



PRO BONO LEGAL SERVICES PROGRAM

**PRO BONO LEGAL SERVICES PROGRAM
J. REUBEN CLARK LAW SOCIETY**

The Pro Bono Legal Services Program of the J. Reuben Clark Law Society (JRCLS) provides local Priesthood leaders with a legal resource to assist needy members of the LDS Church and others consistent with LDS Church welfare principles. The Program is not administered by the LDS Church but is a voluntary effort by members of the J. Reuben Clark Law Society to render assistance to the needy. The JRCLS promotes a return to one of the noblest traditions of the legal profession – the legal representation of those in society who otherwise do not have equal access to the protection of the law. By giving of one’s professional talents to bless the lives of others, the disillusionment and lack of professional fulfillment can be replaced with the warm, inner joy of service to others.

Objectives. The JRCLS Pro Bono Program has, among others, the following objectives:

- (i) To bless the lives of members of the LDS Church and others by providing legal assistance to those who could not otherwise afford it;
- (ii) To assist LDS Church leaders by providing an organized program of legal assistance to those members who Priesthood leaders determine are in need of legal assistance and who do not otherwise have the financial resources to obtain such assistance; and
- (iii) To provide opportunities of service to attorneys who are members of the JRCLS which service will bring them great personal and professional satisfaction.

Consistency with LDS Church Welfare Principles. “The bishop should know the temporal circumstances of ward members and ensure that needy members receive proper care.... The bishop should become familiar with the resources that are available in the community and teach members to maintain gospel standards while using such services.” *Ward Administration, Book 1 of the Church Handbook of Instructions at 14-15 (1998)*. A common practice in LDS communities is for Priesthood leaders to search out LDS attorneys with whom they are acquainted to provide legal assistance to members who qualify for assistance under the LDS Church’s welfare principles. This informal approach which requires Priesthood leaders to seek out attorneys who will provide services to needy members has several challenges: (i) it places an extra burden on the Priesthood leader who must look for an attorney who will be willing to assist; (ii) not every ward or stake has attorneys; and (iii) even when there are LDS attorneys available, these attorneys may not have the expertise needed and therefore may be reluctant to commit to assist the needy member.

The JRCLS Pro Bono Program provides a more organized and effective alternative to the current informal approach. By its very structure, the JRCLS Pro Bono Program overcomes the challenges confronted by the more informal approach by providing Priesthood leaders with a ready resource for legal services and by providing volunteer attorneys with a source of guidance and direction from legal specialists in the most common areas of legal need. JRCLS members recognize that all endowed members of the Church have covenanted to live the Law of Consecration, which includes giving to the Lord and His servants of their time and talents. As attorneys, JRCLS members participating in the Pro Bono Program are living in part the Law of Consecration by making their legal skills, experience and time available to assist the Lord's needy regardless of the ward or stake boundaries of the needy person or attorney. Legal skills then become part of the "Lord's Storehouse" to be called upon by Priesthood leaders as needed:

"And again, if there shall be properties in the hands of the church, or any individuals of it, more than is necessary for their support after this first consecration, which is **a residue to be consecrated unto the bishop**, it shall be kept to administer to those who have not, from time to time, **that every man who has need may be amply supplied and receive according to his wants.**

Therefore, **the residue shall be kept in my storehouse**, to administer to the poor and the needy, **as shall be appointed by** the high council of the church, **and the bishop and his council.**" D&C 42:33-34

"The Lord's storehouse includes the time, talents, skills, compassion, consecrated material, and financial means of faithful Church members. These resources are available to the bishop in assisting those in need." Pres. Thomas S. Monson, *Ensign* at 5 (Sept. 1986). "The Lord's storehouse, therefore, exists in each ward. The bishop is the agent of the storehouse. Guided by inspiration from the Lord, he distributes the Saint's offerings to the poor and needy." *Spiritual and Temporal Welfare, Book 2 of the Church Handbook of Instructions* at 256 (1998). For that reason, the bishop generally approves referrals to the JRCLS Pro Bono Program. In some wards, welfare service missionaries may exist to assist the bishop in making referrals to the JRCLS Pro Bono Program. In most wards, the bishop calls upon members of the Ward Welfare Committee to "[c]oordinate efforts to help specific ward members meet their spiritual and temporal needs, including long-term needs." *Gospel Teaching and Leadership, Book 2 of the Church Handbook of Instructions* at 318 (1998). The Stake Welfare Committee can also assist the bishop by identifying available "welfare resources within the stake." *Id.* at 316. As explained below, the local JRCLS Pro Bono Committees make initial contacts with Stake Presidents to identify those wards and stakes interested in participating in the Pro Bono Program.

