

2015 Private Attorney Involvement Plan

Joann began caring for her granddaughter, Loriann, when her daughter was diagnosed with cancer. Loriann became Joann's fulltime responsibility when her daughter died. Joann was able to work with the school to let her sign report cards. When Loriann was admitted to the hospital with severe headaches, Joann had no authority to consent to her medical care. A guardianship was needed, but Joann had no money to hire an attorney to take that legal action. With the help of a pro bono attorney, a guardianship was obtained.



On April 16, National Health Care Decision Day, volunteer attorneys joined with Kansas Legal Services staff to prepare Health Care Powers of Attorney and Living Wills for low income Kansans. These vital documents shouldn't be completed during an early morning hospital admission, with questions answered by the non-law trained admissions clerk. With the help of volunteer attorneys, many low income people have the peace of mind of having these documents prepared before they need them.

Every Thursday in Sedgwick County, persons seeking a Protection from Abuse Order to prevent contact by a person who has abused them appear in Court to prove their case. This is often difficult for self-represented litigants as they are dealing with emotional issues and fighting for their own safety and that of their children. Volunteer attorneys join Kansas Legal Services in representing these Plaintiffs before the Judge.



Attorneys with many years of experience decided to devote one morning a week as legal volunteers. They came to the KLS offices in Wichita and Kansas City. They helped by providing legal advice on a variety of legal areas to low income callers. One volunteer noted, for lawyers who are new to pro bono, or to an area of law, that KLS staff can provide you with the resources and support you need to be a success. The clients are so appreciative of a lawyer who will point them in a right direction.

As lawyers, we know firsthand the value and necessity of quality legal representation. We see victims of domestic violence, abused children, and families losing their homes all too frequently because they cannot afford a lawyer. We have a professional responsibility to help others in our community gain access to the justice system to protect their rights, their freedom, their homes, their livelihoods, and their families. Legal needs studies have consistently found that less than 40 percent of low income people get the legal assistance they need, and funding per eligible person has dropped drastically in recent years. This is a crisis and lawyers must get involved. Supporting civil legal aid is a way to work for justice and access for all.

Volunteer attorneys are needed for three reasons:

- 1) **Legal services can provide a life-changing difference in the lives of low income Kansans.** From a simple landlord letter to a complex child custody case, the impact of legal issues on our lives is dramatic. When a family is involved in a legal matter, it is unsettling, to say the least. Parents lose needed hours of work to deal with the situation, for which many have no paid vacation time. The lost income means they are short on rent or on other essential bills. Feeling that they must deal with the problem alone creates a sense of hopelessness.

With accurate legal information or representation by an attorney, they can achieve a sense of justice. The Judge can hear their case and make a fair decision. Their children can have the stability of a court-ordered parenting plan. The family can have a little time to find a new apartment in their children's school district, saving the children from the disruption of changing schools.

An attorney's help can make the difference and change Hopelessness to Hope and a Sense of Justice from our legal system.

- 2) **Rule 226 of the Kansas Rules of Professional Conduct says "lawyers should render public interest legal services."** While acknowledging that legal aid programs were created to help meet this need, the rule encourages lawyers to support these programs by continuing to provide services on a pro bono or reduced fee basis. Kansas Legal Services stands ready to help Kansas attorneys meet this professional obligation.
- 3) **The justice gap is growing.** Yet ability of Kansas Legal Services staff to meet the needs of low income Kansans is shrinking. KLS staff was able to provide legal services to 18,612 families in 2014, a reduction of 15 percent from 2012. KLS had less staff to provide services, due to funding losses from several quarters. KLS was unable to provide services to many eligible callers because it was without the resources to do so.

Estimates are that 50 percent or more of the litigants in family law courts in Kansas are self-represented. Some initiatives have been put in place to allow the Courts to handle the large number of self-represented litigants. This includes forms created by the Judicial Council, which form the basis for many of the forms that Kansas Legal Services makes available online via interactive interview. These things are done only because Kansas Legal Services and its volunteer lawyers cannot meet the demand for legal services by low income persons. Modifications of the Rules of Professional Responsibility allow attorneys to be involved in limited scope representation. One example of this is an attorney review of documents that a low income person has prepared. The attorney can review the documents and "coach" the client for success as a self-represented litigant.

