AMERICAN BANKRUPTCY INSTITUTE

2020 Alexander L. Paskay Memorial Bankruptcy Seminar

PLENARY SESSION

Pro Bono Work for Consumer Clients

Hon. Laurel Myerson Isicoff, Moderator
U.S. Bankruptcy Court (S.D. Fla.); Miami

Michael Barnett
Michael Barnett, PA; Tampa

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Traci K. Stevenson, PA; Madeira Beach, Fla.

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2020

NO EXCUSES: Learn how to staff our pro bono clinic—a seminar for business lawyers!

Pro Bono Service Rule 4-6.1

- (a) Professional Responsibility. Each member of The Florida Bar in good standing, as part of that member's professional responsibility, should (1) render pro bono legal services to the poor and (2) participate, to the extent possible, in other pro bono service activities that directly relate to the legal needs of the poor.

20 hours or $350 cash

- (b) Discharge of the Professional Responsibility to Provide Pro Bono Legal Service to the Poor. The professional responsibility to provide pro bono legal services as established under this rule is aspirational rather than mandatory in nature. . . . The professional responsibility to provide pro bono legal service to the poor may be discharged by: (1) annually providing at least 20 hours of pro bono legal service to the poor; or (2) making an annual contribution of at least $350 to a legal aid organization.

Rule 4-6.6: Short-Term Limited Legal Services Programs

- (a) A lawyer who, under the auspices of a program *sponsored by* a nonprofit organization, court, government agency, *bar association* or an American Bar Association-accredited law school, provides short-term limited legal services to a client without expectation by either the lawyer or the client that the lawyer will provide continuing representation in the matter:
- (1) is subject to rules 4-1.7 and 4-1.9(a) only if the lawyer *knows* that the representation of the client involves a conflict of interest; and
- (2) is subject to rule 4-1.10 only if the lawyer *knows* that another lawyer associated with the lawyer in a law firm is disqualified by rule 4-1.7 or 4-1.9(a) with respect to the matter.
- (b) Except as provided in subdivision (a)(2), rule 4-1.10 is inapplicable to a representation governed by this rule.

Rule 12

- Retired attorney from any state bar or professor from ABA accredited school may appear in court, sign pleadings, and give advice in association with approved legal aid organization under supervision of supervising attorney.

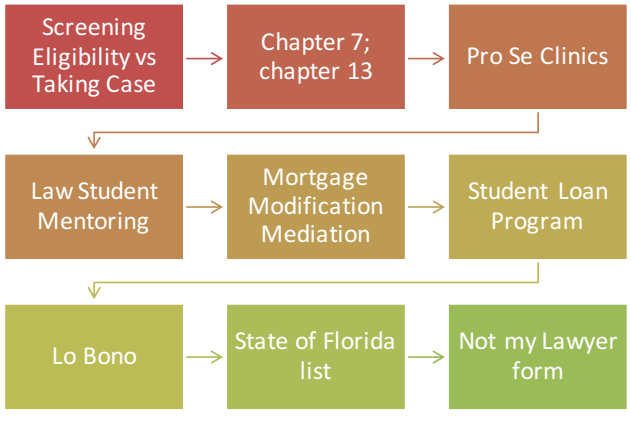
Florida Bar Oath

- "I will never reject, from any consideration personal to myself, the cause of the defenseless or oppressed, or delay anyone's cause for lucre or malice. So help me God."

Firm Pro Bono Policy

- Preamble Rule 4-6.1
- Conflict check
- Committee
- Initial interview
- Engagement letter/Declination letter

Ways to Volunteer



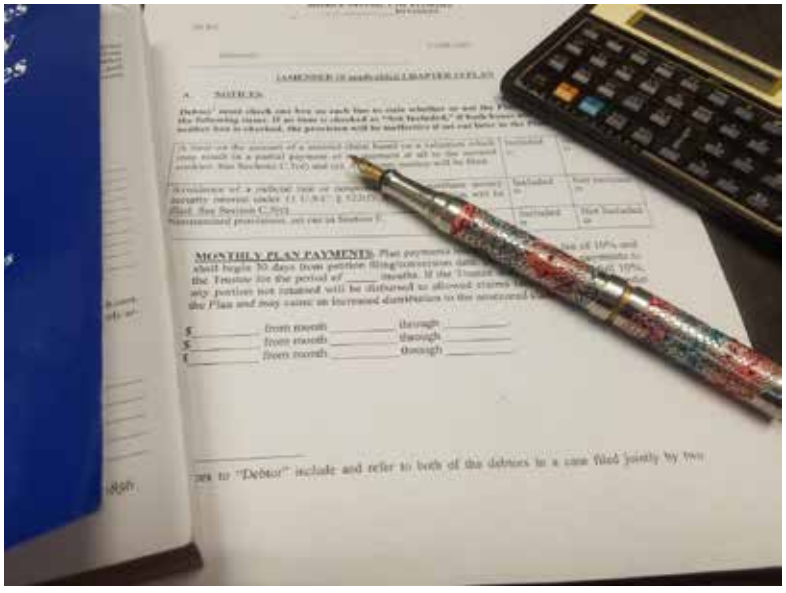
Chapter 7 vs Chapter 13

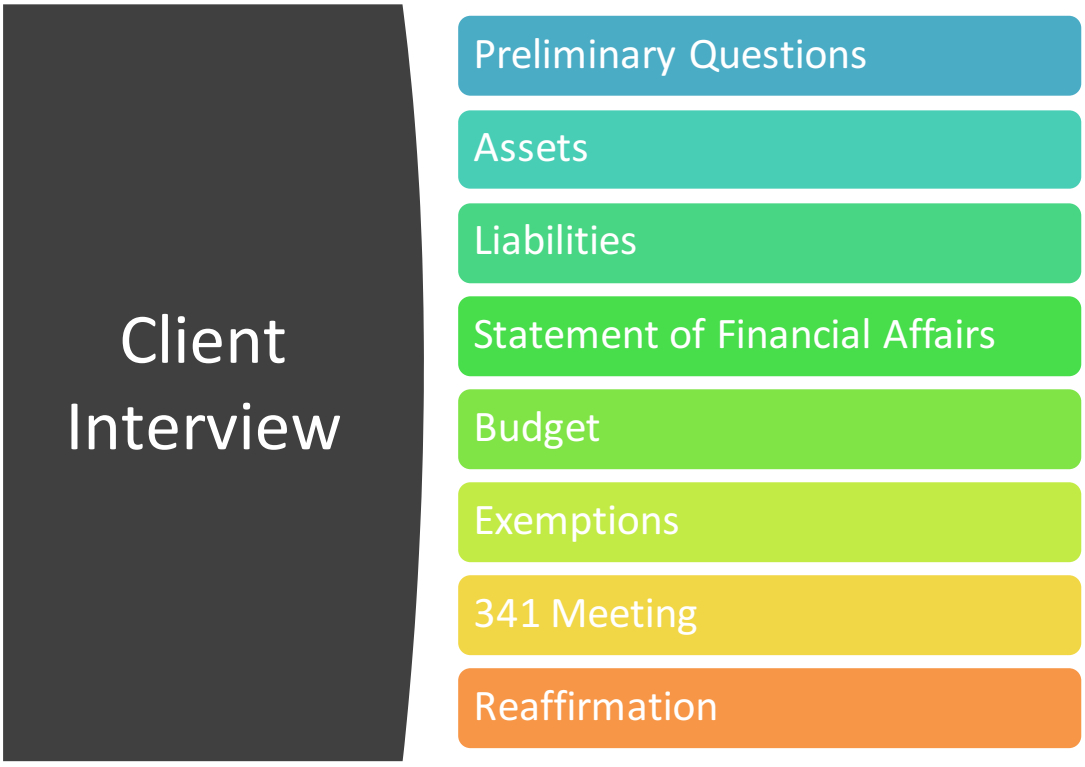
- Chapter 7 limited income, assets.
- Over about 4 months after filing.

- Chapter 13 ability to cure mortgage over time.
- Payments 3-5 years to trustee.

- Both-Can do mortgage modification mediation.

Chapter 7 Details





Schedules: Disclosures are Important!!!

- Make sure the pro se Debtor is aware of the importance of disclosing **ALL** assets, debts, income and expenses. Examples of items that are often missed by debtors are:

1. **Lawsuits** – whether filed or not, the possible case must be listed in Schedule B.
2. **Real Estate** – ALL real estate which the Debtor has an ownership interest must be listed on Schedule A.
3. **Leases** – If you list a lease in the Plan or Statement of Intention, it also must be listed in Schedule G.
4. **Inheritance** – if the Debtor is getting an inheritance, or if they inherit during a case, it must be disclosed as an asset on Schedule B.
5. **Priority Debt vs. Secured Debt vs. Unsecured Debt** – Many Debtors do not know the difference, or think they can leave out certain types of debts. Make sure to explain each type of debt for Schedules D, E and F to avoid confusion.

Preliminary Questions

- Why are you filing
- Have you filed before
- Trying to save Home? Car?
- Anything in house belonging to someone else?
- Transfers of property? Repayment of Loan?

Property Questions

- Any crops/animals (Chapter 12?)
- Any property in someone else's name
- Any property in your name belonging to someone else?
- Are you suing/right to sue?
- Anyone owe you money?
- Any interest in businesses?
- Stocks? Bonds? Income producing Property?
- Tax refunds?

Exemptions

Art X §4 Homestead 100%, ½ acre inside city 160 acres out

Art X §4 $1,000 personal property

Fla. Stat. 222.25(1) $1,000 in a motor vehicle

Fla. Stat. 222.21 Tax qualified retirement accounts/IRAs

Fla. Stat. 222.25(4) $4,000 extra personal prop if not get homestead exemption

Tenancy by Entireties/bare legal title

Liabilities

- Divorce obligations: Child Support, Property settlement
- Student loans, Guarantees
- Credit card debt – cash adv/transfers
  - How much how recent?
- Tax debt – last tax return filed
- Are you being sued by anyone?

Budget

- Overview- makes sense?
  - if far upside down, all income disclosed?

Excess income – possible conversion

Any unusual items ($300/mo recreation)

Credit Counseling

- Prepetition credit counseling
- One day prior to filing
- Certificate needed

- Postpetition financial management course
- Prior to discharge

Checklists

- Potential problems
- Chapter 7 Filing documents
- Trustee document requests

Sample 341 Notice

7. Meeting of creditors Debtors must attend the meeting to be questioned under oath. In a joint case, both spouses must attend. Creditors may attend, but are not required to do so. You are reminded that Local Rule 5073–1 restricts the entry of personal electronic devices into the Courthouse.	**December 12, 2019 at 10:00 AM** The meeting may be continued or adjourned to a later date. If so, the date will be on the court docket. ***** Debtor(s) must present Photo ID and acceptable proof of Social Security Number at § 341 meeting. *****	Location: **Room 100–C, 501 East Polk St., (Timberlake Annex), Tampa, FL 33602**

Means Test

Below median income based on last 6 months pay, excluding social security income and VA Benefits

Common Issues

- Credit counseling/financial management courses
- Documents to Court
- Documents to Trustee
- What happens at 341
- Multiple filings within year
- Tax debt

Reaffirmations

- Creditor prepares
- Deadline to file §521(a)(6) 45 days after 341
- Else stay terminated

Mortgage Modification Mediation

MMMM Filing Checklist

Motion . . .

- ☐ Is signed?
- ☐ Has the attorney's name and address complete and consistent with the filing attorney's name and address in CM/ECF?
- ☐ Includes a proper certificate of service and is properly served?
- ☐ Includes a complete property address on the first page?
- ☐ Includes the last four digits of the mortgage loan number on the first page?
- ☐ Includes the name of the creditor holding the mortgage?
- ☐ Is filed within 90 days of the petition date or conversion date?

Note: If an amended motion, select "amended" from the drop-down menu.

