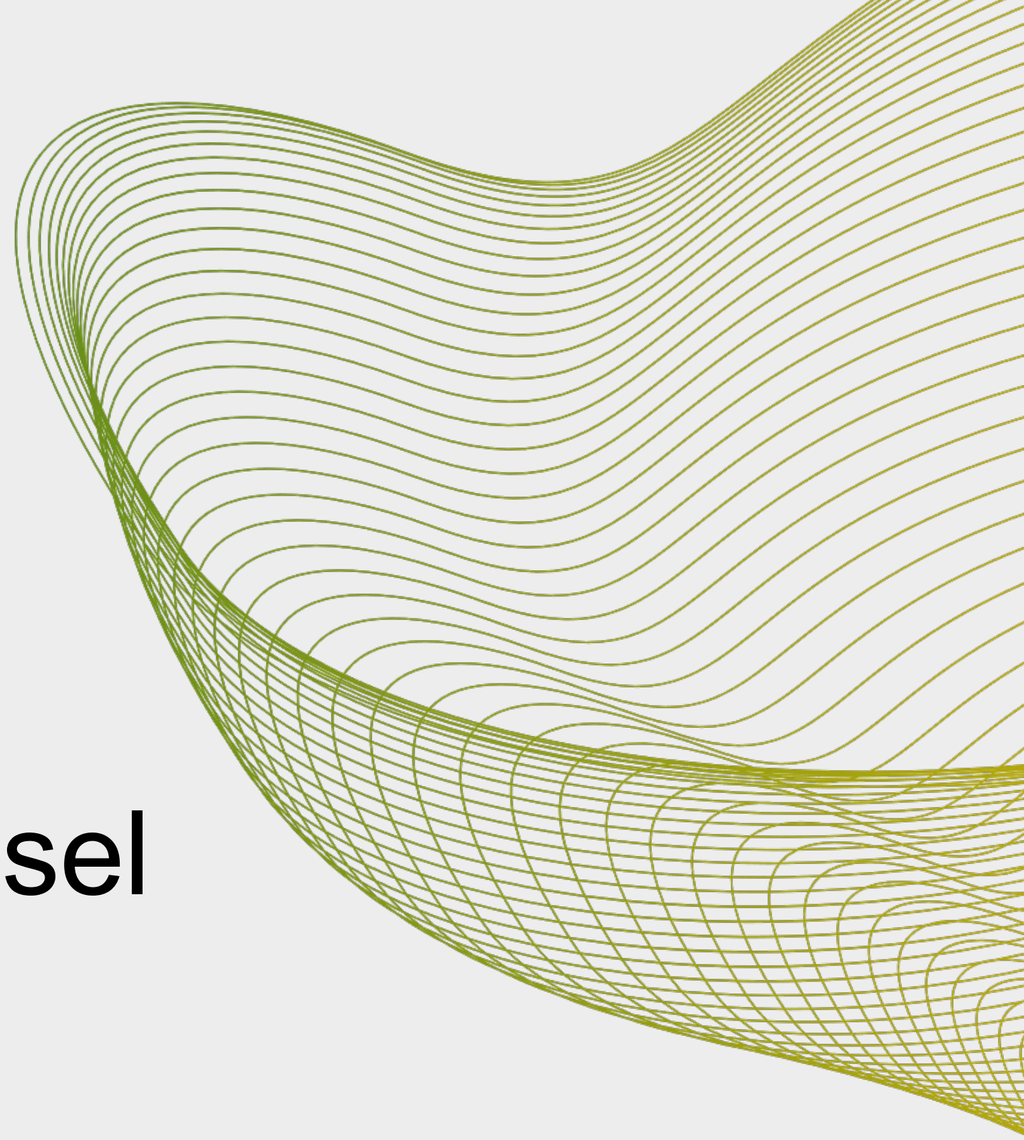
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VAN NEST
& PETERS



Pro Bono for In-House Counsel

March 26, 2026

Speakers



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KVP’s Pro Bono Program

- In 2025, a significant percentage of the firm’s billed hours were spent on pro bono matters
  - We encourage every attorney to participate in pro bono work

