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Law Firms Willing to Pay to Work for Nothing

 By ASHBY JONES
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Lawyers have long contributed free legal work to those in need. But in recent years, law firms have grown so eager to take on cases "pro bono" that they have started to pay for the privilege.

Since 2005, Lawyers Without Borders Inc., a nonprofit organization that focuses on strengthening the legal process around the world, has required that law firms donate at least \$7,500 a year to guarantee access to the cases it handles. Volunteer Lawyers for the Arts Inc., a nonprofit which delivers legal services to the arts community, gives first crack at desirable cases to firms that contribute to it. In other, less explicit arrangements, firms give money, office space or clerical help to organizations that funnel pro bono work to them.

"These cases don't just come," says Scott Harshbarger, a former attorney general of Massachusetts who was hired by Proskauer Rose LLP in 2005 in part to head up a new pro bono initiative at the firm. "You've got to pony up."

Paying for Pro Bono

Firms that gave from \$5,000 to \$25,000 to Lawyers Without Borders in 2006; from highest to lowest

- Shearman & Sterling
- White & Case
- McDermott Will & Emery
- Akin Gump Strauss Hauer & Feld
- Orrick, Herrington & Sutcliffe
- Pepe & Hazard

Source: Lawyers Without Borders


By the standards of corporate charitable giving, law-firm donations to public-interest groups aren't huge. A typical annual donation from one firm to a single group may be in the range of \$20,000, lawyers say. But lawyers at some large firms say it's not uncommon for annual budgets for donations for public-interest organizations to range upwards of \$1 million.

Some firms bristle at the explicitness of some public-interest groups' demands. "Personally, it turns me off when organizations come to me and say, 'You're going to have to contribute to get work,'" says lawyer Scot Fishman, who is manager of corporate social responsibility at LeBoeuf, Lamb, Greene & MacRae LLP in New York. "We certainly don't mind making contributions, but we want to

make those decisions on our own." Mr. Fishman says LeBoeuf does give financial support to organizations it works with, but it prefers groups that don't require a payment before a relationship can begin.

The movement comes as pro bono work has evolved from an act of noblesse oblige into, at least in part, a business initiative for elite firms. Some firms want strong pro bono programs as a way to

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recruit and retain top law students and junior lawyers, who are often more eager than their predecessors to do pro bono work.

The big firms are "having to dig deeper to differentiate themselves," says Esther Lardent, the president of the Pro Bono Institute at Georgetown University Law Center. "Dedicating to pro bono is a way for a firm to say 'Our culture isn't entirely about maximizing profits, but about something bigger.' "

The upshot is increased support for the public-interest organizations that coordinate and send pro bono work to firms, and a lot more pro bono getting done. Debbie Segal, the pro bono partner at Kilpatrick Stockton LLP in Atlanta, says the firm performed more than 30,000 pro bono hours last year, up from about 7,900 in 2000. Others firms say they've upped their hours as well.

In 2003, the industry's trade magazine, the American Lawyer, started publishing its "A-List," a ranking of law firms based upon several factors, including the amount of pro bono work a firm's lawyers perform in a year. In response, some law firms started doing more pro bono, in part to make the list or move up it.

Some firms have hired lawyers to work full time at coordinating pro bono efforts. Others are now requiring that their lawyers to do at least 20 pro bono hours per year. "If your peers are doing something better than you are, you're going to ramp up," says Joe Genova, a partner and director of public service at Milbank, Tweed, Hadley & McCoy LLP in New York. "Pro bono has been a big beneficiary" of this mentality.

But not just any unpaid work will do. The elite law firms could sidestep some competition for pro bono work by picking up plentiful but unglamorous matters, but many lawyers are more interested in what they see as challenging or high-profile issues, such as asylum cases, voting-fraud class actions and reviewing tax-reporting requirements for organizations like Teach for America Inc.

René Kathawala, the pro bono counsel at Orrick, Herrington & Sutcliffe LLP, says areas where demand for lawyers outstrips supply include landlord-tenant disputes, welfare matters and low-profile divorce cases, which his firm occasionally handles. "That's just the way it goes," adds Mr. Kathawala. "You can't force someone to do a pro bono matter."

It is competition for the desirable work that allows organizations like Lawyers Without Borders and Volunteer Lawyers for the Arts to charge firms. "Look, we view each other as clients," says Christina Storm, the executive director at Lawyers Without Borders. Law firms "support us financially, and we introduce them to projects all over the world that they might not otherwise find."

For instance, Lawyers Without Borders arranged for attorneys at Shearman & Sterling LLP to help reform Liberia's legal system. Lawyers from the firm are currently helping organize the country's case law, and Shearman lawyers will soon travel to Liberia to train lawyers in U.S.-style legal practice.

A number of firms enter into loose arrangements where a nonprofit gives a law firm a handful of cases. While nothing is promised in return, both the law firm and the organization understand that if the relationship goes well, the firm will donate.

Some firms give more than money. When DLA Piper US LLP wanted to do work for the

Children's Law Center in Washington, D.C., about five years ago, the center indicated to the law firm that it was looking for new office space. DLA agreed to house the organization, rent-free, for six months in its own offices and then leased the organization space at generous rates for three years. It gave the organization free postage, free office supplies, free furniture and several thousand dollars. In exchange, DLA received "a steady stream of cases and expertise in children's-law issues," says Lisa Dewey, the firm's pro bono partner.

But explicit deals, like those offered by Lawyers Without Borders, don't sit well with everyone. "I know how business in the U.S. works, and we make substantial financial contributions" to public-interest organizations, says Marc Kadish, the director of pro bono activities at Mayer Brown Rowe & Maw LLP in Chicago. "But, to me, that sort of arrangement crosses a line."

Mr. Kathawala of Orrick Herrington, which has paid Lawyers Without Borders to get work, says such arrangements make sense. "When you have a competitive environment, money's going to play a role," says Mr. Kathawala. "It's to be expected."

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