The Legal Services Corporation, a funder of Kansas Legal Services, requires that an annual plan exist for involving private attorneys in helping meet the civil legal needs of low income persons. [45 CFR 1614.4] The 2015 plan will be approved by the Kansas Legal Services Board of Directors in January, 2015. The Board is currently seeking comments on the proposed plan. Please provide comments to Amy Fellows Cline, President, Board of Directors, Kansas Legal Services, 712 S Kansas Ave, Suite 200, Topeka, KS 66603 or president@klsinc.org.

How pro bono referrals work:

Kansas Legal Services allows potential clients to apply by phone (1-800-723-6953) or initially online (www.kansaslegalservices.org). Staff dedicated to screening clients for financial eligibility take calls from 7:45 a.m. to 5:45 p.m. Monday – Friday. Questions about family size, current and potential income and assets, citizenship and other eligibility factors are used in determining initial eligibility. Clients must have household income below 150 percent of the Federal Poverty level to be eligible for KLS services.

In addition, Kansas Legal Services Board of Directors has determined, by legal problem type, the matters that can qualify for representation by Kansas Legal Services. The limited resources available to meet the needs of low income Kansans make this type of prioritization necessary. Some types of legal problems can only be accepted if a pro bono attorney is willing to accept the case.

After a client has been determined to be eligible for KLS services, the case is reviewed in the local office covering the client's county. The client is contacted and more information about their situation and their legal need is obtained. Information about upcoming court deadlines, etc. are key to determining if a case is appropriate for pro bono referral. The length of time it takes to place a case with a volunteer attorney eliminates cases with rapidly approaching deadlines. The client's access to reliable transportation is another factor considered. With knowledge of all relevant factors, the managing attorney of the office makes the decision that a case is appropriate for placement with a volunteer attorney.

Once a case has been designated for placement with a volunteer attorney, the list of volunteer attorneys is consulted. In making determinations about which lawyers to contact, the various staff making contacts with attorneys take into consideration geographic location, substantive areas of the law and when the attorney last took a pro bono case. Attempts to place cases are made by telephone and email contact.

Following referral of a case, KLS staff regularly follow up on the case to determine the status of representation. The follow-up is done until the attorney notifies KLS that the case is concluded. Assistance can be provided to the attorney throughout the case by KLS staff, unless the case referred represents a conflict of interest for KLS.

KLS is aware that some volunteer attorneys are not regularly referred a case, despite their willingness to accept cases. The match between case type and the location of the volunteer

attorney sometimes makes a match difficult. KLS continues to work to utilize all volunteer attorneys to meet the needs of eligible clients.

In 2015, KLS will conduct a legal needs assessment. This involves input from clients and potential clients, court personnel, volunteer attorneys, and KLS staff. The opportunity to participate will also be communicated to all KBA members. KLS strives for wide participation in this legal needs survey. The last survey was conducted in 2011.

Components of the Pro Bono Projects:

Kansas Legal Services provides the following opportunities for private attorneys to be involved in meeting the civil legal needs of low income Kansans.

a) Direct services to clients referred from Kansas Legal Services

The pro bono coordinator in each of the eleven KLS offices is aware of attorneys who are willing to consider referrals of persons to be provided legal services on a pro bono basis. Contact with attorneys is made by phone or email. KLS continues to monitor these cases and requires notice when the work for the client is complete.

While the majority of the requests for legal services are in the family law area, cases are also available in housing, mortgage foreclosure, consumer matters and a wide range of other legal areas. Attorneys can specify the types of cases they are willing to consider. Attorneys are always contacted by KLS staff prior to the client receiving the attorney's contact information.

In addition, KLS communicates with volunteer attorneys monthly via an email newsletter. This newsletter shares information about events and lists possible pro bono cases currently available for placement in the attorney's preferred geographic area.

Each KLS office may recruit one or more attorneys to participate in a reduced fee program, through which referred cases are accepted by the attorney for participation on a reduced fee basis. For accepted participants with incomes under 125 percent of poverty, KLS will pay the attorney an hourly fee for the representation. These attorneys are generally located in places where the costs of travel for KLS staff attorneys are the greatest.

b) Projects requiring a limited or predictable time commitment

Kansas Legal Services understands that one of the barriers for attorneys in accepting pro bono work is the unpredictable nature of the time commitment. A "simple" case can become complicated, where the attorney spends more hours than expected. Two volunteer options are designed to provide attorneys with volunteer opportunities with a limited and predictable time commitment.