Timing

- Motion filed within 90 days of filing
- 14 days to select mediator
- Conclude within 150 days of filing

Procedures

- secure portal
  - https://www.dclmwp.com/Home

- $250 fee for mediator (waived?)
- Adequate protection
- Modified payment through plan

PRO BONO FOR BUSINESS BANKRUPTCY LAWYERS: NO EXCUSES

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"I do solemnly swear:

"I will support the Constitution of the United States and the Constitution of the State of Florida;

"I will maintain the respect due to courts of justice and judicial officers;

"I will not counsel or maintain any suit or proceedings which shall appear to me to be unjust, nor any defense except such as I believe to be honestly debatable under the law of the land;

"I will employ for the purpose of maintaining the causes confided to me such means only as are consistent with truth and honor, and will never seek to mislead the judge or jury by any artifice or false statement of fact or law;

"I will maintain the confidence and preserve inviolate the secrets of my clients, and will accept no compensation in connection with their business except from them or with their knowledge and approval;

"To opposing parties and their counsel, I pledge fairness, integrity, and civility, not only in court, but also in all written and oral communications;

"I will abstain from all offensive personality and advance no fact prejudicial to the honor or reputation of a party or witness, unless required by the justice of the cause with which I am charged;

"I will never reject, from any consideration personal to myself, the cause of the defenseless or oppressed, or delay anyone's cause for lucre or malice. So help me God."

law firm to continue the representation, but the client has not yet responded, the law firm should consider notifying the court of the change in firm composition, although under ordinary circumstances, absent an agreement to the contrary, the firm will continue the representation in the interim. If the departing lawyer and the law firm have agreed regarding who will continue handling the client's matters then, absent disagreement by the client, the agreement normally will determine whether the departing lawyer or the law firm will continue the representation.

Adopted effective January 1, 2006 (SC05-206) from revised supreme court opinion issued on December 8, 2005, original opinion issued October 6, 2005 (916 So.2d 655), amended November 9, 2017, effective February 1, 2018; amended Jan. 4, 2019, effective March 5, 2019 (SC18-1683).

4-6. PUBLIC SERVICE
RULE 4-6.1 PRO BONO PUBLIC SERVICE

(a) Professional Responsibility. Each member of The Florida Bar in good standing, as part of that member's professional responsibility, should (1) render pro bono legal services to the poor and (2) participate, to the extent possible, in other pro bono service activities that directly relate to the legal needs of the poor. This professional responsibility does not apply to members of the judiciary or their staffs or to government lawyers who are prohibited from performing legal services by constitutional, statutory, rule, or regulatory prohibitions. Neither does this professional responsibility apply to those members of the bar who are retired, inactive, or suspended, or who have been placed on the inactive list for incapacity not related to discipline.

(b) Discharge of the Professional Responsibility to Provide Pro Bono Legal Service to the Poor. The professional responsibility to provide pro bono legal services as established under this rule is aspirational rather than mandatory in nature. The failure to fulfill one's professional responsibility under this rule will not subject a lawyer to discipline. The professional responsibility to provide pro bono legal service to the poor may be discharged by:

(1) annually providing at least 20 hours of pro bono legal service to the poor; or

(2) making an annual contribution of at least $350 to a legal aid organization.

(c) Collective Discharge of the Professional Responsibility to Provide Pro Bono Legal Service to the Poor. Each member of the bar should strive to individually satisfy the member's professional responsibility to provide pro bono legal service to the poor. Collective satisfaction of this professional responsibility is permitted by law firms only under a collective satisfaction plan that has been filed previously with the circuit pro bono committee and only when providing pro bono legal service to the poor:

(1) in a major case or matter involving a substantial expenditure of time and resources; or

(2) through a full-time community or public service staff; or

(3) in any other manner that has been approved by the circuit pro bono committee in the circuit in which the firm practices.

(d) Reporting Requirement. Each member of the bar shall annually report whether the member has satisfied the member's professional responsibility to provide pro bono legal services to the poor. Each member shall report this information through a simplified reporting form that is made a part of the member's annual membership fees statement. The form will contain the following categories from which each member will be allowed to choose in reporting whether the member has provided pro bono legal services to the poor:

(1) I have personally provided _____ hours of pro bono legal services;

(2) I have provided pro bono legal services collectively by: (indicate type of case and manner in which service was provided);

(3) I have contributed $_____ to: (indicate organization to which funds were provided);

(4) I have provided legal services to the poor in the following special manner: (indicate manner in which services were provided); or

(5) I have been unable to provide pro bono legal services to the poor this year; or

(6) I am deferred from the provision of pro bono legal services to the poor because I am: (indicate whether lawyer is: a member of the judiciary or judicial staff; a government lawyer prohibited by statute, rule, or regulation from providing services; retired, or inactive).

The failure to report this information shall constitute a disciplinary offense under these rules.

(e) Credit Toward Professional Responsibility in Future Years. In the event that more than 20 hours of pro bono legal service to the poor are provided and reported in any 1 year, the hours in excess of 20 hours may be carried forward and reported as such for up to 2 succeeding years for the purpose of determining whether a lawyer has fulfilled the professional responsibility to provide pro bono legal service to the poor in those succeeding years.

(f) Out-of-State Members of the Bar. Out-of-state members of the bar may fulfill their professional responsibility in the states in which they practice or reside.

Comment

Pro bono legal service to the poor is an integral and particular part of a lawyer's pro bono public service responsibility. As our society has become one in which rights and responsibilities are increasingly defined in legal terms, access to legal services has become of critical importance. This is true for all people, be they rich, poor, or of moderate means. However, because the legal problems of the poor often involve areas of basic need, their inability to obtain legal services can have dire consequences. The vast unmet legal needs of the poor in Florida have been recognized by the Supreme Court of Florida and by several studies undertaken in Florida over the past two decades. The Supreme Court of Florida has further recognized the necessity of finding a solution to the problem of providing the poor greater access to legal service and the unique role of lawyers in our adversarial system of representing and defending

persons against the actions and conduct of governmental entities, individuals, and nongovernmental entities. As an officer of the court, each member of The Florida Bar in good standing has a professional responsibility to provide pro bono legal service to the poor. Certain lawyers, however, are prohibited from performing legal services by constitutional, statutory, rule, or other regulatory prohibitions. Consequently, members of the judiciary and their staffs, government lawyers who are prohibited from performing legal services by constitutional, statutory, rule, or regulatory prohibitions, members of the bar who are retired, inactive, or suspended, or who have been placed on the inactive list for incapacity not related to discipline are deferred from participation in this program.

In discharging the professional responsibility to provide pro bono legal service to the poor, each lawyer should furnish a minimum of twenty hours of pro bono legal service to the poor annually or contribute $350 to a legal aid organization. "Pro bono legal service" means legal service rendered without charge or expectation of a fee for the lawyer at the time the service commences. Legal services written off as bad debts do not qualify as pro bono service. Most pro bono service should involve civil proceedings given that government must provide indigent representation in most criminal matters. Pro bono legal service to the poor is to be provided not only to those persons whose household incomes are below the federal poverty standard but also to those persons frequently referred to as the "working poor." Lawyers providing pro bono legal service on their own need not undertake an investigation to determine client eligibility. Rather, a good faith determination by the lawyer of client eligibility is sufficient. Pro bono legal service to the poor need not be provided only through legal services to individuals; it can also be provided through legal services to charitable, religious, or educational organizations whose overall mission and activities are designed predominately to address the needs of the poor. For example, legal service to organizations such as a church, civic, or community service organizations relating to a project seeking to address the problems of the poor would qualify.

While the personal involvement of each lawyer in the provision of pro bono legal service to the poor is generally preferable, such personal involvement may not always be possible or produce the ultimate desired result, that is, a significant maximum increase in the quantity and quality of legal service provided to the poor. The annual contribution alternative recognizes a lawyer's professional responsibility to provide financial assistance to increase and improve the delivery of legal service to the poor when a lawyer cannot or decides not to provide legal service to the poor through the contribution of time. Also, there is no prohibition against a lawyer contributing a combination of hours and financial support. The limited provision allowing for collective satisfaction of the 20-hour standard recognizes the importance of encouraging law firms to undertake the pro bono legal representation of the poor in substantial, complex matters requiring significant expenditures of law firm resources and time and costs, such as class actions and post-conviction death penalty appeal cases, and through the establishment of full-time community or public service staffs. When a law firm uses collective satisfaction, the total hours of legal services provided in such substantial, complex matters or through a full-time community or public service staff should be credited among the firm's lawyers in a fair and reasonable manner as determined by the firm.

The reporting requirement is designed to provide a sound basis for evaluating the results achieved by this rule, reveal the strengths and weaknesses of the pro bono plan, and to remind lawyers of their professional responsibility under this rule. The fourth alternative of the

reporting requirements allows members to indicate that they have fulfilled their service in some manner not specifically envisioned by the plan.

The 20-hour standard for the provision of pro bono legal service to the poor is a minimum. Additional hours of service are to be encouraged. Many lawyers will, as they have before the adoption of this rule, contribute many more hours than the minimum. To ensure that a lawyer receives credit for the time required to handle a particularly involved matter, this rule provides that the lawyer may carry forward, over the next 2 successive years, any time expended in excess of 20 hours in any 1 year.

Former Rule 4-6.1 deleted June 23, 1993, effective Oct. 1, 1993. New Rule 4- 6.1 adopted June 23, 1993, eff. Oct. 1, 1993 (630 So.2d 501). Amended Sept. 24, 1998, effective Oct. 1, 1998 (718 So.2d 1179).

RULE 4-6.2 ACCEPTING APPOINTMENTS

A lawyer shall not seek to avoid appointment by a tribunal to represent a person except for good cause, such as when:

(a) representing the client is likely to result in violation of the Rules of Professional Conduct or of the law;

(b) representing the client is likely to result in an unreasonable financial burden on the lawyer; or

(c) the client or the cause is so repugnant to the lawyer as to be likely to impair the client-lawyer relationship or the lawyer's ability to represent the client.

Comment

A lawyer ordinarily is not obliged to accept a client whose character or cause the lawyer regards as repugnant. The lawyer's freedom to select clients is, however, qualified. All lawyers have a responsibility to assist in providing pro bono public service as provided in these rules. See rule 4-6.1. In the course of fulfilling a lawyer's obligation to provide legal services to the poor, a lawyer should not avoid or decline representation of a client simply because a client is unpopular or involved in unpopular matters. Although these rules do not contemplate court appointment as a primary means of achieving pro bono service, a lawyer may be subject to appointment by a court to serve unpopular clients or persons unable to afford legal services.

For good cause a lawyer may seek to decline an appointment to represent a person who cannot afford to retain counsel or whose cause is unpopular. Good cause exists if the lawyer could not handle the matter competently, see rule 4-1.1, or if undertaking the representation would result in an improper conflict of interest, for example, when the client or the cause is so repugnant to the lawyer as to be likely to impair the client-lawyer relationship or the lawyer's ability to represent the client. A lawyer may also seek to decline an appointment if acceptance would be unreasonably burdensome, for example, when it would impose a financial sacrifice so great as to be unjust.

An appointed lawyer has the same obligations to the client as retained counsel, including the obligations of loyalty and confidentiality, and is subject to the same limitations on the client-lawyer relationship, such as the obligation to refrain from assisting the client in violation of the rules.

Amended July 23, 1992, effective Jan. 1, 1993 (605 So.2d 252); June 23, 1993, effective Oct. 1, 1993 (630 So.2d 501).

RULE 4-6.3 MEMBERSHIP IN LEGAL SERVICES ORGANIZATION

A lawyer may serve as a director, officer, or member of a legal services organization, apart from the law firm in which the lawyer practices, notwithstanding that the organization serves persons having interests adverse to the client of the lawyer. The lawyer shall not knowingly participate in a decision or action of the organization:

(a) if participating in the decision would be incompatible with the lawyer's obligations to a client under rule 4-1.7; or

(b) where the decision could have a material adverse effect on the representation of a client of the organization whose interests are adverse to a client of the lawyer.

Comment

Lawyers should be encouraged to support and participate in legal service organizations. A lawyer who is an officer or a member of such an organization does not thereby have a client-lawyer relationship with persons served by the organization. However, there is potential conflict between the interests of such persons and the interests of the lawyer's clients. If the possibility of such conflict disqualified a lawyer from serving on the board of a legal services organization, the profession's involvement in such organizations would be severely curtailed.

It may be necessary in appropriate cases to reassure a client of the organization that the representation will not be affected by conflicting loyalties of a member of the board. Established, written policies in this respect can enhance the credibility of such assurances.

Amended July 23, 1992, effective Jan. 1, 1993 (605 So.2d 252).

