

## **Acknowledgements**

First, I would like to thank my thesis advisors, Dr. Jeffrey Summerlin-Long and Dr. Daniel Gitterman. I appreciate Dr. Summerlin-Long's willingness to answer my abundance of questions and provide research resources for me. I also greatly appreciate Dr. Gitterman's detailed, thoughtful editing suggestions throughout this process.

I would also like to thank my parents for always believing in me and encouraging me to do hard things. My best friend, Riley, has also been an invaluable support system and constant source of positivity, setting a weekly thesis work date with me so we could bounce ideas off of each other, take walks for study breaks, and just keep each other company while working on our individual research.

I am grateful for every individual who agreed to be interviewed for the purpose of this research including Sylvia Novinsky at the North Carolina Pro Bono Resource Center, Kim Bart Mullikin at the North Carolina Bar Association, Allison Standard at the UNC School of Law, James Jolley of the Pro Bono Alumni Board for UNC Law, Kenneth Schorr and Katya Riasanovsky at Charlotte Center for Legal Advocacy, Jim Barrett at Pisgah Legal Services, and David Wormald at Legal Aid of North Carolina. I was inspired by each individual's commitment to justice and their dedication to increasing legal access to those in our community who cannot afford it. Thanks to these individuals, I have gained a rich understanding of legal pro bono in North Carolina.

I look forward to continuing my research on this topic in the years to come, as well as being personally involved in efforts to expand legal service access for low-income individuals in my own future legal career.

## Table of Contents

Acknowledgements.....	1
Abstract.....	3
Table of Figures.....	4
Chapter 1: Introduction and Background.....	5
Key Question.....	5
Background.....	5
Legal Aid Funding.....	8
Link to Public Policy.....	14
Road Map.....	14
Chapter 2: Background and Conceptual Framework.....	15
Chapter Overview.....	15
Adversarial Legalism.....	15
One-Shotters Versus Repeat Players.....	16
Mandatory Pro Bono Requirements.....	16
Pro Bono Incentives.....	20
Chapter 3: Research Design: Methods and Data.....	28
Aim of this Case Study.....	28
Data.....	29
Limitations.....	31
Chapter 4: Findings.....	32
Current Status of North Carolina Pro Bono.....	32
Interview Findings.....	39
Generalizability.....	56
Lessons to Learn from North Carolina.....	57
Chapter 5: Conclusions and Recommendations.....	58
Policy Reforms.....	58
Areas for Further Research.....	62
Final Conclusion.....	62

## **Abstract**

Over 80% of the civil legal needs of low-income Americans go unmet every year. While legal aid organizations are the dominant source of legal assistance for low-income individuals, they suffer from underfunding and understaffing and do not come close to meeting the vast amount of needs of low-income Americans. In fact, there is only one legal aid attorney for every 11,000 North Carolinians eligible for their services, compared to one private attorney for every 362 North Carolinians. One way to meet the need for free legal services is through private attorneys who offer their services for free through pro bono. This research is a case study of North Carolina, seeking to answer the question: how can North Carolina increase its pro bono legal services? To evaluate North Carolina's pro bono culture and suggest suitable policies for the state, this paper uses a mixed-methods approach of combining quantitative data and qualitative interviews with leaders in the field of North Carolina. This descriptive case study suggests three policy reforms to increase North Carolina's supply of pro bono legal services, including pro bono program training for legal aid organizations, formal attorney emeritus programs, and mandatory pro bono reporting.

## Table of Figures

Table 1: Licensed Emeritus Attorneys.....	28
Figure 1: Interested North Carolina Attorneys Who Accept Pro Bono Cases.....	34
Table 2: Pro Bono Practice Status Attorneys in NC.....	39
Table 3: Florida Pro Bono.....	62

## **Chapter 1: Introduction and Background**

### **Key Question**

This paper conducts a case study of North Carolina's pro bono culture and policies and then offers policy reforms to increase the state's pro bono activities. The goal is to determine how to increase the availability of legal services through pro bono for low-income North Carolinians. First, this paper presents an overview of unmet legal needs and pro bono more broadly in the United States, as well as summarize some of the preexisting literature on pro bono, and then it focuses specifically on pro bono within North Carolina.

### **Background**

Nearly a century ago, esteemed attorney Reginald Heber Smith wrote about the trilemma that exists within the American legal system: "that the machinery of justice can be operated only through attorneys, that attorneys must be paid for their services, and that the poor are unable to pay for such services" (1919, p. 241). America's legal institutions were formed with the intention that trained lawyers would be employed, and nothing short of overturning the entire system can remove the necessity of the attorney, according to Smith (1919). Almost 100 years later, Smith's words are still relevant. Attorneys are an essential component of the American legal system, but individuals who cannot afford legal presentation and are not given a court-appointed attorney must try to navigate legal matters, ranging from landlord-tenant issues to family law cases to immigration matters, on their own. While state and local legal aid organizations, as well as other nonprofits, provide free or reduced-cost service to low-income individuals, it is estimated that over 80% of the civil legal needs of low-income Americans go unmet (Legal Services Corporation, 2017). Furthermore, the decentralized structure of the legal profession, especially in terms of pro bono service by private attorneys, results in wide variation in such service between

states. This paper will first present an overview of unmet legal needs and pro bono more broadly in the United States, as well as summarize some of the preexisting literature on pro bono, before focusing specifically on pro bono within North Carolina.

While the Constitution guarantees a defendant the right to an attorney in a criminal case, there is no constitutional right to a government-provided attorney in civil cases (“*Lassiter v. Department of Social Services.*, 452 U.S. 18,” 1981). Civil law is the body of laws that govern private matters, which is separate from laws presiding over criminal or military matters. Categories of civil law include contract law, tort law, property law, and family law (Legal Dictionary, 2016). Individuals can represent themselves in court, but the legal system is complex and especially confusing for those who have not received a legal education. Since attorneys are expensive, many people cannot afford to hire one, and legal aid organizations do not have enough funding or manpower to meet the needs of all low-income people in civil matters. In fact, there is only one legal aid attorney for every 11,000 North Carolinians eligible for their legal services. In contrast, there is one private lawyer for every 362 North Carolina residents (North Carolina Pro Bono Resource Center, “Learn About Us”).

To help meet the need for free or reduced-cost legal services, legal aid societies emerged in the United States in the late 1800s. The first legal aid societies were established in New York to assist immigrants. Years later, in the 1920s, coordinated national efforts to create legal aid societies began (History of Civil Legal Aid, n.d.). In 1964, President Lyndon Johnson instituted the national Legal Services Program as part of his “War on Poverty.” Through this program, the federal government invested in the legal aid system to support appellate advocacy, legislative advocacy, and community engagement efforts. Ten years later, Congress restructured federal legal aid, removing it from the control of the executive office and creating the Legal Services

Corporation (LSC) as an independent nonprofit (History of Civil Legal Aid, n.d.). Over the next six years, federal funding increased fivefold, and LSC expanded its aid to cover virtually every county in the United States (History of Civil Legal Aid, n.d.).

In an era of increasing Internet research and pro se litigation, is attorney representation still important? The majority of the research says yes (Taylor Poppe and Rachlinski, 2016). For example, in family law cases, legal representation is associated with a greater likelihood of achieving protective orders— 83% with representation, compared to 32% without (Taylor Poppe and Rachlinski, 2016). Immigrants seeking asylum with representation have a 45.6% success rate, compared to a 16.3% success rate of those who do not have representation (Taylor Poppe and Rachlinski, 2016). It is clear that there is a need for legal counsel in civil cases.

Each year, the Legal Services Corporation publishes its “Justice Gap Report,” which explores the difference between the civil legal needs of low-income Americans and the resources available to meet those needs. The 2017 report found that 71% of low-income households experienced at least one civil legal problem in the last year, including issues with health care, housing conditions, disability access, veterans’ benefits, and domestic violence (Legal Services Corporation, 2017). 86% of the civil legal problems reported by low-income Americans in the past year received inadequate or no legal help (Legal Services Corporation, 2017). Over time, numerous studies have shown that there is a consistent level of unmet legal needs (Summerlin-Long, 2011). Studies in 1977 and 1981, and 1994 found that roughly 80% of the civil legal needs of the poor were not met (Summerlin-Long, 2011) A series of state-level studies have also reiterated the 80% figure (Summerlin-Long, 2011).

## **Legal Aid Funding**

Today, the salaried legal aid attorney working for a dedicated legal services organization continues to be the dominant form of providing legal aid to low-income individuals (Legal Services Corporation, 2017). These attorneys have the practical experience in civil legal matters that low-income people need, but they are unable to fully meet the needs of low-income individuals. The primary problem in terms of expanding their services is not enough funding. Legal aid funds come from charities, private donors, some state and local governments, and the federal government's Legal Services Corporation. LSC is the single largest funder of civil legal aid for low-income Americans in the nation (Legal Services Corporation, 2017). LSC distributes more than 90% of its funding to 133 independent nonprofit legal aid programs with more than 800 offices (Legal Services Corporation, 2017). However, LSC funding is not guaranteed from one year to the next, as it can be cut or reduced in the federal budget. The American Bar Association urged Congress to increase LSC funding to \$450 million in the 2018 budget (American Bar Association, 2017, "Senate Appropriations Committee"). However, the Trump administration's proposed 2018 budget eliminated LSC funding entirely (American Bar Association, 2017, "Senate Appropriations Committee"). The Senate Appropriations Committee chose to maintain LSC's funding at its current level of \$385 billion for fiscal year 2018 (American Bar Association, 2017, "Senate Appropriations Committee").

Legal aid organizations that receive LSC money must conform to strict government regulations and are not permitted to lobby or file class action suits, so some legal aid organizations choose not to take LSC money. The money that charities, states, and private individual donors provide comes with fewer or no stipulations attached. One of the requirements for legal aid organization that receive LSC funding is that they must spend at least 12.5% of their



basic field funding from LSC on Private Attorney Involvement” (Legal Services Corporation, “Private Attorney Involvement: North Carolina”). According to LSC, their grantees “leverage federal funding and maximize the number of clients they are able to serve by involving private attorneys in the delivery of legal services, primarily on a volunteer basis” (Legal Services Corporation, “Private Attorney Involvement: North Carolina”). The PAI requirement was originally created under the Carter administration as an attempt to reconnect the private bar with the daily work of legal aid organizations (Summerlin-Long, 2011). The LSC Board mandated that 10 percent of LSC funding would be used for PAI. The PAI requirement also fit with President Reagan’s goal of privatizing social welfare provision (Summerlin-Long, 2011). In 1984, Congress required each participant to use at least 12.5 percent of its LSC money to fund programs to involve private attorneys through pro bono (Summerlin-Long, 2011). This requirement forces LSC-funded legal aid organizations to involve private attorneys in their work (Legal Services Corporation, “Private Attorney Involvement: North Carolina”).

Another source of funding for legal aid organizations is through Interest on Lawyer Trust Accounts (IOLTA) (American Bar Association, n.d.). Attorneys regularly receive client funds, referred to as trust money, to be held for future use. If the amount is large or the funds will be held for a long time, the attorney will typically place the funds in an interest-bearing account for the client’s benefit. However, if the amount is small or the money only needs to be held for a short time, it is impractical for the attorney to establish a new account for each client. In a case such as this, the cost of establishing and administering the account would exceed any interest generated for the client’s benefit (American Bar Association, n.d.). IOLTA allows attorneys that handle nominal or short-term client funds to place these funds into pooled, interest-bearing accounts and the interest earned goes to the state IOLTA program for charitable purposes. Every

state, as well as the District of Columbia and the U.S. Virgin Islands, has an IOLTA program (American Bar Association, n.d.). IOLTA dollars go toward grants for legal aid organizations, initiatives to educate the public about legal issues, scholarships for law students, and support efforts to improve the administration of justice by the courts in their state. Some state IOLTA programs are voluntary, while others are mandatory (American Bar Association, n.d.).

### **Pro Bono Service**

Some private attorneys volunteer by providing pro bono services, often as PAI through a legal aid provider or other non-profit. Pro bono is short for “pro bono publico”, which means “for the public good.” There are two different classifications that the American Bar Association uses to categorize pro bono services (ABA Standing Committee on Pro Bono and Public Service, 2013). Category 1 includes free legal services provided to individuals of limited means or organizations that address the needs of individuals with limited means. These services may include full case representation, limited scope representation, legal advice, or representation in the media (ABA Standing Committee on Pro Bono and Public Service, 2013). Category 2 includes any legal services provided for a reduced fee or no cost to any type of client, as long as the service is not part of the responsibilities of a paid job. In addition to direct legal advice or representation, Category 2 services include mediation, speaking or teaching about legal issues, serving on the board of a pro bono or legal services organization, serving on a bar committee related to pro bono, lobbying on behalf of a pro bono organization, advocating for policy change, and supervising another attorney in providing pro bono representation (ABA Standing Committee on Pro Bono and Public Service, 2013).

