



MICROSOFT CORPORATION BEST PRACTICES IN PRO BONO

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Program Background

Innovation is the norm at Microsoft Corporation (Microsoft), the world's top software company whose success has been based on seeing a need and creating a product to meet that need. So when the leaders of Microsoft's Legal and Corporate Affairs department (LCA) realized that so many of its attorneys and paralegals were doing pro bono work on their own time, Brad Smith, Microsoft's general counsel and executive vice president, decided to find a way to streamline their efforts. Smith tasked Lydia Tamez, associate general counsel at Microsoft, with putting together a department-wide pro bono program. "LCA attorneys and paralegals were already generous with performing pro bono, so we wanted to offer them the opportunity to participate in something that LCA had already vetted and could recommend to them," says Tamez. With that goal in mind, LCA sponsored Volunteer Advocates for Immigrant Justice (VAIJ), a joint initiative with the American Bar Association's Commission on Immigration Policy, Practice and Pro Bono, and with the support of several local law firms. Microsoft then expanded its efforts nationally by forming Kids in Need of Defense (KIND) with actress and humanitarian Angelina Jolie to empower law firms, law departments, NGOs and volunteers to represent unaccompanied juvenile immigrants. In October of 2006, Smith signed the Corporate Pro Bono ChallengeSM.

Tailoring Pro Bono to Company Strengths and Interests

When LCA members initially explored options for pro bono opportunities, the ABA Commission approached them to gauge their interest in doing immigration work to help some of the more than 180,000 immigrants, refugees, and newcomers that are detained annually by the Department of Homeland Security's Immigration and Customs Enforcement (ICE). The idea of taking on such a project was appealing for several reasons:

- there was already an immigration group within LCA;
- immigrants comprise nearly one-third of Microsoft's Redmond headquarters and have contributed so much to Microsoft's success; and
- immigration work has a plethora of opportunities for non-attorneys, making it ideal for involving the entire staff.

"But what really resonated with us," says Tamez, "was the fact that unrepresented immigrant detainees in asylum cases have only a 4% chance of success versus a 20% chance for represented detainees. That made the prospect of doing this kind of work exciting."

The true innovation, however, was in the projected design of the program, which was unlike that of a standard in-house pro bono program. LCA sought to develop a stand-alone, self-supporting organization to be managed as would be any other legal services organization. It would be headed by an independent full-time staff, not just Microsoft employees, and would offer pro bono opportunities to all Seattle-area volunteers, not just Microsoft staff. The 15-month

preparation period was longer than expected, but necessary to ensure that every possible requisite and a few added safeguards were firmly in place before the program launch. One element that Tamez immediately recognized as necessary, not only as a safeguard, but also for recruitment, was to offer enough training, support, and even “a bit of hand-holding” to give the volunteers, many of whom were unfamiliar with and intimidated by the asylum process, a “high level of comfort.” Finally, with all of the pieces in place, including the blessings of ICE and the local immigration court, the Project Director and Project Coordinator were hired, malpractice insurance was obtained so that all volunteers would be covered, and August 2003 saw the official start of VAIJ, a program that “matches attorneys in the Seattle area with detained immigrants who have claims for relief, ensuring that detainees receive much-needed representation.”

Microsoft and Volunteer Advocates for Immigrant Justice (VAIJ)

With the close collaboration of the Northwest Immigrant Rights Project (NWIRP), a legal aid organization with a good reputation and a strong infrastructure, and several area law firms, VAIJ has attracted volunteers throughout the community, including law firm attorneys and solo practitioners, medical professionals who can provide assessments of the detainees, translators, several nonprofit organizations, and the Washington chapter of the American Immigration Lawyers Association. Since its inauguration, VAIJ has screened and placed hundreds of cases. Even more impressive, however, and with no preconceived plan to do so, VAIJ has developed an expertise in handling cases of undocumented and unaccompanied immigrant children detained by the government. In fact, it is now one of only a handful of organizations in the U.S. that dedicates 50% or more of its efforts to representing unaccompanied juvenile detainees, an exceptionally under-represented and extremely vulnerable group.

What is the most significant result of the program, beyond the obvious number of clients served? “Of course, it is great to see the attorneys so excited when they win a case,” says Juliann Bildhauer, VAIJ’s project director, who, along with Ryan McGrath, the project coordinator, trains the volunteers, introduces them to their clients, shadows them throughout their cases, and accompanies them to all of their hearings. “However,” she continues, “even when a case is not won, it is extremely gratifying to see that the volunteers have understood how fundamentally important representation is and the need for pro bono efforts.” Having firmly incorporated that principle into LCA’s culture, it is possible that the department will apply it to other kinds of pro bono work in the future. But, for now, representing immigrant detainees, especially minors, remains the focus, because, as Brad Smith stated with the passion of a true innovator, “There is a problem, it needs to be addressed, and Microsoft has the means to address it.”

Kind in Need of Defense

Building on its incredible success with VAIJ, Microsoft decided to both focus and expand its efforts by focusing on unaccompanied immigrant children and expanding its scope to nationwide. With Jolie, Microsoft formed KIND with “an ambitious but achievable agenda. We intend to provide legal representation for 100% of unaccompanied children in the areas of the country where the need is greatest.” KIND has offices in Baltimore, Boston, Houston, Los Angeles, Newark, New York City, and Washington, DC, and VAIJ is its affiliate in Washington State. As an organization, it encourages not only LCA members to represent children, but

attorneys from other legal departments and law firms. Moreover, KIND is working not only at the micro-level on individual cases, but the macro-level as well and advocates for policy changes to improve the lot of unaccompanied children.

International Pro Bono

KIND, primarily operates in the U.S., where it is focused on ensuring minors are represented by pro bono counsel in immigration proceedings. In the last year, however, KIND has also begun to focus on how to ensure that children or youth who are repatriated to their countries of origin have a smoother re-entry and reintegration. Microsoft is partnering with several major law firms to do some research on child welfare laws and other regulations that apply to returning children, and what protections they might have upon arrival. Partnerships are at the core of Microsoft's international pro bono efforts. In addition to helping KIND strengthen and extend its child repatriation program, LCA employees are partnering with law firms and NGOs around the world to make an impact. Examples of these partnerships and projects include representing disadvantaged individuals in France with Droits D'Urgence; representing clients in Africa with Lawyers without Borders; surveying and drafting disaster relief provisions for the International Red Cross with A4ID and Baker & McKenzie; creating and delivering a legal ethics curriculum in Russia with PILnet, White & Case LLP and others; teaching intellectual property and licensing to lawyers and judges in emerging markets with International Development Law Organization; and providing legal advice on employment law, intellectual property, and anti-corruption to social entrepreneurs with the Ashoka Foundation.

Lessons Learned

- Support from the top is key. The legal department and company leaders provide invaluable support for pro bono initiatives and can streamline much of the process of setting up a formal pro bono program.
- Take company interests and strengths into account. Microsoft took into account the company's innovative nature and employee preferences in its decision to handle immigration cases. Internationally, where interests and cultures are diverse, employee interests drive Microsoft's partnerships.
- Pioneer new pro bono opportunities. While following established in-house pro bono program models can help expedite the program-planning process, innovative approaches can provide an opportunity for creative collaboration among staff.

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