RULE 4-6.4 LAW REFORM ACTIVITIES AFFECTING CLIENT INTERESTS

A lawyer may serve as a director, officer, or member of an organization involved in reform of the law or its administration notwithstanding that the reform may affect the interests of a client of the lawyer. When the lawyer knows that the interests of a client may be materially affected by a decision in which the lawyer participates, the lawyer shall disclose that fact but need not identify the client.

Comment

Lawyers involved in organizations seeking law reform generally do not have a client-lawyer relationship with the organization. Otherwise, it might follow that a lawyer could not be involved in a bar association law reform program that might indirectly affect a client. See also rule 4-1.2(b). For example, a lawyer specializing in antitrust litigation might be regarded as disqualified from participating in drafting revisions of rules governing that subject. In determining the nature and scope of participation in such activities, a lawyer should be mindful of obligations to clients under other rules, particularly rule 4-1.7. A lawyer is professionally obligated to protect the integrity of the program by making an appropriate disclosure within the organization when the lawyer knows a private client might be materially affected.

RULE 4-6.5 VOLUNTARY PRO BONO PLAN

(a) Purpose. The purpose of the voluntary pro bono lawyer plan is to increase the availability of legal service to the poor and expand pro bono legal service programs.

(b) Standing Committee on Pro Bono Legal Service. The president-elect of The Florida Bar appoints the standing committee on pro bono legal service to the poor.

(1) *Composition of the Standing Committee*. The standing committee consists of no more than 25 members and includes, but is not limited to:

(A) 5 past or current members of the board of governors The Florida Bar, 1 of whom is the chair or a member of the access to the legal system committee of the board of governors;

(B) 5 past or current directors of The Florida Bar Foundation;

(C) 1 trial judge and 1 appellate judge;

(D) 2 representatives of civil legal assistance providers;

(E) 2 representatives from local and statewide voluntary bar associations;

(F) 2 public members, 1 of whom is a representative of the poor;

(G) the president or designee of the Board of Directors of Florida Legal Services, Inc.;

(H) 1 representative of the Out-of-State Division of The Florida Bar; and

(I) the president or designee of the Young Lawyers Division of The Florida Bar.

(2) *Responsibilities of the Standing Committee*. The standing committee will:

(A) identify, encourage, support, and assist statewide and local pro bono projects and activities;

(B) receive reports from circuit committees submitted on standardized forms developed by the standing committee;

(C) review and evaluate circuit court pro bono plans;

(D) submit an annual report on the activities and results of the pro bono plan to the board of governors of The Florida Bar, the Florida Bar Foundation, and the Supreme Court of Florida;

(E) present to the board of governors of The Florida Bar and to the Supreme Court of Florida any suggested changes or modifications to the pro bono rules.

(c) Circuit Pro Bono Committees. The chief judge of each circuit, or the chief judge's designee, appoints the circuit pro bono committee members, and the committee will appoint its chair.

(1) *Composition of Circuit Court Pro Bono Committee*. Each circuit pro bono committee is composed of:

(A) the chief judge of the circuit or the chief judge's designee;

(B) to the extent feasible, 1 or more representatives from each voluntary bar association, including each federal bar association, recognized by The Florida Bar and 1 representative from each pro bono and legal assistance provider in the circuit nominated by the association or provider; and

(C) at least 1 public member and at least 1 client-eligible member nominated by the other members of the circuit pro bono committee.

Each circuit pro bono committee determines its own governance and terms of service.

(2) *Responsibilities of Circuit Pro Bono Committee*. The circuit pro bono committee will:

(A) prepare in written form a circuit pro bono plan after evaluating the needs of the circuit and making a determination of present available pro bono services;

(B) implement the plan and monitor its results;

(C) submit an annual report to The Florida Bar standing committee;

(D) use current legal assistance and pro bono programs in each circuit, to the extent possible, to implement and operate circuit pro bono plans and provide the necessary coordination and administrative support for the circuit pro bono committee;

(E) encourage more lawyers to participate in pro bono activities by preparing a plan that provides for various support and educational services for participating pro bono attorneys, which, to the extent possible, should include:

(i) intake, screening, and referral of prospective clients;

(ii) matching cases with individual lawyer expertise, including the establishment of practice area panels;

(iii) resources for litigation and out-of-pocket expenses for pro bono cases;

(iv) legal education and training for pro bono attorneys in particular areas of law useful in providing pro bono legal service;

(v) consultation with lawyers who have expertise in areas of law with respect to which a volunteer lawyer is providing pro bono legal service;

(vi) malpractice insurance for volunteer pro bono lawyers with respect to their pro bono legal service;

(vii) procedures to ensure adequate monitoring and follow-up for assigned cases and to measure client satisfaction; and

(viii) recognition of pro bono legal service by lawyers.

(d) Pro Bono Service Opportunities. The following are suggested pro bono service opportunities that should be included in each circuit plan:

(1) represent clients through case referral;

(2) interview prospective clients;

(3) participate in pro se clinics and other clinics in which lawyers provide advice and counsel;

(4) act as co-counsel on cases or matters with legal assistance providers and other pro bono lawyers;

(5) provide consultation services to legal assistance providers for case reviews and evaluations;

(6) participate in policy advocacy;

(7) provide training to the staff of legal assistance providers and other volunteer pro bono attorneys;

(8) make presentations to groups of poor persons regarding their rights and obligations under the law;

(9) provide legal research;

(10) provide guardian ad litem services;

(11) provide assistance in the formation and operation of legal entities for groups of poor persons; and

(12) serve as a mediator or arbitrator at no fee to the client-eligible party.

Added June 23, 1993, effective Oct. 1, 1993 (630 So.2d 501); Amended December 20, 2007, effective March 1, 2008 (978 So.2d 91); amended May 29, 2014, effective June 1, 2014 (SC12-2234); amended May 21, 2015, corrected June 25, 2015, effective October 1, 2015 (SC14-2107); amended Jan. 4, 2019, effective March 5, 2019 (SC18-1683).

RULE 4-6.6 SHORT-TERM LIMITED LEGAL SERVICES PROGRAMS

(a) A lawyer who, under the auspices of a program sponsored by a nonprofit organization, court, government agency, bar association or an American Bar Association-accredited law school, provides short-term limited legal services to a client without expectation by either the lawyer or the client that the lawyer will provide continuing representation in the matter:

(1) is subject to rules 4-1.7 and 4-1.9(a) only if the lawyer knows that the representation of the client involves a conflict of interest; and

(2) is subject to rule 4-1.10 only if the lawyer knows that another lawyer associated with the lawyer in a law firm is disqualified by rule 4-1.7 or 4-1.9(a) with respect to the matter.

(b) Except as provided in subdivision (a)(2), rule 4-1.10 is inapplicable to a representation governed by this rule.

Comment

Legal services organizations, courts, government agencies, local and voluntary bar associations, law schools and various nonprofit organizations have established programs through which lawyers provide short-term limited legal services, such as advice or the completion of legal forms, that will assist persons to address their legal problems without further representation by a lawyer. In these programs, such as legal-advice hotlines, advice-only clinics or pro se counseling programs, a client-lawyer relationship is established, but there is no expectation that the lawyer's representation of the client will continue beyond the limited consultation. These programs are normally operated under circumstances in which it is not feasible for a lawyer to systematically screen for conflicts of interest as is generally required before undertaking a representation. See, e.g., rules 4-1.7, 4-1.9 and 4-1.10.

A lawyer who provides short-term limited legal services under this rule must obtain the client's informed consent to the limited scope of the representation. See rule 4-1.2(c). However, a lawyer is not required to obtain the consent in writing. Id. If a short-term limited representation would not be reasonable under the circumstances, the lawyer may offer advice to the client but must also advise the client of the need for further assistance of counsel. Except as provided in this rule, the Rules of Professional Conduct, including rules 4-1.6 and 4-1.9(b) and (c), are applicable to the limited representation.

RRTFB September 19, 2019

Because a lawyer who is representing a client in the circumstances addressed by this rule ordinarily is not able to check systematically for conflicts of interest, subdivision (a) requires compliance with rules 4-1.7 or 4-1.9(a) only if the lawyer knows that the representation presents a conflict of interest for the lawyer, and with rule 4-1.10 only if the lawyer knows that another lawyer in the lawyer's firm is disqualified by rules 4-1.7 or 4-1.9(a) in the matter.

Because the limited nature of the services significantly reduces the risk of conflicts of interest with other matters being handled by the lawyer's firm, subdivision (b) provides that rule 4-1.10 is inapplicable to a representation governed by this rule except as provided by subdivision (a)(2). Subdivision (a)(2) requires the participating lawyer to comply with rule 4-1.10 when the lawyer knows that the lawyer's firm is disqualified by rules 4-1.7 or 4-1.9(a). Because of subdivision (b), however, a lawyer's participation in a short-term limited legal services program will not preclude the lawyer's firm from undertaking or continuing the representation of a client with interests adverse to a client being represented under the program's auspices. Nor will the personal disqualification of a lawyer participating in the program be imputed to other lawyers participating in the program.

If, after commencing a short-term limited representation in accordance with this rule, a lawyer undertakes to represent the client in the matter on an ongoing basis, rules 4-1.7, 4-1.9(a) and 4-1.10 become applicable.

Added November 20, 2017 (SC17-458).

CHAPTER 12. EMERITUS LAWYERS PRO BONO PARTICIPATION PROGRAM
12-1. GENERALLY
RULE 12-1.1 PURPOSE

Individuals admitted to the practice of law in Florida have a responsibility to provide competent legal services for all persons, including those unable to pay for these services. The emeritus lawyers pro bono participation program is one means of meeting these legal needs.

Amended July 23, 1992, effective Jan. 1, 1993 (605 So.2d 252), amended November 9, 2017, effective February 1, 2018 (SC16-1961).

RULE 12-1.2 DEFINITIONS

(a) Emeritus Lawyer. An "emeritus lawyer" is any person who meets the following eligibility and requirements.

(1) *Eligibility.* An emeritus lawyer must be a person who:

(A) is a member of The Florida Bar who is inactive or retired from the active practice of law in Florida;

(B) is an inactive or retired member of the bar of any other state or territory of the United States or the District of Columbia;

(C) has served as a judge in Florida or any other state or territory of the United States or the District of Columbia;

(D) is or was a full-time law professor employed by a law school accredited by the American Bar Association; or

(E) is an authorized house counsel certified by the Supreme Court of Florida under chapter 17 of these rules.

(2) *Requirements.* All emeritus lawyers must meet the following requirements:

(A) not be currently engaged in the practice of law in Florida or elsewhere except for authorized house counsel certified by the Supreme Court of Florida under chapter 17 of these rules;

(B) have been engaged in the active practice of law for a minimum of 10 out of the 15 years immediately preceding the application to participate in the emeritus program, except for authorized house counsel certified by the Supreme Court of Florida under chapter 17 of these rules;

(C) have been a member in good standing of The Florida Bar or the entity governing the practice of law of any other state, territory, or the District of Columbia and have not been disciplined for professional misconduct by the bar or courts of any jurisdiction within the past 15 years;

(D) have not failed the Florida bar examination 3 or more times except for an inactive or retired member of The Florida Bar;

(E) agree to abide by the Rules of Professional Conduct and submit to the jurisdiction of the Supreme Court of Florida for disciplinary purposes;

(F) neither ask for nor receive compensation of any kind for the legal services to be rendered under this rule; and

(G) be certified under rule 12-1.5.

(b) Approved Legal Aid Organization. An "approved legal aid organization" for the purposes of this chapter is a not-for-profit legal aid organization that is approved by the Supreme Court of Florida. A legal aid organization seeking approval must file a petition with the clerk of the Supreme Court of Florida certifying that it is a not-for-profit organization and reciting with specificity:

(1) the structure of the organization and whether it accepts funds from its clients;

(2) the major sources of funds used by the organization;

(3) the criteria used to determine potential clients' eligibility for legal services performed by the organization;

(4) the types of legal and nonlegal services performed by the organization;

(5) the names of all members of The Florida Bar who are employed by the organization or who regularly perform legal work for the organization; and

(6) the existence and extent of malpractice insurance that will cover the emeritus lawyer.