Scope. While the JRCLS Pro Bono Program focuses on providing legal assistance to needy members of the Church referred to the Program by LDS Priesthood leaders, the Program need not be limited to LDS members. For example, the JRCLS Salt Lake City Chapter has reached out to other faith communities and attorneys in those faith communities to include them in the Pro Bono Program.

Legal Matters Covered. The areas of law most commonly involved in the Pro Bono Program include: bankruptcy, employment law, disability and workers' compensation, domestic violence, divorce, custody determinations, family law, immigration, estate planning, tax, criminal and landlord/tenant. Those areas of the law not covered by the Pro Bono Program include all out-of-state matters, matters typically handled by contingent fee arrangements, and matters involving the following: product liability, personal injury, antitrust, business formation, commercial disputes, and consumer debt. In addition, civil rights, employment discrimination or harassment matters are not normally covered.

Participants and Their Roles.

1. **JRCLS Local Chapter.** If a JRCLS Local Chapter wants to initiate the Pro Bono Program, the Local Chapter should organize a Pro Bono Committee that will be responsible for the implementation of the Program.
2. **Participating LDS Stakes.** The local Pro Bono Committee should contact the Stake Presidents in their area to determine whether their stakes would be interested in participating. If a Stake President decides that his Stake will participate in the Pro Bono Program, the Pro Bono Committee will train the appropriate LDS leaders in that stake (*e.g.*, Stake Presidency, High Council and Bishoprics). This training will include a review of the Priesthood Leader Guidelines for pro bono legal services (a copy of which is attached as Appendix A).
3. **Pro Bono Coordinator(s).** The local Pro Bono Committee will identify and train one or more volunteer attorneys as Pro Bono Coordinators. The Pro Bono Coordinators will be responsible for the intake of referrals from the participating Priesthood leaders. The principal responsibilities of the Coordinators include: (i) Screen the referred matters to determine the legal specialty required to assist the member; (ii) determine if the nature of the legal matter involved fits within the scope of those matters properly handled by the Pro Bono Program; (iii) refer the matter and prospective client to a Volunteer Attorney; and (iv) track all referred matters to make certain that the matter is being handled in a timely and competent manner by the Volunteer Attorney (Guidelines for Coordinators and Resource Attorneys are attached as Appendix B).
4. **Resource Attorneys.** The local Pro Bono Committee will identify and train volunteer attorneys to serve as Resource Attorneys to the Volunteer Attorneys in the Pro Bono Program. The Resource Attorneys should be attorneys with a basic expertise in the legal matters that will be routinely covered by the Pro Bono Program. These Resource Attorneys will consult with Volunteer Attorneys who need assistance and guidance in a particular matter within the expertise of the Resource Attorney
5. **Volunteer Attorneys.** The local Pro Bono Committee will identify and train members of the Local Law Society Chapter who will agree to serve as Volunteer

Attorneys. The Volunteer Attorneys will agree to take referrals of prospective clients from the Pro Bono Coordinators. Once the Volunteer Attorney has accepted the client engagement, they will be responsible for providing capable legal counsel to that client and to resolve the legal matter in a professional and timely fashion.

6. **Community Service Committee of the JRCLS International Board.** The Community Service Committee will serve as a resource for any JRCLS Local Chapter that has decided to implement a Pro Bono Program. Among other services, the Community Service Committee will identify and make available to Local Chapters members who have agreed to serve as Resource Attorneys at a national level for legal matters governed by federal law (*e.g.*, immigration, employment, etc.).

Pro Bono Program Process.

Step One – The Priesthood Leader: The Priesthood leader, usually a bishop, determines the need for legal services based on Priesthood welfare principles and refers the qualified member to the Pro Bono Coordinator(s). He may also assign a member of the Ward Welfare Committee to contract the Pro Bono Coordinator.

Step Two – Pro Bono Coordinator: The Pro Bono Coordinator reviews the matter to determine whether it is a legal matter properly covered by the Pro Bono Program and then refers the matter to a Volunteer Attorney.