## Why Do Pro Bono?

Although pro bono hours are not federally or state-mandated, there are a number of reasons why attorneys, and firms at large, may decide to provide pro bono services. First, some attorneys engage in pro bono work because they feel it is personally gratifying to provide much-needed services. In the American Bar Association's 2013 survey, 70% of lawyers said that they felt their pro bono clients really needed their help, and 61% said the work was extremely gratifying (ABA Standing Committee on Pro Bono and Public Service, 2013). Consistent across various sizes and types of firms, nine in 10 attorneys indicated that they believed it was either somewhat or extremely important for attorneys to offer pro bono services. Furthermore, nearly all attorneys believed that pro bono made a difference, at least some of the time, in improving equal justice under the law. In fact, at least seven in 10 attorneys believed it made a difference at least most or all of the time (ABA Standing Committee on Pro Bono and Public Service, 2013). For these reasons, many attorneys feel as though pro bono is a worthwhile and gratifying experience.

Second, attorneys can take advantage of pro bono opportunities to build their skills, especially while they are young. For example, in a trial pro bono case, a young attorney may receive a first-chair opportunity, which provides them with experience they may not otherwise gain so early in their career (Boutcher, 2010). Third, doing a specified amount of pro bono work can lead to personal recognition (Boutcher, 2010). Most legal aid organizations and bar associations give awards or other recognition to lawyers involved in their pro bono programs. Fourth, pro bono programs help law firms recruit young attorneys, as law students frequently ask firms about their pro bono involvement (Boutcher, 2010). Fifth, doing pro bono, especially if it involves assistance to civic or charitable organizations, can help build community networks both

for a firm and for an attorney. Building networks means more opportunities for potential referrals and for business (Boutcher, 2010).

Finally, lawyers may participate in pro bono because they recognize the legal profession is a monopoly, historically compared to cartels and craft guilds (Summerlin-Long, 2011). The organized legal profession has monopolized the market, established self-regulation, created barriers to entry to the profession, and activated legal restrictions on the practice of law by non-attorneys. This monopoly has established a relatively low supply of services with a relatively high price. However, the majority of legal disputes flow through a government-provided judicial system (Summerlin-Long, 2011). If lawyers wish to continue to self-regulate, maintain the integrity of their profession, and not be subjected to mandatory pro bono, they must increase their representation of low-income individuals (Summerlin-Long, 2011).

#### Category 1 and Category 2 Services Provided

Despite these compelling reasons, however, many attorneys do not actually engage in a significant number of pro bono hours. The average annual amount of Category 1 service provided by all attorneys surveyed in 2011 was 56.5 hours, with a median of 30 hours (ABA Standing Committee on Pro Bono and Public Service, 2013). The large difference between the mean and median indicates that a small group of attorneys are doing a large number of pro bono hours, but many are doing much less than the average amount. Private practice attorneys provided an average of 60.8 hours, with a median of 35 hours (ABA Standing Committee on Pro Bono and Public Service, 2013). Government attorneys provided an average of 40.8 hours, with a median of 0 hours, while in-house corporate attorneys provided an average of 32.4 hours, with a median of 20 hours. Seventy-two percent of Category 1 service was performed directly for individuals of limited means, rather than for organizations that serve individuals of limited

means. The most frequently-reported Category 1 service was legal advice, followed by full case representation, and then limited scope representation (ABA Standing Committee on Pro Bono and Public Service, 2013). Twenty percent of those surveyed did not provide any Category 1 pro bono services at all in 2011 (ABA Standing Committee on Pro Bono and Public Service, 2013).

The attorneys surveyed provided an average of 35 hours of Category 2 pro bono services, with a median of 10 hours and a mode of 0 hours. This indicates that the majority of attorneys provided little to no Category 2 services. Private practice attorneys provided an average of 38.5 hours, with a median of 10 hours (ABA Standing Committee on Pro Bono and Public Service, 2013). Government attorneys provided an average of 27 hours, with a median of 0 hours, while in-house corporate attorneys provided an average of 11.2 hours, with a median of 0 hours (ABA Standing Committee on Pro Bono and Public Service, 2013). The top Category 2 activities reported were legal services for a reduced fee or speaking on legal issues. Thirty-two percent of those surveyed did not provide any Category 2 services (ABA Standing Committee on Pro Bono and Public Service, 2013).

In its 2011 survey, the American Bar Association found that lack of time was the biggest discouraging factor for taking on pro bono cases. 79% of attorneys said that lack of time was discouraging or very discouraging for taking on cases (ABA Standing Committee on Pro Bono and Public Service, 2013). The second most discouraging factor was commitment to family obligation, especially among attorneys ages 35 to 44, which is also a time issue (ABA Standing Committee on Pro Bono and Public Service, 2013). The third most discouraging factor was lack of skills or experience in the practice areas needed. Of those surveyed, 39% said they would like to take on pro bono cases outside their expertise but worry they would not do the best job (ABA Standing Committee on Pro Bono and Public Service, 2013). Only 44% of all attorneys surveyed

said they would take on more pro bono cases if they were able to do so (ABA Standing Committee on Pro Bono and Public Service, 2013).

### **Link to Public Policy**

For the American justice system to operate fairly and effectively, there is a need for attorneys not only in criminal cases, but also in a large number of civil cases. It is clear that there is a significant need for civil legal services for individuals with limited means. Through their policies, federal and state governments, as well as state and county bar associations, can positively or negatively influence the availability of free and reduced-cost legal services for people of limited means. This paper will explore policy options and make recommendations for effective incentives to increase the availability of free and reduced-cost legal services to low-income individuals through pro bono in North Carolina.

### **Road Map**

To evaluate North Carolina's pro bono culture specifically and suggest suitable policies for the state, this paper uses a mixed-methods approach of combining qualitative interviews with quantitative data. This descriptive case study will lead to policy recommendations for how North Carolina can increase its supply of pro bono legal services. Chapter 2 first presents some of the dominant viewpoints about pro bono within the United States' legal culture more broadly, including arguments for and against implementing pro bono mandates and incentives. Chapter 2 also includes research on the effectiveness of current pro bono policies and explains the contribution this paper will make to existing research. Chapter 3 explains how this research was conducted, including the format of the interviews and the method of data analysis. Chapter 4 summarizes the major themes uncovered through the interviews and data analysis. Finally, Chapter 5 provides policy recommendations and a conclusion.

## **Chapter 2: Background and Conceptual Framework**

### **Chapter Overview**

This chapter contains some of the current existing literature and research on legal pro bono. First, the chapter summarizes Robert Kagan's work on adversarial legalism, which explains why lawyers are necessary in America's courts. Then, the chapter briefly summarizes Marc Galanter's highly-cited law review article that helps explain why pro se litigants are at a significant disadvantage. Then, the chapter outlines Deborah Rhode and Michael Milleman's arguments for creating pro bono mandates rather than creating pro bono incentives. Finally, the chapter summarizes research on incentives including CLE credit programs, law firm recognition, and emeritus attorney programs across the country.

### **Adversarial Legalism**

The American system for resolving disputes and handling legal matters is distinctive. According to Robert Kagan's *Adversarial Legalism*, the United States has a system of "adversarial legalism," which has a couple of salient characteristics (2009, p. 9). One such characteristic is litigant activism. Kagan defined litigant activism as a style of legal contestation in which claims, arguments, and evidence gathering and submission are done not by judges or government officials, but by disputing parties, acting primarily through lawyers (2009, p. 9). Kagan said, "The American system is shaped more by an exceptionally large, entrepreneurial, and politically assertive legal profession, and less by national ministries of justice" (2009, p. 100). Compared to legal systems in many other countries, the American legal system generally entails more complex bodies of legal rules; more costly forms of legal contestation; stronger, more punitive legal sanctions; more politically fragmented, less closely coordinated decision-making systems; and more legal uncertainty and instability (Kagan, 2009, p. 7). For pro se

litigants, who are individuals those representing themselves, the American legal system is remarkably difficult to navigate.

### **One-Shotters Versus Repeat Players**

In Marc Galanter's well-known, highly-cited law review article, "Why the "Haves" Come out Ahead: Speculations on the Limits of Legal Change," he described his theory that litigants with the greatest resources and lowest relative risk in litigation have the highest rate of success in courts (1974). Galanter described how the different elements in the legal system, which include parties, lawyers, institutional faculties, and rules, interact to benefit the repeat player. Galanter placed the parties in a lawsuit into one of two categories: one-shotters or repeat players (1974). One-shotters are parties who seek recourse in the courts only occasionally, such as the spouse in a divorce case or the victim in an assault case. Conversely, repeat players are parties who are constantly involved in litigation over similar issues, such as a health insurance company in a medical malpractice case or a prosecutor in a criminal case (Galanter, 1974). Like Kagan's work, Galanter's research helps explain why pro se litigants are at a significant disadvantage in America's courts system because they tend to be one-shotters.

### **Mandatory Pro Bono Requirements**

An often-suggested method for increasing the amount of pro bono service hours provided is implementing mandatory service requirements for attorneys. However, criticism of this option is prevalent within the legal field. One class of objections is based on moral grounds, and the other on practical grounds. On a moral basis, some attorneys view required service as a morally unjustifiable infringement of their own rights, a form of involuntary servitude that violates the 13<sup>th</sup> Amendment, or a violation of their First Amendment freedoms of speech and association. According to Rhode, moral objections to mandatory pro bono are largely unjustified; practical



objections are more valid (2005). Practical objections to pro bono requirements include classification issues about what counts as pro bono, as well as concerns about the equity, efficiency, and effectiveness of such requirements (Rhode, 2005).

In her book, *Pro Bono in Principle and in Practice: Public Service and the Professions*, Deborah Rhode responded to some of the moral objections to mandatory pro bono (2005). Rhode dismissed the concerns about “involuntary servitude,” saying that asking lawyers to meet the Model Rules’ pro bono standard, less than an hour a week of uncompensated work, is hardly servitude (2005, p. 38). Legal activist Michael Milleman agreed. In *Mandatory Pro Bono in Civil Cases: A Partial Answer to the Right Questions*, Milleman wrote, “It is surprising—surprising is a polite word—to hear some of the most wealthy, unregulated and successful individuals in the modern economic world invoke the amendment that abolished slavery to justify their refusal to provide a little legal help to those, who in today’s society, are most like the freed slaves” (1990, p. 70). Rhode added that lawyers who find even minimal assistance unduly burdensome could substitute a financial contribution to legal aid services (2005, p. 38). Furthermore, Rhode rejected the argument that pro bono requirements violate freedom of speech and association, as long as the requirements allow a reasonable range of choice in the activities that qualify.

#### Practical Concern #1: Pro Bono Classification

Practical concerns about mandatory pro bono are more difficult to address. One problem is classifying what counts as pro bono service for the sake of a mandatory requirement. If a pro bono requirement is limited to services performed for low-income clients, who are given preferred status in the ABA’s current aspirational rule, then that definition would exclude many crucial public interest organizations, such as those focusing on civil liberties and environmental issues. However, if attorneys were allowed to fulfill a pro bono requirement through service to

any charitable organization, this would not accomplish the original goal: increasing the supply of legal services for low-income individuals. Furthermore, permitting some but not all charitable groups to qualify for pro bono credit would raise concerns of political bias (Rhode, 2005, p. 39).

Rhode also mentions another classification issue that arises when determining who would be subject to a pro bono requirement: should exemptions be granted to lawyers who work for legal aid, public interest, and public defender offices that already serve low-income individuals? Some would say yes, because these attorneys are already doing their part. However, if unpaid service is a professional responsibility, then exemptions would almost certainly raise equity concerns, especially when other relatively low-paid attorneys, such as those who work for other government agencies, would still be required to do pro bono work or contribute an equivalent financial amount (Rhode, 2005).

#### Concern #2: Effectiveness

Another concern about mandatory pro bono requirements regards their effectiveness. Critics say that many lawyers lack expertise or motivation to serve underrepresented groups, and not all of these attorneys would exercise buyout options (Rhode, 2005, p. 41). However, Michael Milleman challenged the argument that an attorney would not be competent enough to provide legal services for the poor. Milleman wrote, “Assume that after four years of college, three years of law school, and varying periods of law practice, some lawyers are ‘incompetent’ to help the poor...all this despairing assumption tells us is that the poor are far less competent to represent themselves, and do not have the readily available access to attaining competency that lawyers have (1990, p. 62). Competency, Milleman said, is a relative concept; even the least proficient lawyers are more competent than pro se litigants (1990, p. 62).

The argument that some lawyers lack motivation to serve underrepresented groups, however, is undeniable, and providing low-income individuals with an unmotivated, uninterested, or unavailable attorney would do them little good. Since the demand for reduced-cost or free legal representation vastly exceeds the supply, and since pro bono attorneys do not need to be concerned about winning back repeat clients, these attorneys do not need to be especially concerned about the quality of the services they provide. The ABA's Standing Committee on Legal Aid and Indigent Defendants testified against a proposed ABA ethical rule mandating pro bono assistance, saying, "poor clients...deserve lawyers who want to represent them and will do it with vigor" (Rhode, 2005, p. 41). One proposed suggestion to alleviate this concern is to allow lawyers in organizations to satisfy their obligations collectively through contributions from their most qualified and committed colleagues (Rhode, 2005). Another way to alleviate this concern is to offer incentives for pro bono service rather than mandates, which will be discussed in greater detail in this paper.