- Common areas of focus
  - Immigrants’ rights
  - Criminal justice and the rights of the currently and formerly incarcerated

KVP’s Pro Bono Program

- Litigation against Trump administration
  - *Community Economic Development v. Bessent* (D. Mass.)
  - *Pinchi v. Albarran* (N.D. Cal.)
  - *United Farm Workers v. Noem* (E.D. Cal.)
  - *Ruiz v. Immigration & Customs Enforcement* (N.D. Cal.)
  - *Doe v. Department of Defense (*D. Maryland*)*

KVP's Pro Bono Partners

GIFFORDS LAW CENTER TO PREVENT GUN VIOLENCE

NORTHERN CALIFORNIA Innocence Project

LAWYERS' COMMITTEE FOR CIVIL RIGHTS OF THE SAN FRANCISCO BAY AREA

ACLU Northern California

CENTRO LEGAL DE LA RAZA

PRISON LAW OFFICE

GLAD LAW GLBTQ Legal Advocates & Defenders

ASIAN AMERICANS ADVANCING JUSTICE ASIAN LAW CAUCUS

CGRS Center for Gender & Refugee Studies

Swords to Plowshares VETS HELPING VETS SINCE 1974

LSC Legal Services for Children

Common Cause

Why this session?

- In-house clients frequently ask:
  - “Can I do pro bono?”
  - “Am I even allowed to?”
  - “How could I do pro bono without getting myself in trouble?”

- Today’s goal:
  - Provide practical pathways for in-house counsel to engage in pro bono ethically and safely under California rules



Threshold Concerns & Common Pitfalls

- “I’m not insured”
- “I lack expertise in what’s relevant to pro bono clients”
- “I don’t know how to find clients”
- “I’m not admitted in California”



Option 1: Board Service

- Particularly attractive for In-House Counsel
  - Avoids (1) insurance concerns, (2) attorney-client relationship, and (3) licensing issues
  - Leverages governance and compliance skills



Option 1: Board Service

The State Bar *of California*

Rule 6.3 Membership in Legal Services Organization
(Rule Approved by the Supreme Court, Effective November 1, 2018)

A lawyer may serve as a director, officer or member of a legal services organization, apart from the law firm* in which the lawyer practices, notwithstanding that the organization serves persons* having interests adverse to a client of the lawyer. The lawyer shall not knowingly* participate in a decision or action of the organization:

(a) if participating in the decision or action would be incompatible with the lawyer's obligations to a client under Business and Professions Code section 6068, subdivision (e)(1) or rules 1.6(a), 1.7, 1.9, or 1.18; or

(b) where the decision or action could have a material adverse effect on the representation of a client of the organization whose interests are adverse to a client of the lawyer.

Comment

Lawyers should support and participate in legal service organizations. A lawyer who is an officer or a member of such an organization does not thereby have a lawyer-client relationship with persons* served by the organization. However, there is potential conflict between the interests of such persons* and the interests of the lawyer's clients. If the possibility of such conflict disqualified a lawyer from serving on the board of a legal services organization, the profession's involvement in such organizations would be severely curtailed.

Option 1: Board Service - Hypothetical



You are Deputy GC of employment at Sunny Energy, a renewable energy company that develops solar projects in California. You serve on the board of directors of Wildlife Defense, a nonprofit organization.

Wildlife Defense learns that Sunny Energy is seeking permits for a new solar project on desert land in Southern California. Wildlife Defense believes that the project site includes critical habitat for the desert tortoise. At the next board meeting, Wildlife Defense asks the board to vote on whether to submit comments opposing the project approval, fund a public campaign against the project, and authorize litigation challenging the permits. You have not been involved with the project at Sunny.

Option 1: Board Service - Hypothetical



Ethical questions to consider:

- Can you continue serving on the board of Wildlife Defense?
- Can you participate in board discussions about the Sunny project?
- Can you vote on whether the organization should oppose or sue your employer?

Option 1: Board Service - Hypothetical

Question 1: Can you continue serving on the board of Wildlife Defense?

