reporting, either met or exceeded their selected Challenge goal. An additional four firms (3%) came within 0.25% of meeting their goal, while 14 firms (10.4%) came within 0.5% of their selected goal. In summary, 45.3% of Challenge firms who filed reports on their 1995 activities either met their Challenge goal, exceeded it, or came within one-half percent of meeting their goal.



With respect to other firm reports, 28 firms (20.7%) were within 1% of their goal; 15 firms (11.1%) were within 1.5% of their goal; and 18 firms (13.3%) were within 2% of their selected goal. Ten firms (7.4%) reported that there was a greater than 2% gap between their goal and their reported percentages. Three firms (2.2%) did not provide sufficient information in their reports to determine their level of *pro bono* service. The percentage of billable hours reported ranged from a low of 0.3% to a high of 8.33%. The total hours of *pro bono* service reported by the 135 firms in 1995 was 1,594,537 hours.

The firm expanded its existing *pro bono* projects and developed innovative programs to provide legal assistance to the economically disadvantaged by identifying the legal needs in each of the communities in which it had an office and tapping the expertise, interest, and imagination of its lawyers and staff. Long known for its Church Hill office (a firm-established and administered neighborhood *pro bono* office located in the oldest and poorest section of Richmond), the Richmond office in 1994 expanded Church Hill's services to include low-income residents throughout the city. In 1995, the firm established a Richmond *Pro Bono* Fellowship, providing a full-time lawyer who splits her time between the Church Hill office and the local legal services program.

In that same year, the firm's Atlanta office, in cooperation with the Carter Center's Atlanta Project, established and staffed another neighborhood office, the Southside Legal Center, which provides legal services to the working poor in that neighborhood. The firm's relatively small New York City office, sensitive to the large number of homeless in that city, organized and staffed two clinics to serve the legal needs of the homeless in midtown Manhattan. In its newest office in Charlotte, North Carolina, Hunton's lawyers established a program that provides legal assistance to victims of domestic violence. Young lawyers in the firm's Raleigh office organized a project that provides free legal assistance on a range of transactional and business matters to non-profit groups in that community. With the encouragement, infrastructure, and guidance provided by the firm's management and its *pro bono* leadership, Hunton & Williams has developed, in an astonishingly brief time, a model *pro bono* effort that unites the firm and contributes greatly to the communities of which it is a part.

⁴These firms are identified on the list at the front of this report.

One Firm Defines Pro Bono Service

In structuring its *pro bono* policy, Snell & Wilmer sought to place special emphasis on legal services to the poor, while continuing to express support for the civic and community involvement that has been a source of pride and an important goal for the firm and its lawyers.

To accomplish both of these goals, Snell & Wilmer's policy recognizes two categories of *pro bono* work. The first, "*Pro Bono I*," essentially comprises work that meets the Challenge definition of *pro bono*, although the firm has narrowed that definition further to exclude legal services to charitable, religious, civic, governmental, and educational organizations that do not have as a principal purpose the promotion of the interests of the poor or near poor or that do not involve civil rights and public rights law. The latter type of legal work, along with services to improve the law, the legal profession, or the legal system, law-related education of the public or other lawyers, service on bar sections or committees whose focus is the improvement of the law and the legal system, and participation in court-sponsored administration of justice programs, are defined by the firm as "*Pro Bono II*." While both types of *pro bono* work will be considered, along with time devoted to client matters, for purposes of evaluation and compensation, only time spent on *Pro Bono I* activities is credited toward an attorney's annual billable hour goal.

PRINCIPLE SEVEN: A COMMON DEFINITION OF *PRO BONO PUBLICO* SERVICE

As used in this statement, the term pro bono refers to activities of the firm undertaken normally without expectation of fee and not in the course of ordinary commercial practice and consisting of (i) the delivery of legal services to persons of limited means or to charitable, religious, civic, community, governmental and educational organizations in matters which are designed primarily to address the needs of persons of limited means; (ii) the provision of legal assistance to individuals, groups, or organizations seeking to secure or protect civil rights, civil liberties or public rights; and (iii) the provision of legal assistance to charitable, religious, civic, community, governmental or educational organizations in matters in furtherance of their organizational purposes, where the payment of standard legal fees would significantly deplete the organization's economic resources or would be otherwise inappropriate.

To accurately evaluate the impact of the Challenge, it is essential that participating firms share one commonly understood and uniformly implemented definition of *pro bono publico* service. In the course of drafting the Challenge and enrolling Signatory firms, no other single issue—not even the use of a percentage as a quantitative goal—generated as much discussion and controversy as the definition of *pro bono*.

In crafting a definition, all existing aspirational statements, including law firm policies, Revised Model Rule 6.1, adopted by the American Bar Association in 1993, as well as state and local bar association resolutions were examined for appropriate elements. The *pro bono* definition finally adopted by the Law Firm Pro Bono Project Advisory Committee incorporates several important policy decisions.

First, the Challenge definition, like that of Model Rule 6.1, encompasses only legal work on behalf of individual or institutional clients. The focus on use of legal skills is based on the concept that, while lawyers can certainly contribute to their community in many ways, they alone possess the ability to provide legal assistance to others. In light of the monopoly granted lawyers, and in recognition of the vast percentage of low-income and other disadvantaged persons who are unable to secure a lawyer's assistance, *pro bono* service was restricted to legal service. The Advisory Committee recognized that this definition excluded many worthwhile activities—service on the board of directors of a legal services program or raising funds for such a program—that may ultimately benefit or expand legal services. While such activities are important, they are, nevertheless, peripheral to the work and skills of lawyers and law firms.

A second important decision by the Advisory Committee involved the special responsibilities of larger law firms. These firms are the most prosperous and resource-laden segment of the bar. Their lawyers are far more likely to be involved in bar association work, judicial advisory committees, and similar activities. On the theory that these firms, because of their resources,

should be held to a higher standard than the bar as a whole, the Challenge definition excludes two activities that are often included in broader definitions of *pro bono*. First, for purposes of the Challenge, activities related to the improvement of the administration of justice, such as participation on bar and court-sponsored committees, is excluded (unless, of course, that service involves legal work, such as drafting legislation) on the theory that inclusion of such activity would artificially inflate reported levels of *pro bono* service without increasing the availability of legal assistance.

In addition, while some definitions of *pro bono* include work undertaken on a reduced fee basis, the Challenge definition, with a few carefully crafted exceptions, includes only cases undertaken with no expectation of compensation and not in the course of the firm's ordinary commercial practice. There are limited instances in which the acceptance of a fee award is permissible within the Challenge definition of *pro bono*. For example, post-conviction capital appeals, where firms contribute thousands of hours, are clearly *pro bono* matters for purposes of the Challenge, despite the fact that lawyers may receive limited fees awarded by the court. Similarly, court-awarded attorneys' fees in civil rights and other cases accepted by the firm without regard to the prospect of fees would not disqualify such services as *pro bono* work. Requesting and receiving fees in such matters reinforces important public policy considerations by enabling firms to serve as "private attorneys general." Challenge firms that receive fees in such cases are encouraged to contribute an appropriate portion of those fees to organizations that provide services to persons of limited means.

To insure that all participating law firms understand and accurately and uniformly apply the Challenge definition of *pro bono*, the Project provides advice and regularly responds to inquiries from firms regarding the applicability of the definition to a particular project or matter. Firms also have access to a quarterly column entitled "What Counts?" which addresses commonly raised issues regarding the scope of the definition.

PRINCIPLE SEVEN: RESULTS

Since its inception in 1993, the Challenge definition has become the most widely used definition of *pro bono* among larger law firms, whether or not these firms are Signatories to the Challenge. For a number of firms, the use of the Challenge's more restrictive definition resulted in a surprising decline in *pro bono* hours in the first year of Challenge reporting. Many firms struggled with the task of incorporating the Challenge definition without devaluing the many non-legal community service activities firms have traditionally undertaken. One firm that creatively resolved this dilemma is Phoenix, Arizona's Snell & Wilmer L.L.P.

In establishing two types of *pro bono* service, Snell & Wilmer has ensured that, in reporting time for purposes of the Challenge, it includes only those activities that fall within the Challenge definition. By crediting only that category of *pro bono*, the firm has, consistent with the Challenge, placed special emphasis on the delivery of legal services impacting those of modest means. At the same time, its recognition of another category of service (commonly labeled as community service at other firms that have a bifurcated definition) enables Snell & Wilmer attorneys to continue their worthy non-legal contributions, but not at the expense of hands-on legal work.

