

1 **Rule 6.1. Voluntary Pro Bono Legal Service.**

2 Every lawyer has a professional responsibility to provide legal services to those unable  
3 to pay. A lawyer should aspire to render at least 50 hours of pro bono publico legal  
4 services per year-, except that a licensed paralegal practitioner should aspire to render  
5 30 hours of pro bono publico services per year. In fulfilling this responsibility, the  
6 lawyer should:

7 (a) provide a substantial majority of the 30 or 50 hours of legal services without fee or  
8 expectation of fee to:

9 (1) persons of limited means or

10 (2) charitable, religious, civic, community, governmental and educational  
11 organizations in matters that are designed primarily to address the needs of  
12 persons of limited means; and

13 (b) provide any additional services through:

14 (1) delivery of legal services at no fee or substantially reduced fee to individuals,  
15 groups or organizations seeking to secure or protect civil rights, civil liberties or  
16 public rights, or charitable, religious, civic, community, governmental and  
17 educational organizations in matters in furtherance of their organizational  
18 purposes, where the payment of standard legal fees would significantly deplete  
19 the organization's economic resources or would be otherwise inappropriate;

20 (2) delivery of legal services at a substantially reduced fee to persons of limited  
21 means; or

22 (3) participation in activities for improving the law, the legal system or the legal  
23 profession.

24 (c) A lawyer may also discharge the responsibility to provide pro bono publico legal  
25 services by making an annual contribution of at least \$10 per hour or \$5 per hour for

26 licensed paralegal practitioners for each hour not provided under paragraph (a) or (b)  
27 above to an agency that provides direct services as defined in paragraph (a) above.

28 (d) Each lawyer is urged to report annually to the Utah State Bar whether the lawyer  
29 has satisfied the lawyer's professional responsibility to provide pro bono legal services.  
30 Each lawyer may report this information through a simplified reporting form that is  
31 made a part of the Bar's annual dues statement.

32 (e) In addition to providing pro bono legal services , a lawyer should voluntarily  
33 contribute financial support to organizations that provide legal services to persons of  
34 limited means.

35 Comment

36 [1] Every lawyer, regardless of professional prominence or professional work load, has  
37 a responsibility to provide legal services to those unable to pay. Personal involvement  
38 in the problems of the disadvantaged can be one of the most rewarding experiences in  
39 the life of a lawyer. All lawyers are urged to provide a minimum of 50 hours of pro  
40 bono services annually, except -that licensed paralegal practitioners are urged to  
41 provide a minimum of 30 hours of pro bono services annually. It is recognized that in  
42 some years a lawyer may render greater or fewer hours than the annual standard  
43 specified, but during the course of the lawyer's legal career, each lawyer should render  
44 on average per year, the number of hours set forth in this Rule. Services can be  
45 performed in civil, criminal or quasi-criminal matters for which there is no government  
46 obligation to provide funds for legal representation, such as post-conviction death  
47 penalty appeal cases.

48 [2] Paragraphs (a)(1) and (a)(2) recognize the critical need for legal services that exists  
49 among persons of limited means by providing that a substantial majority of the legal  
50 services rendered annually to the disadvantaged be furnished without fee or  
51 expectation of fee. Legal services under these paragraphs consist of a full range of  
52 activities, including individual and class representation, the provision of legal advice,

53 legislative lobbying, administrative rule making and the provision of free training or  
54 mentoring to those who represent persons of limited means. The variety of these  
55 activities should facilitate participation by government lawyers, corporate counsel and  
56 others, even when restrictions exist on their engaging in the outside practice of law.

57 [3] Persons eligible for legal services under paragraphs (a)(1) and (a)(2) are those who  
58 qualify for participation in programs funded by the Legal Services Corporation and  
59 those whose incomes and financial resources are slightly above the guidelines utilized  
60 by such programs but nevertheless cannot afford counsel. Legal services can be  
61 rendered to individuals or to organizations such as homeless shelters, battered women's  
62 centers and food pantries that serve those of limited means. The term "governmental  
63 organizations" includes, but is not limited to, public protection programs and sections  
64 of governmental or public sector agencies.

65 [4] Because service must be provided without fee or expectation of fee, the intent of the  
66 lawyer to render free legal services is essential for the work performed to fall within the  
67 meaning of paragraphs (a)(1) and (a)(2). Accordingly, services rendered cannot be  
68 considered pro bono if an anticipated fee is uncollected, but the award of statutory  
69 attorneys' fees in a case originally accepted as pro bono would not disqualify such  
70 services from inclusion under this section. Lawyers who do receive fees in such cases  
71 are encouraged to contribute an appropriate portion of such fees to organizations or  
72 projects that benefit persons of limited means.