### Concern #3: Efficiency

A final practical concern about pro bono mandates regards efficiency. The costs of administering mandatory programs and of establishing training and oversight structures will divert resources from more efficient forms of legal assistance (Rhode, 2005). One of the weaknesses of the bar's voluntary pro bono structure is that it rarely includes performance evaluations, let alone ones that include client assessments (Rhode, 2005). Pro bono programs generally have resources that are far too limited to meet the legal needs that exist, and participants are reluctant to divert scarce time to evaluation rather than direct services. Thus, it is difficult to determine if high-quality services are being provided efficiently (Rhode, 2005). Additionally, private lawyers who dabble in poverty cases are not most experienced in these

areas and are unlikely to provide services as efficient as attorneys dedicated to public service (Rhode, 2005),

### **Pro Bono Incentives**

Given the near-universal animosity of lawyers to pro bono requirements, as well as the aforementioned concerns, incentives are a more feasible option than mandates. While proponents of mandatory pro bono may argue that incentives will not do enough to adequately meet the legal needs of the nation's poor, the legal community is more likely to be receptive to pro bono incentives rather than compulsory policies. A number of incentives currently exist, both at the state level and the individual firm level.

### CLE Credit

All active members of a state bar are required to complete a specified number of Continuing Legal Education hours annually or biannually. Some states have implemented rules that permit attorneys who take pro bono cases to earn credit toward mandatory CLE requirements ("CLE Rules," 2017). According to the American Bar Association, 11 states have implemented such policies, including Alabama, Arizona, Colorado, Delaware, Louisiana, Minnesota, New York, North Dakota, Ohio, Oregon, Tennessee, Washington, Wisconsin, and Wyoming ("CLE Rules," 2017). Each state mandates its own policies but most commonly, five hours of pro bono service can count for one hour of CLE credit ("CLE Rules," 2017). On average, lawyers can claim up to three hours of CLE credit per year for doing pro bono work for an approved organization ("CLE Rules," 2017).

For example, beginning in 2016, Wisconsin attorneys have been able to obtain one CLE credit for every five hours of pro bono service, capped at six CLE credits for every two-year reporting period (Forward, 2016). James Gramling, Wisconsin Access to Justice Commission

President and retired municipal court judge, said, “More carrots are needed to provide incentives to busy lawyers who are committed to many other things” (Forward, 2016). Wisconsin State Bar Pro Bono Coordinator Jeff Brown said, “This is not a magic bullet, but instead, part of a larger system of incentives and reward” (Forward, 2016). New York’s policy is more generous. Attorneys can receive one CLE credit hour for every two hours of pro bono service, capped at 10 CLE credits for each two-year reporting period (“CLE Rules,” 2017).

The state bar can designate what types of pro bono services count for CLE credit, which can ensure that only Category 1 hours count for this credit. To date, no research studies have evaluated the effectiveness of these programs to judge if they have led to an increase in the pro bono hours, specifically for low-income individuals. As of 2017, only 11 states have begun allowing some pro bono hours to count toward CLE credits, so there is potential for increased pro bono participation if other states also implement this incentive (“CLE Rules,” 2017). There is also potential to increase pro bono hours by raising the cap on CLE credits that can be earned through pro bono work, if this policy is indeed effective.

#### Required Pro Bono Credits: A More Feasible Option?

Alternatively, a less-discussed policy option is an opt-out CLE pro bono mandate, which is almost the opposite of the opt-in approach mentioned above. Numerous studies show that people choose options presented as defaults more often than they otherwise would, even for important decisions that require careful thought, such as choosing retirement plans (Thaler, Sunstein, and Balz, 2012). Elena Romerdahl, attorney and member of the Alaska Bar Association’s Pro Bono Committee, suggested that the ABA and state bars should issue incorporate required minimum pro bono credits into the existing CLE requirement structure (2009). Romerdahl said that if pro bono credit requirements took the place of many of the CLE

hours requirements, with an opt-out option to participate equivalent hours of traditional CLE skills trainings instead, more attorneys would participate in pro bono services (2009). Romerdahl said that although opposition to mandatory pro bono is strong, this solution would frame pro bono requirements differently since it would not ask attorneys to spend more time than they are already required to spend fulfilling CLE requirements. Essentially, this policy would help switch the CLE baseline from skills courses to pro bono hours and would result in more attorneys choosing pro bono (Romerdahl, 2009). This policy option has not been implemented, so it is not yet possible to evaluate its effectiveness.

### Law Firm Policies

In addition to policies that incentivize individual attorneys, policies to incentivize law firms are an option. Policies that influence individual attorney behavior are much more effective when accompanied by change within law firms. State bar associations and law journals provide recognition for exemplary pro bono work, which can help motivate firms to encourage their attorneys to make time for pro bono. For example, in 2002, the American Lawyer began to calculate an “A-List” of large law firms based in part on pro bono performance, including both average hours per attorney and percentage of participating attorneys per firm (Boutcher, 2010). In the years since this report started being published, pro bono participation has increased and many large firms have begun to encourage, or even mandate, pro bono participation (Boutcher, 2010). Recognition, rankings, and awards, both community and state-wide, can play a role in motivating firms to foster positive pro bono cultures (Boutcher, 2010).

The shift toward a more positive pro bono culture within large firms is likely due in part to firms’ efforts to attract elite students, who often care about pro bono, as well as a sense of corporate social responsibility (Boutcher, 2010). Some law firms have begun to write formal pro

bono policies to outline expectations, hire pro bono coordinators to organize opportunities, or give associates billable hour credit for pro bono work. According to public policy researcher Steven Boutcher, one of the easiest ways for a law firm to signal a commitment to pro bono is to adopt a written policy that provides the rationale for why pro bono is important to the firm (2010). A formal policy can reduce ambiguity and signal to associates the types of organizations they are eligible to work with. For example, Davis Wright Treamine, a large firm with approximately 500 attorneys throughout the United States and China, has a pro bono policy that explicitly states, “Our attorneys have the freedom to take on matters that interest them personally. As a result, DWT represents pro bono clients from a broad spectrum of socio-economic, racial and ethnic backgrounds and political persuasions” (Boutcher, 2010, p. 153). Hiring a pro bono coordinator or designating a firm employee as pro bono coordinator helps prioritize pro bono within a firm and make pro bono opportunities more readily available. Finally, since pro bono hours are in direct competition with billable hours, some large firms have begun to give associates billable hour credit for pro bono work handled, which may be factored into their year-end performance reviews and billable hour quotas, just as if the work was performed for a top client.

Although pro bono hours have steadily increased over the past decade across the largest law firms in the United States, there was been little analysis about the effectiveness of firm pro bono policies until Steven Boutcher’s 2010 study. Boutcher tested the effect of pro bono policies and structure on a firm’s pro bono commitment. For his study, he conducted secondary research by analyzing data from two different sources: *American Lawyer* and the *Vault Guide to Law Firm Pro Bono Programs* (Boutcher, 2010). Boutcher tested the effect of three types of policies:

the presence of a formal written policy, whether a firm has a pro bono coordinator, and whether a firm gives billable hour credit for pro bono work (2010).

Boutcher discovered that firms with a formal pro bono policy do more pro bono compared to firms that have no policy (48.5 hours per attorney versus 29.1 hours). Law firms that have a pro bono coordinator spend more time doing this type of work (48.1 hours compared to 32.1 hours). Firms with a full-time pro bono coordinator commit significantly more time than those that do not (58.2 versus 48.1 hours). Finally, firms that provide billable hour credit do slightly more pro bono work compared to firms that do not (47.2 hours compared to 43.7 hours) (Boutcher, 2010).

Boutcher found that, after controlling for profits, firm size, and firm diversity, the presence of a written formal pro bono policy and a pro bono coordinator has a positive effect on pro bono commitment (2010). Not surprisingly, he found that having a full-time coordinator led to more average pro bono hours than having a part-time pro bono coordinator. Although many firms have adopted the billable hour credit for pro bono policy, Boutcher found no evidence that billable hour credit increases pro bono output after he implemented controls. He theorized this could be because associates might still fear that doing too much pro bono may hurt their chances for advancement in the firm or because some firms have an informal norm against doing more than a certain threshold of hours (2010). While Boutcher's research is useful for shaping effective pro bono policy for large firms, it is not applicable to medium firms, small firms, government agencies, or non-profits. This paper will focus specifically on exploring policy incentives that can be applied to a larger group of attorneys.



## Emeritus Attorney Programs

Since most pro bono services are currently performed by lawyers who are still actively practicing law, there is a major opportunity for retired lawyers to step up and volunteer their expertise. When Karen Mathis became ABA president in 2006, she created an “Atticus Network,” named after the hero of *To Kill a Mockingbird*, to connect retired lawyers to volunteer opportunities (Tebo, 2007). In August of 2006, the ABA House of Delegates passed a resolution calling on states to revamp their ethics rules and bar dues policies to encourage retired attorneys’ pro bono participation and to offer malpractice insurance to retired volunteer lawyers (Tebo, 2007). In 2006, Mathis launched an initiative called Second Season of Service, which had the goal of recruiting retiring attorneys to share their legal expertise with legal service organizations on a volunteer basis (Tebo, 2007). Although the Second Season of Service website is no longer active, the ABA has continued its efforts to encourage retired attorneys to volunteer through its Commission on Law and Aging (Tebo, 2007).

Retired lawyers encounter some different issues than practicing attorneys do when it comes to pro bono. Lack of time is no longer the biggest prohibitive factor; instead, attorneys must navigate obstacles like living in a state in which they are not licensed or no longer carrying professional liability insurance (Godfrey, 2015). To address these hurdles, many states have adopted emeritus rules, which aim to lessen the burden for attorneys who agree to limit their practice to pro bono only (Godfrey & Faith-Slaker, 2016). The majority of the states with emeritus rules require that pro bono services are provided through a qualified legal services organization. A handful of states also impose a direct supervision requirement so that the retired attorney must work directly under or alongside an active legal services attorney (Godfrey & Faith-Slaker, 2016). Many states require the legal services organization to provide

malpractice insurance. Some rules require a minimum age or minimum number of years of active licensure. Over half of the states with emeritus rules ease or waive the CLE requirement for attorneys providing only pro bono services (Godfrey & Faith-Slaker, 2016).

To capture the variation in emeritus rules among states, the ABA created an index that consolidates all of the factors for each state into a simple number. A score of 0 indicates that the state does not have an emeritus rule, and a score of 9 indicates no restrictions for all of the factors considered (Godfrey & Faith-Slaker, 2016). The average score among the states with an emeritus rule is 5.0 (Godfrey & Faith-Slaker, 2016). The states with the lowest scores include New York, Utah, Florida, New Jersey, and Virginia (Godfrey & Faith-Slaker, 2016). The states with the highest scores include Illinois, North Carolina, Nevada, Kansas, and Iowa (Godfrey & Faith-Slaker, 2016). As of 2015, no state had a score of 9 (Godfrey & Faith-Slaker, 2016).

In 2014 and 2015, the ABA asked states with emeritus pro bono practice rules to report the number of attorneys participating and the number of hours reported. The numbers reported were modest; half of the states reporting had fewer than 10 participants in 2015, which suggests underreporting (Godfrey, 2015). New York led the way with 1245 volunteers reported in 2015 (Godfrey, 2015). However, the sample size is small and the data is fairly inconsistent. For example, Iowa reports eight emeritus attorneys in its pro bono program, with an average of 355 hours of service in 2015 (Godfrey, 2015). Washington State reports 110 emeritus status attorneys, with an average of 30 hours per volunteer (Godfrey, 2015). Oregon reports 297 emeritus attorneys with an average of 8 hours per licensee (Godfrey, 2015). Since few attorneys nationwide report involvement with an emeritus pro bono program, there is a lot of potential for increasing pro bono services if individual states adjust their requirements to make it easier for

retired attorneys to participate, as well as if legal aid organizations and state bars recruit retired attorneys more actively.

**TABLE 1. Licensed Emeritus Attorneys**

---

<b>State</b>	<b>Total Licensed Under Emeritus Rule, 2014</b>	<b>Total Licensed Under Emeritus Rule, 2015</b>
<b>Alaska</b>	5	6
<b>Arizona</b>	918	Not reported
<b>California</b>	89	85
<b>Colorado</b>	Not reported	84
<b>Delaware</b>	Not reported	70
<b>Florida</b>	540	16
<b>Hawaii</b>	540	4
<b>Idaho</b>	2	2
<b>Iowa</b>	Not reported	8
<b>Kansas</b>	Not reported	0
<b>Maine</b>	Not reported	5
<b>Massachusetts</b>	30	Not reported
<b>Minnesota</b>	2	5
<b>Montana</b>	5	Not reported
<b>New Hampshire</b>	Not reported	6
<b>New York</b>	845	1245
<b>North Carolina</b>	20	33
<b>North Dakota</b>	1	0
<b>Oregon</b>	Not reported	297
<b>Tennessee</b>	Not reported	4
<b>Texas</b>	23	17
<b>Utah</b>	Not reported	646
<b>Washington</b>	117	110
<b>Wyoming</b>	Not reported	6

---

SOURCE: GODFREY, 2015

## Chapter 3: Research Design: Methods and Data

### Aim of this Case Study

The purpose of this case study is to explore North Carolina's current legal pro bono culture and determine what incentives can be offered to encourage attorneys to provide more legal services to low-income individuals. Existing research focuses primarily on pro bono nationwide, rather than in just one state such as North Carolina. Additionally, preexisting research, such as the American Bar Association's *Supporting Justice: A Report on the Pro Bono Work of America's Lawyers*, focuses on asking attorneys or law firm pro bono coordinators about their individual experiences with pro bono (ABA Standing Committee on Pro Bono and Public Service, 2013). While this research is valuable for understanding attitudes toward pro bono and the state of pro bono in the country, a specific case study on North Carolina is a better tool for determining how the state can improve its pro bono policies and culture. The goal of this case study is to learn more about North Carolina's strengths, challenges, and culture with regards to pro bono legal services.