Securing Civil Rights While Ensuring Affordable Housing for Low-Income Persons

In 1995, Minneapolis' Fredrikson & Byron settled a major lawsuit brought by the firm on behalf of the NAACP. The lawsuit alleged that government agencies in that city had administered public and subsidized housing for low-income families in a manner that discriminated against minorities and created segregated neighborhoods. In addition, much of that housing was dangerous and substandard. In settling the suit, the Department of Housing and Urban Development agreed to spend \$100 million over the next five years to demolish and rebuild 770 HUD-financed apartments and homes throughout the Twin Cities. As part of the settlement, HUD also agreed to issue 900 new subsidized housing certificates. By providing safe, decent, and affordable housing that also promotes more diverse neighborhoods, the firm has made an enormous contribution to the welfare of thousands of poor persons.

Leonard, Street and Deinard—Serving the Low-Income Community

Building on a longstanding tradition of *pro bono* service and responding to the Law Firm Pro Bono Challenge, Minneapolis' Leonard, Street and Deinard, "adopted" the Phillips neighborhood, one of the poorest areas of that city, by opening a legal services clinic for low-income residents of that neighborhood. To strengthen its community ties, the firm's clinic is housed in an existing neighborhood health clinic, the Community-University Health Care Center, which provides medical, dental, and mental health services to an overwhelmingly low-income clientele. As part of the firm's commitment to the legal clinic, it

PRINCIPLE THREE: MEETING THE NEED

In recognition of the special needs of the poor for legal services, we believe that our firm's pro bono activities should be particularly focused on providing access to the justice system for persons otherwise unable to afford it. Accordingly, in meeting the voluntary goals described above, we agree that a majority of the minimum pro bono time contributed by our firm should consist of the delivery of legal services on a pro bono basis to persons of limited means or to charitable, religious, civic, community, governmental and educational organizations in matters which are designed primarily to address the needs of persons of limited means.

Principle Three is, in essence, a second aspect of the Challenge definition of *pro bono* service. While the Challenge definition itself encompasses activities undertaken on behalf of a broad spectrum of clients, this principle hones that definition by requiring that Challenge firms place a special emphasis on the legal problems of persons of limited means and of the organizations that serve the poor. Both state and national studies routinely reported, even before the recent deep reductions in funding for legal services for the poor, that more than 80% of the legal problems of this population were not being met.⁵ Principle Three reflects a fundamental goal of the Challenge—that the resources and expertise of leading law firms be brought to bear to assist the most vulnerable in our nation in securing their rights. These legal services cover a broad range of activities, including, among others, individual and class representation, legislative advocacy and administrative rulemaking, as well as legal assistance to organizations seeking to develop low-income housing, improve community services, or increase the financial resources of persons of limited means.

⁵"Findings of the Comprehensive Legal Needs Study," Consortium on Legal Services and the Public, American Bar Association, 1994.

The Challenge's emphasis on the legal needs of persons of limited means is not intended to supplant the involvement of major firms in *pro bono* matters for other populations. In developing the Challenge, the Advisory Committee took note of the fact that many major law firms already had a strong commitment to public interest litigation and projects that promote civil liberties and ensure that our society functions fairly. However, a relatively small number of firms had evinced an equally strong involvement in the problems of persons of limited means. By requiring that the firm's time be allocated toward the delivery of legal services to low-income persons and their service organizations, the Challenge sought not only to increase the amount of *pro bono* participation within firms, but also to channel a majority of *pro bono* service to the area of greatest need.

PRINCIPLE THREE: RESULTS

Of those firms reporting, 69 firms (51%) complied with Principle Three by spending more than half of their Challenge goal in legal services directed to the low-income community. The volume of low-income legal services, as a percentage of the firms' total billable hours, ranged from 0.04% to 7.4%.

has hired a full-time coordinator to oversee and facilitate the clinic's *pro bono* operations. Most of the clinic's caseload mirrors the individual one-on-one matters that are commonly handled by a legal services office—family law, housing, consumer, and government benefits matters.

The firm's contributions to the welfare of the Phillips neighborhood and its impoverished residents, however, goes beyond assisting individuals with legal problems. The firm now serves as counsel to several neighborhood non-profit groups that sponsor projects—the development of affordable housing, siting a grocery store in the neighborhood, building a community center, and structuring a revolving loan fund for home repairs—that will create jobs, provide decent places to live, and strengthen residents' sense of community. In 1995, utilizing Leonard, Street and Deinard's knowledge of and contact with the community, the firm began a lead paint abatement project, designed to reduce the incidence of lead paint poisoning among children in the neighborhood. The firm also prepares a monthly legal information column in the Phillips community newsletter and has produced and distributed through the clinic a series of consumer brochures dealing with legal issues.

The success of the firm's neighborhood initiative is reflected in its progress in meeting Principle Three of the Challenge. In 1995, more than 65% of the *pro bono* hours contributed by the firm—hours which totaled 4% of the firm's total billable hours—were spent representing persons of limited means. Leonard, Street and Deinard's bold new initiative has become a critical source of support for an economically depressed community and a source of pride and inspiration for the firm.

PRINCIPLE FOUR: SECURING BROAD-BASED PARTICIPATION

Recognizing that broad-based participation in pro bono activities is desirable, our firm agrees that, in meeting the minimum goals described above, we will use our best efforts to ensure that a majority of both partners and associates in the firm participate annually in pro bono activities.

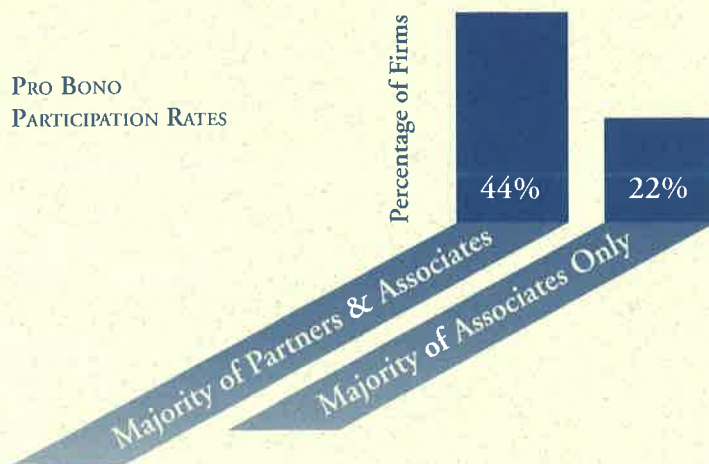
While the Challenge is focused on an institutional commitment to *pro bono*, that commitment will succeed only if *pro bono publico* service is the concern of all lawyers in the firm rather than that of a few highly committed individuals. Experience has demonstrated that broad-based participation by lawyers, regardless of office location, area of expertise, and seniority within the firm, is a key element in developing and nurturing a successful *pro bono* program. Widespread involvement, particularly among more senior lawyers, serves as a visible affirmation of the firm's institutional support. Equally important is the result achieved by involving firm lawyers with a broad range of interests and skills—enriched services and creative solutions for the firm's *pro bono* clients.

A New York City Firm Broadens its Pro Bono Base

In 1994, the Management Committee of 205-lawyer Rosenman & Colin LLP issued to all attorneys a written report on the firm's progress in meeting the goals of the Challenge. That report noted that, despite a robust and diverse *pro bono* program, only about one-quarter of the firm's lawyers had actively participated in *pro bono* work during the past year and established a goal of increasing that number by one-third by the end of 1994. In focusing its energies and attention on broadening participation, using the goal established in Principle Four of the Challenge as a guide, Rosenman & Colin, by the conclusion of 1995, had exceeded its own expectations. During that year, 53% of firm partners and 60% of associates and other firm attorneys participated in *pro bono* activities.

PRINCIPLE FOUR: RESULTS

While some firms continue to experience difficulty in involving certain categories of lawyers, such as non-litigators, in *pro bono* work, efforts to increase partner participation in response to the Challenge have already borne fruit. Of those firms reporting, more than 44% (74 firms) responded that a majority of both partners and associates had undertaken *pro bono* work in 1995. An additional 37 firms (22%) reported that a majority of associates had done so, with partner participation lagging below the 50% level. The Law Firm Pro Bono Project is working with law firms to identify and replicate effective techniques to stimulate partner involvement.