- Generally yes
- Under Rule 6.3, can serve on board of organization even if the organization serves persons with interests adverse to a client of the lawyer
- Under Rule 1.13, lawyer for an organization represents the entity → must protect Sunny's loyalty/confidentiality interests
- You should make clear that you are serving only as a board member, not as Wildlife's lawyer
- Be prepared to recuse or, if this becomes a recurring issue, reconsider continued board service

Option 1: Board Service - Hypothetical

Question 2: Can you participate in board discussions about the Sunny project?

- No
- Participating in board deliberations about whether to oppose your employer's project creates a serious risk to your responsibilities to Sunny
- And to Wildlife (duty as fiduciary)
- Best practice is to disclose the conflict and then recuse

Option 1: Board Service - Hypothetical

Question 3: Can you vote on whether the organization should oppose or sue your employer?

- No
- Would create a conflict
- Recusal is the safest and strongest answer
- Again, question whether these issues may be recurring and if continued board service is practical

Option 2: Limited Scope Clinics



Limited Scope Clinics

- **What are they?**
  - Same day clinics
  - Many different client populations
    - General
    - Legal services for entrepreneurs
    - Housing
    - Domestic violence
  - What's the work?
    - Pro se support/form review
    - Issue spotting
    - Targeted referral

BAY AREA LEGAL AID
WORKING TOGETHER FOR JUSTICE

JUSTICE & DIVERSITY CENTER
OF THE BAR ASSOCIATION OF SAN FRANCISCO

LEGAL AID SOCIETY OF SAN MATEO COUNTY

LAWYERS' COMMITTEE FOR CIVIL RIGHTS
OF THE SAN FRANCISCO BAY AREA

Rule 6.5 Limited Legal Services Programs

(a) A lawyer who, under the auspices of a program sponsored by a court, government agency, bar association, law school, or nonprofit organization, provides short-term limited legal services to a client without expectation by either the lawyer or the client that the lawyer will provide continuing representation in the matter:

(1) is subject to rules 1.7 and 1.9(a) only if the lawyer knows* that the representation of the client involves a conflict of interest; and

(2) is subject to rule 1.10 only if the lawyer knows* that another lawyer associated with the lawyer in a law firm* is prohibited from representation by rule 1.7 or 1.9(a) with respect to the matter.

(b) Except as provided in paragraph (a)(2), rule 1.10 is inapplicable to a representation governed by this rule.

(c) The personal disqualification of a lawyer participating in the program will not be imputed to other lawyers participating in the program.

…

Rule 1.2 Scope of Representation and Allocation of Authority

…

(b) A lawyer may limit the scope of the representation if the limitation is reasonable* under the circumstances, is not otherwise prohibited by law, and the client gives informed consent.*

Rule 1.7 Conflict of Interest: Current Clients

(a) A lawyer shall not, without informed written consent* from each client and compliance with paragraph (d), represent a client if the representation is directly adverse to another client in the same or a separate matter.

(b) A lawyer shall not, without informed written consent* from each affected client and compliance with paragraph (d), represent a client if there is a significant risk the lawyer's representation of the client will be materially limited by the lawyer's responsibilities to or relationships with another client, a former client or a third person,* or by the lawyer's own interests.

(c) Even when a significant risk requiring a lawyer to comply with paragraph (b) is not present, a lawyer shall not represent a client without written* disclosure of the relationship to the client and compliance with paragraph (d) where:

(1) the lawyer has, or knows* that another lawyer in the lawyer's firm* has, a legal, business, financial, professional, or personal relationship with or responsibility to a party or witness in the same matter; or

(2) the lawyer knows* or reasonably should know* that another party's lawyer is a spouse, parent, child, or sibling of the lawyer, lives with the lawyer, is a client of the lawyer or another lawyer in the lawyer's firm,* or has an intimate personal relationship with the lawyer. …

Rule 1.9 Duties to Former Clients

(a) A lawyer who has formerly represented a client in a matter shall not thereafter represent another person* in the same or a substantially related matter in which that person's* interests are materially adverse to the interests of the former client unless the former client gives informed written consent.*

(b) A lawyer shall not knowingly* represent a person* in the same or a substantially related matter in which a firm* with which the lawyer formerly was associated had previously represented a client

(1) whose interests are materially adverse to that person;* and

(2) about whom the lawyer had acquired information protected by Business and Professions Code section 6068, subdivision (e) and rules 1.6 and 1.9(c) that is material to the matter; unless the former client gives informed written consent*

…

Rule 1.10 Imputation of Conflicts of Interest: General Rule

(a) While lawyers are associated in a firm,* none of them shall knowingly* represent a client when any one of them practicing alone would be prohibited from doing so by rules 1.7 or 1.9, unless

(b) When a lawyer has terminated an association with a firm,* the firm* is not prohibited from thereafter representing a person* with interests materially adverse to those of a client represented by the formerly associated lawyer and not currently represented by the firm,* unless:

...