73 [5] While it is possible for a lawyer to fulfill the annual responsibility to perform pro  
74 bono services exclusively through activities described in paragraphs (a)(1) and (a)(2), to  
75 the extent that any hours of service remain unfulfilled, the remaining commitment can  
76 be met in a variety of ways as set forth in paragraph (b). Constitutional, statutory or  
77 regulatory restrictions may prohibit or impede government and public sector lawyers  
78 and judges from performing the pro bono services outlined in paragraphs (a)(1) and  
79 (a)(2). Accordingly, where those restrictions apply, government and public sector

80 lawyers and judges may fulfill their pro bono responsibility by performing services  
81 outlined in paragraph (b).

82 [6] Paragraph (b)(1) includes the provision of certain types of legal services to those  
83 whose incomes and financial resources place them above limited means. It also permits  
84 the pro bono lawyer to accept a substantially reduced fee for services. Examples of the  
85 types of issues that may be addressed under this paragraph include First Amendment  
86 claims, Title VII claims and environmental protection claims. Additionally, a wide  
87 range of organizations may be represented, including social service, medical research,  
88 cultural and religious groups.

89 [7] Paragraph (b)(2) covers instances in which lawyers agree to and receive a modest fee  
90 for furnishing pro bono legal services to persons of limited means. Participation in  
91 judicare programs and acceptance of court appointments in which the fee is  
92 substantially below a lawyer's usual rate are encouraged under this section.

93 [8] Paragraph (b)(3) recognizes the value of lawyers engaging in activities that improve  
94 the law, the legal system or the legal profession. Serving on bar association committees,  
95 serving on boards of pro bono or legal services programs, taking part in Law Day and  
96 other law related education activities, acting as a continuing legal education instructor,  
97 a mediator or an arbitrator and engaging in legislative lobbying to improve the law, the  
98 legal system or the profession are a few examples of the many activities that fall within  
99 this paragraph.

100 [9] Because the provision of pro bono services is a professional responsibility, it is the  
101 individual ethical commitment of each lawyer. Nevertheless, there may be times when  
102 it is not feasible for a lawyer to engage in pro bono services. At such times a lawyer may  
103 discharge the pro bono responsibility by providing financial support to organizations  
104 providing free legal services to persons of limited means. In addition, at times it may be  
105 more feasible to satisfy the pro bono responsibility collectively, as by a firm's aggregate  
106 pro bono activities.

107 [9a] The Utah Rule, unlike the Model ABA Rule, contains paragraph (c), which  
108 explicitly allows lawyers to discharge their pro bono services responsibility by annually  
109 contributing at least \$10 per hour for each hour not provided under paragraphs (a) and  
110 (b). The amount is \$5 per hour for licensed paralegal practitioners. While the personal  
111 involvement of each lawyer in the provision of pro bono legal services is generally  
112 preferable, such personal involvement may not always be possible. The annual  
113 contribution alternative allows a lawyer to provide financial assistance to increase and  
114 improve the delivery of pro bono legal services when a lawyer cannot or decides not to  
115 provide pro bono legal services through the contribution of time. Also, there is no  
116 prohibition against a lawyer's contributing a combination of hours and financial  
117 support.

118 [10] Because the efforts of individual lawyers are not enough to meet the need for free  
119 legal services that exists among persons of limited means, the government and the  
120 profession have instituted additional programs to provide those services. Every lawyer  
121 should financially support such programs, in addition to either providing direct pro  
122 bono services or making financial contributions when pro bono service is not feasible.

123 [11] Law firms should act reasonably to enable and encourage all lawyers in the firm to  
124 provide the pro bono legal services called for in this Rule.

125 [11a] The Utah Rule, unlike the Model ABA Rule, contains paragraph (d) concerning  
126 voluntary reporting to the Utah State Bar. Voluntary reporting is designed to provide a  
127 basis for reminding lawyers of their professional responsibility under this Rule and to  
128 provide useful statistical information. The intent of this Rule is to direct resources  
129 towards providing representation for persons of limited means. Therefore, only  
130 contributions made to organizations described in subsection (a) should be reported.  
131 Reporting records for individual attorneys will not be kept or released by the Utah State  
132 Bar. The Utah State Bar will gather useful statistical information at the close of each  
133 reporting cycle and then purge individual reporting statistics from its database. The  
134 general statistical information will be maintained by the Bar for year-to-year

135 comparisons and may be released, at the Bar's discretion, to appropriate organizations  
136 and individuals for furthering access to justice in Utah. This rule distinguishes between  
137 the recommended pro bono publico service hours for licensed paralegal practitioners  
138 and for other lawyers.

139 [12] The responsibility set forth in this Rule is not intended to be enforced through  
140 disciplinary process.