At a Southern Law Firm, Pro Bono is Everyone's Business

Before agreeing to enlist as a Charter Signatory to the Law Firm *Pro Bono* Challenge, South Carolina-based Nelson Mullins Riley & Scarborough LLP put the question to a vote of the firm's entire membership. The sense of ownership—generated by that vote has been an important factor in the widespread support for—and participation in—*pro bono* service at the firm. The firm's long-range *pro bono* plan, the intense level of support demonstrated time and again by Nelson Mullins' leadership, and the breadth of *pro bono* opportunities available to Nelson Mullins lawyers also contributed to the firm's strong showing. In 1995, 90 of the firm's 100 partners participated in *pro bono* activities, along with every one of Nelson Mullins' 115 associates.

A Mega-Firm Institutionalizes its Pro Bono Oversight

In response to the Challenge, New York City-based Skadden, Arps, Slate, Meagher & Flom LLP for the first time established a firm-wide *pro bono* committee, with representatives from each of the firm's domestic offices that have more than ten attorneys. The charge of that committee is to encourage attorneys throughout the firm to undertake *pro bono* work and to discuss policy questions of firm-wide significance. In most of the firm's individual offices, new office *pro bono* committees have been established. These individual office committees typically include representatives (usually partners) from all practice groups of significant size represented in that office. Each committee member is charged with encouraging *pro bono* work within his or her practice group and ensuring that such work is appropriately supervised and evaluated. The office *pro bono* committees can also establish priorities for *pro bono* work and are responsible for screening potential major cases and projects.

PRINCIPLE FIVE: PROMOTING AND RECOGNIZING *PRO BONO* SERVICE; ENSURING ACCOUNTABILITY

In furtherance of these principles, our firm also agrees:

- a. *To provide a broad range of pro bono opportunities, training, and supervision to attorneys in the firm, to ensure that all of our attorneys can avail themselves of the opportunity to do pro bono work;*
- b. *To ensure that the firm's policies with respect to evaluation, advancement, productivity, and compensation of its attorneys are compatible with the firm's strong commitment to encourage and support substantial pro bono participation by all attorneys; and*
- c. *To monitor the firm's progress toward the goals established in this statement and to report its progress annually to the members of the firm and to the American Bar Association's Law Firm Pro Bono Project.*

While a clear and coherent law firm policy is an essential first element of law firm support for *pro bono*, that policy will be rendered meaningless unless each relevant aspect of the firm's operations is congruent with that policy and furthers its goals.

In making an institutional commitment to *pro bono*, Challenge firms are asked to establish a program in which the firm, as a whole, takes responsibility for identifying and securing *pro bono* opportunities that are appropriate and appealing to all of the firm's lawyers and for providing the oversight and support necessary to ensure that its attorneys feel and are competent to undertake these matters. This approach eliminates one of the major obstacles that can limit *pro bono* participation—a concern that firm lawyers lack sufficient expertise in areas of the law commonly encountered in a *pro bono* context.

The second element of Principle Five—ensuring that firm policies with respect to compensation and advancement are compatible with support for *pro bono*—is among the most significant advances promoted by the Challenge. In an era of heightened expectations with respect to billable hours, fees collected, and similar measures, a firm's commitment to *pro bono* must include positive incentives to perform that work. Whether this takes the form of billable hour credit, receivables equivalent credit, or another form of recognition will depend on each firm's existing compensation and incentives system. It is equally important that participation in *pro bono* work be identified as one criterion for positive evaluations and advancement in the firm. Such parity reinforces the stature of *pro bono* work.

The third element of Principle Five—monitoring the firm's progress in meeting its aspirational minimum goal as well as its level of participation in legal services to persons of limited means—underscores the institutional nature of the commitment made through the Challenge. Equally important is the obligation to report the results of that assessment of the *pro bono* program broadly within the firm. To assist the Law Firm Pro Bono Project in assessing the impact and effectiveness of the Challenge, the firms are also asked to provide that information to the Project. Pursuant to an agreement with the law firms, that information will be kept confidential by the Project and will not be released in any manner which identifies the results for a specific firm

or firms. In publishing those portions of this report that detail the Challenge activities of specific law firms, the Project has done so only after seeking and obtaining the permission of these firms.

PRINCIPLE FIVE: RESULTS

Many firms, in accepting the Challenge, have substantially or completely revamped their approach to *pro bono* work. One of the clearest examples of that change has been the growth in the number of *pro bono* committees. These committees now have permanence, stature and membership comparable to commercially-oriented committees in the firm. While some *pro bono* committees predate the Challenge, their numbers have increased dramatically. In addition, in many firms with *pro bono* committees in place prior to the Challenge, the role and composition of these committees have been drastically altered. Prior to the Challenge, many *pro bono* committees were relatively small and composed of a small core of *pro bono* “true believers.” By 1995, in most firms, these committees were more active and included representatives of many, if not all, domestic offices and transactional lawyers as well as the litigators who had traditionally dominated the committees.

These committees have also redefined and broadened their role. They now provide a formal structure for identifying, screening, and monitoring attorneys’ *pro bono* activities, as well as assessing the overall vitality of the firm’s *pro bono* efforts. Committee members actively solicit *pro bono* opportunities and maintain relationships with non-profit groups that are sources of *pro bono* work. They assess areas of interest among firm attorneys and find matches for those interests. They supervise *pro bono* matters directly and secure firm partners to serve as supervisors. They develop and implement targeted *pro bono* efforts and firm-wide *pro bono* projects. Finally, they work diligently to promote greater awareness of the firm’s *pro bono* activities and accomplishments, by establishing in-house award programs, publishing firm-wide *pro bono* newsletters, and preparing reports on the firm’s *pro bono* activities.

One other result of the Challenge’s delineation of the role of the firm in *pro bono*, allied with the increasingly active and complex jurisdiction of *pro bono* committees, is the growth of full-time or part-time firm staff to assist the committees in administering the *pro bono* program. Increasingly, firms have selected knowledgeable individuals to serve as non-attorney *pro bono* coordinators, *pro bono* counsel, or—the latest trend—*pro bono* partners, i.e., equity partners who devote all of their time to *pro bono* matters and to the administration of *pro bono* service by others at the firm. While a small number of firms had previously employed full-time *pro bono*-responsible lawyers or coordinators, that position is now well-established among a substantial number of firms in cities across the nation.

With respect to the second element of Principle Five, there has been a substantial increase in the number of law firms that now treat time spent on *pro bono* work as equivalent to hours spent on commercial matters for purposes of meeting the firm’s productivity goals and, in many cases, for purposes of compensation and bonuses. Firms have taken concrete steps to assure attorneys that their commitment to equivalency for *pro bono* time is

genuine, including changing the reporting format for attorney hours to blend *pro bono* and paying client time together as billable or billable equivalent time.

Skadden, Arps' new *pro bono* committee has developed a number of innovative techniques for crediting and rewarding *pro bono* work. For example, the firm changed the computation of an attorney's running total of billable time, which an attorney sees whenever entering newly billed time into the firm's computer system, so that this running total now includes *pro bono* time. While Skadden had previously determined that it would count and credit *pro bono* time, the change in reporting brought the computerized information in line with the firm's policy. In addition, the firm's *pro bono* coordinator now receives monthly reports regarding the total number of *pro bono* hours contributed to date by attorneys in each practice group in each office. Moreover, the firm's management, in presenting data regarding the utilization of attorneys in the various practice groups, now includes all *pro bono* time as well as all billable time.

At Tampa's Carlton, Fields, Ward, Emmanuel, Smith & Cutler, *pro bono* work is included in both annual shareholder self-evaluation forms and annual associate evaluations. Baltimore-based Piper & Marbury now includes *pro bono* hours performed by associates in calculating compensation and bonuses. At Washington, DC's Hogan & Hartson, home of one of the nation's most comprehensive and long-standing *pro bono* programs, the firm's acceptance of the Challenge prompted its Executive Committee to review and clarify the firm's policies with respect to valuing *pro bono* work. That newly adopted policy states, in part, "Hogan & Hartson highly values all *pro bono* and community service activities [i.e., *pro bono* activities undertaken in cooperation with the firm's Community Services Department]. These activities will be taken into account for evaluation purposes in precisely the same way as is work for fee-paying clients. The firm will continue to expect associates generally to perform at least...billable hours, but participation in community service activities will be weighed and credited in compensation and bonus decisions made by the Executive Committee. Indeed, the Executive Committee awarded bonuses to several associates this past fall based, in part, on their significant contributions to community service and expects to continue to do so. The Executive Committee likewise intends to take significant contributions on *pro bono* projects into account in partnership/counsel decisions."