(c) Supervising Lawyer. A "supervising lawyer" as used in this chapter is a member in good standing of The Florida Bar who supervises an emeritus lawyer engaged in activities permitted by this chapter. The supervising lawyer must:

(1) be employed by or be a participating volunteer for an approved legal aid organization; and

(2) assume responsibility consistent with the requirements of rule 4-5.1 of the Rules Regulating The Florida Bar for supervising the conduct of the matter, litigation, or administrative proceeding in which the emeritus lawyer participates.

(d) Inactive. "Inactive" as used in this chapter refers to a lawyer who voluntarily elects to be placed on inactive status and was not placed on inactive status due to incapacity or discipline, or who is ineligible to practice law for failure to pay bar fees or complete continuing legal education requirements.

RRTFB September 19, 2019

(e) Active Practice of Law. The "active practice of law" as used in this chapter includes, but is not limited to, private practice, working as an authorized house counsel, public employment including service as a judge, and full time employment as a law professor at or by an American Bar Association-accredited law school.

Amended July 23, 1992, effective Jan. 1, 1993 (605 So.2d 252); amended May 29, 2014; effective June 1, 2014 (SC12-2234), amended November 9, 2017, effective February 1, 2018 (SC16-1961).

RULE 12-1.3 ACTIVITIES

(a) Permissible Activities. An emeritus lawyer, in association with an approved legal aid organization and under the supervision of a supervising lawyer, may perform the following activities:

(1) The emeritus lawyer may appear and proceed in any court or before any administrative tribunal in this state on behalf of a client of an approved legal aid organization if the person on whose behalf the emeritus lawyer is appearing has consented in writing to that appearance and representation and a supervising lawyer has given written approval for that appearance. The written consent and approval must be filed in the record of each case and brought to the attention of a judge of the court or the presiding officer of the administrative tribunal.

(2) The emeritus lawyer may prepare, sign, and file pleadings and other documents to be filed in any court or before any administrative tribunal in this state in any matter in which the emeritus lawyer is involved. The supervising lawyer's name and Florida Bar number must be included on each pleading or paper filed or served by an emeritus lawyer on each pleading or paper. The supervising lawyer is not required to sign each pleading or paper filed or served by an emeritus lawyer.

(3) The emeritus lawyer may engage in other activities as are necessary for any matter in which the emeritus lawyer is involved, including participating in legal clinics sponsored or provided by the emeritus lawyer's legal aid organization, and providing advice and assistance to, and drafting legal documents for, persons whose legal problems or issues are not in litigation.

(b) Determination of Nature of Participation. The presiding judge or hearing officer may, in the judge's or officer's discretion, determine the extent of the emeritus lawyer's participation in any proceedings before the court.

Comment

This rule recognizes that an emeritus lawyer may accept an appointment or assignment from a state or federal judge seeking pro bono assistance for litigants or persons appearing before the judge through a supervising legal aid organization, including but not limited to: direct representation; limited representation; or service as either an attorney ad litem or guardian ad litem. However, this rule applies to civil legal assistance and recognizes that emeritus lawyers under this rule may not provide representation and/or legal services in criminal law matters.

RRTFB September 19, 2019

Amended July 23, 1992, effective Jan. 1, 1993 (605 So.2d 252); amended May 29, 2014, effective June 1, 2014 (SC12-2234), amended November 9, 2017, effective February 1, 2018 (SC16-1961).

RULE 12-1.4 SUPERVISION AND LIMITATIONS

(a) Supervision by Lawyer. An emeritus lawyer must perform all activities authorized by this chapter under the direct supervision of a supervising lawyer.

(b) Representation of Bar Membership Status. Emeritus lawyers permitted to perform services are not, and must not represent themselves to be, active members of The Florida Bar licensed to practice law in this state.

(c) Payment of Expenses and Award of Fees. No emeritus lawyer may receive compensation for legal services rendered under the authority of this rule from any source, including but not limited to the legal aid organization with which the lawyer is associated, the emeritus lawyer's client, or a contingent fee agreement. The prohibition against compensation for the emeritus lawyer contained in this chapter will not prevent the approved legal aid organization from reimbursing the emeritus lawyer for actual expenses incurred while rendering approved services. It also does not prevent the approved legal aid organization from charging for its services as it may properly charge. The approved legal aid organization will be entitled to receive all court-awarded attorneys' fees that may be awarded for any representation or services rendered by the emeritus lawyer.

Amended July 23, 1992, effective Jan. 1, 1993 (605 So.2d 252); amended May 29, 2014, effective June 1, 2014 (SC12-2234), amended November 9, 2017, effective February 1, 2018 (SC16-1961).

RULE 12-1.5 CERTIFICATION

An emeritus lawyer seeking to provide pro bono legal services must obtain approval from the clerk of the Supreme Court of Florida by filing all of the following certificates:

(a) a certificate from an approved legal aid organization stating that the emeritus lawyer is currently associated with that legal aid organization and that a Florida Bar member employed by or participating as a volunteer with that organization will assume the required duties of the supervising lawyer;

(b) a certificate from the highest court or agency in any state, territory, or district in which the emeritus lawyer has been licensed to practice law, certifying that the emeritus lawyer has not been disciplined for professional misconduct by the bar or courts of that jurisdiction within the past 15 years, except that an authorized house counsel certified by the Supreme Court of Florida under chapter 17 of these rules need not provide this certificate; and

(c) a sworn statement by the emeritus lawyer that the emeritus lawyer:

(1) has read and will abide by the Rules of Professional Conduct as adopted by the Supreme Court of Florida;

(2) submits to the jurisdiction of the Supreme Court of Florida for disciplinary purposes as provided in chapter 3 of these rules and elsewhere in this chapter; and

(3) will neither ask for nor receive compensation of any kind for the legal services authorized by this rule.

Amended July 23, 1992, effective Jan. 1, 1993 (605 So.2d 252); amended May 29, 2014, effective June 1, 2014 (SC12-2234), amended November 9, 2017, effective February 1, 2018 (SC16-1961).

RULE 12-1.6 WITHDRAWAL OF CERTIFICATION

(a) Withdrawal of Permission to Perform Services.

(1) The emeritus lawyer must immediately cease performing legal services if the emeritus lawyer ceases to be associated with the approved legal aid organization. The approved legal aid organization must file a statement with the clerk of the Supreme Court of Florida within 5 days after the association has ceased. The legal aid organization must mail a copy of the notice filed with the clerk of the Supreme Court of Florida to the emeritus lawyer.

(2) The emeritus lawyer must immediately cease performing legal services if the approved legal aid organization withdraws certification of the emeritus lawyer, which may be at any time and without stating the cause for the withdrawal. The approved legal aid organization must file a statement with the clerk of the Supreme Court of Florida within 5 days after withdrawing the certification. The legal aid organization must mail a copy of the notice filed with the clerk of the Supreme Court of Florida to the emeritus lawyer.

(3) The emeritus lawyer must immediately cease performing legal services if the Supreme Court of Florida revokes permission for the emeritus lawyer to provide pro bono services, which is at the court's discretion. The clerk of the Supreme Court of Florida must mail a copy of the statement to the emeritus lawyer and the approved legal aid organization.

(4) The emeritus lawyer must immediately cease performing legal services if the Supreme Court of Florida terminates the emeritus lawyer as an authorized house counsel. The Florida Bar must file a statement with the Supreme Court of Florida that the individual is no longer an authorized house counsel. The Florida Bar must mail a copy of the statement to the emeritus lawyer involved.

(b) Notice of Withdrawal. If an emeritus lawyer's certification is withdrawn for any reason, the supervising lawyer must immediately file a notice of the withdrawal in the official file of each matter pending before any court or tribunal in which the emeritus lawyer was involved.

Amended July 23, 1992, effective Jan. 1, 1993 (605 So.2d 252); amended May 29, 2014, effective June 1, 2014 (SC12-2234), amended November 9, 2017, effective February 1, 2018 (SC16-1961).

RULE 12-1.7 DISCIPLINE

The Supreme Court of Florida may impose appropriate proceedings and discipline under the Rules of Discipline or the Rules of Professional Conduct. In addition, the Supreme Court of Florida or the approved legal aid organization may, with or without cause, withdraw certification. The presiding judge or hearing officer may hold the emeritus lawyer in civil contempt for any failure to abide by the tribunal's orders for any matter in which the emeritus lawyer has participated.

Amended July 23, 1992, effective Jan. 1, 1993 (605 So.2d 252); amended May 29, 2014, effective June 1, 2014 (SC12-2234), amended November 9, 2017, effective February 1, 2018 (SC16-1961).

Information to identify the case:

Debtor 1	**John Jacob Doe** First Name Middle Name Last Name	Social Security number or ITIN **xxx–xx–1234** **EI**N _ _–_ _ _ _ _ _ _
Debtor 2 (Spouse, if filing)	First Name Middle Name Last Name	Social Security number or ITIN _ _ _ _ EIN _ _–_ _ _ _ _ _ _
United States Bankruptcy Court	**Middle District of Florida**	
Case number:	**8:19–bk–12345–MGW**	Date case filed for chapter **7** **11/10/19**

Official Form 309A (For Individuals or Joint Debtors)

Notice of Chapter 7 Bankruptcy Case –– No Proof of Claim Deadline

12/15

For the debtors listed above, a case has been filed under chapter 7 of the Bankruptcy Code. An order for relief has been entered.

This notice has important information about the case for creditors, debtors, and trustees, including information about the meeting of creditors and deadlines. Read both pages carefully.

The filing of the case imposed an automatic stay against most collection activities. This means that creditors generally may not take action to collect debts from the debtors or the debtors' property. For example, while the stay is in effect, creditors cannot sue, garnish wages, assert a deficiency, repossess property, or otherwise try to collect from the debtors. Creditors cannot demand repayment from debtors by mail, phone, or otherwise. Creditors who violate the stay can be required to pay actual and punitive damages and attorney's fees. Under certain circumstances, the stay may be limited to 30 days or not exist at all, although debtors can ask the court to extend or impose a stay.

The debtors are seeking a discharge. Creditors who assert that the debtors are not entitled to a discharge of any debts or who want to have a particular debt excepted from discharge may be required to file a complaint in the bankruptcy clerk's office within the deadlines specified in this notice. (See line 9 for more information.)

To protect your rights, consult an attorney. All documents filed in the case may be inspected at the bankruptcy clerk's office at the address listed below or through PACER (Public Access to Court Electronic Records at www.pacer.gov).

The staff of the bankruptcy clerk's office cannot give legal advice.

To help creditors correctly identify debtors, debtors submit full Social Security or Individual Taxpayer Identification Numbers, which may appear on a version of this notice. However, the full numbers must not appear on any document filed with the court.

Do not file this notice with any proof of claim or other filing in the case. Do not include more than the last four digits of a Social Security or Individual Taxpayer Identification Number in any document, including attachments, that you file with the court.

	About Debtor 1:	About Debtor 2:
1. Debtor's full name	John Jacob Doe	
2. All other names used in the last 8 years		
3. Address	100 Main St. Tampa, FL 33601–0100	
4. Debtor's attorney Name and address	Joseph Smith Joseph Smith, PA 100 - 1st Ave. N. Tampa, FL 33602	Contact phone 813–801–1000 Email: ~~ecf@josephsmith.com~~
5. Bankruptcy Trustee Name and address	Angela Welch 12157 West Linebaugh Avenue PMB 401 Tampa, FL 33626	Contact phone 813–814–0836

Notice is further given that effective on the date of the Petition, the United States Trustee appointed the above named individual as interim trustee pursuant to 11 USC § 701.

