

## Mississippi Rules of Professional Conduct – Rule 6.1

Note: Rule 6.1 in its entirety may be found on the Supreme court website at [http://www.mssc.state.ms.us/rules/msrulesofcourt/rules\\_of\\_professional\\_conduct.pdf](http://www.mssc.state.ms.us/rules/msrulesofcourt/rules_of_professional_conduct.pdf)

### Q. What are the pro bono rules?

A. On March 24, 2005, the Supreme Court of Mississippi adopted amendments to Rule 6.1, Mississippi Rules of Professional Conduct, Voluntary Pro Bono Public Service. The amendments provide more definition and structure to the lawyer's responsibility to perform annually twenty (20) hours of pro bono legal services for the poor or to contribute annually \$200.00 to the Mississippi Bar to be used to provide legal services to the poor through legal aid agencies or some combination of the two. *Rule 6.1(b)*. The reporting cycle under the new amendments began August 1, 2005.

### Q. To whom do the rules apply?

A. The pro bono rules apply to all members of The Mississippi Bar in good standing except those members of the Bar who are (a) restricted from practicing law outside their specific employment; (b) members of the judiciary and their staff; (c) government lawyers; (d) legal services lawyers (e) inactive members of the Bar; (f) lawyers 75 years and older; and (g) lawyers who are suspended. *Rule 6.1(d)*.

### Q. Do the rules require lawyers to provide pro bono legal services to the poor?

A. No. Providing pro bono services is voluntary. The rules only require that all Mississippi Bar members report annually what, if any, pro bono legal services the member has provided or whether the member has provided (a) a contribution to The Mississippi Bar in lieu of service, (b) is deferred, or (c) has not provided pro bono services or made a contribution. The report form is on the annual Bar dues statement beginning August 1, 2006. *Rule 6.1(e)*.

### Q. If not required, what pro bono legal services for the poor are Mississippi lawyers expected to provide under the new rules?

A. The Mississippi Supreme Court has set an aspirational professional responsibility for all members of the Bar (except those exempted or deferred) to perform annually a minimum of twenty (20) hours of pro bono legal services for the poor or to contribute annually at least \$200.00 to The Mississippi Bar or some combination of the two. *Rule 6.1(f)*.

### Q. Who are “the poor” who are to receive pro bono legal services?

A. Under the rules, “the poor” are not only those living below the federal poverty guidelines (a sliding income scale based on family size), but also the “working poor.” The “working poor” is not defined but are generally those families who have limited means and cannot reasonably afford the legal services they need. The lawyer must make a good-faith determination of a pro bono client's eligibility. *Rule 6.1 Comment*.

### Q. What services count as pro bono legal services to the poor?

A. Generally, pro bono legal services involve direct free legal assistance to an eligible client or client group or free legal services to charitable, religious, or educational organizations whose overall mission and activities are designed predominately to address the legal needs of the poor. Examples of direct legal assistance are such services as representation, interviewing prospective clients, participation in advice clinics, co-counseling and mentoring on pro bono cases, serving as a mediator or arbitrator, and providing guardian ad litem services.

Examples of legal services to charitable, religious, and educational organizations include such services as providing corporate representation to a non-profit group establishing a health clinic for the poor, providing real estate legal assistance to a church developing low-income housing, or assisting a charitable group feeding the homeless to obtain tax-exempt status. *Rule 6.1 Comment.*

**Q. Do pro bono legal services to the poor have to be performed through an organized program in order to be reportable?**

A. No. An attorney providing free legal services on his/her own to an eligible client or organization can and should report it as pro bono legal services. However, there are several advantages to attorneys providing pro bono services through an organized program: (i) client eligibility and the nature of legal assistance needed will be determined by the organized program; (ii) assistance with litigation costs may be provided; (iii) provision of malpractice insurance on pro bono cases may be available; (iv) consultation with experts in specialty areas may be available; and (v) support staff services may be provided when needed. Also, organized programs assist in identifying priority legal needs of the poor in the local community so that pro bono services are provided to those most in need. *Rule 6.1 Comment.*

**Q. Does an attorney receive credit for providing over twenty (20) hours of pro bono legal services to the poor in one year?**

A. Yes. The hours in excess of twenty (20) hours may be carried forward and reported as such for up to two (2) succeeding years. However, it is hoped attorneys will want to continue providing needed pro bono assistance and will want to report all of their pro bono hours each year, so the true amount of volunteer service being provided in a year can be measured. *Rule 6.1(g).*

**Q. Can attorneys collectively satisfy the professional responsibility by applying the pro bono work of a few attorneys to satisfy the professional responsibility of many attorneys?**

A. Lawyers are encouraged to personally provide pro bono services; however, the Supreme Court recognizes that collective credit is necessary in limited circumstances because of the time, effort, and expense involved. Collective satisfaction is permitted by law firms only under a plan previously approved by The Mississippi Bar. *Rule 6.1(c).* The plan must provide for legal services to the poor:

- (i) in a major case or matter involving a substantial expenditure of time and resource;
- (ii) through full-time community or public service staff; or
- (iii) in any other manner that has been approved by The Mississippi Bar.

The Mississippi Bar has adopted a collective discharge application which can be obtained by contacting Larry Houchins, Executive Director, The Mississippi Bar at [houchins@msbar.org](mailto:houchins@msbar.org) .