The new *pro bono* policy adopted by New York City's Schulte Roth & Zabel LLP notes that "Once accepted, *pro bono* matters are to be given the same staffing, attention and resources as any other matter in which the Firm provides representation for its clients. An attorney's work, whether partner or associate, on a *pro bono* matter is given equal credit and weight as compared with other Firm activities, specifically including work on billable matters, in evaluating that attorney's contribution to the Firm. Computer recordkeeping reports highlight *pro bono* activity, and *pro bono* hours are counted toward associates' target hours."

Washington, DC's Shaw, Pittman, Potts & Trowbridge's *pro bono* policy, developed in response to the Challenge, sounds the same theme:

Once a *pro bono* matter has been approved, the rights and obligations of attorney and client are the same as for paying work. Attorney work product must meet the firm's high professional standards, including the energy, enthusiasm and creativity with which work is tackled, the quality of the product, and the timeliness with which the product is produced. When attorney skills, productivity, professional accomplishments, and overall contributions to the firm are measured, *pro bono* work will be considered paying work. In the process of evaluation of associates and counsel by the Associates Committee and by the Senior Professional Personnel Committee, no distinctions will be permitted between paying work and *pro bono* work. Professional success or failure on *pro bono* work will count the same as success or failure on paying work—both for purposes of compensation and for purposes of professional advancement and stature in the firm. The same rules apply to partners, i.e., for purposes of compensation and for purposes of professional advancement and stature in the firm.

North Carolina's Smith Helms Mulliss & Moore now provides full credit and recognition for *pro bono* work in assessing whether its attorneys have met the firm's annual professional goals.

Increasingly, firms are recognizing and rewarding *pro bono* work in other ways as well. Whether through the special individual awards presented by Seattle's Bogle & Gates P.L.L.C., San Francisco's McCutchen Doyle Brown & Enersen, LLP and New York's Milbank, Tweed, Hadley & McCloy or via the annual events sponsored by Detroit's Dykema Gossett PLLC and Minneapolis' Dorsey & Whitney honoring all those at the firm who have made a *pro bono* contribution, more and more law firms are sponsoring award and recognition programs.

Firms have also changed their procedures to comply with the reporting requirement that is articulated in the third element of Principle Five. While the Challenge could be seen to require only a quantitative summary, many firms have provided more in-depth information. Florida-based Holland & Knight, Washington, DC's Shea & Gardner, and many other firms now produce comprehensive annual reports that include not only the firm's contributions of time for the year, but also detailed information about the types of activities undertaken and the impact of the firm's work. The Board of Directors at St. Paul's Briggs & Morgan receives both an oral and written report during its compensation deliberations regarding the *pro bono* activities and the *pro bono* hours of all of the firm's lawyers. In addition, a number of firms, such as Boston's Foley, Hoag & Eliot LLP, have revamped their time-keeping systems to insure that accurate information on the firm's Challenge participation and time is maintained and communicated to the leadership and the firm.

*Washington, DC's Crowell & Moring:
Giving More Time and More Support*

In 1995, Crowell & Moring LLP not only met its Challenge goal, but also significantly increased its financial support for legal services and public interest programs that provide legal services free of charge to persons of limited means. In addition to providing financial support to a wide range of organizations in the District of Columbia, the firm sponsored a two-year fellowship at a public interest organization and agreed to provide a \$100,000 grant to another such entity to fund a staff attorney at that program for a two-year period.

PRINCIPLE SIX: FINANCIAL SUPPORT

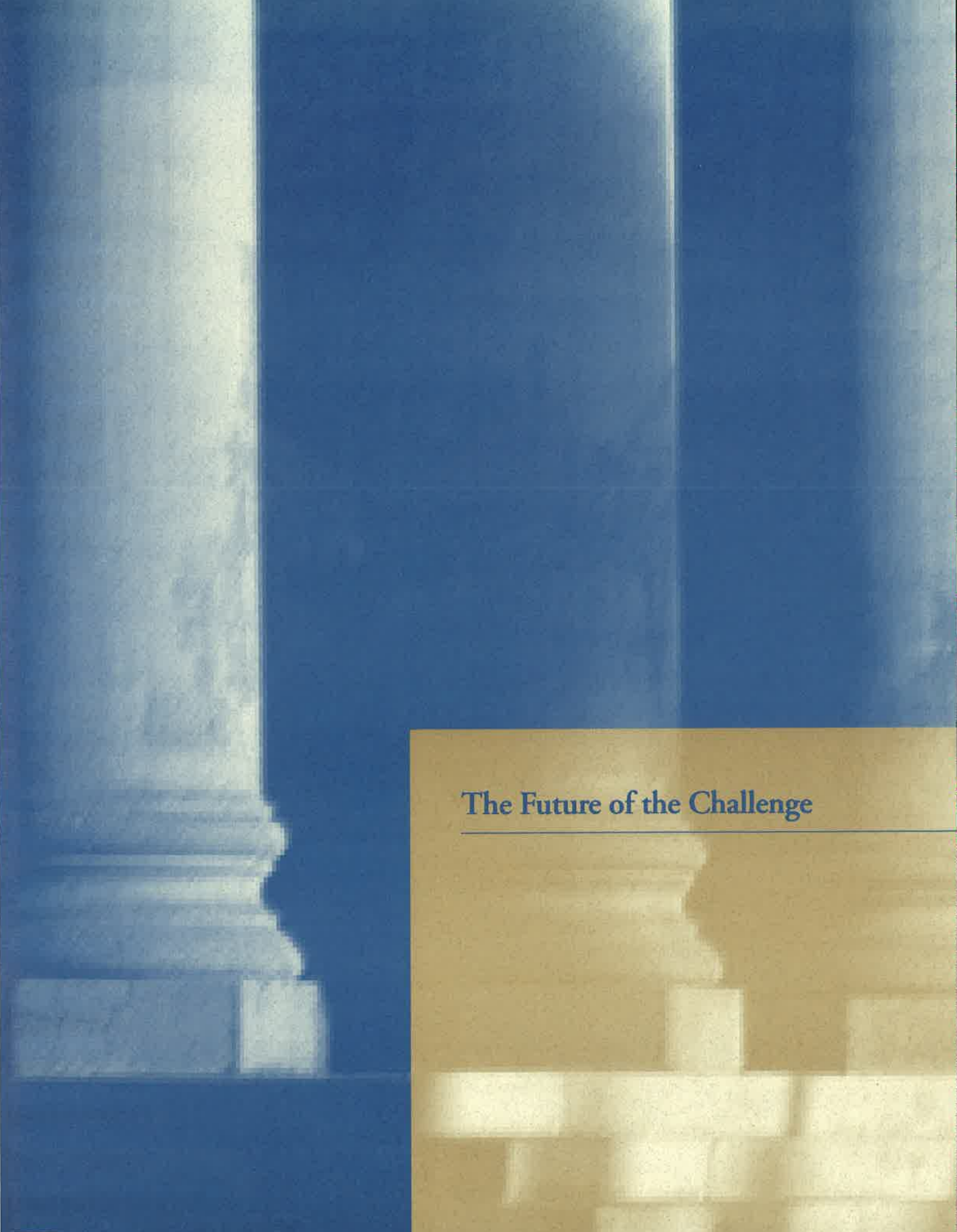
This firm also recognizes the obligation of major law firms to contribute financial support to organizations that provide legal services free of charge to persons of limited means.

The level of firm *pro bono* commitment identified in the Law Firm Pro Bono Challenge is not intended to replace or diminish a firm's monetary contributions to organizations that provide legal services to persons of limited means. The Challenge commitment fosters hands-on service and personal involvement in *pro bono* work. The Challenge also strongly encourages firms to continue and expand their financial support for legal services organizations.

PRINCIPLE SIX: RESULTS

While firms are not required to provide comprehensive information on their level of contributions, virtually all of the firms that have reported appear to be either maintaining their pre-Challenge level of financial support or increasing that level in response to reductions in public funding and greater awareness of institutional need. Studies of non-lawyer giving in the United States have noted that contributors typically donate their money where they donate their time.⁶ As law firms become more familiar with the unmet legal need and the critical importance of institutions that undertake public interest work on a full-time basis, their willingness to provide financial support for these institutions increases. One indication of that trend is the substantial growth in the number of law firm-sponsored fellowships that provide full-time staff to public interest and legal services programs at the firms' expense.