For more information, see page 2 >

Debtor John Jacob Smith — Case number **8:19–bk–12345–MGW**

6. Bankruptcy Clerk's Office Documents in this case may be filed at this address. You may inspect all records filed in this case at this office or online at www.pacer.gov.	Sam M. Gibbons United States Courthouse 801 North Florida Avenue, Suite 555 Tampa, FL 33602	Hours open: Monday – Friday 8:30 AM – 4:00PM Contact phone 813–301–5162 Date: October 7, 2019
7. Meeting of creditors Debtors must attend the meeting to be questioned under oath. In a joint case, both spouses must attend. Creditors may attend, but are not required to do so. You are reminded that Local Rule 5073–1 restricts the entry of personal electronic devices into the Courthouse.	**December 12, 2019 at 10:00 AM** The meeting may be continued or adjourned to a later date. If so, the date will be on the court docket. ***** Debtor(s) must present Photo ID and acceptable proof of Social Security Number at § 341 meeting. *****	Location: **Room 100–C, 501 East Polk St., (Timberlake Annex), Tampa, FL 33602**
8. Presumption of abuse If the presumption of abuse arises, you may have the right to file a motion to dismiss the case under 11 U.S.C. § 707(b). Debtors may rebut the presumption by showing special circumstances.	The presumption of abuse does not arise.	
9. Deadlines The bankruptcy clerk's office must receive these documents and any required filing fee by the following deadlines.	**File by the deadline to object to discharge or to challenge whether certain debts are dischargeable:** **You must file a complaint:** • if you assert that the debtor is not entitled to receive a discharge of any debts under any of the subdivisions of 11 U.S.C. § 727(a)(2) through (7), or • if you want to have a debt excepted from discharge under 11 U.S.C § 523(a)(2), (4), or (6). **You must file a motion:** • if you assert that the discharge should be denied under § 727(a)(8) or (9).	**Filing deadline:** January 11, 2020
	Deadline to object to exemptions: The law permits debtors to keep certain property as exempt. If you believe that the law does not authorize an exemption claimed, you may file an objection.	**Filing deadline:** 30 days after the *conclusion* of the meeting of creditors
10. Proof of claim Please do not file a proof of claim unless you receive a notice to do so.	No property appears to be available to pay creditors. Therefore, please do not file a proof of claim now. If it later appears that assets are available to pay creditors, the clerk will send you another notice telling you that you may file a proof of claim and stating the deadline.	
11. Creditors with a foreign address	If you are a creditor receiving a notice mailed to a foreign address, you may file a motion asking the court to extend the deadlines in this notice. Consult an attorney familiar with United States bankruptcy law if you have any questions about your rights in this case.	
12. Exempt property	The law allows debtors to keep certain property as exempt. Fully exempt property will not be sold and distributed to creditors. Debtors must file a list of property claimed as exempt. You may inspect that list at the bankruptcy clerk's office or online at www.pacer.gov. If you believe that the law does not authorize an exemption that the debtors claim, you may file an objection. The bankruptcy clerk's office must receive the objection by the deadline to object to exemptions in line 9.	
13. Voice Case Info. System (McVCIS)	McVCIS provides basic case information concerning deadlines such as case opening, discharge, and closing dates, and whether a case has assets or not. McVCIS is accessible 24 hours a day except during routine maintenance. To access McVCIS toll free call 1−866−222−8029.	

Exemptions Florida (most common)

ART X SECTION 4. Homestead; exemptions.—

(a) There shall be exempt from forced sale under process of any court, and no judgment, decree or execution shall be a lien thereon, except for the payment of taxes and assessments thereon, obligations contracted for the purchase, improvement or repair thereof, or obligations contracted for house, field or other labor performed on the realty, the following property owned by a natural person:

(1) a *homestead,* if located outside a municipality, to the extent of one hundred sixty acres of contiguous land and improvements thereon, which shall not be reduced without the owner's consent by reason of subsequent inclusion in a municipality; or if located within a municipality, to the extent of one-half acre of contiguous land, upon which the exemption shall be limited to the residence of the owner or the owner's family;

(2) *personal property to the value of one thousand dollars*.

222.05 Setting apart leasehold.—Any person owning and occupying any dwelling house, including a *mobile home used as a residence, or modular home, on land not his or her own* which he or she may lawfully possess, by lease or otherwise, and claiming such house, mobile home, or modular home as his or her homestead, shall be entitled to the exemption of such house, mobile home, or modular home from levy and sale as aforesaid.

222.11 Exemption of wages of head of household from garnishment. (re garnishment/levy prefiling)

222.14 Exemption of cash surrender value of life insurance policies and annuity contracts from legal process.

222.21 Exemption of pension money and certain tax-exempt funds or accounts from legal processes.—

… exempt from taxation under s. 401(a), s. 403(a), s. 403(b), s. 408, s. 408A, s. 409, s. 414, s. 457(b), or s. 501(a) of the Internal Revenue Code of 1986, as amended…

222.22 Exemption of assets in qualified tuition programs, medical savings accounts, Coverdell education savings accounts, and hurricane savings accounts from legal process.—

222.25 Other individual property of natural persons exempt from legal process.—The following property is exempt from attachment, garnishment, or other legal process:

(1) A debtor's interest, not to exceed *$1,000 in value, in a single motor* vehicle as defined in s. 320.01.

(2) A debtor's interest in any professionally prescribed health aids for the debtor or a dependent of the debtor.

(3) A debtor's interest in a refund or a credit received or to be received, or the traceable deposits in a financial institution of a debtor's interest in a refund or credit, pursuant to s. 32 of the Internal Revenue Code of 1986, as amended. This exemption does not apply to a debt owed for child support or spousal support.

(4) A debtor's interest in personal property, not to exceed *$4,000, if the debtor does not claim or receive the benefits of a homestead exemption* under s. 4, Art. X of the State Constitution. This exemption does not apply to a debt owed for child support or spousal support.

11 USC 522(b)(3)(B) Tenancy by the Entireties

B2000 (Form 2000) (04/16)

UNITED STATES BANKRUPTCY COURT
REQUIRED LISTS, SCHEDULES, STATEMENTS, AND FEES
Voluntary Chapter 7 Case

☐ **Filing Fee of $245.** If the fee is to be paid in installments or the debtor requests a waiver of the fee, the debtor must be an individual and must file a signed application for court approval. Official Form 103A or 103B and Fed.R.Bankr.P. 1006(b). (c).

☐ **Administrative fee of $75 and trustee surcharge of $15.** If the debtor is an individual and the court grants the debtor's request, these fees are payable in installments or may be waived.

☐ **Voluntary Petition for Individuals Filing for Bankruptcy** (Official Form 101) or **Voluntary Petition for Non-Individuals Filing for Bankruptcy** (Official Form 201); **Names and addresses of all creditors** of the debtor. Must be filed WITH the petition. Fed.R.Bankr.P. 1007(a)(1).

☐ **Notice to Individual Debtor with Primarily Consumer Debts** under 11 U.S.C. § 342(b) (Director's Form 2010), if applicable. Required if the debtor is an individual with primarily consumer debts. The notice must be GIVEN to the debtor before the petition is filed. Certification that the notice has been given must be FILED with the petition or within 15 days. 11 U.S.C. §§ 342(b), 521(a)(1)(B)(iii), 707(a)(3). Official Form 101 contains spaces for the certification.

☐ **Bankruptcy Petition Preparer's Notice, Declaration, and Signature** (Official Form 119). Required if a "bankruptcy petition preparer" prepares the petition. Must be submitted WITH the petition. 11 U.S.C. § 110(b)(2).

☐ **Statement About Your Social Security Numbers** (Official Form 121). Required if the debtor is an individual. Must be submitted WITH the petition. Fed.R.Bankr.P. 1007(f).

☐ **Credit Counseling Requirement** (Official Form 101); **Certificate of Credit Counseling and Debt Repayment Plan, if applicable; Section 109(h)(3) certification or § 109(h)(4) request,** if applicable. If applicable, the Certificate of Credit Counseling and Debt Repayment Plan must be filed with the petition or within 14 days. If applicable, the § 109(h)(3) certification or the § 109(h)(4) request must be filed WITH the petition. Fed.R.Bankr.P. 1007(b)(3). (c).

☐ **Statement disclosing compensation paid or to be paid to a "bankruptcy petition preparer"** (Director's Form 2800). Required if a "bankruptcy petition preparer" prepares the petition. Must be submitted WITH the petition. 11 U.S.C. §110(h)(2).

☐ **Statement of Your Current Monthly Income** (Official Form 122A). Required if the debtor is an individual. Must be filed with the petition or within 14 days. Fed.R.Bankr.P. 1007(b), (c).

☐ **Schedules of assets and liabilities** (Official Forms 106 or 206). Must be filed with the petition or within 14 days. Fed.R.Bankr.P. 1007(b),(c).

☐ **Schedule of Executory Contracts and Unexpired Leases** (Schedule G of Official Form 106 or 206). Must be filed with the petition or within 14 days. Fed.R.Bankr.P. 1007(b), (c).

☐ **Schedules of Your Income and Your Expenses** (Schedules I and J of Official Form 106). If the debtor is an individual. Schedules I and J of Official Form 106 must be filed with the petition or within 14 days. 11 U.S.C. § 521(1) and Fed.R.Bankr.P. 1007(b), (c).

☐ **Statement of financial affairs** (Official Form 107 or 207). Must be filed with the petition or within 14 days. Fed.R.Bankr.P. 1007(b), (c).

☐ **Copies of all payment advices or other evidence of payment** received by the debtor from any employer within 60 days before the filing of the petition. Required if the debtor is an individual. Must be filed with the petition or within 14 days. Fed.R.Bankr.P. 1007(b), (c).

☐ **Statement of Intention for Individuals Filing Under Chapter 7** (Official Form 108). Required ONLY if the debtor is an individual and the schedules of assets and liabilities contain debts secured by property of the estate or personal property subject to an unexpired lease. Must be filed within 30 days or by the date set for the Section 341 meeting of creditors, whichever is earlier. 11 U.S.C. §§ 362(h) and 521(a)(2).

☐ **Statement disclosing compensation paid or to be paid to the attorney** for the debtor (Director's Form 2030). Required if the debtor is represented by an attorney. Must be filed within 14 days or any other date set by the court. 11 U.S.C. § 329 and Fed.R.Bankr.P. 2016(b).

☐ **Certification About a Financial Management Course** (Official Form 423), if applicable. Required if the debtor is an individual, unless the course provider has notified the court that the debtor has completed the course. Must be filed within 60 days of the first date set for the meeting of creditors. 11 U.S.C. § 727(a)(11) and Fed.R.Bankr.P. 1007(b)(7). (c).

REVISED April 19, 2017

THESE DOCUMENTS ARE DUE NO LATER THAN 7 DAYS PRIOR TO YOUR MEETING OF CREDITORS:

NOTE FROM CLERK'S OFFICE: THE FOLLOWING IS A LIST OF CHAPTER 7 TRUSTEES' REQUIREMENTS (TAMPA DIVISION ONLY) FOR DOCUMENTS TO BE PROVIDED TO THEM SO THAT THEY MAY EVALUATE THE ADMINISTRATION OF A PARTICULAR CASE. THIS LIST IS NOT A LIST OF THE COURT'S REQUIREMENTS; HOWEVER, A DEBTOR'S FAILURE TO COOPERATE WITH THE TRUSTEE COULD LEAD TO ADVERSE CONSEQUENCES FOR THAT DEBTOR.

Counsel:

In order to properly evaluate Chapter 7 cases filed in the Tampa Division, all debtor(s) are required to submit copies of the documents set forth below to the **Chapter 7 Trustee** appointed in the respective debtor(s)' case. Please note that not all required documents will be applicable in every case (i.e. divorce documents are not applicable if you are not a party to a divorce proceeding). You will not receive a letter in each of the cases that you file. The requirements set forth in this letter will apply to all future Meetings of Creditors for cases filed on or subsequent to April 30, 2017.

