

**MS Bar Summer School for Lawyers  
Tuesday, July 9, 2013**

**Doing Well by Doing Good:  
Professional Development through Pro Bono Service**

**Patti C. Gandy, Jackson  
Tiffany M. Graves, Jackson  
Marie Saliba Cope, Oxford**

- I. Introduction (Patti C. Gandy)**
  - A. Definition of poverty
  - B. Generational poverty vs. situational poverty
  
- II. Understanding Class Differences (Patti C. Gandy)**
  - A. Defying stereotypes
  - B. Identifying hidden rules
  - C. Setting professional boundaries
  
- III. Developing Successful Client Relationships (Tiffany M. Graves)**
  - A. Communicating effectively
  - B. Defining the legal problem
  - C. Determining the client's goal
  - D. Managing client expectations
  
- IV. Developing Your Professional Networks (Marie S. Cope)**
  - A. Diversifying legal practice through pro bono service
  - B. Increasing networking opportunities
  - C. Interacting with other providers and professional resources
  - D. Pursuing career opportunities

### Patricia C. Gandy

Patricia C. Gandy is the founding Director of the Mission First Legal Aid Office, established in 2006 by Mississippi College School of Law and Mission First, Inc. to provide legal services to qualified residents of Hinds, Madison and Rankin Counties. A 1998 graduate of MC Law, Patti clerked for the Honorable Billy Bridges at the Mississippi Court of Appeals before practicing with Butler, Snow, O'Mara, Stevens & Cannada, PLLC. In addition to the American, Mississippi and the Capital Area Bar Associations, she is a member of the Christian Legal Society and the Mississippi Women Lawyers Association. She has served on the MC Law Alumni Association Board of Directors and is a past officer and Board member of the Central Mississippi Chapter of CLS.

Patti was honored for her work at the Legal Aid Office by the Capital Area Bar Association as the recipient of the 2013 CABA Pro Bono Award. She was named 2009 Outstanding Mississippi Woman Lawyer by the Mississippi Women Lawyers Association. In 2008 the Christian Legal Society presented Patti the John D. Robb Award for Christian Legal Aid "for her dedicated service to meeting the legal and spiritual needs of the poor and needy," and in 2007 the NALS Foundation presented Patti the Scales of Justice Award, which is awarded by NALS to recognize persons or entities who improve access to justice.

Patti and her husband, Johnny, have four adult children and are active members of Ridgecrest Baptist Church in Madison. Patti has volunteered extensively through her church and in her community. Her most important role is as a mentor to law students who volunteer at the Legal Aid Office, showing them how a lawyer can combine her faith with her law practice.

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**Introduction**

**A. What is Poverty?**

Poverty is the extent to which an individual does without resources: financial, emotional, mental, spiritual, physical, support systems, relationships/role models, knowledge of hidden rules. Ruby K. Payne, *A Framework for Understanding Poverty* at 7-9 (aha! Process 4<sup>th</sup> ed. 2005).

Practice Pointer: Resources should be assessed before giving advice/solutions. What seems workable from the attorney's point of view may be virtually impossible, given the resources of those in poverty.

**B. Generational Poverty vs. Situational Poverty**

Generational poverty is when a family has lived in a household whose annual income is at or below 125% of the federal poverty guidelines for two or more generations. In 2013, 125% of the poverty level for a household of four is \$29,438 per year. Situational poverty is caused by circumstances such as death, illness, or divorce and usually is temporary. *Id.* at 3.

**Understanding Class Differences**

**A. Defying Stereotypes**

“Drawing any generalizations about class differences between middle class attorneys and poor clients is treacherous ground; some would call it stereotyping or patronizing. Yet for pro bono attorneys who work with impoverished clients only occasionally, failing to understand and deal with these differences has its dangers.” Martha Delaney & Scott Russell, *Working with Pro Bono Clients*, 62 Bench & Bar of Minnesota 7 (August 2005).

Class and/or cultural differences include

- Proxemics: Space between client and attorney
- Kinesics: Body movements (eye contact, facial expressiveness, handshaking)
- Time

- Narrative preferences
- Relational perspectives
- Biases

See Paul Tremblay, *Problem Solving in Clinical Education: Interviewing and Counseling Across Cultures: Heuristics and Biases*, 9 Clinical L. Rev. 373 (2002).

