

FILED

December 3 2013

FILED  
*Ed Smith*  
CLERK OF THE SUPREME COURT  
STATE OF MONTANA

IN THE SUPREME COURT OF THE STATE OF MONTANA

No. AF 11-0765

DEC 03 2013

*Ed Smith*  
CLERK OF THE SUPREME COURT  
STATE OF MONTANA

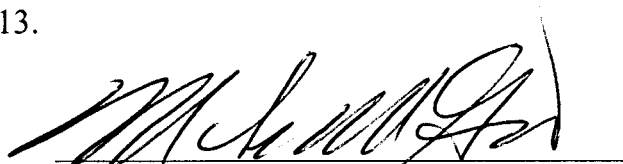
IN RE THE RECOMMENDATION REGARDING A )  
PRO BONO REQUIREMENT FOR ADMISSION TO ) ORDER  
THE MONTANA BAR )

In accordance with this Court's order of September 9, 2012, the Access to Justice Commission (ATJC) designated a committee to study a proposal to establish a requirement that applicants to the Montana bar must complete fifty hours of pro bono service within three years before they are admitted to the Bar. The ATJC now has approved the recommendations of that committee for an alternative proposal and presented them to the Court for an appropriate period of public comment and consideration at a public meeting of the Court. The recommendations are attached to this Order.

IT IS NOW ORDERED that public comments will be accepted on the ATJC's attached recommendations for 90 days following the date of this Order. All comments shall be filed with the Clerk of this Court. When the comment period has expired, the Court will schedule a public meeting on the subject.

This Order and the attached recommendations will be published on this Court's website. In addition, the Clerk is directed to provide copies of this Order and the attached recommendations to: the State Bar of Montana, with the request that they be posted on the State Bar's website, the University of Montana Law School, the Chair of the Board of Bar Examiners, and the Chair of the Commission on Character and Fitness.

Dated this 3<sup>rd</sup> day of December, 2013.

  
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Chief Justice

Michael Wheeler

Laura R. Kelly

Brian M. ...

John ...

Patricia Potter

Justices

**FINAL RECOMMENDATIONS OF THE ACCESS TO JUSTICE COMMISSION ON  
PRO BONO REQUIREMENTS FOR NEW BAR ADMITTEES**

The Access to Justice Commission of the Montana Supreme Court makes the following recommendations to the Court to achieve two specific goals: (1) to assist in creating a culture of volunteerism in future members of the Bar by providing students with opportunities to work with clients in a supervised pro bono setting, and (2) to serve the unmet legal needs of Montanans. Implementation of these recommendations should be done in a manner that furthers these goals.

Every lawyer has a professional responsibility to provide legal services to those unable to pay. The Commission recommends that the Court determine that this professional obligation begins in law school. The Commission recommends that law students should be expected to render at least 50 hours of pro bono publico law-related services during their legal education, prior to applying for admission to the State Bar of Montana. This service should meet the spirit of Rule 6.1 of the Rules of Professional Conduct, with some accommodation to account for the fact that a law student is not licensed to practice law.

**I. Law Student Pro Bono Publico.**

In meeting the professional obligations of a student practitioner over the three-year term of law school, consistent with Rule 6.1, the student should:

(a) provide a substantial majority of the student's law-related services without fee or expectation of fee to:

(1) persons of limited means; or

(2) charitable, religious, civic, community, governmental and educational organizations in matters which are designed primarily to address the needs of persons of limited means; and

(b) provide additional law-related services through:

(1) delivery of law-related services to individuals, groups or organizations seeking to secure or protect civil rights, civil liberties or public rights, or charitable, religious, civic, community, governmental and education organizations in matters in furtherance of their organizational purposes, where the payment of standard legal fees would significantly deplete the organization's economic resources or would be otherwise inappropriate; or

(2) participation in activities for improving the law, the legal system or legal profession.

For reporting purposes by student bar applicants, "law-related services" include:

(a) Direct legal services under supervision of a licensed attorney or legal services provider;

(b) Similar volunteer law-related services that do not constitute the practice of law, provided that such services are designed primarily to address the legal needs of persons of limited

means. Examples of qualifying service include, but are not limited to, services as a volunteer for a self-help legal clinic, domestic violence program, Court Appointed Special Advocates (CASA) program, or providing community legal education; or  
(c) Services provided to and under the direct supervision of a court-based program designed to facilitate the resolution of cases involving self-represented litigants of limited means.

## **II. Mandatory Reporting for Bar Applicants.**

The Commission recommends that the Court adopt a rule requiring all applicants for admission to the Bar to submit reports of their pro bono publico law-related services. Reporting by law students should be available beginning in their first year of law school. All applicants for admission to the Bar should be required to submit a report of all pro bono services performed during the three-year period preceding their admission. The report will be required for bar applicants even if they have no hours to report. The reporting form should be developed by the State Bar in coordination with the Montana Board of Bar Examiners, the Supreme Court's Commission on Character and Fitness, and the Supreme Court's Pro Bono Coordinator.

## **III. Character and Fitness.**

Reports of law student and bar applicant pro bono publico legal services will be referred to the Character and Fitness Commission for incorporation into the Character and Fitness review process for admission to the Montana State Bar. The Character and Fitness Commission would not be required to verify independently the information reported, but would have the discretion to make further inquiry based on the information submitted.

## **IV. Law School Signature Program.**

The Supreme Court should direct the Access to Justice Commission to work in conjunction with the University of Montana School of Law, the Student Bar Association, the State Bar of Montana, the Supreme Court's Pro Bono Coordinator, and legal services providers to develop a signature program to pair Montana attorneys with law students to work on Rule 6.1 pro bono matters that are eligible to be reported as pro bono hours by both the attorney and the student. This program should be developed and in place before any student or bar applicant reporting requirement commences, but the Commission recommends that the reporting requirement begin no later than the July 2017 bar examination.

## **V. Access to Justice Commission Standing Committee.**

To facilitate the accomplishment of the goals and programs described above, the Access to Justice Commission has created a standing committee to work with the law school, law students, legal services providers, and the State Bar of Montana to develop and implement an ongoing program to expand and support pro bono opportunities for students and to

recommend to the Commission any needed rules and procedures to suggest to the Court and to the State Bar of Montana. The Commission shall, on a regular basis, evaluate the effectiveness of the program and include its evaluation in the Commission's report to the Court.