



Spurring Public Service

At times our country has debated the merits of mandatory public service. While some claim anything “mandatory” infringes upon liberties, others claim that citizenship does not only involve “exercising” rights—*i.e.*, that freedom is not free.

Public service is an integral part of the legal tradition. Our ethical rules suggest, “Every lawyer, regardless of professional prominence or professional workload, should find time to participate in or otherwise support the provision of legal services to the disadvantaged” (Comment 3, Ethical Rule 6.1). These rules impose the responsibility upon lawyers to render at least 50 hours of public service work per calendar year (Ethical Rule 6.1(a)).

But public service is also part of the recipe for a fulfilling life. When responding to the question “What can you tell a young man looking for motivation in life itself,” one of my heroes, Neil deGrasse Tyson, Ph.D., said the following:

The problem, often not discovered until late in life, is that when you look for things like love, meaning, motivation, it implies they are sitting behind a tree or under a rock. The most successful people recognize that in life they create their own love, they manufacture their own meaning, they generate their own motivation. For me, I am driven by two main philosophies: Know more today about the world than I knew yesterday. And along the way, lessen the suffering of others. You’d be surprised how far that gets you.

This is a powerful observation, and it is, indeed, deeply gratifying to ease the suffering of others. But should lessening the suffering of others be mandatory? Is it part of the privilege of practicing law?

In recent years, some state bars—such as New York and California—have imposed or are actively considering mandatory *pro bono* requirements for new applicants. Other states have enacted mandatory “reporting” of *pro bono* hours, and some states have considered imposing mandatory public service requirements upon all lawyers. These proposals are fueled by

the laudable desire to provide desperately needed access to justice for the poor and voiceless.


My view is that, while we cannot effectively compel public service, there are things your Bar can to do incentivize public service.

That is, while it is a solemn duty of every able person—including and especially lawyers—to help ease the suffering of others, imposing a mandatory requirement is not a solution. And though this duty is not necessarily limited to providing legal services for free or at a substantially reduced cost, there is certainly an acute need for such services.

Incentivizing public service, on the other hand, is a win-win for lawyers and the public. These incentives can come in a variety of forms, such as CLE credit or discounts for CLE or other Bar publica-

tions, adopting a Court-approved “badge” for email or website marketing to those who meet the annual requirement, pairing law students with lawyers to assist in *pro bono* matters, or in exchange for inclusion in a Bar-sponsored lawyer referral network.

Although some will not need any additional incentive to engage in public service, enjoying the inherent human benefits it provides, others may need a push beyond our aspirational ethical rules. As an integrated Bar we have the ability and resources to put these kinds of plans into action, and we also value your input.

What kind of incentives do you think the Bar ought to support to encourage public service? 

Should lessening the suffering of others be mandatory? Is it part of the privilege of practicing law?



Geoff Trachtenberg