Requested	Received	Documents to be Provided
		ATTORNEYS EMPLOYED BY DEBTOR(S): Names and contact information for any attorneys (other than your bankruptcy attorney) currently employed by the Debtor(s) for any non-bankruptcy matter (i.e. personal injury claims, class action and multi-district litigation claims, family law litigation, foreclosure defense, probate matters, etc.);
		BANK STATEMENTS: (a) Complete bank statements covering the 90 days prior to filing bankruptcy, including the bank statement that contains transactions on the date of the bankruptcy filing; (b) If a bank account has been closed within 6 months prior to the date of the filing of the petition, please provide the final closing statement.
		BUSINESS OWNERSHIP: If the debtor(s) has an ownership interest in a corporation, partnership or sole proprietorship, please provide: (a) Profit and Loss Statements for the 6 months prior to the date of the filing of the petition; (b) Business bank statements issued for the 90 days prior to the date of the filing of the petition through and including the date of filing; (c) Balance sheet/ statement of assets and liabilities;
		CREDIT REPORTS: Credit reports used, if any, in connection with the preparation of the Schedules of Assets and Liabilities
		DIVORCE DOCUMENTS: If you are a party in a divorce proceeding that is currently pending or was concluded within the last two (2) years, financial affidavits and marital property settlements filed in the divorce proceeding, and the final judgment of dissolution of marriage;
		PAY OFF STATEMENTS: Written payoff statements reflecting the balance owed for all vehicles, boats, trailers or other real or personal property reflected on Schedules A and B, including homestead property. The payoff **MUST** be in writing and prepared by the creditor. An oral payoff received from the creditor is NOT sufficient. Forms acceptable are reaffirmation agreements or a monthly statement that contains the payoff amount **as of the filing date**. The Statement of Intention indicating the intent to retain, redeem or surrender property must be produced along with all the written payoff statements.
		PAY STUBS: Pay stubs for the 60 days prior to the filing date & the 1st pay period after the filing date;

		REAL PROPERTY: **DEEDS**: Deeds to all parcels of real estate owned by debtor(s), or in which debtor(s) had any kind of interest in within 1215 days of the filing of the petition together with closing statements for purchase of the real estate. (a) **CLOSING STATEMENTS**: Closing statement and deed for any real estate sold or transferred within the one (1) year before the filing date. (b) **NON-HOMESTEAD REAL PROPERTY**: real property tax bills and tenant leases;
		RETIREMENT ACCOUNTS: The last two statements for all retirement and non-retirement accounts, including 401(k) plans, IRAs, mutual funds, etc. If the type of account is not evident from reviewing the statement, the plan documents describing the type of plan involved are required to be provided.
		TAX RETURNS: Complete personal federal and state (if any) tax returns that have been filed for tax periods ending in the last two years and the pending years' tax return; complete corporate tax returns that have been filed for the last two years for any corporation or partnership in which you have had an interest in the past two years;
		VEHICLE(S)/ VESSEL(S): (a) **TITLES/ REGISTRATIONS**: Titles or registrations for all vehicles, boats, trailers or other personal property that is titled. (b) **VALUES**: KBB.com private party value will be used unless a written appraisal that provides the current retail value less the consumer's retail cost of repairs is provided by a certified appraiser; if a dispute exists an appraisal must be done at your expense. Chapter 7 Trustees will not accept CarMax appraisals and any others from non-certified appraisers; (c) **VIN #'S MUST BE PROVIDED IN ORDER TO NOTICE A SALE**; (d) **PROOF OF INSURANCE**:

If this information is not received **at least seven (7) days before** the meeting, the Meeting of Creditors will be continued and your office will be required to file with the Court the rescheduled date and time which must be served upon the entire creditor matrix.
Please send the documents to the Chapter 7 Trustee appointed in your case at the following location:

Nicole M. Cameron, Chapter 7 Trustee Epiq	Stephen L. Meininger, Chapter 7 Trustee DocLink
Dawn A. Carapella, Chapter 7 Trustee dcarapellatrustee@gmail.com	Douglas Menchise, Chapter 7 Trustee: DocLink
Carolyn Chaney, Chapter 7 Trustee DocLink	Beth Ann Scharrer, Chapter 7 Trustee Blue Stylus
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Very truly yours,
Chapter 7 Panel Trustees

BEST PRACTICES GUIDE FOR A FIRM PRO BONO POLICY

PREAMBLE: Pursuant to Rule 4-6.1(a), "Each member of The Florida Bar in good standing, as part of that member's professional responsibility, should (1) render pro bono legal services to the poor and (2) participate, to the extent possible, in other pro bono service activities that directly relate to the legal needs of the poor." These recommendations are offered as a guide to formulating a policy for discharging that professional responsibility. These best practices are recommendations only, and each firm may consider adopting those which are conducive to the firm's specific circumstances.[1]

A. INITIAL INTAKE

General Comment – The pro bono client should be treated for all matters and purposes the same as any other client of the firm (except with respect to billing)

Conflict check

- Conflict by parties
- Issue preclusion
- Other reasons that the firm should not take the case

Comply with other firm procedures for pro bono intake, if applicable

- Get any internal committee approval

Initial interview

- Confirm that the client qualifies for either the firm or referring agency's criteria for pro bono assistance
- Request that prospective client bring knowledgeable parties and applicable documents

[1] The Pro Bono Committee of the Business Law Section of The Florida Bar has developed this Best Practices Guide to encourage you to adopt a formal pro bono policy in your firm, or, if you have a policy in place, to review that policy and determine whether you wish to make changes in accordance with these suggestions. The Guide is set up to provide you with a general checklist of recommended procedures followed by detailed commentary that provides in-depth analysis, where necessary, of the checklist. We welcome comments. Please feel free to send those comments to the current Chair of the Business Law Section Pro Bono Committee; contact information for the Chair is available on the Section's website at www.flabizlaw.org.

- Explain the scope of the attorney client privilege

Engagement letter

- Client expectations
- Arrangement regarding costs
- Scope of services
- What kind of reports and records should be sent
- Confirm the agreement with the client or, if none, the firm policy, regarding disposition of the fee award

If needed – Declination letter

- Statute of limitations caveat
- Document preservation caveat

Open the file

- Follow the firm's procedure for creating a client number, billing codes and time entries
- Send any paperwork required by firm procedures that the client needs to review or sign
- Send any other preliminary notices the law requires

Commentary:

A pro bono client and a pro bono case should be treated for all matters and purposes the same as any other client or client matter of the firm. Thus, when deciding whether to take a case all the same procedures should be followed with respect to determining conflicts, opening a file, and following formal engagement procedures.

In making the determination whether to take the case the firm must also determine that the matter is consistent with the assigned attorney's capabilities and competency. There needs to be a determination that the lawyer has the ability to represent the client, either directly or with mentoring or supervision, that the case can be properly staffed, and that the firm has the necessary resources to service the client, all as provided under the Rules Governing The Florida Bar.

It is important when doing a conflict check to make sure that there are no conflicts between the potential client or case and other clients in the firm. The conflict may be obvious, an adverse party, or a party on the other side of a business transaction may be a firm client, but it may also be a conflict regarding a client's position. So, for example, accepting a lawsuit that seeks to sue banks for filing false claims in bankruptcy cases might conflict with a bank client who files claims in bankruptcy cases, even though the claims your client files are not false. It is also important to make sure that the firm does not take a case that philosophically conflicts with another matter that firm is handling. For example, it would not be appropriate for a firm to accept a case defending a not-for-profit client's trademark on the basis that it was not necessary to register the trademark in order for it to be a protected mark, if that firm is advocating in another case that all trademarks must be registered to be protected. Finally, there may be other reasons that the firm should not take the case. Perhaps the debtor that has been referred to the firm is a serial bankruptcy filer that has had his or her case dismissed several times. There may be other reasons that a client is one that the firm chooses not to represent.

Some firms have formal pro bono procedures that require additional steps before a case is accepted. Some firms have limits on the number of pro bono cases they will accept, or will authorize a particular attorney to handle. Other firms also look at whether the case qualifies under its criteria for pro bono representation (see section B infra).

Sometimes a referring agency will have an engagement letter. A firm will need to review the agency engagement letter and determine whether it is still necessary for the firm to provide its own engagement letter as a supplement to the agency letter.

The nature of the case and the nature of the client will determine what the assigned lawyer intends to accomplish at the initial interview. If there are documents the lawyer wants to review ahead of time, make sure to explain clearly to the client what to bring to the interview. If the client is going to sign the engagement letter at the initial interview, make sure the firm has provided a copy of the letter ahead of time for the client to review. If the client does not speak English and the assigned attorney does not speak the client's language the firm needs to determine who will interpret. If possible use someone in the firm because

the firm must preserve the attorney client privilege. If the person interpreting is a friend or family member of the client the firm needs to determine what steps it must take to preserve the privilege.

When the client gets to the interview it is important the client understands the attorney client privilege. Even clients a firm thinks are sophisticated may not understand the nature and scope of the privilege. The client must understand that any work email must not be used to communicate with the firm – only a private email on a non-work computer. Also, the client must understand that any conversations with the attorney or relating to the matter in which the firm is representing the client must not be posted on any type of social media. If the client is a corporation, the individual with whom the assigned attorney is meeting must understand the privilege is with the client corporation not the individual with whom the attorney is meeting.

At the initial interview the assigned attorney may determine that the client does not meet either the referring agency's requirements or the firm's requirements for pro bono representation. The firm needs to have an understanding of the procedure if this happens – Does the firm send the client back to the referring agency? Is the firm allowed to negotiate a fee-based representation? Finally, the firm needs to make sure that the firm and the client understand what are the client's expectations with respect to the case and that no results are guaranteed.

Once the case and client have cleared conflicts and any additional required screening, the client needs to sign an engagement letter that clearly spells out what services the firm is agreeing to provide, what costs, if any, the client will need to pay, and how those will be paid (cost retainer? pay as billed?), and what type of reports will the client receive and with what frequency. Will the debtor receive monthly billing reports that details all the work that has been done, but without an actual bill? Will the client receive status reports? The firm will also need to have an understanding regarding any fees awarded in a fee shifting case. The client should understand whether the firm will take the fee award if one is awarded. For example, one firm has a policy that, if fees are awarded in a pro bono case, those funds are placed in a special account that the firm uses to pay costs in other pro bono cases. The client should be given the opportunity to consult with independent counsel regarding any fee award.

When the firm opens a pro bono file, it should follow normal firm procedures, or the specific procedures the firm has established for opening a pro bono file. Also make sure the firm complies with normal case-opening check lists. For example, in a trademark case, does the firm need to send an insurance letter? In a litigation case, does the firm need to send the client a litigation hold letter? In a bankruptcy case, are there certain intake forms or checklists that the client needs to complete before the next meeting?

If either the firm or the potential client decides that the firm will not take the matter, then the firm should send a letter confirming that understanding (the declination letter), which letter should outline any statute of limitation issues about which the potential client should be aware, as well as, if relevant, any obligations by the firm or the potential client to preserve certain documentation.

B. DECIDING WHAT IS PRO BONO

General Comment - The firm's policy should define the legal services or other activities that will qualify for pro bono credit under the policy. The firm does not need to limit itself to the Florida Bar criteria, but should make clear, if the firm recognizes services outside the Florida Bar criteria, that the attorney may not list those activities as qualifying on the annual Bar application for renewal. These best practices are recommendations only, and a firm may adopt policies compatible with the firm's specific circumstances.

Pro Bono

- Legal services
- Rendered without charge or expectation of fee at the time service commences

Florida Bar Pro Bono

- Pro bono legal services to the poor
- Charitable, religious, or educational organizations who serve the poor

Other Pro Bono

- Individuals, groups or organizations seeking to secure or protect civil rights, civil liberties or public rights
- 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

What Is Not Pro Bono

- Legal services written off as bad debts
- Activities that do not involve the provision of legal services, such as community service or serving on a board of directors
- Free or reduced fee work that an attorney provides to a client for purposes of good-will
- Legal services provided for an employee of the firm
- Legal services provided for friends or family members of employees of the firm

- Legal services provided for the benefit of a religious or educational organization with which the attorney is affiliated, unless the work solely involves the charitable works of that organization or involves the provision of other direct benefits for low-income individuals
- Other volunteer or charity work of a legal nature or otherwise

Commentary:

Pursuant to Rule 4-6.1(a), "Each member of The Florida Bar in good standing, as part of that member's professional responsibility, should (1) render pro bono legal services to the poor and (2) participate, to the extent possible, in other pro bono service activities that directly relate to the legal needs of the poor." Under the Florida Bar Rules, the key analysis in determining whether the provision of free legal services qualifies as "pro bono" is whether those services are serving the needs of the poor. The comments to the rule state that pro bono legal services are to be provided not only to those persons whose household incomes are below the federal poverty standard but also to those persons frequently referred to as the "working poor." Pro bono services may also be provided to organizations such as church, civic, or community service organizations so long as the services relate to a project seeking to address the problems of the poor. Pro bono legal service to the poor can also be provided through legal services to charitable, religious, or educational organizations whose overall mission and activities are designed predominately to address the needs of the poor.

The commentary to Rule 4-6.1 states that "Lawyers providing pro bono legal service on their own need not undertake an investigation to determine client eligibility. Rather, a good faith determination by the lawyer of client eligibility is sufficient." However, the firm may want to include in its policy the criteria for determining a prospective pro bono client's eligibility. For example, the policy may set forth criteria for evaluating the prospective client's indigence or ability to pay. On the other hand, the firm may wish to rely primarily on screening by legal services providers or other referral organizations to make such determinations. As such, the firm may want to consider specifically identifying in the policy sources of pro bono referrals that will automatically qualify for pro bono credit. For example, the policy may state that cases referred by legal assistance programs, such as

Florida's "The One" program, the 11th Circuit's "Put Something Back" program, or the firm's local legal aid organization, automatically qualify for pro bono credit.

