

Skill Development Through Public Service

September 30, 2013

Helping others through pro bono advocacy is not only a professional obligation, but it is also a potent tool for professional growth. Ignore— just for a moment—the hopefully obvious benefits to your community, the legal profession, and the Court that pro bono service represents. Consider only the potential for skill development. When a case goes to trial, clients justifiably expect an experienced team. But, for many litigators, trials are scarce. How does a junior attorney become an indispensable member of the trial team without the opportunity to meaningfully participate in trials? **Acquire**

Advocacy Skills

For newer members of the bar, a pro bono case with the Volunteer Lawyers Project for the Southern District of Florida (VLP) can be a powerfully positive step toward proficiency in essential advocacy skills. Based on both personal experience and anecdotal evidence, I regard it as one of the quickest and most reliable routes to trial experience for a civil litigator in a private firm. Through the CM/ECF distribution list, the VLP offers a steady stream of trial ready cases to members of the Southern District. Almost exactly one year after I was admitted to the Florida Bar, I responded to one of these emails and agreed to take on my first pro bono trial. Roughly six months later, thanks to copious support from the VLP, my firm, and my mentor, I had a two-day prisoner's civil rights jury trial under my belt. Unlike many civil cases encountered in private practice, the cases screened by the VLP settle relatively infrequently. What's more, the pro bono attorney can undertake a limited engagement. In my case, a shareholder at the firm and I entered the case after discovery had closed; we appeared only for the limited purpose of trying the case. In this instance, I had the lion's share of responsibility for the trial and no input on the (already completed) discovery. Such an assignment contrasts with the typical associate's discovery intensive work. The trial experience gave me a better appreciation for the role of discovery in litigation. In moments of hubris, I imagined that the factual challenges in our case-in-chief would have been remedied by the discovery that I would have served.

Trial Preparation

As trial approached, I confronted the unfamiliar feeling of preparing for an argument that I did not think that we had a very good chance of winning. I believed that my client had been wronged, but the claims were not well articulated and the time to amend the client's pro se pleadings was long past. Meditating on our chances for success at trial prompted me to consider the attorney's role as an officer of the court. Even if a (winning) plaintiff's verdict might not have been probable, my mentor

and I still had a tremendous opportunity to positively impact the trial. First, our presentation of the case could aid the Court in the efficient administration of justice. Second, we could enable our client's meaningful access to the courts. Third, by treating the jurors, the forum, the judge, the litigants, and opposing counsel with respect and courtesy, we could maintain the Southern District's standards of professionalism. Fourth, we had a chance to make a positive impression on a judge and court staff who we would likely encounter again. ***“A pro bono case can be a powerfully positive step toward proficiency in essential advocacy skills.”*** Reflecting on the case following a defense verdict (read: a loss for our client), I believe that we did achieve some measure of the hoped for impact. Most important, our client had his day in court and his family witnessed two attorneys zealously advocating on his behalf. **Increased Confidence**

I came away from my first jury trial with increased confidence in my improving skills and a greater sense of autonomy. I did not have the opportunity to interview jurors following the verdict, but I received invaluable feedback from another source. A couple of days after the trial concluded, the judge who presided over the case generously met with me to offer his impressions and critiques. Of course, I cannot know what motivated this judge to take the time to offer his guidance. But, I suspect that the fact that I was a new member of the bar who had just completed a pro bono trial factored into the judge's willingness to share his unique insight with me. Not surprisingly, there were many areas for improvement for our discussion. Some mistakes from this trial will not be repeated again. Next time, nothing will be left to chance with regard to witness logistics: I will re-confirm that the state corrections officers have cleared prisoner transport details with their federal counterparts. I recognize other mistakes—especially those of the courtroom technology variety—as a part of the trial lawyer's learning curve. Little else moves an inexperienced attorney along that learning curve like trying a case. Volunteering by taking a VLP case is a boon to the bar, and to your development. *Originally published by the Dade Bar Review in the Dade Bar Bulletin.*

©2024 Carlton Fields, P.A. Carlton Fields practices law in California through Carlton Fields, LLP. Carlton Fields publications should not be construed as legal advice on any specific facts or circumstances. The contents are intended for general information and educational purposes only, and should not be relied on as if it were advice about a particular fact situation. The distribution of this publication is not intended to create, and receipt of it does not constitute, an attorney-client relationship with Carlton Fields. This publication may not be quoted or referred to in any other publication or proceeding without the prior written consent of the firm, to be given or withheld at our discretion. To request reprint permission for any of our publications, please use our Contact Us form via the link below. The views set forth herein are the personal views of the author and do not necessarily reflect those of the firm. This site may contain hypertext links to information created and maintained by other entities. Carlton Fields does not control or guarantee the accuracy or completeness of this outside information, nor is the inclusion of a link to be intended as an endorsement of those outside sites.