Step Three – Volunteer Attorney: The Volunteer Attorney is engaged by the qualified member in writing to establish the attorney-client relationship, interviews the client, obtains, as necessary, the assistance of a Resource Attorney, and resolves the legal matter in a competent, timely manner. The written undertaking should contain an express disclaimer that neither the LDS Church nor the JRCLS are liable for any errors or omissions of the attorney and that neither of them provides any malpractice insurance coverage for the Volunteer Attorney.

Step Four – Pro Bono Coordinator Follow-up. The Pro Bono Coordinator will periodically monitor the status of all referred matters.

Step Five – Volunteer Attorney. The Volunteer Attorney will periodically report to the Pro Bono Coordinator the status of all referred matters and will give a final report to the Pro Bono Coordinator upon completion of a referred matter.

Key Concepts.

- **Priesthood Leader Approval.** A bishop generally approves all referrals of legal services to the Pro Bono Program.

- **Engagement.** The needy individual engages the attorney for legal services and is the “client.” The Church and Priesthood leader do not engage the attorney.
- **Confidences.** The Priesthood leader exercises great caution to ensure that he does not disclose confidences covered under the priest-penitent privilege to the Pro Bono Coordinator or to the Volunteer Attorney.
- **Attorney-Client Privilege.** The Priesthood leader communicates sufficient facts to the Volunteer Attorney so that the attorney understands the nature of the case. The Priesthood leader should not sit in discussions between the attorney and the needy individual in which the attorney dispenses legal advice.
- **Payment of Attorneys’ Fees.** Most attorneys in the Lord’s “legal” storehouse are willing to provide legal services at no cost. However, the Priesthood leader may wish to explore the needy individual’s ability to pay some reasonable portion of the legal services even if the amount is small and payment is spread over time. Financial resources from the person’s immediate and extended family should also be explored. Any use of fast offering funds by a Priesthood leader for legal fees and expenses should be done in a manner consistent with the general Church welfare principles especially in adversarial proceedings involving members on both sides of the litigation.

Coordination with Other Programs.

Any JRCLS pro bono program may be coordinated with local bar association or other pro bono legal services programs. This coordination will, *inter alia*, have the following benefits: (i) enhance the JRCLS’s positive image to the local bar and community; and (ii) strength the JRCLS pro bono program.

APPENDIX A

J. REUBEN CLARK LAW SOCIETY PRO BONO LEGAL SERVICES PROGRAM

PRIESTHOOD LEADER GUIDELINES

1. *Do not pass judgment on the merits of any legal matter. Refer members to an attorney.*
 - Refer members to community legal resources if available for the particular matter.
 - If community legal resources are not readily available, the Priesthood leader may – after assessing whether the member qualifies for welfare assistance as described in the Church Handbook of Instructions – approve a referral to the JRCLS Pro Bono Program. The Priesthood leader then contacts the Pro Bono Coordinator for a referral to a Volunteer Attorney.
2. *Assign, as appropriate, a member of the Ward Welfare Committee, home teacher, or other responsible person, responsibility to contact the local JRCLS Pro Bono Coordinator to refer the needy person to the JRCLS Pro Bono Program for legal assistance. The person assigned should be willing: (1) to make the initial contact to the volunteer attorney if requested by the Pro Bono Coordinator; (2) to assist the needy person gather necessary information and documentation needed by the attorney; and (3) to assist the person arrive on time to the appointment with the volunteer attorney.*
3. *Once the member retains an attorney, never encourage or attempt to control the progress or termination of services by the attorney. Do not comment on the attorney's competence or the quality of advice rendered.*
4. *Do not attend conferences or participate in telephone calls between the member and attorney.*
5. *Do not communicate with the attorney in any way substantively related to a referred matter.*
 - Priesthood leaders (or a person assigned by the Priesthood leader) may: (1) coordinate appointments with the attorney's office; (2) prior to the client's initial meeting with the attorney, communicate to the attorney the general subject matter at issue; (3) assist the member negotiate a reduced fee or *pro bono* agreement for the attorney's services; and (4) provide other logistical support as necessary.
 - Priesthood leaders must maintain members' confidences.
 - There may be times when it will be necessary for a Priesthood leader to talk with a member's attorney (for example, when the legal matter bears upon an ecclesiastical matter being handled by the Priesthood leader). In those situations, the Priesthood leader should contact the Office of General Counsel for approval and it might be advisable to

obtain written consent of the member/client to have such discussion. The Office of General Counsel can advise you on the advisability of a written consent.