⁶"Giving and Volunteering in the United States: Findings from a National Survey," 1990 Edition, (Independent Sector) p. 2.



The Future of the Challenge

The Future of the Challenge: An Ongoing Commitment

As noted earlier, this report represents the results of the first year of formal implementation of the Law Firm Pro Bono Challenge by the major firms that have enrolled in the Challenge since 1993. The reports from these firms concerning their response to all of the principles of the Challenge indicate that the Challenge has already had a profound impact on the way in which many larger law firms view and structure their *pro bono* service. *Pro bono* at these firms has the following qualities, attributable in large part to the Challenge:

Heightened Visibility and Awareness

The Challenge has served as a catalyst for discussion and assessment of firm *pro bono* efforts among Challenge Signatory firms as well as firms that elected not to become part of the Challenge. *Pro bono* work receives greater attention within the firms, and, through the use of publications, awards and other forms of recognition, that attention is overwhelmingly positive.

More Visible and Vigorous Leadership Support

One critical aspect of heightened visibility is the support for *pro bono* service voiced more frequently and more intensely by the leadership of the firm—chairs, managing partners, and executive committees.

More Structured and Formal Programs

As noted in the discussion of Principle Five above, *pro bono* efforts at major law firms, for the most part, have moved from informal *ad hoc* efforts to more organized and formal efforts that mirror the firms' approach to commercial practice and firm management. Pro-active efforts to find attractive and meritorious *pro bono* opportunities, active oversight and assessment by *pro bono* committees, and the growth of firm-wide special projects, involving a range of firm employees and attorneys, all illustrate a more thoughtful, planned approach that institutionalizes *pro bono* within the firm.

Increasingly Broad-Based Participation

Broadening participation increases support for *pro bono*. Challenge firms have worked to overcome the tradition, common to many cities, that *pro bono* work is only for associates. Hands-on *pro bono* participation by partners, particularly department and firm-wide leaders, is one of the most powerful tools in persuading younger lawyers to participate. Firms are also developing new models that involve business lawyers—tax, real estate, corporate, public finance specialists—in addition to litigators.

Greater Use of Firm Resources

Increasingly, Challenge firms are providing resources in addition to the time and expertise of their lawyers. These firms open their training programs to legal services and public interest lawyers whose programs no longer have a training budget. They lend librarians, paralegals, computer experts, and other staff to these programs and to community groups that have limited resources. They work with their marketing department to prepare and publish consumer legal education materials. And, they provide financial support to hard-pressed advocacy and legal services groups. The results of the Challenge demonstrate that one outcome of the heightened sense of institutional responsibility is an increased willingness to make all kinds of firm resources available to those in need.

Heightened Accountability

The more formal, institutionalized approach to *pro bono* exemplified by the Challenge has resulted in more thoughtful firm oversight of the *pro bono* program. Firms, in many cases, now regularly review *pro bono* activities and time, taking appropriate action when the firm is “underspending” its *pro bono* budget.

Increased *Pro Bono* Hours

As noted in the discussion of Principle Two, many of the Challenge firms report a substantial increase in *pro bono* hours contributed. For a number of firms, even those increases were not sufficient to meet the Challenge goal. However, these firms have now put in place the structures and policies that will promote further growth in future years.

Innovation and Creativity in Structuring *Pro Bono* Involvement

Anecdotal information indicates that the Challenge offered firms the opportunity to assess and re-think their *pro bono* efforts. That re-examination has resulted in numbers of innovative approaches to *pro bono*. These innovations—firm signature projects, joint ventures with corporate clients, adopt-a-neighborhood programs, service as “general counsel” to community or neighborhood non-profit groups—are only the first wave of creative approaches by the firms.

Greater Impact on the Communities Served by these Firms

By providing firm-wide oversight of *pro bono* efforts, larger law firms have been able to coordinate their resources to have a greater impact on those they serve. While individual lawyers can continue to take on *pro bono* work of their own choosing, many firms, as part of their planning and assessment process, now seek to target some firm resources for the most critical legal problems in their community. That focus and oversight have enhanced the capacity of the firms to make more substantial and long-lasting contributions to their communities.

Although there is much good news in the firm reports for the 1995 calendar year, there are also indicators that additional work must be undertaken if the promise of the Challenge is to be met. These tasks, which must be undertaken by the firms themselves, as well as the Project and its Advisory Committee, include:

Ensuring that All Challenge Firms Meet the Reporting Requirement.

Since assembling data on firms’ Challenge performance and reporting that information are an integral part of the pledge taken by Challenge firms, the Project has already contacted each firm that failed to file a report in 1995 regarding their 1996 Challenge report. Some of the firms that failed to report had never before tracked their *pro bono* time. The Project is working with these firms to provide them with the tools to maintain accurate records of *pro bono* time that meets the Challenge definition. After reviewing the 1996 Challenge results, the Project’s Advisory Committee will make recommendations regarding firms that fail to provide information to the Project.

Working to Ensure that Every Challenge Firm Meets Its Goals.

While the Challenge 3% or 5% goal is attainable by every firm, the Project acknowledges that some firms may need more time and guidance to achieve their goal. A number of firms that failed to meet their Challenge goal in 1995 have taken corrective action that they believe will enable them to succeed in 1996. The 1995 Challenge results offer previously unavailable baseline data that the Project can use to provide intensive assistance to firms that are having difficulty in meeting the goal. This includes information on successful approaches that can be replicated by firms to enable them to increase hours and institutionalize support for *pro bono*. The Advisory Committee will address the issue of the status of law firms that continue to fall short of their Challenge goal.

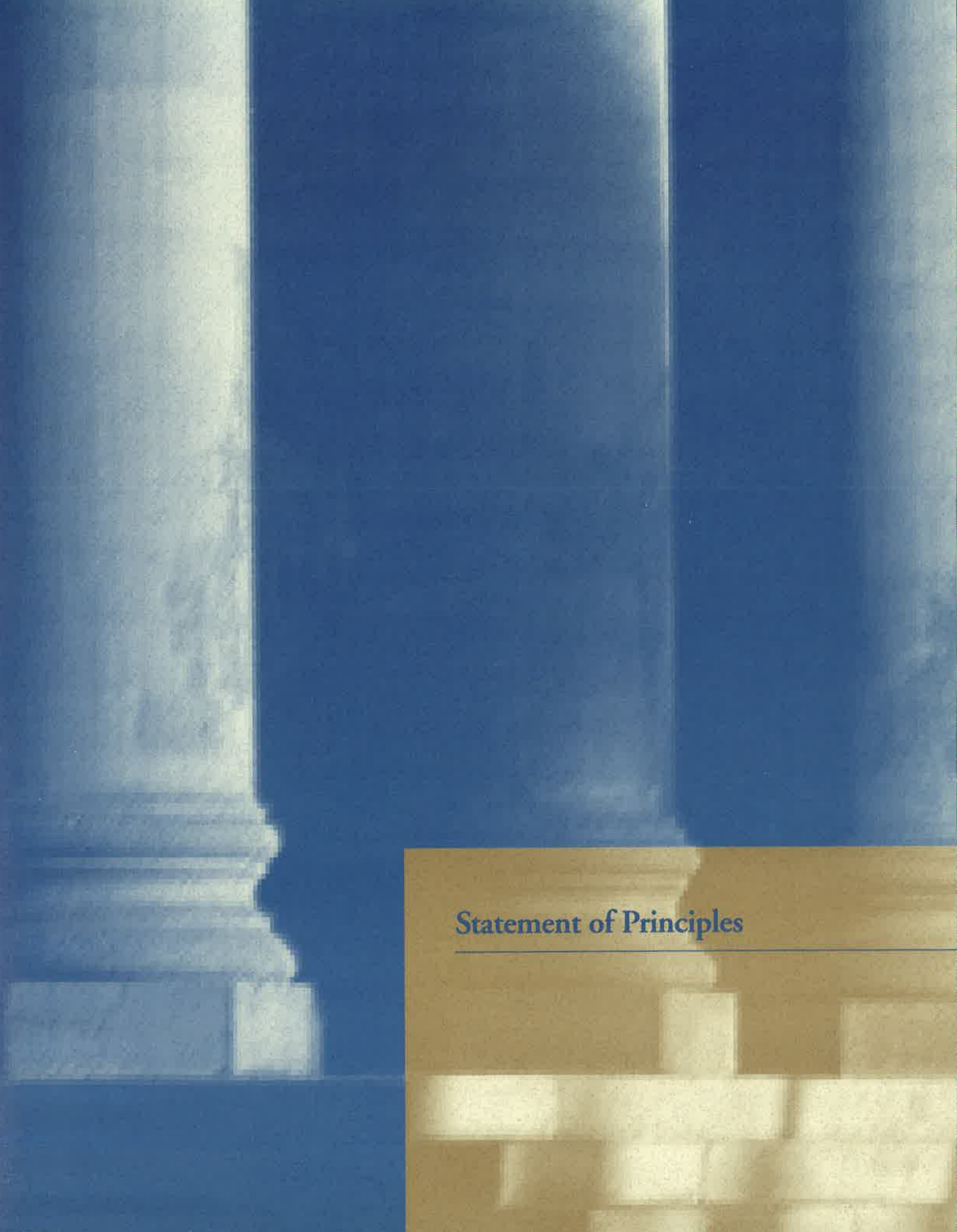
Enrolling Additional Major Law Firms in the Challenge.