Practice Pointer: It is important to explore our differences AND similarities. Look for multiple interpretations, especially when the attorney is judging the client negatively. Find ways to establish natural connections that will build a trust relationship with the client.

Caution: An attorney may have a “god-complex,” an unconscious sense of superiority in which the attorney alone decides what is best for the low-income client thereby intensifying the client’s feelings of inferiority and shame. Don’t assume you know the client’s situation before you meet him face to face. Often the bare facts do not tell the whole story.

## B. Identifying Hidden Rules

In *A Framework for Understanding Poverty*, Dr. Ruby Payne identifies hidden rules – unspoken cues and habits – within economic groups. These “hidden rules” govern much of our immediate assessment of an individual and his/her capabilities.

Practice Pointer: Assumptions made about an individual’s intelligence may relate more to his understanding of hidden rules. Look for opportunities to be a role model/mentor.

## C. Setting Professional Boundaries

Boundaries are necessary when performing pro bono work. Without boundaries, those of us who do “people work” of some kind can be overwhelmed by a client’s problems and pains.

Practice Pointer: Preserve professional boundaries. There are two common triggers: when we are emotionally tugged by the client’s situation AND when we are afraid or repulsed by the client.

- Protect your time – determine how much time you have to devote to the legal issue and to the client
- Protect your emotions – be sympathetic and detached to give an independent opinion
- Protect your personal space – don’t be overly chatty about your personal life; never give your cell phone number
- Talk through emotionally difficult cases
- Identify the temptation to “save” the client
- Provide clients with spiritual and emotional resource referrals
- Think: What kind of a relationship do I expect from my dentist?

## Resources and Recommended Reading

ABA Standards for the Provision of Civil Legal Aid (2006).

Sue Bryant & Jean K. Peters, *Five Habits of Cross-Cultural Lawyering* in Race, Culture, Psychology, and Law 47, 47-62 (Kimberly Barrett & William George eds., Sage 2004).

Dr. Henry Cloud & Dr. John Townsend, *Boundaries: When to say yes, how to say no to take control of your life* (Zondervan 1992).

Steve Corbett & Brian Fikkert, *When Helping Hurts: How to Alleviate Poverty Without Hurting the Poor . . . and Yourself* (Moody 2009).

Martha Delaney & Scott Russell, *Working with Pro Bono Clients*, 62 Bench & Bar of Minnesota 7 (August 2005).

Paul Tremblay, *Problem Solving in Clinical Education: Interviewing and Counseling Across Cultures: Heuristics and Biases*, 9 Clinical L. Rev. 373 (2002).

### Tiffany M. Graves

Tiffany M. Graves is the Executive Director and General Counsel of the Mississippi Volunteer Lawyers Project (MVLV). She joined MVLV in October 2011 as General Counsel and was named Executive Director and General Counsel by MVLV's Board of Directors in March 2013. Tiffany is a native of Winchester, Virginia. She attended Hollins University and received her law degree from the University of Virginia School of Law. While in law school, Tiffany received the *Pro Bono* Award, the Herbert L. Kramer/Herbert Bangel Community Service Award and was a member of the Raven Society, the oldest and most prestigious honorary society at the University of Virginia. She began her legal career as the Lewis F. Powell, Jr. Fellow at the Mississippi Center for Justice. The Powell Fellowship in Legal Services honors former Supreme Court Justice Lewis F. Powell Jr. and is awarded to a graduating student of the University of Virginia School of Law to enable him or her to work in public interest law and to enhance the delivery of legal services to the poor under the sponsorship of a public interest organization.

Tiffany was an Associate at Watkins & Eager PLLC and Corlew, Munford & Smith PLLC after completing her Fellowship. She is the Immediate Past President of the Jackson Young Lawyers Association, Secretary of the Chair of the Young Lawyers Division (YLD) of The Mississippi Bar, Chair of the Child Advocacy Committee of the YLD, a member of the Board of Directors of the Capital Area Bar Association and Past President of the Mississippi Women Lawyers Association. She is on the Board of Directors of the Women's Fund of Mississippi where she serves as Secretary. In 2011, Tiffany was awarded the YLD's "Outstanding Young Lawyer Award". She was selected as one of the top 10 "Up-and-Coming" Young Attorneys by Portico Jackson Magazine in January 2013 and recently received the Capital Area Bar Association's 2013 *Pro Bono* Award. Tiffany is married to James Graves III, an attorney at Wise Carter Child & Caraway, P.A. James and Tiffany live in Ridgeland, Mississippi.

