

Pro Bono Is a Professional Obligation – and More

Working with those who cannot afford representation reminds us all that the law is, above all, a helping profession.

Reflecting on his long-time commitment to pro bono service, James P. DeAngelo of McNeese has served as chair of the Dauphin County Bar Association's Public Service Committee since 1997. Here, he discusses his child custody work and why pro bono is more than a professional obligation. His remarks have been edited for length and style.

MCC: Why does, or why should, an individual attorney do pro bono work?

DeAngelo: The number-one reason is that it's a professional obligation. Beyond that, it's important to give back to our communities. Many people need an attorney at their side to get the relief and help they need. The law is a helping profession. When you're working one-on-one with an individual or family in trouble and trying to get them to a better place, you see very quickly that attorneys are here to help.

MCC: How did you get started in pro bono work?

DeAngelo: When I went to law school at Dickinson, there was a strong commitment to giving back through clinical work. McNeese also has a history of giving back to the profession and the community, as does our local bar, the Dauphin County Bar Association, which formalized its pro bono program about the time I was entering practice. A law school friend, Mark Silliker, an early leader of the program, was a big help in getting me involved and showing me how important it is for individuals to have legal counsel.

MCC: Tell us a little more about the Dickinson clinic and your work there.

DeAngelo: I worked for municipal government, which was a great experience. We learned a tremendous amount about the interaction of municipal government with the community and how important it was on a day-to-day basis for the citizens of Carlisle, Pennsylvania, which is where the law school is located. We had tremendous interaction with the borough manager, borough counsel and the citizens, who had lots of concerns and were dependent on the services provided by the local borough.

MCC: What are the career advantages, in addition to the good in and of itself, for an attorney in doing pro bono?

DeAngelo: People learn throughout their careers, but for a newer attorney it is a great opportunity to get into court, be engaged in direct representation of a client, interview a client, gather the relevant facts, research the law, develop positions and take a client all the way to a resolution. There are also opportunities to get known in the community, including by the judges. It's simply a great way to get involved. For a newer attorney in private practice, these opportunities can be slow in coming. In pro bono, these opportunities can be there immediately.

MCC: Tell us about some of the pro bono cases you've been involved in.

DeAngelo: I've done a number of custody cases in which I have represented one parent in what we call in Pennsylvania a custody conciliation conference, which are court-sponsored attempts to resolve custody cases. It's a great experience to be able to work with a client, learn about their situation, learn about their children's situation, including what's going on with the other parent, learn what the disputes are, and then go in front of the conciliator and help your client work out a resolution for their children.

I've also worked as a mediator in custody cases, and that's a great experience. The mediator is not being paid – it's a pro bono engagement – but again you're helping the family to work toward a resolution that is best for their children.

I'll add one thing. I have taken pro bono custody cases all the way to trial, and while it's hard to lose any case, it's

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particularly hard to lose a child custody case. But in the end, there's a resolution, and a resolution is the best thing for the family and the children. Get it done and get it behind everyone so the parents and children can get on with their lives. In those cases, you see peaceful resolution of human conflict up close and personal. That's what lawyers are here to do – to peacefully resolve human conflict.

MCC: Do you get to know the kids? Does that have an impact on you?

DeAngelo: At times you do, particularly with kids who are a little bit older, you get to talk to them. Part of that may be that the court also is going to want to talk to the kids. Once they get to a certain age, it's common for the court to want to hear from them. Courts are good about doing that in a way that's appropriate for the children.

MCC: Do most situations get resolved out of court?

DeAngelo: The vast majority of domestic relations and child custody cases settle. At times, if parties are locked in dispute, you have to take it all the way to the judge. It's a tough decision. The judge is holding a child's living situation in her or his hands. It's not easy.

MCC: How do your cases come in?

DeAngelo: Most of the individual engagements we see here at the firm are referred through the legal aid programs. These clients are desperately poor. I'm president of MidPenn Legal Services, which is the legal aid program here in south central Pennsylvania. The legal aid programs do intake and represent the clients they can represent, and they refer other cases out to pro bono attorneys.

MCC: Are there areas of pro bono work that you see as underserved?

DeAngelo: The greatest area of need is generally family law. Child custody cases are a big part of that, but there is also a need for divorce services and, unfortunately, protection from abuse services, and there is the whole world of child support where representation is needed.

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INFORMATION GOVERNANCE INSIGHTS

By **David White**

Vendor Security Certifications – Is Your Data Properly Protected?

Data breach headlines are putting more pressure on corporate counsel to ensure that the company's data is properly protected. This includes data managed by third party vendors, which have been spotlighted by the large number of breaches resulting from the exploitation of a vendor's vulnerability. Both the Target¹ and Home Depot² hackers gained access to the companies through their service providers. This left the latter with a breach of about 56 million customer payment card accounts and 53 million email addresses. The list continues with upward of a third of all breaches occurring through vendors or affiliates.³ It is no wonder controlling vendor risk is moving toward the top of board agendas.