With the 2012 adoption of Supreme Court Rule 115A, attorneys may now limit the terms of their representation of a client. Kansas Legal Services has embraced the option of limiting the

scope of representation and encourages volunteer attorneys to do so when appropriate. One example would be an attorney who accepts referrals of clients who have created their own divorce documents, using the approved Supreme Court forms. The attorney would meet with the client, review their situation and the forms they have prepared. By discussing topics like court jurisdiction and service, the attorney can greatly improve the likelihood the client will be successful in self-representation. When the attorney has reviewed the forms and explained to the client what will happen at the final hearing, the attorney has completed their obligation to that client. If the attorney prefers, this entire consultation can occur by phone. KLS refers cases through this program where it is unlikely a response will be filed by the Respondent. However, even if a response is filed, the attorney has completed all the work to which they agreed (via limited scope representation agreement) and has no obligation to do more with that case.

Another option for predictable time commitment involves assisting with those clients who need legal advice about their situation. By volunteering to come to a KLS office on a regular schedule at least four times a year for a three hour time slot, an attorney can meet this crucial need for legal advice. Support from KLS staff can allow the attorney to feel confident about a variety of legal matters.

c) Assistance at special outreach events and with special projects

Kansas Legal Services staff is involved in special outreach events every April 16 for National Health Care Decision Day, in October during Celebrate Pro Bono week and during weather-related disasters.

While not directed exclusively at low income persons, Kansas Legal Services provides two opportunities for attorneys to serve Kansans.

The Kansas Elder Law Advice Line gives attorneys the opportunity to provide legal advice or information to Kansans age 60 and over. Attorneys volunteer for a four hour shift and work from their own offices. Telephone technology allows KLS to seamlessly transfer the caller to the attorney.

The Kansas Military Legal Network is transitioning to a program which allows Servicemembers and Veterans to seek legal help via an online match program with volunteer attorneys. The program will receive technical support from the University of Kansas School of Law students.

Kansas Legal Services supports volunteer attorneys

Consistent with its goal of supporting attorneys who provide pro bono services through Kansas Legal Services, KLS will provide the following support to those attorneys who request it:

- a. Access to legal materials that are available to KLS staff.

Needed materials can be requested from the pro bono coordinator in the office or from a KLS staff attorney. A 2014 change in the KLS website means that currently staff material cannot be explored by volunteer attorneys. During 2015, new mechanisms will be explored and one will be selected to allow volunteer attorneys access to KLS legal materials. This new mechanism will be shared with all volunteer attorneys.

b. Access to KLS staff seminars.

When KLS sponsors a Continuing Legal Education event, volunteer attorneys are notified of the event via the monthly newsletter. Volunteer attorneys may attend these events at no charge. These events are held as determined by the training needs of KLS and are not held every year.

c. Access to CLE credit for some pro bono work.

KLS was recognized with a KBA award in 2014 for obtaining CLE credit for attorneys who participate in some community-based pro bono events. Attorneys who participate in a learning session immediately followed by practicing what is learned with actual clients may receive CLE credit for both activities. KLS is only able to provide this credit when the event format meets the criteria of the CLE commission.

Other KLS activities

Law students are recruited to work in the Topeka and Kansas City offices during the school year and all KLS offices during the summer. These students extend the services that can be provided to clients. By working under the supervision of a KLS staff member, the students can provide advice and, in some cases, representation to low income Kansans.

KLS staff is engaged in recruiting and retaining volunteers through direct communication, outreach at local bar functions and other means.

KLS maintains, as part of the malpractice insurance policy, coverage for attorneys who represent clients on a pro bono basis through KLS programs, in order to protect attorneys from possible claims. This effort allows participation by attorneys who have a limited or corporate practice and do not maintain malpractice insurance or who do not want to risk the consequences of a possible claim on their policy.

KLS recognizes that not all attorneys have the type of practice or available time to volunteer. KLS will continue the private bar donation solicitation to seek direct financial contribution and volunteer commitments from private attorneys.

Role of the Kansas Bar Association in support of pro bono activities

The Kansas Bar Association will support the work of Kansas Legal Services by recruiting new volunteers and recognizing the efforts of attorneys providing pro bono services.