Many law firms of various sizes and in a wide range of communities throughout the nation have successfully addressed the elements of the Challenge. They did so without a negative impact on the fiscal health of the firm. Indeed, many firm leaders are now firmly convinced that *pro bono* provides substantial benefit to a law firm and its lawyers as well as to the community served. With that information now available, the Project will undertake a second recruitment effort designed to enlist more firms as Challenge Signatories.

Maintaining the Excitement and Momentum Generated by the Challenge.

The Challenge has been a focal point for increased creativity in *pro bono* service and greater contributions of time and resources. The Project will use its publications and other forms of media to report on firm successes and to maintain increased visibility for *pro bono* among large law firms.

This initial report will now serve as a baseline for participating firms and the Project, so that future progress can be accurately assessed and new initiatives and ideas can be implemented. Firms will continue to work to meet their Challenge goals, and the Project will use its resources to assist them. At the one-year mark—an early stage in what we hope will be a long association—the Law Firm Pro Bono Challenge has provided some promising results as it strives to realize its full potential. We know, however, that the goals promulgated by the Project are realistic and that the principles articulated are essential in strengthening *pro bono* at major law firms. We know much more about what works in law firm *pro bono* and what does not. In holding the Challenge Signatory firms to the commitment they have made, the Project will also honor its commitment to work with these firms and others to expand the availability of *pro bono* service.

The background of the page features a photograph of classical architecture. On the left, a large, fluted white column stands against a clear blue sky. To the right, a portion of another similar column is visible. In the lower right foreground, there is a wall made of light-colored, rectangular stone blocks, possibly part of a balustrade or a low wall. The overall scene is bright and clear.

Statement of Principles

LAW FIRM PRO BONO CHALLENGE

Statement of Principles

Recognizing the growing severity of the unmet legal needs of the poor and disadvantaged in the communities we serve, and mindful that major law firms must — in the finest traditions of our profession — play a leading role in addressing these unmet needs, our firm is pleased to join with other firms across the country in subscribing to the following statement of principles and in pledging our best efforts to achieve the voluntary goals described below.

1. Our firm recognizes its institutional obligation to encourage and support the participation by all of its attorneys in *pro bono publico* activities. We agree to promulgate and maintain a clearly articulated and commonly understood firm policy which unequivocally states the firm's commitment to *pro bono* work.
2. To underscore our institutional commitment to *pro bono* activities, we agree to use our best efforts to ensure that, by no later than the close of calendar year 1995, our firm will either:
 - (1) annually contribute, at a minimum, an amount of time equal to 5 percent of the firm's total billable hours to *pro bono* work;
 - or
 - (2) annually contribute, at a minimum, an amount of time equal to 3 percent of the firm's total billable hours to *pro bono* work.
3. In recognition of the special needs of the poor for legal services, we believe that our firm's *pro bono* activities should be particularly focused on providing access to the justice system for persons otherwise unable to afford it. Accordingly, in meeting the voluntary goals described above, we agree that a majority of the minimum *pro bono* time contributed by our firm should consist of the delivery of legal services on a *pro bono* basis to persons of limited means or to charitable, religious, civic, community, governmental and educational organizations in matters which are designed primarily to address the needs of persons of limited means.
4. Recognizing that broad-based participation in *pro bono* activities is desirable, our firm agrees that, in meeting the minimum goals described above, we will use our best efforts to ensure that a majority of both partners and associates in the firm participate annually in *pro bono* activities.
5. In furtherance of these principles, our firm also agrees:
 - a. To provide a broad range of *pro bono* opportunities, training, and supervision to attorneys in the firm, to ensure that all of our attorneys can avail themselves of the opportunity to do *pro bono* work;

- b. To ensure that the firm's policies with respect to evaluation, advancement, productivity, and compensation of its attorneys are compatible with the firm's strong commitment to encourage and support substantial *pro bono* participation by all attorneys; and
 - c. To monitor the firm's progress toward the goals established in this statement and to report its progress annually to the members of the firm and to the American Bar Association's Law Firm Pro Bono Project.
6. This firm also recognizes the obligation of major law firms to contribute financial support to organizations that provide legal services free of charge to persons of limited means.
7. As used in this statement, the term *pro bono* refers to activities of the firm undertaken normally without expectation of fee and not in the course of ordinary commercial practice and consisting of (i) the delivery of legal services to persons of limited means or to charitable, religious, civic, community, governmental and educational organizations in matters which are designed primarily to address the needs of persons of limited means; (ii) the provision of legal assistance to individuals, groups, or organizations seeking to secure or protect civil rights, civil liberties or public rights; and (iii) the provision of legal assistance to charitable, religious, civic, community, governmental or educational organizations in matters in furtherance of their organizational purposes, where the payment of standard legal fees would significantly deplete the organization's economic resources or would be otherwise inappropriate.

FIRM

PARTNER EXECUTING ON BEHALF OF FIRM

ADDRESS

CITY/STATE/ZIP

PHONE/FAX

DATE

Commentary to Statement of Principles

Principle 1

Our firm recognizes its institutional obligation to encourage and support the participation by all of its attorneys in *pro bono publico* activities. We agree to promulgate and maintain a clearly articulated and commonly understood firm policy which unequivocally states the firm's commitment to *pro bono* work.

COMMENTARY

An Institutional Commitment

We ask that each law firm recognize and structure an active institutional commitment to *pro bono publico* service, rather than simply accommodating the interest and commitment of its individual attorneys. The goal of such institutional support is to ensure that the special resources and expertise of the firm are collectively focused on the management and implementation of an effective and productive *pro bono* effort and on the reduction or elimination of barriers to *pro bono* work. It is also designed to develop and nurture a firm culture in which *pro bono* service is a routine and valued part of each individual's professional life. The leadership of the firm should convey, in clear, unambiguous terms, the firm's commitment as an institution as well as its expectation that each individual will strive to help fulfill the firm-wide commitment. Many firms have found that a comprehensive written *pro bono* policy is an excellent vehicle for communicating that commitment. The firm should then implement its policy through a structured program that fosters *pro bono* work.

Principle 2

To underscore our institutional commitment to *pro bono* activities, we agree to use our best efforts to ensure that, by no later than the close of calendar year 1995, our firm will either:

- (1) annually contribute, at a minimum, an amount of time equal to 5 percent of the firm's total billable hours to *pro bono* work;
- or
- (2) annually contribute, at a minimum, an amount of time equal to 3 percent of the firm's total billable hours to *pro bono* work.

COMMENTARY

Quantifying the Commitment

We believe that the establishment of a concrete, quantifiable, firm-wide aspirational goal will assist firms in communicating support for *pro bono* and in assessing the overall effectiveness of their *pro bono* programs. The expression of that goal as a percentage of total billable hours, rather than as a goal of hours per individual attorney, underscores the institutional nature of the commitment. While we believe that it is both feasible and appropriate for major law firms to contribute 5% of their billable hours to *pro bono* activities, we recognize that substantial differences exist among firms with respect to their current levels of *pro bono* activity. Accordingly, we have provided firms with a choice between two alternative aspirational goals—a goal of 5 percent of total billable hours or a goal of 3 percent of total billable hours. Many firms already report contributions of *pro bono* time far in excess of either of these goals. Indeed, several major firms presently expend 8% or more of their time on *pro bono* activities. For other firms, accepting the challenge to aspire to even the lower of the two goals represents a dramatic expansion of their current level of effort. These levels are consonant with existing aspirational bar resolutions which call for annual goals of up to 80 hours per attorney. For example, we anticipate that the 3% aspirational goal will translate into a per-attorney goal somewhat in excess of 50 hours annually, a commitment that is consistent with the aspirational goals established by the American Bar Association and many state and local bar associations. Many major law firms have established branch offices in foreign countries. Recognizing that *pro bono* service may not be feasible for attorneys in these offices, the 5%/3% goals should be applied only to the total billable hours performed by firm attorneys working in the United States.