A case study is a method of learning about a complex instance based on a comprehensive understanding of the instance (U.S. Government Accountability Office, 1990). Specifically, this is a critical instance case study, which is frequently used to examine a situation of unique interest (U.S. Government Accountability Office, 1990). Generalizability is not the goal; rather, the goal is to more fully understand the unique situation of research interest. In this case, the unique situation is North Carolina's pro bono culture and institutions. To evaluate North Carolina's pro bono culture and suggest what policies may be best suited for the state, this paper uses a mixed methods approach of combining qualitative interviews with quantitative data.

## **Data**

Quantitative data was secured from several sources, including publicly-available data from the Legal Services Corporation, the American Bar Association, and the North Carolina Equal Access to Justice Commission. Unpublished quantitative data was acquired by request through Pisgah Legal Services and NC IOLTA. Qualitative data was obtained by interviewing carefully-selected individuals who are highly involved in North Carolina's pro bono efforts. I first discovered the Pro Bono Resource Center's website and I sent an email to the executive director, Sylvia Novinsky, asking if she would be willing to participate in an interview about pro bono work in North Carolina for a senior honors thesis. Then, at the conclusion of the interview, I asked Mrs. Novinsky for recommendations of other individuals with whom I could speak and sent them individual emails to arrange interviews. At the conclusion of each subsequent interview, I also asked for recommendations for other individuals to contact who could contribute a unique perspective of and special knowledge about North Carolina legal pro bono.

In total, I interviewed eight people. Sylvia Novinsky is the executive director of the North Carolina Pro Bono Resource Center, as well as the founder of the UNC Law Pro Bono Program and former assistant dean for Public Service Programs at UNC Law. Kim Bart Mullikin is the senior director of the North Carolina Bar Association and the former Assistant Dean of Public Interest and Pro Bono Programs at Duke University School of Law. Allison Standard is the director of Pro Bono Initiatives at the UNC School of Law. James Jolley is the chair of the Pro Bono Alumni Board for UNC Law and an associate at Smith Anderson in Raleigh. Kenneth Schorr is the executive director of Charlotte Center for Legal Advocacy, a position he has held for nearly 30 years. Katya Riasanovsky is the Pro Bono Initiatives Coordinator at Charlotte Center for Legal

Advocacy, and she also serves on the NCBA Pro Bono Activities Committee and the Equal Access to Justice Commission Pro Bono Committee. Jim Barrett is the Director of Pisgah Legal Services, a position he has held for almost 25 years. Finally, David Wormald is the Pro Bono Team Leader at Legal Aid of North Carolina. I also communicated with Katie Russell Miller, Director of Community Engagement at Pisgah Legal Services, and Mary Irvine, Executive Director of NC IOLTA, via email to obtain data.

Since the respondents are located in different cities across the state, the interviews were conducted via telephone. At the beginning of each call, I restated that I was a UNC public policy senior conducting an honors thesis about North Carolina legal pro bono incentives and culture, and I gave a brief amount of background about myself. A semi-structured interview format was used to ask open-ended questions, probe answers with follow-up questions, and allow respondents to expand upon their answers. This interview style allowed me to more deeply explore subjects of which a respondent was particularly knowledgeable, to ask clarifying questions, and to request specific examples. I took detailed notes during each interview. After each interview, I emailed the respondent to thank them for their time, ask for links to any studies they cited, request contact information for other potential interviewees they suggested, and to confirm for accuracy any dates or specific numbers they mentioned so I could include them in this research. After conducting the first three interviews, I reviewed the responses together, searching for recurring themes to start creating an outline. Then, after each subsequent interview, I expanded the outline, adding more details and new themes that emerged.

## **Limitations**

A case study does not lend itself well to generalizability. However, since the goal of the research was to make policy recommendations for North Carolina specifically, I believe a critical instance case study was appropriate in this case. The critical instance case study method and interview format allowed me to gain a deep, rich understanding of North Carolina's pro bono culture in order to make policy recommendations for the state. Furthermore, I believe this research did uncover broad themes that are relevant to pro bono in other states, as well.

## **Chapter 4: Findings**

Although it is possible to gain a general understanding of North Carolina's legal aid programs and nonprofits through online research, the interviews helped provide a much deeper understanding of the various pro bono elements in play across the state. The interviews provided a substantial amount of information that was not available online, such as what programs have been especially effective and what various legal aid organizations in the state are planning for the future. This chapter first provide background information about North Carolina's system of legal aid and pro bono programs. Then, the chapter analyzes the major themes that emerged through the interviews.

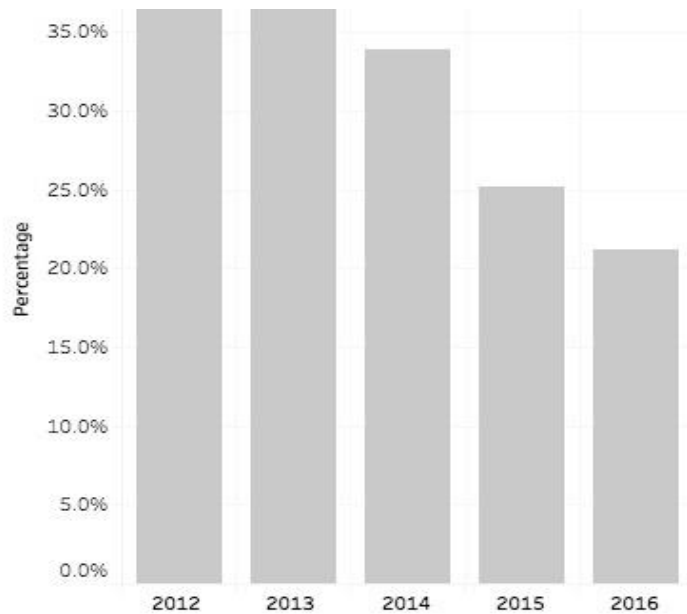
### **Current Status of North Carolina Pro Bono**

Like many states, North Carolina's legal aid organizations have experienced chronic underfunding for years and struggled to fully meet the growing need for legal assistance for low-income North Carolinians (North Carolina Equal Access to Justice Commission, 2016). Eighty percent of the civil legal needs of the poor in North Carolina go unmet every year in areas like domestic violence, divorce, child custody, housing, consumer protection, employment, benefits, and health (North Carolina Equal Access to Justice Commission, 2016). There is only one legal aid attorney for every 11,000 North Carolinians eligible for legal aid, while there is one private lawyer for every 362 NC residents (North Carolina Equal Access to Justice Commission, 2016). One way for legal organizations to meet the great need is to recruit volunteer attorneys to take on cases and clients. Although the legal need is significant, attorneys often hesitate to get involved. Figure 1 shows that of the North Carolina attorneys who already indicated they are interested in taking pro bono cases, only 21.2% actually accept them (Legal Services Corporation, "Private



Attorney Involvement: North Carolina”). This number has decreased from 37.5% in 2012 (Legal Services Corporation, “Private Attorney Involvement: North Carolina”).

**FIGURE 1: Interested North Carolina Attorneys Who Accept Pro Bono Cases**



SOURCE: LEGAL SERVICES CORPORATION

In 2010, North Carolina adopted State Bar Rule 6.1, which encourages attorneys to provide at least 50 hours of pro bono legal services annually and to contribute financially to organizations that provide legal services to individuals of limited means (North Carolina State Bar, 2010). According to David Wormald, the vast majority of North Carolina attorneys’ reported pro bono hours are facilitated through Legal Aid of North Carolina (LANC) offices and the Charlotte Center for Legal Advocacy, followed by Pisgah Legal Services (personal communication, February 20, 2018). A smaller number of hours also occurs through other non-profit and legal aid organizations, as well as informally through people or organizations with which attorneys have personal relationships. LANC is the only North Carolina organization to receive LSC funding, which means it is the only organization that is mandated to spend 12.5 % of its budget on Private Attorney Involvement (Legal Services Corporation, “Private Attorney Involvement: North Carolina”).

North Carolina Equal Access to Justice Commission

Within the past decade, the state’s pro bono landscape has progressed as a result of the

efforts of the North Carolina Bar Association, North Carolina Supreme Court, and legal aid providers. In November of 2005, the North Carolina Supreme Court established the North Carolina Equal Access to Justice Commission, making North Carolina the 19<sup>th</sup> state to establish such an entity (NC Equal Access to Justice Commission, “About”). The Commission’s goal is to expand access to civil legal representation for low-income individuals in the state. The Chief Justice of the North Carolina Supreme Court serves as the chair, and 25 members total serve on the Commission, including representatives from all three branches of state government, legal aid organizations, clients, and practicing attorneys (NC Equal Access to Justice Commission, “About”). The North Carolina Equal Access to Justice Commission publishes an annual report about its impact. In 2012, North Carolina’s Equal Access to Justice Commission suggested a framework for a statewide pro bono resource center (S. Novinsky, personal communication, January 29, 2018). At that time, newly-appointed Chief Justice of the NC Supreme Court Mark Martin took interest in the idea and secured funding for the center through CLE fees (S. Novinsky, personal communication, January 29, 2018).

#### North Carolina Pro Bono Resource Center

In April 2016, the Pro Bono Resource Center opened, with Sylvia Novinsky serving as Executive Director. In her role, Novinsky supports the development of new pro bono programs and her goal is to foster the growth of a public service culture within the North Carolina Bar. Novinsky said, “My position is often housed at a state bar association or separately. Sometimes, legal service providers come together and fund a position like this” (personal communication, January 29, 2018). She said that the Equal Access to Justice Commission looked at the Maryland Pro Bono Resource Center, which is nearly 25 years old, as a model for how to run the NC Pro Bono Resource Center (personal communication, January 29, 2018). Novinsky

said, “Someone looking at the state needs to say, ‘Who’s leading this?’ and ‘Who’s coordinating this?’ because often, everyone is doing their own thing and everyone is all over the place. It’s good to know what’s going on so you can use the resources as effectively as possible” (personal communication, January 29, 2018).

During the PBRC’s first year, Novinsky’s goal was to institutionalize the center. Novinsky spent much of the center’s first year traveling around the state meeting with legal services providers to find out how lawyers can help them. Novinsky mentioned she wanted to be careful to not just do things legal aid organizations are already doing (personal communication, January 29, 2018). She gave presentations at law firms and bar associations and was “on the road as much as possible” to let lawyers know about the PBRC (personal communication, January 29, 2018). By the end of the first year, Novinsky said she felt like they had hit as many organizations as they could (personal communication, January 29, 2018). The PBRC also created a website with a portal containing approximately 30 active pro bono opportunities at any given time with information about how to contact each individual organization to volunteer (North Carolina Pro Bono Resource Center, “Learn About Us”). Although Novinsky does not know how many people have used the site, she mentioned anecdotally that organizations themselves have told her that attorneys have contacted them to volunteer after finding them through the NC Pro Bono Resource Center’s website, so she feels like it is working (personal communication, January 29, 2018).

On January 1, 2017, the PBRC launched a program for voluntary pro bono reporting, joining 22 other states that track attorney pro bono participation (American Bar Association, “Pro Bono Reporting;” North Carolina Pro Bono Resource Center, “Learn About Us”). Thirteen states have a system for voluntary reporting, while nine states require mandatory reporting

requirements for pro bono legal service. In North Carolina, the PBRC collects information about hours spent in “(1) activities to improve the law, such as leadership in professional legal associations, service on boards of legal service providers to clients of limited means, or active participation in employer pro bono committees; (2) non-legal community service; and (3) providing financial support to legal service providers, such as Legal Aid of North Carolina, Legal Services of Southern Piedmont, and Pisgah Legal Services” (North Carolina Court System, 2017). From the reported data, the NC Pro Bono Resource will be able to better quantify the amount and types of pro bono service provided by North Carolina attorneys. This information will help the Center improve how attorneys find pro bono opportunities, identify current unmet legal needs in the state, and provide recognition for top pro bono participants (North Carolina Court System, 2017).

Attorneys who report 50 hours of pro bono legal service are inducted into the NC Pro Bono Honor Society and given a certificate from the Supreme Court of North Carolina (The North Carolina Court System, 2017). In 2017, the Supreme Court of North Carolina recognized 170 attorneys who donated 50 or more hours of legal services in 2016, the first cohort of the NC Pro Bono Honor Society (The North Carolina Court System, 2017). In total, 541 attorneys shared information about their pro bono efforts over the 2016 calendar year, reporting 25,700 hours total, an average of 47.3 hours each (The North Carolina Court System, 2017). There are currently over 27,000 members of the North Carolina State Bar, so the majority of attorneys have not yet participated in the voluntary reporting program (Martinadale, “North Carolina State Bar”).

