



DELIVERING STRATEGIC SOLUTIONS ACCA'S 2000 ANNUAL MEETING

Access to Justice

Pro Bono is Good Corporate Policy

By Kathaleen M. Smith When a two-year-old child found herself at the center of a guardianship dispute, Bob McKellar of the Dow Corning Law Department did not hesitate to step in and provide pro bono service as guardian ad litem. He said the experience moved him and provided a deep sense of personal satisfaction. The child's grandparents sought guardianship and conservatorship of their grand-daughter because the parents separated and left the child in the grandparents' custody. When the grandparents did not hear from the parents for an extended period of time, they became concerned about the possibility that they might need authority for medical and other decisions. When they contacted the Midland County Probate Court, McKellar was appointed as guardian ad litem. He met with the grandparents and discussed the need to protect the child.

As the court date approached, the child's mother returned and, in her attempts to regain custody, began to discourage the guardianship proceedings. McKellar began his own investigation and determined that neither parent was employed and lacked the resources to provide the child with adequate housing, food and clothing. He concluded that the grandparents were best able to satisfy the needs of the child.

At the guardianship/conservatorship hearing, the mother argued vigorously against the petition. McKellar provided the court with the results of his investigation. His report was the basis for the court's decision to grant guardianship/conservatorship to the grandparents. The decision was expected to allow the mother the time and opportunity to attain financial stability and adequate housing for herself and the child.

This is only one example of how the Dow Corning Law Department has demonstrated its commitment to pro bono service. Attorneys Jennifer Warren, Barb Rather, Cathy Brown, Pat Scaduto, Sharon Severance, Melvin Fletcher, Jim Hayes, Ken Jacobs, Richard Gearhart, Tim Troy, and Ed Ovsenik have all participated in projects administered by Legal Services of Eastern Michigan. These include consumer law clinics and family law projects. For all of the pro bono work, Jill Trokey, a Dow Corning paralegal, monitors the hours and assignments. One morning each month, a few attorneys staff the consumer law clinic. They participate in advice sessions and case screening interviews for cases that involve consumer credit, bankruptcy and the lemon law. Many of the clients have encountered financial difficulties resulting from illness, injury or job loss. These are not people who habitually do not pay bills; they simply need advice about how to deal with collection agencies and the predatory practices of some creditors.

While Dow Corning's attorneys participate in a wide variety of pro bono activities, there has been a special focus on the guardianship/conservatorship cases. In 1998, Dow Corning's attorneys handled 47 of these matters. Each case presented its own unique challenges. For example, Dow Corning attorney Nate Franklin had an experience as a guardian ad litem that differed from that of colleague Bob McKellar.

Franklin was appointed guardian ad litem for two minor children. There was a petition to modify a guardianship that had already been in place for nearly three years. Both parents of the children were very

young with histories of criminal activity. While the father was in prison, and just prior to the mother's incarceration for drug charges, she had successfully petitioned the court to have the children's aunt appointed as their full guardian in the mother's absence.

Shortly after her release from jail, the mother again became involved in criminal activity, during which time she left with a boyfriend to another state. The mother was subsequently apprehended by authorities and returned to Michigan. Following this latest run-in with the law, the mother attempted to turn her life around and sought steady employment and counseling for her substance abuse.

The guardian had refused the mother's request to allow the children to visit her without the guardian present. The mother petitioned the court to have the guardianship modified to specifically allow for "unsupervised" visitation. The mother argued that in order to repair her relationship with her children, she needed time alone with them.

Franklin, as the guardian ad litem, agreed that the mother's argument seemed reasonable on its face. However, he concluded that in light of the mother's recent criminal activities, including fleeing the state, there was a good chance that she might engage in high-risk behavior again—perhaps in the presence of the children. Franklin reported to the court that the petition was not in the best interest of the children and should be denied. The court agreed and denied the petition to modify guardianship.

When reflecting on the case, Franklin said, "I never felt more like an intruder." He said the case was particularly difficult because the children did want to spend time with their mother. He was forced to confront and grapple with the difficult standard of "best interest of the child."

Not all pro bono guardianship/conservatorship duties end with uncertainty. When I recommended that a petitioner with severe physical disabilities be appointed as guardian/conservator of her sick husband, I received the gratitude of an entire family. I was shocked when introduced to the petitioner who, because of her own physical difficulties, had to use a wheel chair. I wondered whether she would be able to meet the responsibilities of guardian/conservator. I soon had my answer; even though physically handicapped, the petitioner was mentally and emotionally strong.

The hearing, which occurred shortly before Christmas, was attended by two of the couple's children. When the hearing ended, it was clear that with the petitioner's emotional strength and assistance from her children, she would be able to meet the responsibilities of guardianship/conservatorship.

Regardless of the outcome, the staff at Dow Corning that take pro bono cases understand the important role they have played in the administration of justice.

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At Dow Corning Corporation, pro bono is given high priority. Each of the 34 Michigan attorneys at the company is expected to meet the annual expectations of the State Bar's Voluntary Pro Bono Standard by donating either 30 hours of legal services or \$300 to an eligible legal services program. These are just a few reasons why pro bono is important for members of the company's Law Department staff:

- Accepting the opportunity of pro bono service is part of being a professional. Such service is expected of us in our role as lawyers. We have received much as a result of our high calling, and pro bono gives the welcome opportunity to give something back to our community.
- Pro bono reminds us of the high aspiration of service to society that motivated many of us to go to law

school in the first place.

- Pro bono service is deeply satisfying.

The company accepts that some pro bono work will be done on company time, and the Law Department is willing to underwrite reasonable expenses of maintaining a pro bono caseload. Everyone is urged to join the pro bono effort. Kathy Smith, a Dow Corning senior paralegal and third-year student at Thomas M. Cooley Law School, has already begun making her contributions under appropriate attorney supervision. This article describes some of the ongoing pro bono work by members of the Law Department staff.

James R. Jenkins

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