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**Developing Successful Client Relationships**

**A. Communicating Effectively**

1. *Rule 1.4(a) of the Mississippi Rule of Professional Conduct (MRPC):* "A lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information."
2. *MRPC Rule 1.4(b):* "A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation."
3. *Conflicts:* MRPC Rule 1.7 (Current Client Conflicts) and Rule 1.9 (Former Client Conflicts)

Practice Pointer: To form an effective relationship with a client, it is vital that meaningful communication take place between the client and the *pro bono* program (where applicable), and the client and the attorney. Clients may be confused and intimidated by the maze of legal terms and procedures that they are confronting, frequently for the first time. Attorneys should, therefore, make every effort to communicate with clients in non-technical language that can be clearly understood.

**B. Defining the Legal Problem**

1. *MRPC Rule 1.2(b):* "A lawyer shall abide by a client's decisions concerning the objectives of representation . . . and shall consult with the client as to the means by which they are to be pursued. A lawyer shall abide by a client's decision whether to accept an offer of settlement of a matter."
2. *MRPC Rule 1.2(c):* "A lawyer may limit the objectives of the representation if the client gives informed consent."

Practice Pointer: A retainer agreement for a *pro bono* can contain the same language you would use for a paying client. The obvious difference is that when it comes to setting forth the payment for the representation, you specify that it is being handled on a *pro bono* basis and that all legal services will be handled free of charge.

### C. Determining the Client's Goal

1. The Initial Interview
2. Defining the Roles of the *Pro Bono* Program, Client and Attorney upon Attorney Engagement

Practice Pointer: You should treat the initial intake interview as you would any first client interview. When you first hear from the client, ask him or her to bring any and all paperwork relating to his or her case. At the interview, find out some background information about the client and about the case. Most importantly, assess immediately any deadlines that are looming. In addition, be sure that you review the terms of the retainer agreement. If your client has exceptional circumstances (i.e. the individual is homeless and/or living in a shelter), be sure to find alternative ways to contact the individual.

### D. Managing Client Expectations

1. *MRPC Rule 1.16*: Withdrawing from Representation

*Comment*: "A lawyer should not accept representation in a matter unless it can be performed competently, promptly, without improper conflict of interest and to completion."

2. Post-Representation Communications: The Disengagement Letter

Practice Pointer: Any case – *pro bono* or otherwise – can become time consuming or difficult. Yet, the same limitations governing your ability to withdraw in a paying client's case extend with equal force to *pro bono* cases. Typically, your retainer letter should reflect that you reserve the right to withdraw your representation if the client violates the terms of the agreement or if withdrawal is permitted by the MRPC. Regardless of the manner in which you terminate your representation, you should always prepare a disengagement letter so the client is aware that your attorney-client relationship has ended.



## SAMPLE ENGAGEMENT LETTER AND RETAINER AGREEMENT

[Use your law firm's letterhead]

July 9, 2013

VIA U.S. MAIL

John Doe  
0000 Casablanca Drive  
Jackson, Mississippi 39206

Dear Mr. Doe:

Thank you for meeting with me on April 22, 2009. This letter will explain the terms of the legal services ("Legal Services") that I have agreed to perform for you.

**Description of Legal Services:** Modification of Stipulated Agreement of Support to Reduce Amount of Child Support Obligation Due to Age of Daughters, Sue R. Doe and Tammy B. Doe.

These Legal Services are the only services I have agreed to provide to you. At this time, I am not agreeing to represent you on any other issues related to this matter not described above, or in any appeals in this matter, or on any other unrelated matter. If you want me to represent you on any other issues related to this matter not described above, or in any appeals, or on any other unrelated matter, I must first agree to that representation, and you and I will need to sign a new, separate agreement.