## North Carolina Attorney Emeritus Program

The North Carolina State Bar allows both inactive North Carolina attorneys and both inactive and active out-of-state attorneys to obtain Pro Bono Practice Status (NC Equal Access to Justice Commission, “Pro Bono Practice Status for Inactive and Out-of-State Lawyers”). This policy allows retired attorneys from North Carolina or elsewhere to practice pro bono in the state, although there is no minimum age requirement (NC Equal Access to Justice Commission, “Pro Bono Practice Status for Inactive and Out-of-State Lawyers”). To obtain Pro Bono Practice Status, an attorney must petition and be approved for this status by the North Carolina State Bar (NC Equal Access to Justice Commission, “Pro Bono Practice Status for Inactive and Out-of-State Lawyers”). The Pro Bono Practice Status attorney must work under the direct supervision of a licensed North Carolina attorney at a legal aid organization (NC Equal Access to Justice Commission, “Pro Bono Practice Status for Inactive and Out-of-State Lawyers”). North Carolina Pro Bono Practice Status attorneys do not have to pay state bar dues, maintain malpractice insurance, or complete CLE hours (NC Equal Access to Justice Commission, “Pro Bono Practice Status for Inactive and Out-of-State Lawyers”).

Within the state, 56 individuals have received pro bono practice status (M. Irvine, personal communication, March 15, 2018). As of 2018, 53 attorneys have pro bono practice status, as a few received pro bono status and later became licensed in North Carolina fully or chose to relinquish their pro bono status and fully retire (M. Irvine, personal communication, March 15, 2018). Figure 2 shows how many attorneys have obtained pro bono practice status annually since 2011.

**TABLE 2. Pro Bono Practice Status Attorneys in NC**

---

<b>Year</b>	<b>Out-of-state attorneys</b>	<b>Inactive NC attorneys</b>
<i>2011</i>	7	1
<i>2012</i>	1	1
<i>2013</i>	3	3
<i>2014</i>	4	6
<i>2015</i>	8	7
<i>2016</i>	12	5
<i>2017</i>	20	5
<i>2018</i>	1	3

---

SOURCE: MARY IRVINE

None of the major legal aid providers within the state currently have a dedicated attorney emeritus program. Of the three, Pisgah has the highest percentage of elderly attorneys among its volunteers, likely due to the fact that Asheville is a popular retirement destination. While older attorneys may often not have the same time constraints that younger attorneys do, they face different issues. For an older attorney who is accustomed to having a secretary make copies and type drafts, there is a steep learning curve to learning how to use technology and function without a personal administrative assistant when working at a legal aid organization. However, a number of older attorneys can use technology well enough to be a valuable addition to a legal aid organization. Jim Barrett said at Pisgah Legal Services, older attorneys can, at the very least, assist with client screenings and intake processes with only a small amount of training and computer knowledge (personal communication, February 16, 2018). Both Jim Barrett and Kenneth Schorr expressed that they would like Pisgah Legal Services and Charlotte Center for Legal Advocacy, respectively, to develop a senior attorney emeritus pro bono program (personal communication, February 16, 2018; personal communication, February 8, 2018).

## UNC Law Pro Bono Board

In 2012, UNC Law created its unique Pro Bono Alumni Board to help bridge the gap between pro bono involvement between students and alumni. Board members serve three-year terms and meet three times per year for several hours at a time. According to Allison Standard, director of UNC Pro Bono Initiatives, the alumni board tries to recruit diverse members encompassing representatives from government agencies, large firms, in-house counsel, and non-profits all over the state, as well as D.C (personal communication, February 1, 2018). The board is divided into several different committees focused on different objectives, such as hosting networking events for students to connect with alumni who were involved with pro bono as students and continue to be involved as attorneys. During UNC Law's Pro Bono Week, the Alumni Board hosted a lunchtime panel of recent graduates who talked about how they stayed involved in pro bono after law school. The alumni board also supports alumni in their pro bono efforts, recruits supervising attorneys for student pro bono projects, and puts together CLEs (A. Standard, personal communication, February 1, 2018).

### **Interview Findings**

All of the interview questions were centered around gaining a deeper understanding of North Carolina's pro bono culture and current incentives in order to make appropriate policy recommendations. Four major themes emerged when analyzing the answers provided by the interviewees. First, many of the respondents expressed that they believe many attorneys generally do have a desire to do pro bono, but that there is a noticeable gap between the expressed desire to do pro bono and the follow-through due to a number of obstacles. Second, the interviewees emphasized that partnerships are key for successful, consistent attorney involvement in pro bono, such as law firms partnering with legal aid organizations and legal aid

organizations partnering with other community non-profits. Third, the respondents generally believed a system of incentives and/or recognition is useful for involving attorneys more deeply in pro bono, although their opinions differed on the specific types of incentives that would work best. Finally, the interviewees agreed that pro bono culture varies throughout different parts of the state due to population demographics, average law firm sizes, areas of legal expertise needed, and more, so policies and practices in one part of the state may not necessarily succeed in other parts of the state.

### The Gap Between Desire to do Pro Bono and the Follow-Through

During law school, robust pro bono programs make it easy for students to get involved. Additionally, pro bono service is deeply integrated in the culture of many law schools. Twenty-four law schools nationwide even have mandatory pro bono requirements (American Bar Association, 2017, “Pro Bono Programs Chart”). Once students graduate, however, it is often more difficult to do pro bono for a variety of barriers.

First, time is a major barrier for practicing attorneys. James Jolley, an associate at Raleigh’s Smith Anderson firm and the director of the UNC School of Law Pro Bono Alumni Board, joked, “You think you’re busy in school, and then you become an attorney and become that much busier” (personal communication, February 5, 2018) Even for attorneys who desire to do pro bono, seeking out these opportunities and then following through to close a pro bono case requires a large amount of time they may not feel like they can spare, especially if they fear getting wrapped up in a time-consuming case that drags on longer than anticipated. As mentioned in chapter 1, attorneys say time is the biggest factor that prevents them from doing pro bono. Jim Barrett said, “It’s getting harder to get attorneys to volunteer for pro bono work, especially when they have billable hour requirements. Younger lawyers are more interested in



work-life balance than the older generation. If something has to give, it might be the pro bono work” (personal communication, February 16, 2018). For these reasons, pro bono attorneys are more apt to volunteer for limited-representation opportunities.

A second barrier is not knowing how to get involved. While many law schools have some type of weekly or monthly pro bono newsletter that lists opportunities, practicing lawyers do not receive any type of packaged list of opportunities neatly presented to them, unless their firm happens to actively promote pro bono opportunities. Instead, they must seek out opportunities themselves via online searches or limit their pro bono practice to cases that naturally come their way. Sylvia Novinsky, director of the North Carolina Pro Bono Resource Center said, “People are busy and don’t always have the time to think ‘Oh, I’ve got to look at that site. They need something packaged and presented to them in order for them to engage” (personal communication, January 29, 2018). UNC Law created its unique Pro Bono Alumni Board for this very reason– to help bridge the gap between pro bono involvement between students and alumni. The board is divided into several different committees focusing on different objectives, such as supporting students and the student board, hosting networking events for students to connect with alumni who were involved with pro bono as students and still as attorneys (A. Standard, personal communication, February 1, 2018).

Third, some lawyers are concerned that they lack the specific knowledge or skillset for the particular legal area of pro bono services needed. For example, in a city like Charlotte, most attorneys do corporate litigation and transactional work. Kenneth Schorr, director of Charlotte Center for Legal Advocacy, said, “This is a corporate law town. There may be a couple hundred lawyers in town who do family and criminal law. Overwhelmingly, it’s a corporate law bar and they do corporate litigation and transactional work” (personal communication, February 8,

2018). While corporate attorneys most often practice in areas like healthcare, intellectual property, employment, finance, mergers and acquisitions, taxes, and estate planning, and more, legal services required by low-income individuals tend to be in areas like family law, landlord-tenant cases, and immigration. A lawyer who is accustomed to transactional work, such as mergers and acquisitions, may hesitate to agree to take on an adversarial case, such as a landlord-tenant matter. Schorr said, “Most lawyers are really smart people and if you catch them in the first couple of years out of law school, they can do a lot of different things, but once they get in transactional practice for a few years, they won’t do litigation. There are exceptions, of course” (personal communication, February 8, 2018).

Fourth, lawyers worry about conflicts of interest if they take on a pro bono case that could end up clashing with their regular paid work. For instance, an attorney who regularly represents landlords or commercial property developments may hesitate to accept a landlord-tenant pro bono case. Jim Barrett, director of Pisgah Legal Services in the Asheville area, said, “A big law firm here is 25 or 30 lawyers and they do a little bit of everything. They may not want to piss off landlords because they may do estate planning, commercial law” (personal communication, February 16, 2018).

Fifth and finally, lawyers are concerned about malpractice insurance coverage (J. Jolley, personal communication, February 5, 2018). Depending on an attorney’s insurance plan, pro bono cases may or may not be covered in case something goes wrong. It may take a phone call to an attorney’s insurance provider to find out exactly what is covered, which is just one more step an attorney has to take to get involved (J. Jolley, personal communication, February 5, 2018).. Fortunately, attorneys who do pro bono through a legal aid organization are covered under the

organization's malpractice insurance, so this concern is primarily an objection for attorneys taking on "random cases," according to Jolley (personal communication, February 5, 2018).

#### Pro Bono with Legal Aid Organizations and other Non-Profits

Another theme that emerged through the interviews is that doing pro bono through legal aid organizations and other non-profits helps take care of many of the barriers mentioned earlier. Since time is often cited as the biggest barrier to engaging in pro bono, lawyers can find limited-representation opportunities within these organizations. Strong legal aid organizations also take care of the issue of attorneys not knowing how to get involved. Katya Riasanovsky, Pro Bono Initiatives Coordinator at Charlotte Center for Legal Advocacy, said, "You can't really be a practicing lawyer in Charlotte and not see a little of what we're doing" (personal communication, February 9, 2018). Riasanovsky added, "We're very conscious of our communications and engagement strategies and who our stakeholders are and who we'd like to have become stakeholders, and we communicate through intermediaries, social media" (personal communication, February 9, 2018).

Legal aid organizations also help lawyers feel equipped to tackle pro bono cases. James Jolley said, "From a young lawyer's perspective, pro bono programs have structure like mentors, but it's very different to be the attorney taking everything on. It's a big transition" (personal communication, February 5, 2018). While law schools provide pro bono experiences with heavy attorney supervision and guidance, taking on a solo pro bono case, especially when the pro bono case is in an area of law they typically do not practice, is a big step. Kenneth Schorr, Executive Director of Charlotte Center for Legal Advocacy, said, "The litigators feel fairly comfortable doing litigation they may not do normally, like landlord-tenant cases, but transactional lawyers are less comfortable doing litigation, which a lot of our work is. We give them training, match

them with cases where they feel comfortable, do our best to make sure their experience is positive” (personal communication, February 8, 2018). Schorr added that over time, some attorneys even develop a pro bono specialization, similar to how many attorneys have a specialization in their regular paid work (K. Sschorr, personal communication, February 8, 2018). Legal aid organizations also do their best to support their volunteers by giving them manageable cases. Schorr said, “We won’t generally give volunteers cases with really short deadlines, clients with limited mental capacity or that have novel issues. We try to give them the cases that will be more comfortable for them to work with” (personal communication, February 8, 2018).

While lawyers can volunteer individually with legal aid organizations, the most effective pro bono often occurs when law firms establish partnerships with legal aid organizations. A major benefit of a firm partnering with a legal aid organization is that the firm will be more likely to support its attorneys’ pro bono efforts rather than viewing pro bono as a negative force pulling them away from their paid clients. Riasanovsky said that the Charlotte Center for Legal Advocacy will ask a firm’s managing partner to pick areas of law that they care about deeply and bring other people in the firm along. Then, CCLA will go into the firms and do a CLE training event inside the firm or do service in an event-based format (personal communication, February 9, 2018). Schorr, the director of Charlotte Center for Legal Advocacy, said, “These events are a positive experience in which sitting alone in your office working on a pro bono case may not be. We do a lot of events that are structured uniquely to the attorneys participating in them” (personal communication, February 8, 2018). Riasanovsky added that a lot of firms really like to do a pro bono project in partnership with a corporate client’s legal department to incorporate client development, as well (personal communication, February 23, 2018).

Riasanovsky launched an event titled the Pro Bono Round Table, a Charlotte forum to discuss best practices for pro bono. In 2017, she said about 40 partners from Charlotte law firms attended (personal communication, February 9, 2018). At the 2018 Pro Bono Round Table, Sylvia Novinsky was one of the speakers and she talked about the Pro Bono Resource Center's new voluntary reporting program (K. Riasanovsky, personal communication, February 9, 2018). One of the other topics at the Round Table was best practices for engaging paralegal and support staff in pro bono (K. Riasanovsky, personal communication, February 9, 2018).