Hypothetical #1

When volunteering at the GLIDE clinic, you assist Julio in filling out a form to appeal the VA's decision to deny him benefits. You take confidential information and provide legal advice.

Two months later, a paralegal within your in-house legal department circulates a list of new arbitration demands filed against your company, and you recognize Julio's name.

- **Are you conflicted from defending your company against Julio?**
- **Is the entire Legal department conflicted?**

Comment 4

Because the limited nature of the services significantly reduces the risk of conflicts of interest with other matters being handled by the lawyer's law firm,* paragraph (b) provides that imputed conflicts of interest are inapplicable to a representation governed by this rule except as provided by paragraph (a)(2). Paragraph (a)(2) imputes conflicts of interest to the participating lawyer when the lawyer knows* that any lawyer in the lawyer's firm* would be disqualified under rules 1.7 or 1.9(a). By virtue of paragraph (b), moreover, a lawyer's participation in a short-term limited legal services program will not be imputed to the lawyer's law firm* or preclude the lawyer's law firm* from undertaking or continuing the representation of a client with interests adverse to a client being represented under the program's auspices. Nor will the personal disqualification of a lawyer participating in the program be imputed to other lawyers participating in the program.

Hypothetical #2

Through a qualifying clinic, you're paired with client Jenny to provide a 30-minute consultation. The goal is to help Jenny complete an application for a domestic violence restraining order. But things don't go to plan:

- You're so enraged by what Jenny's gone through that you stay with her for two hours to work on the forms.
- Just before the clinic winds up, you and Jenny agree that you'll send her a follow-up email tomorrow to confirm a part of your discussion (and you in fact do so).
- Three days after that, you suddenly realize that Jenny should disclose some facts, so you email her to suggest that she file an addendum.
- Jenny responds to thank you—and she also asks you to take her case. You agree.

AT WHAT POINT (IF ANY) HAVE YOU LEFT THE RULE 6.5 SAFE HARBOR?

Comment 1

Courts, government agencies, bar associations, law schools and various nonprofit organizations have established programs through which lawyers provide short-term limited legal services — such as advice or the completion of legal forms that will assist persons* in addressing their legal problems without further representation by a lawyer. In these programs, such as legal-advice hotlines, advice-only clinics or pro se counseling programs, whenever a lawyer-client relationship is established, there is no expectation that the lawyer's representation of the client will continue beyond that limited consultation. Such programs are normally operated under circumstances in which it is not feasible for a lawyer to systematically screen* for conflicts of interest as is generally required before undertaking a representation.

Comment 5

If, after commencing a short-term limited representation in accordance with this rule, a lawyer undertakes to represent the client in the matter on an ongoing basis, rules 1.7, 1.9(a), and 1.10 become applicable.

Professional liability insurance for limited scope clinics

- Rule 6.5, Comment 1 expressly contemplates that an attorney-client relationship will be formed in some circumstances.
- Insurance disclosure requirement is Rule 1.4.2. Must disclose that you are uninsured, except that the rule does not apply to “a lawyer who knows* or reasonably should know* at the time of the client’s engagement of the lawyer that the lawyer’s legal representation of the client in the matter will not exceed four hours; provided that if the representation subsequently exceeds four hours,” the lawyer must disclose.
- Most clinics provide insurance, so in practice unlikely to pose any issue.

