

Pro pro bono

Hey, it's not like you're donating a kidney.

By Douglas Mah



I have lately read I. F. Stone's *The Trial of Socrates*, so the idea of "Socratic dialogue" is on my mind. It should not be confused with the insidious method of inquisition devised by sadistic law school

professors to entrap errant students who have not done the reading. It is, rather, supposed to be the enlightened cut and thrust of intellectual exchange on timeless philosophical issues.

I recently had a dialogue of sorts (although admittedly, falling well short of Socratic quality) on the subject of whether the legal profession ought to engage in *pro bono* law. To me, *pro bono* is like good health. It is hard to argue against it. And you can choose to do it, or not.

My choice is to volunteer one night per month at a *pro bono* clinic. It's a far cry from my day job. Not a single client of the clinic has asked me about how the Sarbanes-Oxley Act affects Canadian due diligence requirements.

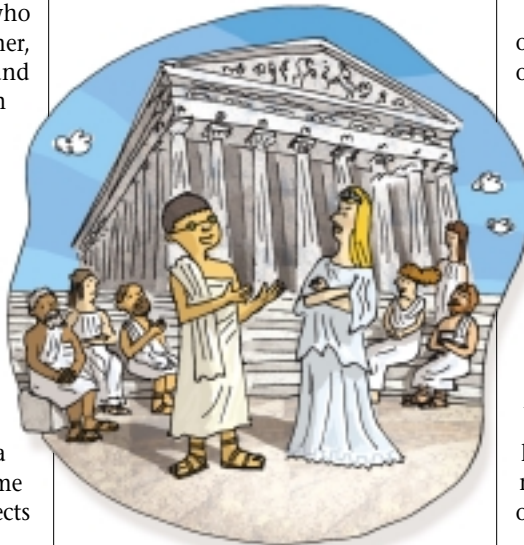
Rather, these are individuals who are legally troubled, but because of disadvantages that are mostly not their fault (poverty, mental illness, unstable family background, poor language skills), lack the wherewithal or the means to access conventional law firm services.

Their cases generally involve residential tenancy, small debt, immigration, social assistance and the like. The problems are urgent and real, and my job is to dispense summary advice in order to alleviate immediate distress. If the client requires actual representation, I can, if I like, carry the file to its conclusion. But because of other responsibilities, I'd probably restrict myself to one of these per year.

I take the view that *pro bono* cannot be anything but inherently good for society. As a lawyer, I am allowed to repay in some small way the not

insignificant cost of my public education. I was therefore surprised to learn that there are members of our profession who are palpably opposed to *pro bono* activity. They decry it. They denounce it as facile and useless.

My friend in dialogue is one such lawyer, and she is no slouch. She is a rugged individualist, a free-enterprise gold-medalist, a monied, power-suited



partner. Confident, articulate and impressively smart, she fires her first salvo at me before I can duck.

Pro bono is for chumps, she says. It's just a cheap way for guys like you to feel less guilty about your elitist incomes.

Wrong, I say. Our profession is financially stratified, like the rest of North American society. About one percent of lawyers make elitist incomes. The rest of us are slob. That tattoo on my forehead says Exhibit One.

The marketplace should govern, she says. The very fact that people pay for my services means they are valuable, and therefore, I am giving back to society.

For those who can afford your services, I counter. The very reason we have *pro bono* is for that segment of society that can't afford to pay.

Listen, buddy, I give away plenty.

Every time a client stiff me, or I cut my bill because they complain, that's *pro bono*.

No, it's not. *Pro bono* services, by definition, are given for no consideration. They are not the product of a firm's decision to write off a bad debt or reduce the account of a ticked-off client.

People who don't pay for my services don't value them. They would waste my time. They're such ingrates.

Not necessarily. The average client I see at the clinic tells me he's been served with an eviction notice and doesn't know what to do. I tell him to move out. He can't believe his ears. That never occurred to him. He falls all over himself thanking me.

I don't feel the need to ride to anyone's rescue. Why should I inflict myself on the socially disadvantaged? I don't think I should bonk them over the head, drag them into my office and offer them free legal advice.

They're too scared or wouldn't know to walk into your office. That's why they go to clinics. They're referred there by other agencies.

Why are lawyers singled out for free services? It's because of their incomes. You don't see hairdressers giving out *pro bono* haircuts.

The place where I go for my haircuts has its walls plastered with certificates recognizing their charitable work, much of it free haircuts.

Social programs are subject to abuse. Yeah, those damn poor people are always ripping us off — especially the homeless and the mentally ill. They exploit their status.

I already support those people with my tax dollars.

And doing *pro bono* is a matter of personal conscience.

You can't solve all of society's problems! Not with an attitude like that!

The enlightened discussion, shall we say, degenerated from there, with the issue incapable of resolution. Still, I ask myself, what's the big deal? One evening per month, maybe one file per year. It's not like you're being asked to donate a kidney.

"There's no money in *pro bono*," a leading lawyer in Alberta once said to me.

He's right. He's absolutely right. ■

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