**Staffing and Outside Lawyer Assistance:** In representing you, I may utilize other Law Firm, PLLC attorneys and staff from time to time. However, I will take primary responsibility for providing the Legal Services to you in this matter.

**No Charge for Legal Services:** I will not charge you any attorneys' fees relating to the Legal Services. However, as we have discussed, you have agreed to pay the reasonable expenses for the Legal Services, including photocopying, mailing, faxing and telephone charges (generally referred to as overhead expenses). You will also be expected to pay, and by signing this letter you agree to pay, expenses such as filing fees, service of process, travel expenses, and other expenses of a like nature. If, however, you have a right to have another party pay your attorneys' fees or expenses, I may try to have that other party pay your attorneys' fees or expenses. Any of your fees or expenses paid by another party would be paid to Law Firm and not to you.

**Waiver of Conflicts:** Law Firm, PLLC represents many types of clients in many different kinds of matters. By signing this letter, you agree that, even though I will be representing you in the above-described matter, I remain free to represent any present or future client of Law Firm that may be opposed to you as long as that other representation does not require Law Firm, PLLC to use any privileged information that it learned in representing you and does not affect its representation of you.

**Attorney-Client Representation:** By signing this letter, you will be entering into an attorney-client relationship with me. The information you give to me about your case, and any advice I give you, may be privileged. Privileged information cannot be given out or used as evidence in a legal proceeding without your permission. If, however, you or anyone else gives out any privileged or confidential information or advice to another person - even by mistake - your right to keep that information or advice confidential or treat it as privileged may be lost.

**Cooperation with Tiffany Graves/Law Firm, PLLC:** By signing this letter and entering into this attorney-client relationship, you represent and warrant that all information you have given or will give to me is truthful, accurate, and complete. You also agree that you will provide me, on a timely basis, any and all information I request and that you will cooperate with me in any request I make of you related to this representation. You also agree to respond promptly to any attempts I make to contact you, whether by telephone, by mail, or through electronic means, such as e-mail or text messages.

**Withdrawal from Representation:** If you no longer want me to perform the Legal Services for you, you must notify me in writing. Under some circumstances, I may decide to stop performing the Legal Services for you and terminate the representation. For example, this might happen if you do not honor the terms of this letter, if I find I cannot represent you adequately due to your lack of cooperation, or if I cannot get in touch with you to discuss your case after reasonable attempts to reach you. It might also occur if something happens that I believe would make continuing to represent you unlawful or unethical. If I choose to terminate the representation, you agree to take all steps necessary (including signing documents) to free me and Law Firm, PLLC of any further obligation to perform Legal Services. In some cases, I may be required to get the permission of a judge to stop representing you. Even if I no longer represent you, this letter will remain effective. This letter explains the entire agreement that I have with you about the Legal Services. Any changes to this agreement can only be made in a later agreement that is signed by you and me.

Please read this letter carefully. If you have any questions about this letter or the Legal Services, please contact me. If you agree that this letter correctly describes the Legal Services and the terms and conditions of them, please sign a copy of this letter in the space provided below and return that signed copy to Law Firm, PLLC in the enclosed envelope.

I am enclosing a copy of your court file. I retrieved the entire file from the Madison County Courthouse in order to assist in my representation of you in the above-described Legal Services.

LAW FIRM, PLLC

BY:

\_\_\_\_\_  
Tiffany M. Graves  
Mississippi Bar No. xxxxxx

**I HAVE READ THIS LETTER AND AGREE TO ITS TERMS AND CONDITIONS. I HAVE RECEIVED A COPY OF THIS LETTER FOR ME TO KEEP.**

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**Name of Client: JOHN DOE**

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**Date**

Enclosure

cc: *Pro Bono* Program

**SAMPLE DISENGAGEMENT LETTER**

[Use your law firm's letterhead]

July 9, 2013

VIA U.S. MAIL

John Doe  
0000 Casablanca Drive  
Jackson, Mississippi 39206

RE: *Department of Human Services, State of Mississippi v. John Doe;*  
In the County Court of Madison County, Mississippi; Civil Action File No.  
CO20000490

Dear Mr. Doe:

Enclosed please find copies of the Orders granting the modification of your child support obligation and granting the new amount for withholding. I have been advised by my assistant that your employer is now in receipt of the latter Order. Now that the child support modification has been finalized, my representation related to the above matter has concluded. Accordingly, the attorney-client relationship between us has ceased.