Opportunities

- **BASF/JDC**
  - Typically want attorneys with area expertise
  - https://www.sfbar.org/jdc/jdc-legal-services-programs/legal-advice-and-referral-clinic/
- **Lawyers' Committee for Civil Rights**
  - LSE = Excellent option for transactional lawyers
  - General clinic
  - https://lccrsf.org/pro-bono-volunteer-opportunities/
- **Bay Legal**
  - DV and consumer rights
  - https://baylegal.org/get-involved-2/pro-bono-volunteer/
- **Legal Aid of San Mateo**
  - Housing
  - https://www.legalaidsmc.org/pro-bono-program

Option 2: Direct Representation



Direct Representation

When can in-house counsel take a pro bono client directly?

- A California lawyer ***may*** take a direct pro bono matter.
  - Work must be treated like any other client representation: duties competence, conflicts, and confidentiality all still apply.
- *Segal v. State Bar*, 44 Cal. 3d 1077 (1988)
  - Attorney failed to timely file incorporation documents for pro bono clients who needed nonprofit status to obtain contributions
  - “An attorney’s standard of professional conduct to a pro bono client should be no different from his or her responsibility to any other client.”

Direct Representation

When can Registered In-House Counsel take a pro bono client directly?

- Rule 9.46 (b). Subject to all applicable rules, regulations, and statutes, an attorney practicing law under this rule is:

  (1) Permitted to provide legal services in California only to the qualifying institution that employs him or her;

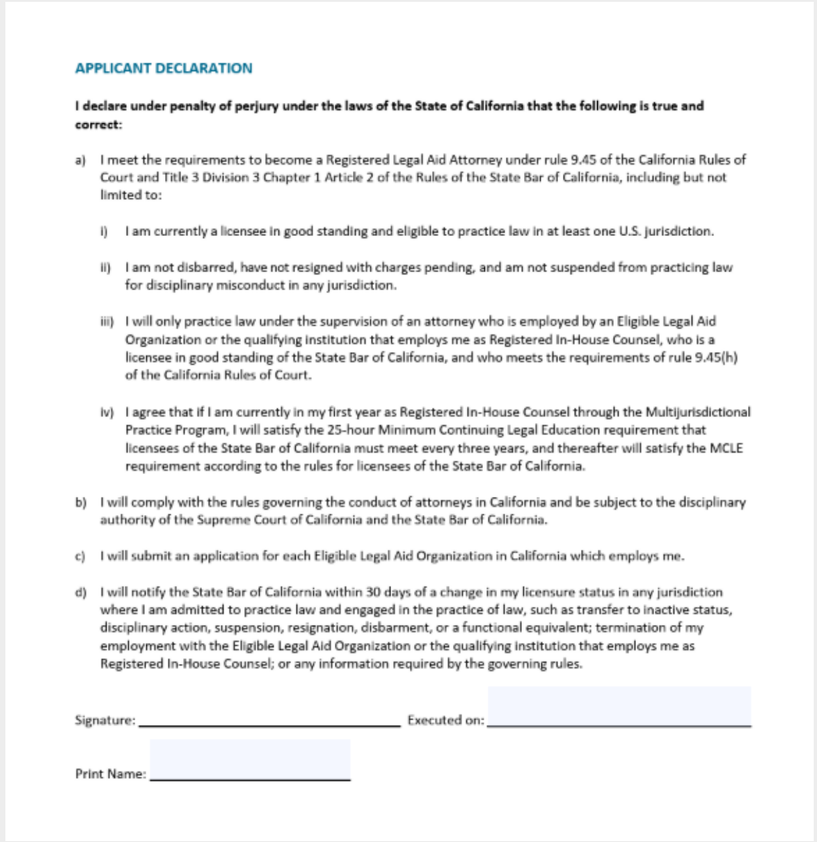
  (2) Permitted to provide ***pro bono*** **legal services under supervision of a California attorney for either eligible legal aid organizations as defined by Rules of Court, rule 9.45(a)(1), or the qualifying institution that employs him or her;**

  (3) Not permitted to make court appearances in California state courts or to engage in any other activities for which pro hac vice admission is required if they are performed in California by an attorney who is not a licensee of the State Bar; and

  (4) Not permitted to provide personal or individual representation to any customers, shareholders, owners, partners, officers, employees, servants, or agents of the qualifying institution, except as described in subdivision (b)(2).