It is easier to determine what individual qualifies for pro bono representation, than to determine what entity qualifies for pro bono representation. When considering pro bono representation for not-for-profit organizations, the firm should consider whether the not-for-profit entity can pay for legal services without substantially compromising its mission or the matter for which legal services are sought (i.e., the proposed pro bono matter would not be undertaken, or its success would be substantially compromised, without pro bono legal services). The ability of an organization to pay for legal services can be evaluated on a case-by-case basis, considering (i) the organization's history of payment of legal fees to the firm or to other legal counsel; (ii) the firm's history of charging fees to non-profit entity clients in similar situations; (iii) the payment by the organization of professional fees to non-legal service providers for the same or similar matters; (iv) the organization's budget relative to other organizations considered potential pro bono clients; and (v) the payment of legal fees by organizations of a similar size and purpose. The size of an organization's budget may be relevant to this analysis, but not necessarily dispositive, as legal services and other public interest organizations with relatively large budgets often do not customarily pay for legal counsel as such payments would compromise their missions.

In deciding whether to retain a not-for-profit organization as a pro bono client, the firm should also consider whether the entity's mission fits within the goals of the firm's pro bono philosophy. There appears to be universal agreement that organizations that provide legal services to low-income individuals or otherwise serve the needs of low-income individuals, or promote human rights, public rights or civil rights ordinarily qualify as pro bono clients. Conversely, some groups direct that religious organizations qualify as pro bono clients only to the extent the proposed matter is intended to further the organization's charitable mission; educational organizations qualify as pro bono clients only to the extent the proposed matter primarily serves low-income individuals. Other non-profit organizations, such as charitable, public health and arts organizations, should be evaluated according to their ability to pay legal fees, with some consideration also given to whether the entity charges fees or is open for little or no charge to the public at large. The firm can also give weight to whether the non-profit

organization has been referred to the firm by a bar association or legal services organization (e.g. "The One" program, or the 11th Circuit's "Put Something Back" program) that has screened the entity for eligibility for pro bono legal services. Since the key criterion of The Florida Bar in the evaluation of a non-profit's qualification for pro bono legal services ability to pay for legal services, many large, well-funded cultural institutions, such as symphony orchestras, are not recognized as qualifying pro bono clients. Conversely, many times smaller and less well-funded cultural organizations, like dance troupes or community theaters, may qualify as pro bono clients.

The policy may also include other activities that do not qualify as pro bono under the Florida Rule but, nonetheless, are widely viewed as pro bono activities. The ABA and the Pro Bono Institute include in their definition of "pro bono" other legal activities, such as: Providing free or reduced fee legal services to: Individuals, groups or organizations seeking to secure or protect civil rights, civil liberties or public rights; and charitable, religious, civic, community, governmental and 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.

The firm needs to determine how to allocate its pro bono resources -- should those resources be devoted primarily to representing the poor and working poor and those non-profit organizations that have an impact on persons of low or moderate means, or is the firm willing to support a broader spectrum of potential qualifying candidates? In any instance, proposed pro bono representation of an organization should not interfere with the firm's commercial work for nonprofit entities.

While activities may be included that do not qualify for pro bono credit under the Florida Bar Rule, the policy should still strive to include activities that involve the provision of legal services. That is, the attorney should provide pro bono services that would otherwise have required the retention of counsel for a fee. "Pro bono legal service" means legal service rendered without charge or expectation of a fee for the lawyer at the time the service commences. The attorney may, if appropriate, consider listing those activities on the non-pro bono services volunteer activities survey of the annual Florida Bar renewal application.

C. HOW CREDIT IS GIVEN FOR PRO BONO CASES

General Comment – The firm should have a policy that sets forth the manner in which pro bono service will be recognized – will the hours be credited to the attorney's billable goal; if so, will there be a "cap" to that credit? Will the hours receive no "credit" except that the firm will consider the pro bono service in compensation determinations? Will the firm have a "non-billable" requirement?

Credit for Time Spent on Pro Bono Client Matters

- "Billable" credit to the same extent time is credited for other client matters
  - With or without an hours cap
- Non-Billable
  - Specify aspirational goal

Other Factors

- Consider pro bono commitments when determining an individual's availability for other assignments
- Consider giving credit for reasonable time spent on training required to represent an actual or prospective pro bono client

Commentary:

A successful pro bono practice requires the steady support of firm management, and internal firm policies that support and encourage attorneys, paralegals and other employees who serve the firm's pro bono clients. In turn, attorneys, paralegals and other employees who work on pro bono matters must treat pro bono clients as they would all other clients by providing excellent service that meets the highest ethical and professional standards, and that is performed in an efficient manner. In furtherance of this standard, it is recommended that time spent on approved pro bono client matters be credited to attorneys and paralegals to the same extent time is credited for any other client matter. It is further suggested that time spent on approved pro bono matters should also be counted in determining an individual's availability for other assignments within the firm. Finally, it is suggested that there should be no cap on credit for time spent working on approved pro bono client matters, or, if there is a cap on "billable" credit, that that cap not be less than the Florida Bar twenty hour requirement.

If the firm is unwilling or unable to give billable credit for pro bono service, then it

is recommended that the firm develop a policy for non-billable credit. Timekeepers should be instructed to keep track of all their time worked on a pro bono matter so that the service can be considered as part of any compensation review for the timekeeper. The firm should be clear whether that consideration will apply towards an increase in base salary, bonus consideration, or both. In some firms, the firm has a non-billable requirement, in addition to a billable requirement. For example, a firm could have a one hundred or two hundred hour non-billable requirement that would include pro bono work, community service, attendance at bar events and seminars, and firm administrative responsibilities.

In addition, reasonable time (perhaps up to one day) spent on training required to represent an actual or prospective pro bono client, as well as time spent evaluating potential pro bono matters, should be credited, either as billable or non-billable time. While training time is not usually considered client time, seminars and other training events sponsored by bar associations and legal services organizations are often the most efficient and effective way to learn a new body of public interest law required for representation of a client, and can replace the research typically conducted for commercial clients. Pro bono training is therefore distinguishable from continuing legal education when its sole function is to facilitate the representation of a specific client or clients. For instance, Human Rights First regularly hosts a 2-3 hour training on asylum law that presents information required to represent clients and that is more efficient than reading a treatise or performing original research. Likewise, local bar associations and legal service agencies sponsor pro bono training events, with the requirement that those attending agree to handle a pro bono matter.

In addition, reasonable time spent evaluating cases referred by legal services organizations with which the firm has established relationships could be counted as pro bono "client" time. In order to record this time, these agencies should be opened as firm clients for the limited purpose of working with them as co-counsel to evaluate cases.

D. USE OF NON-LAWYERS FOR PRO BONO CASES

General Comment - Pro bono cases have the same importance to the firm as any other legal matter which the firm undertakes, and they should be given the same level of staffing, support and supervision in a manner that will assure the provision of competent and efficient representation to the client. Appropriate staffing is also more efficient for the firm as the attorney can spend his or her time performing legal services, rather than paralegal or administrative tasks.

Staffing Pro Bono Matters

- Give pro bono cases same level of staffing, support, and supervision as other firm legal matters
- Encourage paralegals and other firm employees to participate in pro bono service if capable with appropriate supervision
- Track paralegals' pro bono time consistent with firm's customary time keeping procedures
- Consider pro bono service in paralegals' evaluations and compensation decisions
- Devote same levels of administrative, word processing, duplicating, and similar support resources as other firm legal matters
- Supervisors should provide appropriate guidance to attorneys, paralegals, and support staff assigned to pro bono matters
- Make available to both lawyers and non-lawyers necessary training to assure competent representation

Commentary:

Paralegals and other firm employees should be encouraged to participate in pro bono service to the extent they can assist in the matter with appropriate supervision. Supervisors on pro bono matters should assure that adequate and appropriate staffing, both with lawyers and non-lawyers, is achieved commensurate with the complexity and demands of the pro bono matter. While the firm may have committed its resources to a pro bono matter, lawyer and non-lawyer work on any particular pro bono matter should still be voluntary. If a particular pro bono matter is controversial or otherwise objectionable to an

individual lawyer or non-lawyer, the individual should be allowed to decline to work on the matter in their discretion.

Paralegals should keep track of all time incurred in pro bono service following the same procedures applicable to billable cases and other non-billable time tracked by the firm. Pro bono service by non-lawyers is encouraged, and it should be taken into account in all periodic reviews and performance evaluations, including in compensation decisions. As with lawyers, paralegals should be included in any training necessary to permit competent representation in a pro bono case, such as areas of public interest law not typically handled by the firm.

If paralegals and support staff are not encouraged or permitted to participate in pro bono cases, then the burden of doing non-legal work falls on the attorney. This approach is not efficient for the firm as it increases, unnecessarily, the time the attorney must devote to the matter, and it is not efficient for the client, as there are many tasks more appropriately performed by paralegals and other administrative staff.

E. FEES AND COSTS

General Comment – When a matter is accepted and approved for pro bono representation, the engagement letter should make clear that the client will not be charged for legal services provided and should also set out to what extent the client will be responsible for costs incurred in the representation.

Costs

- Paid by client
  - Payment of a cost retainer at the outset
  - Monthly or other appropriate billing
- Paid by firm
  - Establish a procedure for pro bono attorney to request payment by the firm of expenses in pro bono matters
- Routine office expenses should be paid by the firm
- Keep track of expenses in all cases in the event there is any opportunity for cost shifting or reimbursement, including a cost award

Fee-Shifting

- Review contracts and applicable statutes at the outset to explore possible bases for fee-shifting
- Options for disposition of attorneys' fees recovered
  - Apply to out-of-pocket costs that were advanced by the firm
  - Donate to legal services or public interest organization from which the case was referred or other appropriate charitable organization
  - Create firm pro bono fund to be used for out-of-pocket expenses in other pro bono matters
  - Apply the fee award as payment for the reasonable cost of legal services provided
- Discuss with potential client (and confirm in writing) the firm's policy on disposition of attorneys' fee award

Funds acquired in connection with resolution of pro bono matter

- Funds earmarked for a specific purpose must be used in that manner
- Pursuant to Bar rules, attorneys' fees awarded are not to be given to or shared with client

- Recovery of costs may be shared with client if the firm decides to forego reimbursement of out-of-pocket costs advanced

Comments:

All agreements regarding the treatment of fees and costs should be resolved at the initial interview with the client. To the extent possible, pro bono clients should bear the burden of out-of-pocket expenses related to the representation in order to ensure that the client has an appropriate investment in the outcome of the case, and so that the firm's limited pro bono resources are available to assist other clients. Depending on the client's financial resources, the client should be expected to pay in whole or in part for such costs as court reporters, interpreters, recording and other court fees, and other matter-related expenses. The client should not, however, be asked to pay for the firm's routine office expenses, such as copying, faxes, phone, mailing, and courier fees incurred in the course of the representation.

Any significant out-of-pocket expenses related to the handling of any authorized pro bono engagement should be discussed with and approved by the firm in accordance with its internal policies and procedures, as well as with the client, before the expense is incurred. A standard of reasonableness should be applied on a case-by-case basis. For instance, where out-of-town travel is involved, special efforts should be made to secure lower fares and inexpensive accommodations.

In all cases, attorneys should be sensitive to costs and make use of procedures and services that reduce costs without reducing the quality of the legal services provided, including seeking reimbursement of costs when appropriate at the conclusion of a successful litigation or settlement. Where appropriate, in forma pauperis petitions should be used, and other free support services should be utilized to the extent possible, such as free online legal research (e.g., FastCase or Google Advanced Scholar). Vendors, including copy services, interpreters and court reporters, are also often willing to provide services or goods at or below cost for pro bono matters.

To the extent a pro bono client has agreed to pay expenses, a statement of such expenses should be sent on a monthly basis, or when otherwise appropriate, for prompt payment. A cost retainer may also be requested at the beginning of the

representation. Where significant out-of-pocket costs are likely, the engagement letter should include a provision stating that such costs will be reimbursed, to the extent the firm deems reasonable, from any judgment or settlement amount the client may receive.

