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Jax lawyers step up to assist the public defender

Civil litigators agree to take on small misdemeanor cases pro bono

By Annie Butterworth Jones

Associate editor

With overburdened assistant public defenders becoming an all too familiar picture in Florida, the Fourth Circuit Public Defender's Office and the Jacksonville Bar Association have launched a pro bono program to divvy out smaller misdemeanor cases to civil litigators and other private attorneys.



Recent budget restrictions and some pushing from Bill Scheu of Rogers Towers in Jacksonville inspired Fourth Circuit Public Defender Matt Shirk to get the ball rolling on the pro bono project, modeled after a program employed by 11th Circuit Public Defender Carlos Martinez in Miami.

"I had been thinking about the ways that the private bar could help the public defender's office by volunteering to do some of the smaller cases," said Scheu, a transactional attorney who has already begun pro bono work with the Fourth Circuit. "I thought maybe some of us that have been around a while might want to get back in the courtroom, could get back into doing the smaller misdemeanor cases, and Matt picked up on it right away."

Nearly one year after that first discussion, the program is well under way with six attorneys already handling cases, and nine more registered for the next training course, scheduled for March 5. Cases assigned to volunteer attorneys are primarily simple misdemeanors; more complex criminal cases are only given to those attorneys with experience in criminal law.

"At our office, it's continuing to be an issue that fewer attorneys are handling more cases," said Shirk. "It's going to be a benefit to our office financially and a benefit to the clients because they get someone who is eager, whose case count is much lower."

Training is required of program participants; the four-hour courses ensure that even civil litigators with no courtroom experience — those to whom the program is directed — can take a case and follow it through.

During the first training in January, attorneys were introduced to Duval County Judge Eleni Derke, who will be handling most of the cases brought through the pro bono program. Derke gave attorneys an introduction to the system and answered questions regarding judge and jury trials — something unfamiliar to many of the volunteers.





"Mostly the pro bono attorneys are resolved to try different types of misdemeanor cases and resisting without violence cases," said Cynthia Hunold, director of the county court unit and co-coordinator of the new project.

"We also try to get them cases that won't plead out right away. It's common for these types of cases to plead out, but we're trying to assign them cases that have issues and motions and defenses so they can get more experience and have motion hearings and possibly go to trial."

Participating attorneys are given special public defender status, allowing them access to the same resources utilized to facilitate cases by the Fourth Circuit.

"If there are mental issues in the case that require evaluation or criminal records that need to be found, we cover the costs for those," said Kelly Naik, co-coordinator of the pro bono program. "The costs for the program are paid for by our office."

The pro bono attorneys are also granted sovereign immunity, the same as public defenders, in order to protect volunteers from malpractice situations. As they work through their cases, the volunteer attorneys receive both pro bono hours and CLE hours.

"There is a benefit to the community as well in that the taxpayer will not have to pay for as many cases since pro bono attorneys will be handling some of our cases," said Shirk. "The lawyer will benefit because the lawyer who is volunteering gets pro bono hours. In other words, it's a win-win-win."

Dan Bean, president of the JBA, agrees. A Navy officer, Bean's familiarity with a similar program instituted by the Navy helped him see the potential benefits of the public defender's program.

"[In the Navy,] we take welfare officers and put them in law school; they then make a commitment to give back," said Bean. "The Navy's program helps alleviate needs and promote cross-training.

"In the same way, this new program strengthens the relationship between the criminal and civil departments. Those lawyers need each other and can form relationships this way. Plus, it can help alleviate a lot of the caseload of the public defender's office. This is an outstanding opportunity for civil litigants to get courtroom and hearing experience and to help out our public defender's office, which is undermanned."

In addition, Bean believes the program will prevent burnout on behalf of both the volunteer attorneys and the public defenders.

"This program will show them a different side of law; they can recharge their battery from the civil side," said Bean.

"The program will cross the bounds of the legal profession by creating bonds between the two by helping the government and giving the civil lawyers another skill. That's not something they get to do every day behind their desk."

Bean and the JBA are helping to promote the new program to attorneys in the Jacksonville area, and the public defender's office is eager for word to travel quickly.

"We're hoping that we get more participants, maybe people inspired by the publicity and word of mouth," said Hunold, the program's co-coordinator. "Those who have signed up already are really enjoying themselves. . . . We hope to have participants who started at the very beginning gain

experience and eventually take more complex cases.”

“There are a lot of reasons to say ‘no’— not enough time, experience,” said Bean. “But there are mentoring and education programs to make sure every client gets the proper representation. There are just so many benefits. It helps to educate the civil lawyer on criminal matters that they wouldn’t normally have experience doing.”

The Florida Bar’s emphasis on pro bono work — cemented by the ONE campaign, a pro bono initiative launched by The Florida Bar Foundation last year — should provide motivation to those on the fence about pro bono, suggests Hunold. The campaign’s slogan (One client. One attorney. One promise.) fits perfectly with the overall goal of the new initiative.

“We all have to do our part to try to improve our community, and this is a good way to do it while getting something back in return,” Hunold said. “It’s a good reminder that the reason why we’re doing this is to help people, and by participating in this program, here is one individual client you can make a difference with.”

Jacksonville attorneys interested in participating in the pro bono opportunities can contact Cynthia Hunold for more information via e-mail: cch@pd4.coj.net.

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