Direct Representation

When can Registered In-House Counsel take a pro bono client directly?



APPLICANT DECLARATION

I declare under penalty of perjury under the laws of the State of California that the following is true and correct:

a) I meet the requirements to become a Registered Legal Aid Attorney under rule 9.45 of the California Rules of Court and Title 3 Division 3 Chapter 1 Article 2 of the Rules of the State Bar of California, including but not limited to:

i) I am currently a licensee in good standing and eligible to practice law in at least one U.S. jurisdiction.

ii) I am not disbarred, have not resigned with charges pending, and am not suspended from practicing law for disciplinary misconduct in any jurisdiction.

iii) I will only practice law under the supervision of an attorney who is employed by an Eligible Legal Aid Organization or the qualifying institution that employs me as Registered In-House Counsel, who is a licensee in good standing of the State Bar of California, and who meets the requirements of rule 9.45(h) of the California Rules of Court.

iv) I agree that if I am currently in my first year as Registered In-House Counsel through the Multijurisdictional Practice Program, I will satisfy the 25-hour Minimum Continuing Legal Education requirement that licensees of the State Bar of California must meet every three years, and thereafter will satisfy the MCLE requirement according to the rules for licensees of the State Bar of California.

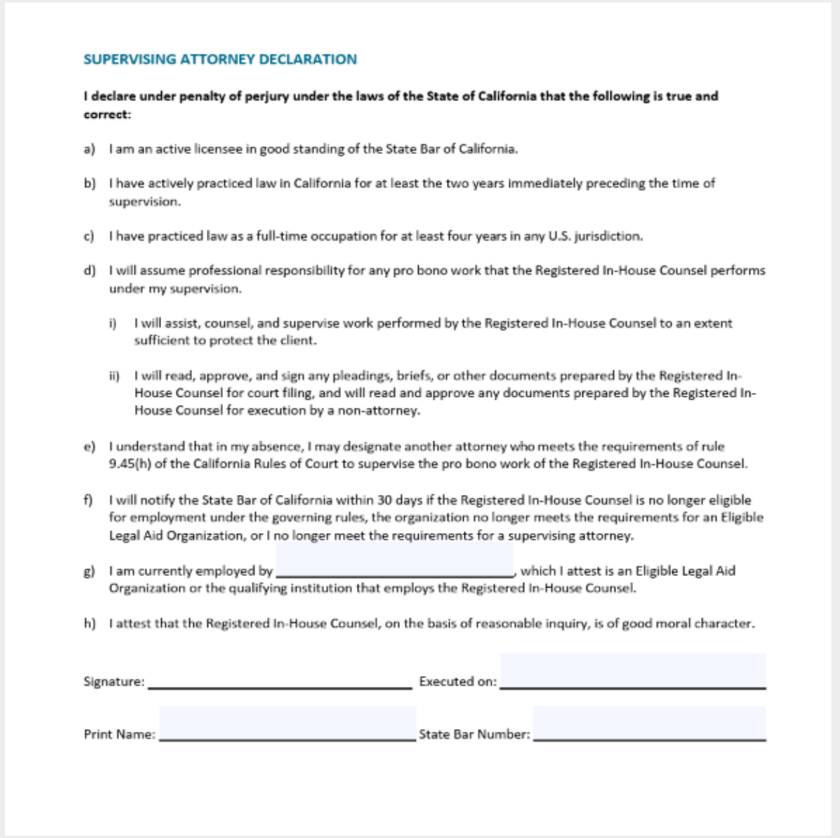
b) I will comply with the rules governing the conduct of attorneys in California and be subject to the disciplinary authority of the Supreme Court of California and the State Bar of California.

c) I will submit an application for each Eligible Legal Aid Organization in California which employs me.

d) I will notify the State Bar of California within 30 days of a change in my licensure status in any jurisdiction where I am admitted to practice law and engaged in the practice of law, such as transfer to inactive status, disciplinary action, suspension, resignation, disbarment, or a functional equivalent; termination of my employment with the Eligible Legal Aid Organization or the qualifying institution that employs me as Registered In-House Counsel; or any information required by the governing rules.