### Incentives

Each respondent was asked a couple of questions about incentives. In general, the interviewees expressed support for incentives, with mixed responses to which incentives they support. The interviewees overwhelmingly expressed enthusiasm about recognition, such as the North Carolina Supreme Court's Honor Society, which rewards attorneys who complete 50 hours of pro bono annually. There are also a number of local awards, such as the annual Charlotte Pro Bono Awards presented by Charlotte Center for Legal Advocacy, Council for Children's Rights, and Legal Aid of North Carolina, which began in 2012. The North Carolina Bar Association has its annual Pro Bono Awards, which it presents during the NCBA annual meeting in Charlotte. The Mecklenburg Bar and Asheville Bar also have pro bono awards.

Another type of lawyer recognition happens within firms. Riasanovsky, who works closely with large firms in Charlotte to coordinate their pro bono efforts with the Charlotte Center for Legal Advocacy, emphasized the importance of a strong pro bono culture within law firms (personal communication, February 9, 2018). This often means that the firm recognizes its top pro bono attorneys privately or publicly. For example, Robinson Bradshaw issues press releases about the firm's pro bono work. "The marketing people love good news and good PR,"

Riasanovsky explained (personal communication, February 9, 2018). She said that in recent years, she has also started seeing attorneys who do 50 or more hours of pro bono mention it on their bios on the firm's website (personal communication, February 9, 2018). Riasanovsky also said there is a wide range of firm pro bono policies internally. For example, at a firm like Robinson Bradshaw, if you ask partners why they do pro bono, they would respond that it is the right thing to do. There are no written policies and pro bono is not tied to promotion. At a firm like Dechert, however, there are specific written policies like 20 hours of pro bono per year for associates. Furthermore, pro bono participation is tied to promotion and performance reviews (K. Riasanovsky, personal communication, February 9, 2018).

As mentioned earlier in this paper, some states allow attorneys to earn CLE credits for pro bono hours. The interviewees had mixed responses about this incentive, with several immediately expressing reservations about the possibility of all CLE hours coming from pro bono work because they believe it is important to continuously gain legal education. There are no states that currently allow attorneys to obtain all of their CLE credit from pro bono, as previously mentioned in Chapter 2. If North Carolina were to implement such a policy, it is likely that it would allow a certain number of CLE credits to come from pro bono. However, this reservation is important because if North Carolina tried to implement a pro bono CLE credit policy and wanted to receive more support from the legal community, it would need to be clear that the pro bono could not totally take the place of all CLE hours. Aside from this reservation, many of the respondents were enthusiastic. Sylvia Novinsky, director of the Pro Bono Resource Center, said, "If it had the support of lawyers in North Carolina, I'd absolutely find a way to make that happen. That's been a suggestion, but we haven't had a critical mass that support it" (personal communication, January 29, 2018). Others were less enthusiastic that this type of policy would

be a good idea. For example, Kim Bart Mullikin of the North Carolina Bar Association said, “I personally don’t think it’s very important. There’s a reason we have a CLE requirement. I don’t know that that purpose is served by doing pro bono. I’m not against it, but I don’t think it’s very important” (personal communication, January 31, 2018) One other practical consideration that may be part of potential opposition is that CLEs generate money for bar associations, trade associations, and more, so if attorneys paid for fewer CLE trainings, these organizations would raise less money.

### Different Things Needed Throughout the State

After speaking with respondents from various types of organizations located throughout the state, it is clear that pro bono takes different forms throughout the state, depending on the size of the city, the sizes of firms, the number of attorneys, the resources of legal aid providers in the area, and more. Charlotte Center for Legal Advocacy has an extensive pro bono program and is able to match attorneys with cases that fit their comfort level and preferences. Riasanovsky said, “If you were able to go to a legal aid office in, let’s say, Winston Salem, they may have 5 practice areas. We have 20, maybe 22” reviews (personal communication, February 9, 2018). In Charlotte, there are many large international law firms that place a heavy emphasis on firm-wide pro bono participation reviews (K. Riasanovsky, personal communication, February 9, 2018). Riasanovsky said, “We have partnerships with all of the major law firms. I have never not placed a pro bono case in 8 years. I’m talking thousands of cases. There is an unprecedented amount of community support. When I ask for help, I get it” reviews (K. Riasanovsky, personal communication, February 9, 2018). Many legal aid providers would not be able to say the same thing and do not have the resources to operate such an extensive pro bono program. Raleigh attorney James Jolley said, “My thought is Charlotte has a number of very large firms with a

national presence and that sort of thing builds a good infrastructure. Raleigh is a smaller market and smaller firms don't have the same resources. The national firms that are here have smaller offices" (personal communication, February 5, 2018). While Raleigh's legal market is smaller than Charlotte's, most cities in North Carolina are still far smaller than Raleigh and have even fewer large national firms.

Pisgah Legal Services is a model for how a smaller legal aid organization in a much smaller city, Asheville, can involve attorneys in pro bono. One major way Pisgah Legal Services is able to do so is by maintain a close relationship with the local Asheville Bar Association. Barrett said, "We constantly remind the Bar, tell them we administer *their* program. It's been key to maintaining a strong pro bono competency despite only having 20 staff attorneys" (personal communication, February 16, 2018). In 2010, Pisgah referred 973 of its cases to members of the Asheville Bar, accounting for over 22% the 4,366 cases Pisgah closed that year (K. Miller, personal communication, February 23, 2018). Like most legal services providers, Pisgah Legal Services tries to give its volunteer attorneys time-limited cases with cooperative clients (personal communication, February 16, 2018). Barrett mentioned that since they try to give their volunteer attorneys these optimal types of cases, there may not be even be enough suitable cases from Pisgah Legal Services or other legal service providers to meet the potential capacity of the private bar within the state (personal communication, April 13, 2018). Barrett said, "One can say that this is due to insufficient funding to staff more screening and intake. We are trying to 'open the door wider' to increase that flow utilizing more volunteer screeners and emeritus attorneys" (personal communication, April 13, 2018). In fact, Barrett said Pisgah is investing in more staff to help manage pro bono attorneys to be trained, coordinated, supported and supervised. Barrett said it can be difficult to decide how many resources to direct toward screening, referring, and



administering pro bono cases, versus directly handling cases internally via staff attorneys (personal communication, April 13, 2018).

### Worst Practices

While best practices for pro bono may vary depending on all of the aforementioned factors, there are some clear “worst practices” when it comes to pro bono. David Wormald, who has seven years of experience in pro bono management at Legal Aid of North Carolina, explained a number of poor practices of legal aid providers (D. Wormald, personal communication, February 20, 2018). As a non-attorney with an MBA, Wormald has a different perspective than many lawyers do. He takes a business-minded approach to pro bono rather than a legal approach, and he thinks like a project manager rather than an attorney (D. Wormald, personal communication, February 20, 2018). Wormald laid out a clear case for why each of these practices can be harmful for a legal aid organization when working with volunteer attorneys. These include doing a lot of event-based pro bono, having a transactional rather than relational mindset, “playing favorites” with volunteers, placing pro bono cases via an email blast, not setting clear expectations, garnering volunteer loyalty to the legal aid pro bono coordinator rather than the organization, and not treating volunteers as if they are the client (personal communication, February 20, 2018).

First, event-based pro bono is problematic for several reasons. Wormald said, “It’s really, really hard to make sure you’re going to get the right number of clients and volunteers to show up. You have to err on the side of having too few volunteers to the point where you tell people that show up ‘we can’t serve you’” (personal communication, February 20, 2018). The other problem with event-based pro bono is that a successful pro bono program is going to generate more pro bono time than the staff time put into it, but event-based pro bono requires a lot of

planning, and then out of the event, only a few hours of service per attorney is provided (D. Wormald, personal communication, February 20, 2018). Wormald said, “When I talk to people in the community, paralegals and attorneys, they’re always thinking about these flashy events where they can put in 6 or 8 hours. But those are not ways pro bono is done well” (personal communication, February 20, 2018). There is a public relations aspect to event-based pro bono, like firms posting photos of their attorneys doing public service on their websites, but it is not an efficient way of operating pro bono. As a general rule, Legal Aid of NC tries to limit its pro bono events, although there are exceptions for when a pro bono event actually is most effective for accomplishing a particular goal (D. Wormald, personal communication, February 20, 2018). For example, LANC recruited Spanish-speaking attorneys and brought them to one location for a will and power of attorney (POA) event for local Spanish-speaking residents. Since there is not a surplus of Spanish-speaking attorneys and they are scattered across the state, this type of event was necessary for serving this population (D. Wormald, personal communication, February 20, 2018).

A different way to incorporate a public relations aspect to pro bono is by “branding” pro bono projects. For example, Pisgah Legal Services created a “Housing Heroes” team of attorneys to work on eviction prevention cases and provided them with eviction-related pro bono training (J. Barrett, personal communication, February 16, 2018). This type of project can help establish a shared group purpose and strong team mentality. Additionally, this type of project branding is great for a firm’s public relations efforts when a firm adopts a particular pro bono practice area, so this type of project satisfies the public relations component of pro bono while also allowing the legal aid organization avoid event-based pro bono (J. Barrett, personal communication, February 16, 2018).

Another mistake legal aid organizations can make is treating attorney interactions transactionally rather than relationally. The biggest instance Wormald has observed during his time at LANC is other legal aid organizations offering a free CLE in exchange for an attorney taking, for instance, two pro bono cases (personal communication, February 20, 2018). Wormald said, “When you approach pro bono transactionally rather than relationally, they’re usually gone after the agreement is over and you have to recruit them again. You want them to commit to you as an organization and building this relationship of a give-and-take collaboration” (personal communication, February 20, 2018). The way Legal Aid of NC approaches this is distinct. LANC charges individuals for their first CLE and then follows up afterward to recruit them as a volunteer. Then, LANC allows all of its active volunteers to attend any of its CLE trainings for free. An active volunteer is considered anyone who has helped LANC by providing a donation, accepting a pro bono case, presenting a CLE training, or helping with networking in the past year. Active volunteers can obtain all of their required CLE hours for free through LANC as long as they maintain a relationship with the organization (D. Wormald, personal communication, February 20, 2018). Growing its volunteer base through relationship-building is key. Wormald said, “Anytime I talk to a volunteer, the last question I ask is: can you give me the names of two other people who may interested in volunteering?” (personal communication, February 20, 2018). Active LANC volunteers will recruit younger members of the Bar in their area and take out to lunch to extend a personal invitation to start volunteering (D. Wormald, personal communication, February 20, 2018).

Another worst practice is “playing favorites” with volunteers (D. Wormald, personal communication, February 20, 2018). If a legal aid organization gives its all-star, most reliable volunteers its best cases and gives everyone else lousy cases or no cases, volunteer attrition rates

can be high. To combat this, Legal Aid of NC has a first in, first out queue (D. Wormald, personal communication, February 20, 2018). In its landlord tenant volunteer case group, for example, whoever has gone the longest without having a case is the one who gets the newest case. Although this method sounds ideal, in practice, it can be difficult to convince attorneys to take a case. Jim Barrett of Pisgah Legal Services said, “You may have to contact 5-10 potential volunteers until you get someone to take the case” (personal communication, February 16, 2018). Then, once the attorney agrees to take a case, they may not actually complete it. Barrett added, “When you send the case to a private attorney, they may get the case and then decide at some point that they can’t do it, so they send it back and it’s three weeks later, so the client’s in a deeper hole” (personal communication, February 16, 2018). For this reason, Pisgah tends to refer cases to attorneys who are more reliable volunteers, although Barrett acknowledged this is not ideal. He said, “Then, it’s harder to branch out and call someone who hasn’t taken a case in three years. Year after year, the number of people to refer people to is shrinking unless you’re recruiting” (personal communication, February 16, 2018).

Another worst practice is placing volunteers through an email blast on a first come, first service basis (D. Wormald, personal communication, February 20, 2018). This can be frustrating for volunteers who are slower to respond to an email or sign up on a website because they may get excited about volunteering, only to be told, “Sorry, we no longer need your help” (D. Wormald, personal communication, February 20, 2018). Wormald emphasized the importance of making a personal phone call or email to recruit a volunteer. He said, “I’d rather them say no to me than me say no to them. My feelings don’t get hurt. I’m trying to build a personal connection between the volunteer and Legal Aid” (personal communication, February 20, 2018). He added, “You can spend so much time telling every extra person ‘No, I don’t want your help’ that it’s

faster to just call” (personal communication, February 20, 2018). Barrett agreed phone calls are more effective than emails for contacting attorneys. He said, “When you email someone, you don’t get to put your heart into the referral. It’s harder to tell someone no on the phone than in an email” (personal communication, February 16, 2018). However, phone calls are not necessarily an easy way to get in touch with attorneys. Jim Barrett added, “One time, we tracked how many times we had to call a volunteer lawyer, and the average was seven” (personal communication, February 16, 2018).