Principle 3

In recognition of the special needs of the poor for legal services, we believe that our firm's *pro bono* activities should be particularly focused on providing access to the justice system for persons otherwise unable to afford it. Accordingly, in meeting the voluntary goals described above, we agree that a majority of the minimum *pro bono* time contributed by our firm should consist of the delivery of legal services on a *pro bono* basis to persons of limited means or to charitable, religious, civic, community, governmental and educational organizations in matters which are designed primarily to address the needs of persons of limited means.

COMMENTARY

Pro Bono—Meeting the Need

While we recognize and applaud the rich diversity of *pro bono* activities undertaken by law firms, with respect to the minimum aspirational goal established by the Challenge, we strongly support a special emphasis by firms on the legal problems of persons of limited means. Studies routinely report that more than 80% of the civil legal needs of the poor are not presently being met. The resources and expertise of leading law firms should be brought to bear to assist the most vulnerable of our citizens in securing their rights. Legal services, as used in this Commentary, consists of a broad range of activities, including, among others, individual and class representation, legislative lobbying and administrative rulemaking, as well as legal assistance to organizations seeking to develop low-income housing, improve community services, or increase the financial resources of persons of limited means. Many activities traditionally viewed by firms as falling in other *pro bono* categories such as civil rights or civil liberties cases, environmental claims, community economic development, and consumer protection matters can, in fact, often also be accurately described as falling within the priority for legal services to persons of limited means. Emphasis on the legal needs

of persons of limited means is not intended to supplant the involvement of firms in complex *pro bono* matters for other populations. Many major law firms have a strong commitment to public interest litigation and projects, including high impact class action suits and policy advocacy, that promote essential public policies and ensure that our society functions equitably. Firms undertaking these complex and time-consuming matters often commit resources far in excess of the Challenge's minimum goals.

Principle 4

Recognizing that broad-based participation in *pro bono* activities is desirable, our firm agrees that, in meeting the minimum goals described above, we will use our best efforts to ensure that a majority of both partners and associates in the firm participate annually in *pro bono* activities.

COMMENTARY

Broad-Based Participation in *Pro Bono*

While we urge the firm's institutional support for *pro bono*, that support will be enhanced if *pro bono publico* service is the concern of all lawyers in the firm rather than only a few highly committed individuals. Experience has demonstrated that broad-based participation at all levels, including the most senior members of the firm, is a key element in developing and nurturing a successful firm *pro bono* program. Myriad opportunities for service exist—opportunities that will interest and challenge senior partners as well as young associates, business and tax lawyers as well as litigators. Broad-based participation in *pro bono* service promotes firm-wide support for that activity and serves as a concrete and visible affirmation of the firm's institutional commitment. Finally, by involving lawyers with a broad range of interests and skills, the firm can enrich its service to the community.

Principle 5

In furtherance of these principles, our firm also agrees:

- a. To provide a broad range of *pro bono* opportunities, training, and supervision to attorneys in the firm, to ensure that all of our attorneys can avail themselves of the opportunity to do *pro bono* work;
- b. To ensure that the firm's policies with respect to evaluation, advancement, productivity, and compensation of its attorneys are compatible with the firm's strong commitment to encourage and support substantial *pro bono* participation by all attorneys; and
- c. To monitor the firm's progress toward the goals established in this statement and to report its progress annually to the members of the firm and to the American Bar Association's Law Firm Pro Bono Project.

COMMENTARY

Promoting and Recognizing *Pro Bono* Service

- a. We encourage firms actively to seek out a broad range of *pro bono* opportunities for their lawyers and to provide or secure the necessary support, training, and supervision so that lawyers will be encouraged to take on these cases or projects. *Pro bono* matters should be administered in the same manner as commercial work. All of the firm's resources and support services should be available to the *pro bono* attorney, and the matter should be subject to the firm's oversight and quality control procedures. It is especially important that all *pro bono* matters be supervised in a manner consistent with the firm's overall supervision requirements. One obstacle that often limits participation in *pro bono* work is the concern that a firm lacks sufficient substantive expertise in particular areas of law. Many firms have taken steps to ensure that the necessary substantive supervision is available by identifying experts within or outside of the firm or by providing or securing training for firm attorneys.
- b. In an era of increased expectations with respect to billable hours, receipts, or similar measures, a firm commitment to *pro bono* must include positive incentives to perform that work. Whether this takes the form of billable hours credit, receivables equivalent credit, or some other form of recognition for time spent on *pro bono* work will depend on the firm's existing incentives system. It is equally important that participation in *pro bono* work be identified as one criterion for positive evaluations and advancement in the firm. Many firms have developed systems to ensure that such evaluations explicitly include assessment of *pro bono* work. Firms have also established supplemental efforts to promote recognition of *pro bono* work, such as firm-wide *pro bono* awards and bonus programs.
- c. As part of its institutional commitment, the firm should monitor its progress in meeting its aspirational minimum goal, as well as its level of involvement in legal services to persons of limited means, and should disseminate information on the status of the *pro bono* program broadly within the firm. To assist the American Bar Association in assessing the impact of the Law Firm Challenge on the availability of *pro bono* firm resources, the firm will also provide information to the Association. That information will be confidential and will not be released in any form which identifies a specific firm.

Principle 6

This firm also recognizes the obligation of major law firms to contribute financial support to organizations that provide legal services free of charge to persons of limited means.

COMMENTARY

Financial Support

The level of firm *pro bono* commitment identified in the Law Firm Challenge is not intended to replace or diminish a firm's monetary contributions to organizations that provide legal services to persons of limited means. The Challenge commitment is one of actual service and personal involvement in *pro bono* work. We strongly encourage law firms to continue and expand their financial support of legal services organizations. These organizations need both service and monetary contributions from major law firms.

Principle 7

As used in this statement, the term *pro bono* refers to activities of the firm undertaken normally without expectation of fee and not in the course of ordinary commercial practice and consisting of (i) the delivery of legal services to persons of limited means or to charitable, religious, civic, community, governmental and educational organizations in matters which are designed primarily to address the needs of persons of limited means; (ii) the provision of legal assistance to individuals, groups, or organizations seeking to secure or protect civil rights, civil liberties or public rights; and (iii) the provision of legal assistance to charitable, religious, civic, community, governmental or educational organizations in matters in furtherance of their organizational purposes, where the payment of standard legal fees would significantly deplete the organization's economic resources or would be otherwise inappropriate.

COMMENTARY

Definition of *Pro Bono*

The definition of *pro bono* contained in the Challenge, although somewhat revised, tracks existing policy definitions adopted by the American Bar Association, state and local bar associations, and many law firms. The definition ensures that the firm and its attorneys can utilize varied legal skills to undertake a broad range of activities in meeting their *pro bono* responsibility.

Activities under clause (i) of the definition clearly fall within the recommended priority for legal services to persons of limited means, as do some of the activities under clause (ii). In the vast majority of all matters, the firm's *pro bono* participation will be undertaken without a fee or any expectation of a fee. However, there are very limited instances in which the acceptance of a fee award will not disqualify a matter from inclusion in the definition of *pro bono*. Post-conviction capital appeals, for example, where firms contribute thousands of hours without compensation but may receive the limited fees available to counsel under the Criminal Justice Act, are clearly *pro bono* cases for persons of limited means.

Similarly, the award of attorneys' fees in an employment discrimination or environmental protection case originally taken on by a firm as a *pro bono* matter and not in the course of the firm's ordinary commercial practice would not disqualify such services from inclusion as *pro bono* work. Firms that receive fees in such cases are encouraged to contribute an appropriate portion of those fees to organizations or projects that provide services to persons of limited means.