To address this risk some companies now require vendors to demonstrate that they have appropriate security controls in place. To overcome the burden of monitoring compliance, many also require certification to a particular standard by an independent auditor, typically in alignment with the company's own internal security requirements. Vendor certification may also be required by other governing frameworks. The most common among these include Health Insurance Portability and Accountability Act (HIPAA) assessments, the American Institute of Certified Public Accountants Service

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Organization Control Reports (SOC 2), the Payment Card Industry Data Security Standard (PCI), and/or ISO 27001 certifications. Similarly, Securities and Exchange Commission Guidance requires that companies not only disclose material cybersecurity events when they occur but also disclose material risks that could occur.⁴ For those companies that outsource functions with material risks, the Guidance requires a description of those functions and how companies address the risks.

The biggest challenge for everyone receiving attestations from their vendors, however, is the question of adequacy. Not all certifications are equal, and some appear to be mismarketing them. Companies need to carefully consider certification claims – for example, they may boast of Type II SOC 1, SOC 2, SOC 3 and ISO 27001 certifications for new data centers. Yet, a closer look could reveal that the vendor is simply using a third-party data center that is so certified, as opposed to the vendor's controls being certified. Using a certified data center means those certifications apply only to the level of controls available at the center itself; it does not mean the vendor is applying these standards to all of its own physical, technical and administrative controls deployed across all its processes and workflows. This difference is especially important in an era of rising cyberthreat levels. Just as the best safe in the world is useless if left unlocked, the most secure data center offers little security if the credentials that allow access aren't properly managed. It is also meaningless if your employees' laptops aren't locked down, or they routinely use portable media without proper encryption. It's imperative to dig past these statements and closely examine the actual controls deployed across their entire operation.

This is particularly critical in the age of rising cybersecurity events. Once a public company has outsourced a data processing function to a vendor and that vendor experiences a security incident, it can create a material issue for the company that must be disclosed. The company will then be required to defend itself against a claim that it should have disclosed the (now apparent) material risk associated with the original outsourcing decision. The fact that the company did as much due diligence as possible, including selecting a supplier that was certified to acceptable standards, and subject to ongoing certification audits, could be the best defense in such circumstances.

To review the footnotes to this article, visit <http://www.metrocorp.counsel.com>

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Poor people run into many of the same problems as people with resources do, but there are also problems that are very specific to being poor. They may need access to government benefits. They may need access to medical care when they don't have a private medical insurer provided by their employer. They may be living in regulated government housing. They may be living in private housing that is government subsidized but also is regulated. Those specific poverty law areas are best handled by civil legal aid programs, such as MidPenn Legal Services, because their lawyers are in there every day working on those issues. It's hard to find a lawyer in private practice who regularly interfaces with those issues.

We need legal aid lawyers to help those folks who, throughout their lives, never had a lot of resources but got by and then were faced with a significant health event. Until then, they had a decent job, even if they didn't make a ton of money, but now they're not able to get access to appropriate healthcare. They fall into poverty. They've lost that job, they can't get better and they can't get back into the workforce. That's a terrible place for someone to be. A legal aid lawyer can get those people the medical care they need and get them back on track. They can help someone who's stuck in a terrible housing situation and get them turned around. A common situation is they stayed in the family living arrangement too long. They're getting older, and they need to be in a different type of housing with a cost point that's going to work for them. They get into that situation, and then they're good to go. Life may not be perfect. It isn't for many of us. Things get much more complicated when you're poor. You don't have a bank account to fall back on.

MCC: Is pro bono a sort of interruption of a firm's strategy? Can it be a logical part of a firm's strategy?

DeAngelo: It should be a logical part of a firm's strategy. First, it's a professional obligation, and every firm should be building it into what they do. Second, it is the right thing to do. I think the community understands that. Bar associations certainly understand that. Our court systems understand that. It is the right thing for lawyers to be doing, and it is a service that can help a firm to advance its strategies.

MCC: Is there a culture in your firm that supports pro bono?

DeAngelo: Absolutely. I think the firm has been very supportive over the years. We want people to get out and be involved. Here at McNees, it's very much supported.

MCC: Do you see participation in pro bono work from corporate legal departments?

DeAngelo: We do. There are different challenges facing attorneys who are working in corporate or government legal departments in taking on pro bono cases. That being said, they're out there trying to do it. For example, the government lawyers here in Pennsylvania have largely taken over our child custody and divorce clinical programs. They come in, and they run those clinics.

Corporate legal departments have been very supportive. I know that one of our big legal departments in central Pennsylvania has done Wills for Heroes, which is a great program. The National Legal Aid and Defenders Association has a Corporate Advisory Council signed on to by a host of top-shelf companies supporting legal aid. The support is there.

MCC: Do you encourage others to take on pro bono work?

DeAngelo: We talk it up as much as we can. In Dauphin County, we hold a reception every year where our judges come out and thank all the pro bono attorneys for the work that they do. We recognize our pro bono attorneys in our newsletter. People support it because it's a professional obligation and the right thing to do, but it's nice to get a thank you