Another bad practice is not setting clear expectations for volunteers in the beginning (D. Wormald, personal communication, February 20, 2018). It is important to lay out what they are agreeing to, define the expectations they can have of the legal services organization, and then commit to that arrangement. Wormald said, “Once you do that, you can pretty much ask the volunteer to do anything” (personal communication, February 20, 2018). It is also crucial to not make a lot of exceptions. Wormald said he has worked with lawyers who have made stipulations such as only being available via email rather than phone or refusing to serve any clients who are on food stamps, for example. Wormald said, “In legal services, everything runs in a series. We’ll be as flexible as we can, but we have to set the parameters” (personal communication, February 20, 2018). Again, a recurring theme is creating a more efficient, streamlined volunteer experience. Wormald said, “When I first came to Legal Aid, you could sign up for any of 120 types of things. We collapsed that down into 10 things. If you do Medicaid, you do all of it or you do none of it” (personal communication, February 20, 2018). Not every attorney will be a useful volunteer, and by laying out expectations in the beginning, it is easier to avoid involving attorneys who will be too difficult to work with. Wormald said, “When you’re reporting how many active volunteers you have, people can be slow to get rid of volunteers that aren’t adding

value, people who are causing more work. They're doing it to inflate their numbers but it's not helpful. People with strong pro bono programs are willing to fire volunteers if needed" (personal communication, February 20, 2018). At Legal Aid of North Carolina, a volunteer will be dismissed if they refuse to take a case five times in a row or blatantly commit malpractice (D. Wormald, personal communication, February 20, 2018). Wormald also said he fires somewhere between 80 and 120 volunteers per year because they are causing inefficiencies in Legal Aid's system and not providing value (personal communication, February 20, 2018).

Additionally, two common problems occur within the management of the pro bono coordination role (D. Wormald, personal communication, February 20, 2018). These issues are building volunteer loyalty to the legal aid's pro bono coordinator rather than the organization itself, as well as only having one person in the pro bono coordinator role (D. Wormald, personal communication, February 20, 2018). The first is problematic because when a coordinator leaves, if the volunteers are primarily loyal to that individual, they tend to also leave. The second issue occurs when only one person is trained in the role of pro bono coordinator and then they leave the position and the organization has to scramble to train a new employee in a role which no one remaining at the organization knows much about. Wormald said that when he trains a new pro bono coordinator at Legal Aid of NC, it takes about six months before they become competent in the role. In that period, attorneys may drift away from the organization if they are not being contacted with opportunities or receiving communications (D. Wormald, personal communication, February 20, 2018). Wormald said, "Successful pro bono programs have teams so when someone leaves, there's someone left to train the new person. You don't have to reinvent the wheel over and over again" (personal communication, February 20, 2018). The average time someone stays in a job is 4.4 years (United States Department of Labor, 2016).

Therefore, it is important to have a clear system of pro bono coordination procedures and policies so that the transition between coordinators can be less chaotic. Ideally, there would also be at least two people trained in the pro bono coordination role, but the reality is that not all legal aid organizations have the resources to have more than one person serve in this role.

The final worst practice is not treating volunteers as if they are the clients. Wormald said, “The sad reality is the people we’re serving at Legal Aid don’t have other options. If they’re angry, there’s nowhere else to turn” (personal communication, February 20, 2018). However, if volunteers are upset because they feel as though their time is being wasted or they are not being given cases, they may not return, and then the organization will have a shortage of volunteers and be able to serve fewer clients. Therefore, it is better to have too few volunteers working at a pro bono event than too many attorneys who feel like their time is being wasted (D. Wormald, personal communication, February 20, 2018). Another practical reason to treat volunteer attorneys well is because they contribute more than just their time (D. Wormald, personal communication, February 20, 2018). According to a national survey, two-thirds of those who volunteered in the past 12 months donate to the same charities where they volunteer (Fidelity Charitable Gift Fund, 2009). While volunteers view their work as a way to give back, develop skills, and gain experience, non-profits also view volunteer work as a way to build relationships with potential donors. For this reason, Wormald said it would be better to have five volunteers handling two cases each rather than two volunteers handling five cases each (personal communication, February 20, 2018). Jim Barrett of Pisgah Legal Services said, “If you interview honest legal aid staff, they’ll tell you it’s more efficient to have one staff attorney doing 250 cases a year than to have a number of volunteer lawyers doing 250 cases. That may be true, but what that ignores is when you get those volunteer hours, the attorneys get to see how badly

clients need legal services. And they may be more inclined to tell people how much they need help. There are a lot of intangibles that come with operating a volunteer program” (personal communication, February 16, 2018). Therefore, while it may be more efficient to encourage attorneys to donate money and allow the more equipped staff attorneys can handle all of the cases, there are two main reasons to continue involving volunteer attorneys. For one, any LSC-funded organization must spend 12.5% of its budget on Private Attorney Involvement, as mentioned previously 2012 (Legal Services Corporation, “Private Attorney Involvement: North Carolina”). Second, private attorneys who volunteer at a legal aid organization are also more likely to donate money to the organization, and they may also talk to their friends and colleagues about the organization’s great financial need has after they witness it firsthand.

As Wormald mentioned, there is not one universal system of best pro bono policies and procedures that legal aid providers can implement in order to have a most effective pro bono program (personal communication, February 20, 2018). However, he presents a strong case that worst practices do exist and they should be avoided when possible. Due to underfunding and understaffing, legal aid organizations are often just trying to address the needs of their current clients and volunteers on a day-to-day basis, rather than tackling “big picture” tasks like crafting strategies for creating more efficient systems for assigning pro bono cases, recruiting new pro bono attorneys, and strengthening current volunteers’ loyalty to the organization (D. Wormald, personal communication, February 20, 2018).

### **Generalizability**

While case studies are not generalizable, the interviews revealed broad themes that are relevant to many other states’ pro bono efforts. For one, although pro bono best practices are not universal, worst practices are, and this research outlines these practices that occur in many pro



bono programs. Second, since legal aid organizations across the country are largely understaffed and underfunded, many do not devote resources toward identifying or improving poor pro bono program practices. Hence, the policy recommendation of making pro bono program trainings available for legal aid organizations would be beneficial in most, if not all, other states to help them maximize their resources. Additionally, senior attorneys across the nation are a largely untapped pro bono resource pool, so the policy recommendation for legal aid providers to institute formal emeritus programs would be appropriate for many states. In these ways, this research can be generalized to other states.

### **Lessons to Learn from North Carolina**

This exploratory case study reveals that North Carolina has made positive strides with its pro bono policies. First, the implementation of State Bar Rule 6.1 in 2010 established an aspirational framework for how many hours of pro bono attorneys should aim to do (North Carolina State Bar, 2010). Second, North Carolina's system of voluntary reporting and recognition through the Pro Bono Resource Center, which began in 2016, provides an incentive for attorneys to participate in pro bono and track their hours (The North Carolina Court System, 2017). Third, North Carolina has some of the least restrictive emeritus attorney policies in the nation, which other states can emulate by eliminating CLE requirements and removing state bar membership fees for Pro Bono Practice Status attorneys (Godfrey & Faith-Slaker, 2016). Finally, the UNC School of Law's Pro Bono Alumni Board, which aims to help practicing attorneys continue doing pro bono through their law school even after graduation, is a unique model that other law schools could implement (A. Standard, personal communication, February 1, 2018). States with fewer pro bono efforts can follow in North Carolina's footsteps, beginning with these policies, to advance their state's pro bono efforts.

## **Chapter 5: Conclusions and Recommendations**

### **Policy Reforms**

While North Carolina has expanded its pro bono efforts in the past decade, there are still a number of reforms that can help increase future pro bono participation. Interviewees unanimously agreed that more pro bono would be beneficial for addressing the unmet legal needs of low-income North Carolina residents. Based on this case study of North Carolina's pro bono, suggested reforms include pro bono program training for legal aid organizations, formal attorney emeritus programs, and mandatory pro bono reporting.

A key feature of the American justice system is that states primarily regulate the legal profession, rather than the federal government. States oversee the legal profession through their state bars, which formulate rules of professional conduct, investigate misconduct allegations, implement voluntary or mandatory reporting pro bono structures, and collect membership dues. Along with state bars, state supreme courts can create rulings that impact the practice of law and institute task forces, such as North Carolina's Equal Access to Justice Commission. Within states, law firms and legal aid organizations also create internal policies governing every aspect of their work. Therefore, policies to increase pro bono participation in North Carolina can be implemented at the North Carolina State Bar and North Carolina Supreme Court levels, as well as at the individual organization level. Factors to consider with these policy recommendations are their effectiveness, ease of implementation, political feasibility, and the potential response of the legal community.

### **Training for Legal Aid Organizations**

The interview with David Wormald, Pro Bono Team Leader at Legal Aid of North Carolina, revealed that pro bono can only be as effective as the legal aid's pro bono program

structure. Wormald's explanation of worst practices was exceptionally clear and logical, and "worst practices" training should be available for all pro bono coordinators who want to improve their pro bono programs. Even if an organization does not have the resources to fix all of its internal "worst practices" as suggested by Wormald, his recommendations could at least help establish a framework for what the pro bono program should try to avoid whenever possible. The North Carolina State Bar could recruit Wormald or another individual with a combined knowledge of both pro bono programs and project management to teach these trainings.

#### Attorney Emeritus Programs

An opportunity for previously unrealized pro bono growth lies in attorney emeritus programs. Of the three main legal aid providers within North Carolina, none currently have a formal pro bono program for emeritus attorneys. The advantages of such a program are enormous; while time and family obligations are cited as the top two reasons attorneys do not do more pro bono, these factors tend to be less prohibitive for older attorneys (ABA Standing Committee on Pro Bono and Public Service, 2013). Retired attorneys or those reaching the end of their legal careers generally have more free time than they did in the middle of their careers. They also have years of expertise and experience to contribute, even if that experience is not necessarily in the area of pro bono law they will practice. Additionally, emeritus attorney programs are politically feasible with no visible opposition, and they receive strong support from the legal community.

Attorney emeritus pro bono programs can also easily avoid many of the "worst practices" mentioned in Chapter 4. They should be structured as regularly scheduled weekly or biweekly commitments, rather than events to attend. An attorney emeritus program can be marketed with a catchy title and described as a perfect fit for an experienced attorney looking to give back, make

the most out of their retirement, work alongside other pro bono attorneys of a similar age, and learn new areas of law in a manageable, flexible, and interesting way. These programs should be treated relationally, and already-involved emeritus attorneys could be ambassadors for the program who take fellow retired or older attorneys out to lunch and highlight the rewarding, relationship-building aspects of emeritus pro bono involvement. Legal aid organizations should set clear expectations for emeritus attorneys right when they express interest in joining the program, taking into consideration that these attorneys may require some flexibility in terms of the desire to travel and have a small amount of leeway with their volunteer schedules.

### Mandatory Pro Bono Reporting

An effective, yet largely unpopular policy reform is a pro bono mandate, which no state has yet implemented. It would be difficult to build support for this option within the legal community due to all of the factors mentioned in Chapter 2. Instead, another policy reform for North Carolina is to make pro bono reporting mandatory, which several states have already done. The first state to require pro bono reporting was Florida in 1993, when the Florida Supreme Court ruled that lawyers should aspire to do 20 hours of pro bono per year or contribute \$350 to a legal aid organization (Virginia State Bar, “Pro Bono Reporting– The Experience in Two States”). While the goal is aspirational rather than mandatory, individual reporting of pro bono hours or dollars contributed is required. Failure to report is an offense subject to discipline, although this is likely difficult to monitor. The Florida reporting process is relatively simple and not time-consuming, as it is part of the annual State Bar dues statement every lawyer is required to submit (Virginia State Bar, “Pro Bono Reporting– The Experience in Two States”). In 1997, the Florida Bar petitioned the Florida Supreme Court to amend this rule to shift to a system of voluntary reporting, but the Florida Supreme Court maintained the rule. Its justification read:

There is no more effective way to gauge the success of lawyers in meeting their obligation to represent the poor— an obligation every member of the Bar swears to undertake. Lawyers have been granted a special boon by the State of Florida— they in effect have a monopoly on the public justice system. In return, lawyers are ethically bound to help the State’s poor gain access to that system. The mandatory reporting requirement is essential to guaranteeing that lawyers do their part to provide equal justice.

According to the Florida Supreme Court, the goal of mandatory reporting is to determine what legal services are being provided for the poor and whether their legal needs are being met. It is possible that required reporting may also help shift attorneys’ mindset around pro bono by making it become a more prominent, expected part of the legal culture. Since Florida implemented mandatory reporting, its reported pro bono hours have more than doubled, while its number of attorneys has increased at a slower rate (Virginia State Bar, “Pro Bono Reporting— The Experience in Two States”).

**TABLE 3. Florida Pro Bono**

Year	Pro Bono Hours Donated	Pro Bono Dollars Contributed	Bar Attorneys
<b>July 1, 1993 - June 30, 1994 (first year of reporting)</b>	806,874	\$1,518,718	Data not available
<b>July 1, 2010 - June 30, 2011</b>	1,681,775	\$4,812,275	77,426
<b>July 1, 2011 - June 30, 2012</b>	1,695,466	\$4,885,236	81,223
<b>July 1, 2012 - June 30, 2013</b>	1,701,503	\$4,852,888	83,493
<b>July 1, 2013 - June 30, 2014</b>	1,881,396	\$4,891,433	85,525
<b>July 1, 2014 - June 30, 2015</b>	1,703,461	\$5,198,645	85,822
<b>% change from inception</b>	111%	242%	11%

SOURCE: VIRGINIA STATE BAR

While this policy option could be effective for North Carolina if it follows Florida's pattern of success, it may face opposition within the legal community, as it is a much more coercive policy than anything previously implemented within the state. Some may see this policy as a "slippery slope" that could lead to more coercive rules in the future, such as pro bono mandates. Nevertheless, the ease of required pro bono reporting, when combined with an annual State Bar dues statement, makes this a worthwhile policy option to consider.