After a certain period of time, our file in this matter will be destroyed consistent with the usual document retention and destruction policies of this firm. If there are any documents from our file that you wish to retain for your records, please let me know and I will be happy to send them to you. I have tried to forward all documents to you as I have received them from the Department of Human Services. If I have overlooked any documents, do let me know.

It was a pleasure working with you. I wish you well in the future.

Sincerely yours,

Tiffany M. Graves

Enclosures

cc: *Pro Bono* Program

### **Marie Saliba Cope**

Marie Saliba Cope is the Co-Director of the Transactional Clinic at the University of Mississippi School of Law. Prior to directing the Transactional Clinic, she taught and supervised students in the Housing Clinic, as well as in the Domestic Violence and Child Advocacy Clinics. The University of Mississippi Clinical Programs are designed to provide legal services to low-income individuals while providing law students real life opportunities to gain practical experience under the supervision of a licensed attorney.

Marie graduated from the University of Tennessee, Knoxville with a Bachelor's Degree in Psychology, and from the University of Memphis with a Master's Degree in Community Agency Counseling. After completing her Master's degree, she worked at the Memphis and Shelby County Juvenile Court as a Counselor for several years. She then left the Court to become the Program Director at the M. K. Gandhi Institute for Nonviolence at Christian Brothers University for two years before attending Rhodes College to obtain teaching certification. Marie taught Sixth grade in the Shelby County Schools for five years. In her final career change, she attended the University of Mississippi School of Law where she earned a Juris Doctorate. Marie lives in Oxford with her husband, John W. Cope, III, and their three children.

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**Developing Your Professional Skills**

**A. Diversifying legal practice through pro bono service**

- a. The Law Student versus the Practicing Attorney
  - i. An individual's optimal learning occurs when he or she actively participates in an activity; therefore, as law students and attorneys represent clients, they gain practical skills and substantive knowledge.
    - 1. Clinical Legal Education provides an opportunity for students to gain real world experience and skills under the supervision of a licensed attorney.
    - 2. Pro Bono service provides attorneys the opportunity to diversify their legal practice with the support of experienced attorneys when they coordinate their service with MVLP and/or the University of Mississippi Clinical Programs such as the Pro Bono Initiative or through Mission First Legal Aid Office.

Practice Pointer: Connect with organizations that are already providing pro bono services so that you may learn from their substantive expertise as well as their practical experiences.

**B. Increasing networking opportunities**

- a. Attorneys
  - i. Through providing pro bono services, attorneys have the opportunity to engage with attorneys who may practice outside their expertise which can be beneficial in a number of ways such as receiving referrals from other attorneys.
- b. Clients
  - i. All clients have friends and relatives. While the pro bono client may not be able to afford legal representation, they may have family members or

friends who could afford to pay an attorney and may seek representation on the basis of the services provided to the pro bono client.

Practice Pointer: Treat all clients and opposing counsel with respect and fair dealing because they may provide opportunities to you in the future. AND as small as Mississippi is, you will see them again!

### **C. Interacting with other providers and benefiting from professional resources**

#### a. Other providers

- i. In addition to the benefit of referrals, attorneys are often able to assist one another with legal theories and strategies.

#### b. Professional resources

- i. Attorneys often rely on exemplars and previously drafted pleadings, and when working with pro bono service providers, attorneys are able to access these resources and add to their collection of materials.

Practice Pointer: Retain all materials and resources you receive from organizations such as MVLP because they can help you in your private practice.

### **D. Pursuing career opportunities**

- a. By developing expertise in new areas through pro bono service outside the scope of one's usual practice area, an attorney opens the door to other areas of the law to pursue within his or her current practice or the opportunity to pursue new career opportunities.

### **Resources**

Roy Stuckey and others, *Best Practices for Legal Education* (Clinical Legal Education Association 2007).

David F. Chavkin, *Clinical Legal Education* (Anderson Publishing Co. 2002).