Recruitment

The Kansas Bar Association will continue to recruit volunteers in the following manner:

- 1) KBA will continue to pursue strategies to grow the number of family law attorneys who will accept pro bono referrals. This effort is designed to meet the largest demand for pro bono referrals.
- 2) KBA staff will continue to work with KLS to recruit inactive and retired attorneys to provide legal services under Rule 208.
- 3) KBA will partner with the Kansas Bar Foundation to expand the IOLTA program, benefiting KLS through IOLTA-funded grants.
- 4) Building on **Pro Bono Summit: Partnerships in the Public Interest**, KBA will implement new strategies targeted at larger firms, based on the input of the participants at that event. The KBA will consider whether a Summit should be an annual event.

Recognition

In 2014, the Kansas Bar Association recognized the following attorneys or law firms for service to Kansas Legal Services clients:

With a Pro Bono Award, which recognizes a lawyer for the delivery of direct legal services, free of charge to the poor:

David Berkowitz, Lawrence
Claudia Dawson, Kansas City

With a Pro Bono Certificate:

Dr. Milfred "Bud" Dale, Topeka
John W Huey, Kansas City
Shook, Hardy & Bacon, LLP, Kansas City
John Paul Washburn, Topeka

The Kansas Bar Association will continue to recognize attorneys for their pro bono work through the Pro Bono Award and Pro Bono Certificates. These will be publicly presented at the KBA Annual meeting.

The KBA will explore other methods of recognizing volunteers who have completed pro bono cases including possible public recognition during Celebrate Pro Bono week and by publication in the KBA Journal and/or the weekly e-blast.

Other activities

Building on the approval of the KBA Board of Governors, the KBA will pursue a strategy to obtain a Supreme Court rule allocating a portion of any Cy Pres award to Kansas Legal Services.

The KBA has modified the member profile to allow attorneys to track the hours of pro bono service that they provide. It is hoped that this will lead to a greater ability to recognize attorneys who provide pro bono services. In addition, this tracking will allow the KBA to report collectively the tremendous monetary value of the services provided to Kansans through the volunteer actions of its members.



KANSAS LEGAL SERVICES *PRO BONO* APPLICATION

I am interested in the *Pro Bono* Program of Kansas Legal Services (KLS) and I am willing to provide free service to a low income client or child as a volunteer during the upcoming year. I have indicated below the types of cases I will consider accepting for *pro bono* representation. No potential client will be given my name without my specific approval. Each potential client will be screened for financial eligibility through KLS. Many of the cases referred will be cases that

KLS cannot accept due to conflicts or other barriers. Clients using this program understand that the attorney has agreed to provide services at no cost for the referred case only. Clients also understand that they may be required to pay filing fees, witness fees, etc. Acceptance of the case is with no expectation of payment for my time or office expenses. KLS may be able to help with extraordinary litigation expenses, when the interests of justice require it.

(Please print or type)

Name _____ Supreme Court ID # _____

Mailing Address _____

City _____ State _____ Zip _____ County _____

Phone _____ Fax _____ Email _____

(Please note that you will primarily be contacted via email)

_____ I am a lawyer in good standing with the Kansas Supreme Court.

Please circle the pro bono programs you are interested in:

Direct service on a pro bono basis

Limited time commitment options

Public Service Event

Elder Law Hotline

Serving Our Troops

Not sure, contact me

Year admitted to the bar: _____ States I am licensed in: _____

I regularly practice in the following counties _____

of cases I will take per year: _____

TYPES OF CASES (if interested in direct service)

(select all that apply)

Divorce:

_____ *With children*

_____ *Without children*

_____ Child support/visitation

_____ Paternity

_____ Adoption

_____ Civil Restraining Order

_____ Domestic abuse (PFA hearings)

Defense/Negotiation:

_____ *Tenant*

_____ *Collection*

_____ *Tort defense*

_____ DCF (denial of benefits)

_____ Annulment

_____ Home foreclosure

_____ Bankruptcy (Simple Chapter 7)

_____ Insurance policy problems

_____ Guardian/conservatorship

_____ Post Judgment Domestic

_____ Simple will preparation

_____ Social Security Disability

_____ Immigration law

_____ Unemployment Compensation

_____ Willing to meet with pro se individuals for limited scope document review

Please indicate below which areas of law are new to you and you will be matched with a mentor:

Please return completed application to:

Cindy VanHoutan

712 S. Kansas Avenue, Suite 200

Topeka, KS 66603

cindyv@klsinc.org

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