### **Areas for Further Research**

To gain a deeper understanding of pro bono culture across the state of North Carolina, a qualitative study that includes interviews with attorneys in a variety of different practice settings and cities would be a valuable addition to this research. A policy that warrants more research is rewarding CLE credit for pro bono. As this policy option is still relatively new, more research on its effectiveness and potential drawbacks is needed, especially since programs such as the North Carolina Pro Bono Resource Center rely on funding from CLE trainings. Additionally, based on the interviews, more support may be needed from North Carolina's legal community to institute such a policy.

### **Final Conclusion**

North Carolina has made significant strides in its pro bono policies with the implementation of State Bar Rule 6.1, the Pro Bono Resource Center's system of voluntary reporting and recognition, and the State Bar's Pro Bono Practice Status rules. Several other policies discussed in this paper could also help increase pro bono in North Carolina. First, a recommendation for the State Bar is to provide pro bono program training to legal aid organizations to help maximize their resources. Second, a recommendation for legal aid organizations is to create formal emeritus programs to utilize retired attorneys' time and skills.

Both have a relative ease of implementation, high potential effectiveness, and low possibility for opposition from the legal community. Finally, one more policy to consider is mandatory reporting due to its ease and high potential effectiveness.

## References

- ABA Standing Committee on Pro Bono and Public Service. (2013, March). *Supporting Justice III: A Report on the Pro Bono Work of America's Lawyers* (Rep.). Retrieved March 9, 2018, from:  
[https://www.americanbar.org/content/dam/aba/administrative/probono\\_public\\_service/lspb\\_Supporting\\_Justice\\_III\\_final.authcheckdam.pdf](https://www.americanbar.org/content/dam/aba/administrative/probono_public_service/lspb_Supporting_Justice_III_final.authcheckdam.pdf).
- American Bar Association. (2017, July). Senate Appropriations Committee Okays \$385 million for LSC in Fiscal Year 2018. Retrieved March 19, 2018, from  
[https://www.americanbar.org/publications/governmental\\_affairs\\_periodicals/washingtonletter/2017/july/LSC.html](https://www.americanbar.org/publications/governmental_affairs_periodicals/washingtonletter/2017/july/LSC.html).
- American Bar Association. (2017, September 21). Pro Bono Programs Chart. Retrieved March 09, 2018, from  
[https://www.americanbar.org/groups/probono\\_public\\_service/resources/directory\\_of\\_law\\_school\\_public\\_interest\\_pro\\_bono\\_programs/pb\\_programs\\_\\_chart.html](https://www.americanbar.org/groups/probono_public_service/resources/directory_of_law_school_public_interest_pro_bono_programs/pb_programs__chart.html).
- American Bar Association. (n.d.). IOLTA Overview. Retrieved December 10, 2017, from  
[https://www.americanbar.org/groups/interest\\_lawyers\\_trust\\_accounts/overview.html](https://www.americanbar.org/groups/interest_lawyers_trust_accounts/overview.html).
- American Bar Association. (n.d.). Pro Bono Reporting. Retrieved March 09, 2018, from  
[https://www.americanbar.org/groups/probono\\_public\\_service/ts/pbreporting.html#noreport](https://www.americanbar.org/groups/probono_public_service/ts/pbreporting.html#noreport).
- Boutcher, S. A. (2010). From Policy to Practice: Assessing the Effect of Large Law Firm Pro Bono Structure on Pro Bono Commitment. *Special Issue Law Firms, Legal Culture, and Legal Practice Studies in Law, Politics and Society*, 145-167. doi:10.1108/s1059-4337(2010)0000052008.



- CLE Rules. (2017, October). Retrieved December 01, 2017, from [https://www.americanbar.org/groups/probono\\_public\\_service/policy/cle\\_rules.html](https://www.americanbar.org/groups/probono_public_service/policy/cle_rules.html).
- Fidelity Charitable Gift Fund. (2009). *Fidelity® Charitable Gift Fund Volunteerism and Charitable Giving in 2009 Executive Summary* (Rep.). Retrieved March 5, 2018, from Fidelity Charitable website: <https://www.fidelitycharitable.org/docs/Volunteerism-Charitable-Giving-2009-Executive-Summary.pdf>.
- Forward, J. (2016, April 28). Court Adopts Pro Bono CLE, Expands Pro Bono Options for In-House Counsel, Approves Cy Pres Petition. Retrieved December 02, 2017, from <http://www.wisbar.org/NewsPublications/InsideTrack/Pages/article.aspx?Volume=8&Issue=9&ArticleID=24793>.
- Galanter, M. (1974). Why the "Haves" Come out Ahead: Speculations on the Limits of Legal Change. *Law & Society Review*, 9(1), 95-160. doi:10.2307/3053023.
- Godfrey, D. (2015). Emeritus Attorney Pro Bono Practice Rules. Retrieved December 10, 2017, from [https://www.americanbar.org/content/dam/aba/administrative/law\\_aging/EmeritusAttorneyProBonoPracticeRulesProjectReport.authcheckdam.pdf](https://www.americanbar.org/content/dam/aba/administrative/law_aging/EmeritusAttorneyProBonoPracticeRulesProjectReport.authcheckdam.pdf).
- Godfrey, D., & Faith-Slaker, A. (2016). Emeritus Attorney Pro Bono Practice Rules. Retrieved December 10, 2017, from [https://www.americanbar.org/content/dam/aba/administrative/probono\\_public\\_service/lb\\_pb\\_emeritus2016.authcheckdam.pdf](https://www.americanbar.org/content/dam/aba/administrative/probono_public_service/lb_pb_emeritus2016.authcheckdam.pdf).
- Kagan, R. A. (2009). *Adversarial Legalism: the American Way of Law*. Cambridge, MA: Harvard University Press.
- Lassiter v. Department of Social Svcs., 452 U.S. 18 (1981). (n.d.). Retrieved March 22, 2018, from <https://supreme.justia.com/cases/federal/us/452/18/>.

Legal Services Corporation. (2017, June). *The Justice Gap: Measuring the Unmet Civil Legal Needs of Low-income Americans*(Rep.). Retrieved March 6, 2018, from Legal Services Corporation website: <https://www.lsc.gov/sites/default/files/images/TheJusticeGap-FullReport.pdf>.

Legal Services Corporation. (n.d.). Private Attorney Involvement: North Carolina. Retrieved March 6, 2018, from <https://www.lsc.gov/state-data-private-attorney-involvement>.

Martindale. (n.d.). North Carolina State Bar. Retrieved February 26, 2018, from [https://www.martindale.com/Professional\\_Development/Bar\\_Associations/US\\_State/north\\_carolina\\_state\\_bar.aspx](https://www.martindale.com/Professional_Development/Bar_Associations/US_State/north_carolina_state_bar.aspx).

Milleman, M. (1990). Mandatory Pro Bono in Civil Cases: A Partial Answer to the Right Questions. *Maryland Law Review*, 49(1), 18-77. Retrieved December 10, 2017, from <http://digitalcommons.law.umaryland.edu/mlr/vol49/iss1/5/>.

NC Equal Access to Justice Commission. (2016). *2016 Impact Report* (Rep.). Retrieved February 20, 2018, from North Carolina Equal Access to Justice Commission website: <http://ncequalaccesstojustice.org/wp-content/uploads/2015/08/2016-Impact-Report-Small.pdf>.

NC Equal Access to Justice Commission. (n.d.). About. Retrieved February 26, 2018, from <http://ncequalaccesstojustice.org/about/>.

NC Equal Access to Justice Commission. (n.d.). Pro Bono Practice Status for Inactive and Out-of-State Lawyers. Retrieved March 08, 2018, from <http://ncequalaccesstojustice.org/pro-bono/pro-bono-practice-status-for-inactive-and-out-of-state-lawyers/>.

NC Equal Access to Justice Commission. (n.d.). Staff. Retrieved February 26, 2018, from <http://ncequalaccesstojustice.org/staff/>.

- North Carolina Court System. (2017, May 22). N.C. Pro Bono Resource Center Announces Inaugural Pro Bono Honor Society Inductees. Retrieved February 26, 2018, from <http://www.nccourts.org/News/NewsDetail.asp?id=1687&type=1&archive=False>.
- North Carolina State Bar. (2010, January 28). Rule 6.1 Voluntary Pro Bono Publico Service. Retrieved March 12, 2018, from <https://www.ncbar.gov/for-lawyers/ethics/rules-of-professional-conduct/rule-61-voluntary-pro-bono-publico-service/>.
- North Carolina Pro Bono Resource Center. (n.d.). Learn About Us. Retrieved March 12, 2018, from <https://ncprobono.org/connect/about/>.
- Pisgah Legal Services. *2016 Annual Report: We Stand for Justice* (Rep.). (2016). Asheville, NC: Pisgah Legal Services. Retrieved March 9, 2018, from: <http://3ryj9ikymro38x70e2az0ci5.wpengine.netdna-cdn.com/wp-content/uploads/2017/03/2016ARPLSFinal.pdf>.
- Rhode, D. L. (2005). *Pro Bono in Principle and in Practice: Public Service and the Professions*. Stanford, CA: Stanford Law and Politics.
- Romerdahl, E. (2009). The Shame of the Legal Profession: Why Eighty Percent of Those in Need of Civil Legal Assistance do not Receive It and What We Should do About It." *The Georgetown Journal of Legal Ethics*, 22(3), 115-134. Retrieved December 2, 2017 from [www.law.georgetown.edu/journals/ethics/](http://www.law.georgetown.edu/journals/ethics/).
- Smith, R. H. (1919). *Justice and the Poor: A Study of the Present Denial of Justice to the Poor & of the Agencies Making More Equal their Position Before the Law*. Princeton, NJ: Carnegie Foundation for the Advancement of Teaching.
- Summerlin-Long, J. (2011). *The Response of Legal Aid Communities to Dynamic Political and Policy Environments* (Published dissertation). University of North Carolina at Chapel

- Hill. Retrieved March 22, 2018, from <https://cdr.lib.unc.edu/indexablecontent/uuid:34361652-ba96-46fb-aaa9-cfd5d58f120b>.
- Taylor Poppe, E. S., & Rachlinski, J. J. (2016). Do Lawyers Matter? The Effect of Legal Representation in Civil Disputes. *Pepperdine Law Review*, 43(4), 881-944. Retrieved March 22, 2018, from <https://digitalcommons.pepperdine.edu/plr/vol43/iss4/1>.
- Tebo, M. G. (2007, April). Retired, Then Re-Energized. Retrieved December 10, 2017, from [http://www.abajournal.com/magazine/article/retired\\_then\\_re\\_energized1](http://www.abajournal.com/magazine/article/retired_then_re_energized1).
- Thaler, R., Sunstein, C., & Balz, J. (2012). Choice Architecture. *The Behavioral Foundations of Public Policy*, 428-439. Retrieved March 19, 2018, from [https://www.researchgate.net/profile/C\\_Sunstein/publication/269517913\\_Choice\\_Architecture/links/548db1850cf225bf66a5f4e6.pdf](https://www.researchgate.net/profile/C_Sunstein/publication/269517913_Choice_Architecture/links/548db1850cf225bf66a5f4e6.pdf).
- United States Department of Labor. (2016, September 22). Employee Tenure Summary. Retrieved March 05, 2018, from <https://www.bls.gov/news.release/tenure.nr0.htm>.
- U.S. Government Accountability Office. (1990). *Case Study Evaluations*(Publication). Retrieved March 1, 2018, from [https://www.gao.gov/special.pubs/10\\_1\\_9.pdf](https://www.gao.gov/special.pubs/10_1_9.pdf).
- Virginia State Bar. (n.d.). *Pro Bono Reporting— The Experience in Two States* (Rep.). Retrieved March 15, 2018, from Virginia State Bar website: <http://m.vsb.org/docs/access-reporting-2016/pro-bono-reporting-FL-MD.pdf>.

## Appendix

### Interview Questionnaire

*Introduction at the beginning of the interview: I am doing a senior at UNC-Chapel Hill doing an honors thesis, which is a case study about NC's pro bono culture and pro bono incentive structure. I am specifically interested in how NC can create policies that effectively incentivize attorneys to provide more pro bono services to low-income individuals.*

1. Will you tell me a little bit about yourself?
2. Could you present a framework of the organization for which you work?
3. What statewide partners does your organization work with?
4. Does your organization do anything with attorney emeritus programs?
5. What would you like to see your organization do in the future/what is planned for the future?
6. How would you describe North Carolina's pro bono culture?
7. What do you believe useful pro bono incentives would be?
8. Do you think North Carolina may plan to offer CLE credit for pro bono work in the future? How do you feel about this policy?
9. What do you think North Carolina is doing well when it comes to pro bono? What do you think North Carolina is not doing well?
10. As I'm researching North Carolina's pro bono policies (and basically how the state can further develop beneficial pro bono policies), are there any people you think I should talk to? May I mention that you suggested I reach out to them?