In some cases there may be the possibility to recover attorneys' fees pursuant to a fee-shifting statute, contract, or appropriate independent fund. This possibility should be explored at the outset by a review of any written contracts and applicable statutes. The firm may decide to adopt a general policy for such cases, or may make the decision on a case by case basis in consultation with the client. The disposition of any attorneys' fee award should be discussed with the potential client at the beginning of the representation and confirmed in writing, preferably in the engagement letter. Such discussions should include giving the potential client the opportunity to consult with independent counsel regarding any fee award.

Counsel should be sensitive to opportunities for fee or cost recovery that may arise during the course of the representation. The court may award attorneys' fees as a sanction, or for acceptance of appointment to a case. Fees and costs may also be negotiated as part of a settlement, or recovered in connection with a closing (e.g. in certain affordable housing deals).

When a pro bono matter is resolved favorably for the pro bono client so as to result in the payment of money from another party, either by settlement or other agreement, any amount earmarked for a specific purpose must be used in that manner. While it is tempting to think that any attorneys' fees awarded should be given to or shared with the client, such sharing of fees with a client would violate Florida Bar rules. A recovery of costs, however, could be shared with the client, if the firm decides to forego reimbursement of out-of-pocket costs advanced.

F. COMMITTING TO PRO BONO THROUGH DEDICATED STAFF[2]

General Comment: Rule 4-6.1(c) allows a law firm to develop a "plan" pursuant to which one or more attorneys may perform pro bono services, the hours for which will be credited towards other attorneys in the firm.

Develop a Voluntary Collective Satisfaction Pro Bono Plan

- Develop a plan that sets forth what kind of work will be done and by whom
- The plan must describe how the hours will be distributed so the hours can be accurately reported on the Florida Bar annual reporting form
- The plan should credit the pro bono hours accrued under the plan among the firm's lawyers in a fair and reasonable manner

Submit the Plan to the local Circuit Pro Bono Committee

- Determine whether your plan requires approval by the local Circuit Pro Bono Committee
- Whether or not approval is required, file your plan with the local Circuit Pro Bono Committee
- If approval is required, submit the plan to the local Circuit Pro Bono Committee with the appropriate approval form(s)

Commentary:

Rule 4-6.1 defines an attorney's aspirational pro bono goal as 20 hours. The firm's plan may designate a number of attorneys of the firm who will earn those 20 hours for themselves and the remainder of the firm. These hours can be accrued through providing pro bono legal services to the poor: (1) in a major case or matter involving a substantial expenditure of time and resources; (2) through a full-time community or public service staff; or (3) in any other manner that has been approved by the circuit pro bono committee in the circuit in which the firm practices. Thus, if your plan includes only options 1 and 2, while the plan must be filed, it does not need formal approval. A plan which spreads credit

[2] The materials for this section were provided primarily by the Thirteenth Judicial Circuit which has developed a formal "SHARE" program (Sharing Hours and Reaping Equity) and related forms.

for the accrued pro bono hours among the firm's lawyers in more than one office would need to be filed with the Circuit Pro Bono Committee in each circuit in which the participating lawyers practice.

If you are drawn to pro bono work, this is a great tool to obtain your firm's support. The plans are custom-made, allowing each firm to designate as many attorneys as it determines appropriate and how those attorneys will spend their pro bono time. For example, the firm might elect to allow a team of less experienced lawyers to handle a section 1983 action, which can be time intensive. The lawyers will receive valuable trial experience, and the firm will share the benefit of the pro bono time commitment. Thus, the entire firm will be involved in and benefit from the good work.

Pro Se Assistance Clinic Agreement for Limited Legal Advice

This is an agreement between the Tampa Bay Bankruptcy Bar Association (TBBBA), the volunteer attorney who is assisting you today, and you. It contains the basic terms of our agreement to provide you with limited legal advice and assistance so that you can better represent yourself in a bankruptcy case.

Scope of Legal Advice: You have asked us to provide legal advice. We will assist you by providing you with limited advice and information regarding a bankruptcy matter. We have not agreed to represent you by, for example, filling in the forms for you, verifying the information you have input into the forms, going to a hearing or trial with you, preparing your case for trial or providing any legal help other than the assistance provided in this interview.

Duration of Legal Help: OUR AGREEMENT TO ADIVISE YOU BEGINS IMMEDIATELY AND WILL END AT THE COMPLETION OF OUR INTERVIEW TODAY.

Cooperation: To advise you effectively, we need your complete cooperation. You agree to honestly and fully answer any questions we ask you regarding your case.

Attorney's Fees: The Pro Se Assistance Clinic is a free service. We will not charge you any fees for the assistance you will receive today.

Filing Fees: There are fees for filing a bankruptcy case. We will not pay any fees associated with your case. You are responsible for all fees.

Declining to Advise: We may decline to give you advice today if we have a conflict of interest, your legal problems are beyond the scope of this project, or for any other reasons set forth in the Florida Rules of Professional Conduct. In this event we will make every attempt to refer you to the appropriate agency to help you.

Prohibited Conduct: We are not permitted to refer you to specific attorneys for firms to represent you in connection with your legal matters. If we determine that you are in need of additional legal representation in connection with the matters discussed during your interview, we will refer you to resources that may aid you in securing further legal assistance.

Consent, Conflict Waiver Agreement and Malpractice Waiver Agreement: I, the person signing below, understand and agree that TBBBA attorneys may have provided assistance in the past, or may provide legal assistance in the future, to persons who have interests opposing my own. I also understand that there is no expectation that the assistance of TBBBA attorneys will continue beyond this consultation. I understand that I may receive advice today but that I may also need to hire a private attorney. I further understand that by obtaining the advice by the TBBBA attorneys, I waive any and all claims I may have against the TBBBA attorneys arising or related to said advice. Finally, I consent to TBBBA contacting me, if necessary, to follow-up on the services I received today for quality control purposes.

I have had enough time to review this document, ask questions, and if I desire, consult with another attorney concerning this agreement before signing the agreement. I am signing this document voluntarily with the full understanding that I am waiving any right I may have to claim that the TBBBA attorneys cannot provide assistance to any such opposing persons because of a conflict of interest. Lastly, I fully understand that the Pro Se Assistance Clinic is in no way affiliated or related to the United States Bankruptcy Court.

TBBBA Attorney Name (print):

_____

TBBBA Attorney Signature:

_____

Your Name (please print clearly):

_____

Your Signature:

_____

Today's Date: _____

Your Daytime Phone Number:

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Faculty

Michael Barnett is a sole practitioner with Michael Barnett, PA in Tampa, Fla., where he represents consumers and small businesses in chapter 7, 12 and 13 bankruptcy cases in west central Florida. He has practiced bankruptcy and bankruptcy appeals exclusively throughout his career and is Board Certified in Consumer Bankruptcy Law by the American Board of Certification. After having become a partner at a bankruptcy boutique firm, Mr. Barnett started his own firm in 1992. He was involved in the Tampa Bay Bankruptcy Bar Association *pro bono* clinic since it's commencement, and was the first recipient of the association's *pro bono* service award in 2016. He is the author of 1017 checklist, an analysis of the 2005 bankruptcy law and originally linked from ABI's website, and co-author of *Strategies for Consumer Bankruptcy Appeals* (Aspatore 2012). He has spoken at seminars and workshops on *pro bono* service, client communications and chapter 12 bankruptcy. Mr. Barnett received his J.D. from the University of Florida Law School in 1985.

Hon. Laurel Myerson Isicoff is Chief Judge for the U.S. Bankruptcy Court for the Southern District of Florida in Miami, initially appointed on Feb. 13, 2006, and named chief judge on Oct. 1, 2016. She is the president of the National Conference of Bankruptcy Judges, and is also a member of ABI's Board of Directors. Judge Isicoff is a member of the *Pro Bono* Committee of the American College of Bankruptcy, as well as chair of its Judicial Outreach Committee. She also currently serves as judicial chair of the *Pro Bono* Committee of the Florida Bar's Business Law Section and is a member of the Florida Bar's Standing Committee on *Pro Bono*. Prior to becoming a judge, Judge Isicoff specialized in commercial bankruptcy, foreclosure and workout matters both as a transactional attorney and litigator for 14 years with the law firm of Kozyak Tropin & Throckmorton, after practicing for eight years with Squire, Sanders & Dempsey, now known as Squire Patton Boggs. In private practice, she also developed a specialty in SEC receiverships involving Ponzi schemes. Following law school, Judge Isicoff clerked for Hon. Daniel S. Pearson at the Florida Third District Court of Appeals before entering private practice. She is a past president of the Bankruptcy Bar Association (BBA) of the Southern District of Florida, and, until she took the bench, chaired its *Pro Bono* Task Force. Judge Isicoff speaks extensively on bankruptcy around the country, and is committed to increasing *pro bono* service, diversity in the bankruptcy community and financial literacy. She received her J.D. from the University of Miami School of Law in 1982.

Traci K. Stevenson is a bankruptcy attorney and a chapter 7 trustee with Traci K. Stevenson, PA in Madeira Beach, Fla. She has been a panel trustee for 27 years is also a court-approved mediator for the U.S. Bankruptcy Court in Tampa, Fla., and has been a State of Florida Supreme Court Certified Civil Circuit mediator since 2008. Before attending law school, Ms. Stevenson was a police officer and labor negotiator, among other things. She was involved in developing the Mortgage Modification Mediation program in the bankruptcy court in all the districts of Florida and has participated in over 3,000 mediations thus far. Ms. Stevenson is a member of National Association of Consumer Bankruptcy Attorneys and the Tampa Bay Bankruptcy Bar Association. She received her B.S.B.A. with honors in 1982 from Rollins College in Winter Park, Fla., and her J.D. *cum laude* in 1991 from Stetson University College of Law.

Mark J. Wolfson is a partner with Foley & Lardner LLP in Tampa, Fla., and has been a practicing commercial litigation and bankruptcy lawyer for more than 37 years. He has experience in out-of-

court loan workout and restructuring matters, as well as broad experience in all types of insolvency and bankruptcy cases, representing secured creditors, indenture trustees, creditors' committees, buyers of assets in chapter 11, equityholders, bondholders, and parties to contracts such as landlords and franchisors. His experience includes health care, hotel, golf course, manufacturing, telecommunication, technology, automotive and agriculture insolvency cases. Mr. Wolfson is rated AV-Preeminent by Martindale-Hubbell and has been recognized by *Chambers USA: America's Leading Business Lawyers* since 2003. He also was selected for inclusion in the 2006-17 *Florida Super Lawyers* lists and in *The Best Lawyers in America* since 2007 for Bankruptcy and Creditor/Debtor Rights Law. Mr. Wolfson regularly lectures on lender liability, fraudulent transfer, and complex bankruptcy matters. He also is co-author of the chapter titled "The Impact of Bankruptcy" for the Florida Bar manual *Florida Construction Law and Practice*, recently edited in 2018. Mr. Wolfson has been an active participant in Hillsborough County's *Pro Bono* Legal Aid Programs. He was awarded the 2017 "Thirteenth Judicial Circuit Outstanding *Pro Bono* Service by a Lawyer Award" in the Tampa Bay Area. As chair of the Tampa office's *Pro Bono* efforts, he accepted the Outstanding Law Firm Commendation for *Pro Bono* Service from the Chief Judge of the Florida Supreme Court in February 2019. Mr. Wolfson was the 2005-06 chair of the Florida Bar Business Law Section and is a member of the Section's Executive Council. He also has served as the chair of the Business Law Section's Bankruptcy/UCC Committee and as the lead representative to the Florida Legislature for the Business Law Section in connection with the enactment of Revised Article 9 in Florida in 2001. In addition, he was the primary draftsman of the Florida non-uniform default and remedies provisions. Mr. Wolfson was a member of the advisory board for ABI's Caribbean Insolvency Symposium for more than eight years and has been a member of the advisory board for ABI's Alexander L Paskay Bankruptcy Conference for more than five years. He received his bachelor's degree with high honors from the University of Tennessee in 1979, where he was a member of Phi Beta Kappa and Omicron Delta Kappa, and his J.D. from the University of Florida in 1982, after which he served a judicial clerkship to the Florida Second District Court of Appeals.