

# TENNESSEE BAR JOURNAL

JANUARY 2009 | VOLUME 45, NO. 1

TBA.ORG

## Who will HELP?

A slumping economy puts more pressure on an already stretched legal system. Here's how Tennessee lawyers are helping.



- 4ALL CAMPAIGN: Promoting pro bono
- ON THE FRONT LINES: Those who give

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*THE TENNESSEE BAR JOURNAL* is listed in the INDEX TO LEGAL PERIODICALS. *Tennessee Bar Journal*, ISSN 0497-2325, is published by the Tennessee Bar Association at 221 Fourth Ave. N., Suite 400, Nashville, TN 37219-2198, (615) 383-7421, monthly. Periodicals Postage Paid, Nashville, Tenn. Subscription price: \$60 per year. Members: \$22 per year. Individual issues: \$10 per copy. Back issues sold on an "as available" basis. Statements or opinions expressed herein are those of the authors and do not necessarily reflect those of the Tennessee Bar Association, its officers, board or staff.

POSTMASTER: Send address correction to *Tennessee Bar Journal*, 221 Fourth Ave. N., Suite 400, Nashville, TN 37219-2198.

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*"In the end, what  
your fellow Tennesseans  
need most is you."*

## If Not Now, When? If Not Us, Then Who?

By all accounts, this new year will be a tough one. The latest published national unemployment rate was 6.5 percent. Tennessee's rate was 7.2 percent. Tennessee's per capita bankruptcy rate leads the nation. Lake County and Hancock County are on the list of the 100 poorest counties in the United States. On Dec. 2, *The Tennessean*

reported that 443,115 Tennessee households are now on food stamps, the highest number ever recorded and more than the 2007 populations of Knoxville, Chattanooga and Johnson City combined. More than 1.2 million U.S. jobs have been lost since Jan. 1, 2008, and 25 percent of employers expect to make further layoffs in the next 12 months. Law firm consultants Hildebrand International, interviewed for a national law journal article, advised lawyers to brace themselves because the legal profession is in for a "long and painful slide."

"A pessimist," said Harry Truman, "is one who makes difficulties of his opportunities, and an optimist is one who makes opportunities of his difficulties." Norman Vincent Peale said, "Become a possibilitarian. No matter how dark things seem to be or actually are, raise your sights and see possibilities — always see them for they are always there." Henry Ford said, "To do more for the world than the world does for you — that is success."

So, this tough upcoming year will be a wonderful opportunity to help our fellow Tennesseans. You have a chance to enhance your legacy. You have a chance to be a great role model. You have a chance to help clients who will be filled with real heartfelt gratitude and will respect you for the knowledge and skills you possess. You have a chance to make lifelong friends with other lawyers in

your community by working side by side with them helping those who are less fortunate.

Since announcing the TBAs 4All Access to Justice Campaign in June, I have talked to many fine lawyers and have heard lots of reasons why they don't do pro bono work. These reasons have included:

- "I did pro bono when I was a young lawyer, but now that I am a senior lawyer, I leave that to those who need the practice experience."
- "I am not a litigator and I wouldn't feel comfortable giving prelitigation or litigation advice."
- "I like to do public service work, but I'd rather do something that is not law-related to give me a break from my law practice."
- "Too many of the people for whom I have done pro bono work are the type of people who stay in some sort of difficulty all the time, so I can't really make their life better."

These are perhaps natural reactions, but I will promise you that you will be glad if you overcome them. If you are a senior lawyer, we need you more than ever to help with the tough matters that require a seasoned practitioner to solve. Many of the problems pro bono clients encounter can be easily solved by anyone with a general familiarity with the court system, so your area of practice

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doesn't matter. Although we all need a break from the law from time to time, the fact is that many of these pro bono clients have problems that only lawyers can solve. Suppose doctors refused to treat the poor because they needed a break from the practice of medicine. Suppose clergy refused to minister to the indigent outside of their congregations because they were already working long hours. Besides, if you will just give pro bono work a try, you will find that representing these clients will actually give you a break from the ordinary practice of law. Pro bono work provides an opportunity to help people, free from the irritations that take away from the pure pleasure of being a lawyer. The vast majority of pro bono clients are good, hard-working Tennesseans who have just suffered a set back they can't overcome alone.

Most significantly, pro bono work enriches your life. Consider just one life experience of one pro bono volunteer. Several years ago, before he became President of the Memphis Bar Association, David Cook received a late afternoon call from the VA Hospital in Memphis. He was told the story of a young couple who were both in the military. The husband was a long-term patient of the VA Hospital due to his quadriplegia resulting from a vehicle accident while in the service. He had died unexpectedly on the morning that David was contacted. His widow wanted to preserve the option to have his child and wanted his semen harvested and frozen for possible later artificial insemination.

Medically, there was a 24-hour window to act and the VA Hospital determined it could not honor the widow's request without a court order. David spent the evening researching the problem and drafting pleadings and appeared the next morning with the young widow and several VA physicians in the chambers of Judge Daniel Breen. Judge Breen issued a mandatory injunction which made it possible for the

widow to have a child, fathered by the husband she loved and lost. Today, both David and Dr. Remson at the VA Medical Center consider this pro bono case to be one of their most profound life experiences. All pro bono cases are not this dramatic, but the simple act of helping a deserving client get disability benefits, or getting them an extension to



*If you are a brand-new lawyer ... we need you. If you are a successful lawyer with very little time ... we need you. If you are a senior lawyer who has taken a holiday from pro bono work ... we need you back. If you are a corporate lawyer ... we need you."*

pay their mortgage, or getting a client freed from a lease to an unsanitary apartment, or remedying a consumer fraud, or protecting a young girl from domestic violence will make you feel great about being a lawyer.

In this *Journal* in January 2006, Bill Haltom called for a whole different attitude towards pro bono work, proclaiming, "It's not broccoli ... it's dessert!"

In January of 2007, Larry Wilks reminded us that "Pro bono is good for the soul. Justice for all must really be for 'all.' Whatever the source of inspiration happens to be, it never fails to bring a smile to my face. It never fails to lift my spirits. It never fails to give me

strength to fight on when I think fatigue, stress, and chaos have me cornered."

In her January 2008 column, Marcy Eason quoted Mississippi Governor Winters' 1965 speech "Our Duty to the Law," in which he said, "This new year is a time of celebration and renewed commitment for ourselves and our profession. As we proudly honor those who have sacrificed personal or professional time to provide assistance to those who cannot pay for legal services, we need to be mindful that there is more to be done."

In this year, our 4ALL campaign is designed to educate the bar and the public as to the severity of the need, to make it easier for you to participate in pro bono clinics, to encourage law firms to adopt pro bono plans and to honor those firms who have done so, to encourage those involved in class action settlements to direct residual funds to the Civil Indigent Legal Defense Fund, to give you enhanced CLE credit for the pro bono work that you do, and to increase the available IOLTA grant funds.

But in the end, what your fellow Tennesseans need most is you. If you are a brand-new lawyer struggling to learn the law and to meet billable hour requirements, we need you. If you are a successful lawyer with a big book of business and very little spare time, we need you. If you are a senior lawyer who has taken a holiday from pro bono work, leaving it to those less experienced, we need you back. If you are a corporate lawyer or an intellectual property lawyer or a tax lawyer, we need you. If you are inside counsel for a corporation, we need you. It's been at least twenty-five years, and maybe sixty years, since the need was this acute. If not now, when? If not us, then who? 

"And if I am only for myself,  
then what am I?"

— Rabbi Hillel