Signature: _____ Executed on: _____

Print Name: _____



SUPERVISING ATTORNEY DECLARATION

I declare under penalty of perjury under the laws of the State of California that the following is true and correct:

a) I am an active licensee in good standing of the State Bar of California.

b) I have actively practiced law in California for at least the two years immediately preceding the time of supervision.

c) I have practiced law as a full-time occupation for at least four years in any U.S. jurisdiction.

d) I will assume professional responsibility for any pro bono work that the Registered In-House Counsel performs under my supervision.

i) I will assist, counsel, and supervise work performed by the Registered In-House Counsel to an extent sufficient to protect the client.

ii) I will read, approve, and sign any pleadings, briefs, or other documents prepared by the Registered In-House Counsel for court filing, and will read and approve any documents prepared by the Registered In-House Counsel for execution by a non-attorney.

e) I understand that in my absence, I may designate another attorney who meets the requirements of rule 9.45(h) of the California Rules of Court to supervise the pro bono work of the Registered In-House Counsel.

f) I will notify the State Bar of California within 30 days if the Registered In-House Counsel is no longer eligible for employment under the governing rules, the organization no longer meets the requirements for an Eligible Legal Aid Organization, or I no longer meet the requirements for a supervising attorney.

g) I am currently employed by _____, which I attest is an Eligible Legal Aid Organization or the qualifying institution that employs the Registered In-House Counsel.

h) I attest that the Registered In-House Counsel, on the basis of reasonable inquiry, is of good moral character.

Signature: _____ Executed on: _____

Print Name: _____ State Bar Number: _____

Insurance

There may be a duty to disclose lack of professional liability insurance.

- Rule 1.4.2. Disclosure of Professional Liability Insurance
- (a) A lawyer who knows or reasonably should know* that the lawyer does not have professional liability insurance shall inform a client in writing,* at the time of the client's engagement of the lawyer, that the lawyer does not have professional liability insurance.

.....

- (c) This rule does not apply to:

  (1) a lawyer who knows* or reasonably should know* at the time of the client's engagement of the lawyer that the lawyer's legal representation of the client in the matter will not exceed four hours; provided that if the representation subsequently exceeds four hours, the lawyer must comply with paragraphs (a) and (b);

  (2) a lawyer who is employed as a government lawyer or in-house counsel when that lawyer is representing or providing legal advice to a client in that capacity;

  (3) a lawyer who is rendering legal services in an emergency to avoid foreseeable prejudice to the rights or interests of the client;

  (4) a lawyer who has previously advised the client in writing* under paragraph (a) or (b) that the lawyer does not have professional liability insurance.

Considerations

- You need insurance, or to be comfortable practicing without professional liability insurance (and disclosing that as necessary).

- To minimize conflicts, consider focusing on representations that do not implicate your company’s business.

- If you are practicing in an unfamiliar area, consider partnering with a firm or organization with expertise to ensure you are satisfying duty of competence.

Potential Option – Legal Services for Children's Pro Bono Panel



- Cases you might work on as a pro bono volunteer with LSC include:
  - Guardianship Cases — Represent a child in Probate Court to appoint a non-parent caretaker of their choice. About 40 hours over nine months.
  - Expulsion Defense Cases — Represent a child in a school exclusion process to protect their due process rights and educational goals. About 20 hours over two months.
  - Immigration Cases — Represent a child in immigration proceedings to obtain legal status in the U.S. and protect them from removal. About 100 hours in the first year.

Conclusion

Recap: Three Pathways

- Board service
  - Lowest risk
- Drop-in clinics
  - Practical and protected
- Full representation
  - Highest responsibility

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Questions?

For appendix (do not include with handout)

Comment 2

A lawyer who provides short-term limited legal services pursuant to this rule must secure the client's informed consent* to the limited scope of the representation. (See rule 1.2(b).) If a short-term limited representation would not be reasonable* under the circumstances, the lawyer may offer advice to the client but must also advise the client of the need for further assistance of counsel. Except as provided in this rule, these rules and the State Bar Act, including the lawyer's duty of confidentiality under Business and Professions Code section 6068, subdivision (e)(1) and rules 1.6 and 1.9, are applicable to the limited representation.