Law Firm Pro Bono Project

Founding Members

Allen, Matkins, Leck, Gamble & Mallory LLP <i>Los Angeles, CA</i>	Dechert Price & Rhoads <i>Philadelphia, PA</i>	Greenberg Traurig Hoffman Lipoff Rosen & Quentel, P.A. <i>Miami, FL</i>
Alston & Bird <i>Atlanta, GA</i>	Dickstein, Shapiro & Morin, LLP <i>Washington, DC</i>	Haight, Gardner, Poor & Havens <i>New York, NY</i>
Arent Fox Kintner Plotkin & Kahn <i>Washington, DC</i>	Diepenbrock, Wulff, Plant & Hannegan, LLP <i>Sacramento, CA</i>	Hale and Dorr LLP <i>Boston, MA</i>
Armstrong, Teasdale, Schlafly & Davis <i>St. Louis, MO</i>	Donovan Leisure Newton & Irvine <i>New York, NY</i>	Hall, Estill, Hardwick, Gable, Golden & Nelson, P.C. <i>Tulsa, OK</i>
Arnold & Porter <i>Washington, DC</i>	Dorsey & Whitney LLP <i>Minneapolis, MN</i>	Harwood Lloyd <i>Hackensack, NJ</i>
Baker & McKenzie <i>Chicago, IL</i>	Eckert Seamans Cherin & Mellott <i>Pittsburgh, PA</i>	Heller, Ehrman, White & McAuliffe <i>San Francisco, CA</i>
Beirne, Maynard & Parsons, LLP <i>Houston, TX</i>	Facgre & Benson LLP <i>Minneapolis, MN</i>	Hodgson, Russ, Andrews, Woods & Goodyear, LLP <i>Buffalo, NY</i>
Beveridge & Diamond, P.C. <i>Washington, DC</i>	Farella, Braun & Martel <i>San Francisco, CA</i>	Hogan & Hartson LLP <i>Washington, DC</i>
Bogle & Gates PLLC <i>Seattle, WA</i>	Finnegan, Henderson, Farabow, Garrett & Dunner, LLP <i>Washington, DC</i>	Holland & Knight <i>Tampa, FL</i>
Brobeck, Phleger & Harrison <i>San Francisco, CA</i>	Fish & Neave <i>New York, NY</i>	Howrey & Simon <i>Washington, DC</i>
Buchalter, Nemer, Fields & Younger <i>Los Angeles, CA</i>	Foley, Hoag & Eliot LLP <i>Boston, MA</i>	Hughes Hubbard & Reed LLP <i>New York, NY</i>
Butzel Long <i>Detroit, MI</i>	Fox, Rothschild, O'Brien & Frankel <i>Philadelphia, PA</i>	Hunton & Williams <i>Richmond, VA</i>
Carlton, Fields, Ward, Emmanuel, Smith & Cutler, P.A. <i>Tampa, FL</i>	Fredrikson & Byron, P.A. <i>Minneapolis, MN</i>	Jaffe, Raitt, Heuer & Weiss <i>Detroit, MI</i>
Chadbourne & Parke <i>New York, NY</i>	Fried, Frank, Harris, Shriver & Jacobson <i>New York, NY</i>	Jenner & Block <i>Chicago, IL</i>
Cooley Godward LLP <i>San Francisco, CA</i>	Gardere & Wynne, LLP <i>Dallas, TX</i>	Jones, Day, Reavis & Pogue <i>Cleveland, OH</i>
Covington & Burling <i>Washington, DC</i>	Gardner, Carton & Douglas <i>Chicago, IL</i>	Katten Muchin & Zavis <i>Chicago, IL</i>
Cozen and O'Connor <i>Philadelphia, PA</i>	Ginsburg, Feldman and Bress, Chartered <i>Washington, DC</i>	Kirkland & Ellis <i>Chicago, IL</i>
Crowe & Dunlevy <i>Oklahoma City, OK</i>	Godfrey & Kahn, S.C. <i>Milwaukee, WI</i>	Kramer, Levin, Naftalis & Frankel <i>New York, NY</i>
Crowell & Moring LLP <i>Washington, DC</i>	Graves, Dougherty, Hearon & Moody <i>Austin, TX</i>	Latham & Watkins <i>Los Angeles, CA</i>
Crummy, Del Deo, Dolan, Griffinger & Vecchione <i>Newark, NJ</i>		LeBoeuf, Lamb, Greene & MacRae, LLP <i>New York, NY</i>

Leonard, Street and Deinard <i>Minneapolis, MN</i>	Nutter, McClennen & Fish, LLP <i>Boston, MA</i>	Sonnenschein Nath & Rosenthal <i>Chicago, IL</i>
Lillick & Charles LLP <i>San Francisco, CA</i>	Palmer & Dodge <i>Boston, MA</i>	Steel Hector & Davis LLP <i>Miami, FL</i>
Lindquist & Vennum PLLP <i>Minneapolis, MN</i>	Parcel, Mauro, Hultin & Spaanstra, P.C. <i>Denver, CO</i>	Steptoe & Johnson LLP <i>Washington, DC</i>
Littler, Mendelson, Fastiff, Tichy & Mathiason <i>San Francisco, CA</i>	Patton Boggs LLP <i>Washington, DC</i>	Sullivan & Cromwell <i>New York, NY</i>
Lowenstein, Sandler, Kohl, Fisher & Boylan, PA <i>Roseland, NJ</i>	Paul, Weiss, Rifkind, Wharton & Garrison <i>New York, NY</i>	Sutherland, Asbill & Brennan, LLP <i>Atlanta, GA</i>
Maslon Edelman Borman & Brand PLLP <i>Minneapolis, MN</i>	Pepper, Hamilton & Scheetz <i>Philadelphia, PA</i>	Swidler & Berlin Chartered <i>Washington, DC</i>
Mayer, Brown & Platt <i>Chicago, IL</i>	Phillips Nizer Benjamin Krim & Ballon LLP <i>New York, NY</i>	Trenam, Kemker, Scharf, Barkin, Frye, O'Neill & Mullis <i>Tampa, FL</i>
Mayor, Day, Caldwell & Keeton, LLP <i>Houston, TX</i>	Pillsbury Madison & Sutro LLP <i>San Francisco, CA</i>	Ungaretti & Harris <i>Chicago, IL</i>
McBride Baker & Coles <i>Chicago, IL</i>	Schiff Hardin & Waite <i>Chicago, IL</i>	Vinson & Elkins, LLP <i>Houston, TX</i>
McCarter & English <i>Newark, NJ</i>	Schulte Roth & Zabel <i>New York, NY</i>	Weil, Gotshal & Manges LLP <i>New York, NY</i>
McCutchen, Doyle, Brown & Enersen, LLP <i>San Francisco, CA</i>	Schwabe Williamson & Wyatt, P.C. <i>Portland, OR</i>	Whitman Breed Abbott & Morgan <i>New York, NY</i>
McKenna & Cuneo <i>Washington, DC</i>	Seyfarth, Shaw, Fairweather & Geraldson <i>Chicago, IL</i>	Wilentz, Goldman & Spitzer, P.A. <i>Woodbridge, NJ</i>
Mendes and Mount, LLP <i>New York, NY</i>	Shaw, Pittman, Potts & Trowbridge <i>Washington, DC</i>	Wilmer, Cutler & Pickering <i>Washington, DC</i>
Milbank, Tweed, Hadley & McCloy <i>New York, NY</i>	Shearman & Sterling <i>New York, NY</i>	Wilson Sonsini Goodrich & Rosati <i>Palo Alto, CA</i>
Miller & Chevalier <i>Washington, DC</i>	Shipman & Goodwin LLP <i>Hartford, CT</i>	Wolf, Block, Schorr and Solis-Cohen <i>Philadelphia, PA</i>
Moore & Van Allen, PLLC <i>Charlotte, NC</i>	Sidley & Austin <i>Chicago, IL</i>	Womble Carlyle Sandridge & Rice <i>Winston-Salem, NC</i>
Morgan, Lewis & Bockius LLP <i>Philadelphia, PA</i>	Simpson Thacher & Bartlett <i>New York, NY</i>	Zelle & Larson LLP <i>Minneapolis, MN</i>
Morrison & Foerster LLP <i>San Francisco, CA</i>	Skadden, Arps, Slate, Meagher & Flom LLP <i>New York, NY</i>	
Munger, Tolles & Olson <i>Los Angeles, CA</i>		
Nelson Mullins Riley & Scarborough, LLP <i>Columbia, SC</i>		