6. *Never align, legally, on one side or another of any sort of abuse matter or of adversarial matters. Scrupulously comply with the guidelines stated in Church Policies—Legal Matters, Book 1 of the Church Handbook of Instructions (1998):*

“To avoid implicating the Church in legal matters to which it is not a party, leaders should avoid testifying in civil or criminal cases reviewing the conduct of members over whom they preside. A leader should confer with the Church’s [Office of General Counsel] or the Area Presidency:

1. If he is subpoenaed or requested to testify in a case involving a member over whom he presides.
2. Before testifying in any cases involving abuse.
3. Before communicating with attorneys or civil authorities in connection with legal proceedings.
4. Before offering verbal or written testimony on behalf of a member in a sentencing hearing, parole board hearing, or probationary status hearing.

Priesthood leaders should not try to persuade alleged victims or other witnesses either to testify or not to testify in criminal or civil court proceedings.”

7. *Priesthood leaders may provide financial assistance from Church funds for attorney fees and costs only in nonadversarial matters, such as matters regarding legal status or immigration, social security, disability benefits, or uncontested estate planning matters.*

- Do not provide Church monetary assistance in adversarial matters (*i.e.*, disputed matters between or among individuals or nongovernmental entities, including domestic disputes, landlord tenant disputes, debtor-creditor disputes, or criminal defense), unless specifically approved by the Church’s Office of General Counsel.
- When giving monetary assistance, provide in writing a maximum support figure to the attorney to prevent inflated expectations. Priesthood leaders may consult with a Pro Bono Coordinator regarding the types of expenses to be expected in particular matters for purposes of this assessment. Priesthood leaders may revise the maximum support figure if the member demonstrates changed needs.

APPENDIX B

J. RUEBEN CLARK LAW SOCIETY PRO BONO LEGAL SERVICES PROGRAM

GUIDELINES FOR PRO BONO COORDINATORS AND VOLUNTEER ATTORNEYS

Coordinators should:

1. *Screen matters only to determine the legal specialty required to assist the member and not to comment on the strength of the member's case.*
2. *Whenever practicable, refer or re-refer matters, particularly criminal matters, to community legal resources.*
 - a. *Maintain a list of community legal resources, their targeted constituencies and specialties, and periodically assess the ability of each community legal resources to reasonably service referrals.*
3. *Develop a broad-based list of specialists with skills in the following areas to handle matters referred through the program on a reduced fee or pro bono basis:*
 - Bankruptcy
 - Disability and workers' compensation
 - Domestic violence, divorce, custody determinations
 - Family law
 - Immigration
 - Employment law
 - Estate planning
 - Tax
 - Criminal
 - Landlord/tenant
4. *Make certain each individual on the list of specialists is a properly licensed attorney on active status witness.*
5. *Reject matters beyond the scope of the program, including out-of-state matters, matters typically handled involving the following subject matters:*
 - Personal injury and products liability claims
 - Antitrust, business formation, commercial disputes
6. *Normally reject matters involving the following subject matters:*
 - Civil rights
 - Employment discrimination or harassment
7. *Upon request, advise Priesthood Leaders regarding the types and amounts of fees and expenses that could be covered from Church funds for purposes of the Priesthood Leader's formulating a budget for Church financial assistance. Normally, Church funds*

are used only if the individual or the individual's extended family cannot cover payments required by the attorney (for example, if a solo practitioner with expertise in family law matters agrees to handle a divorce, they commonly request that the client or another entity cover out of pocket expenses such as filing fees). Thus, depending on the type of matter and volunteer attorney, the coordinator may need to discuss with the bishop what payments should be made based on the bishop's assessment of the financial circumstances of the individual and the individual's family.

8. *The coordinator should maintain an updated list of volunteer attorneys and list of resource attorneys to distribute to volunteer attorneys.*

Volunteer Attorneys should:

1. *Exercise independent, professional judgment, consistent with ethical obligations, in determining whether to accept or reject any matter referred through the program and in directing the progress or termination of any matter.*
2. *Contact "resource attorneys" for assistance and guidance in particular matters. Resource attorneys have specialized expertise in various substantive areas commonly need by indigent persons.*
3. *Communicate clearly to the client in writing that neither the Church nor the JRCLS are responsible for the provision of legal services and that neither Church nor the JRCLS are providing any malpractice insurance for the legal services rendered by the volunteer attorney.*