

SECTION 2:
PRO BONO BASICS

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What Constitutes Pro Bono Work?

I. Official Definition

While there are various definitions throughout the country of what constitutes pro bono, the Illinois Supreme Court has recently adopted a reporting requirement for pro bono legal services and qualified monetary contributions in which the Court has defined pro bono for purposes of this Rule.

Illinois Supreme Court Rule 756(f) defines pro bono as: legal services without charge or expectation of a fee to persons of limited means; legal services to charitable, religious, civic, community, governmental or educational organizations in matters designed to address the needs of persons of limited means; legal services to charitable, religious, civic or community organizations in furtherance of their organizational purpose; or training intended to benefit legal aid organizations or lawyers who provide pro bono services.

The Illinois definition is based in part on Model Rule 6.1 of the American Bar Association's Model Rules of Professional Conduct, which provides that all lawyers should render public interest legal service.

II. Examples of Pro Bono Work

The types of engagements that qualify as bona fide pro bono work are varied and countless. Examples include:

- Representing an indigent client in a landlord-tenant dispute;
- Counseling a not-for-profit organization on tax matters;
- Developing and presenting a training session on a substantive law topic for pro bono attorneys; and
- Making financial contributions to help fund the operations of a legal clinic which serves persons of limited means.

III. Activities That Do Not Qualify as Pro Bono Work

Not all charitable activities qualify as pro bono work. Examples of activities that do not constitute pro bono work include:

- Serving on the board of a school district where the lawyer does not act as the district's pro bono legal counsel;
- Offering discounted fees to clients;
- Attending continuing education seminars; and
- Fundraising for organizations.

IV. Dispelling Myths About Pro Bono Opportunities

Some people think that pro bono work only means representing a poor person in a litigation matter. However, many attorneys regularly engage in pro bono services on a wide variety of transactional matters as well. There is a broad range of case types and legal matters for which pro bono attorneys are needed. Lawyers should be encouraged to devote their pro bono hours and contributions to matters and causes in which they have a personal interest or commitment.

Illinois Supreme Court Pro Bono Reporting Rule

I. Background

In 2006, the Illinois Attorney Registration and Disciplinary Commission (ARDC) implemented a pro bono reporting requirement for attorneys licensed in Illinois. According to the Committee Comments to the amended Rule 756(f), the report is intended to serve as an annual reminder to Illinois lawyers that pro bono legal service is an integral part of a lawyer's professionalism. Excerpts from the Rule follow this article.

II. Summary of the New Rule

Rule 756(f) requires all attorneys licensed in Illinois to report, in connection with the attorney's annual ARDC registration, pro bono legal services provided and qualified monetary contributions made during the preceding 12 months.

Pro bono legal services include legal services without charge or expectation of a fee (a) to a person of limited means; (b) to an organization designed to address the needs of persons of limited means; (c) to certain charitable, religious, civic, or community organizations; and (d) pro bono training intended to benefit legal service organizations or lawyers who provide pro bono services. According to Rule 756(f), "persons of limited means" are not only those persons with household incomes below the federal poverty standard but also those persons frequently referred to as the "working poor."

The Rule also encourages attorneys to make monetary contributions to an organization that provides legal services to persons of limited means or that contributes financial support to such an organization.

III. Compliance with Rule 756(f)

The new reporting requirement consists of two questions that have been added to the annual Illinois ARDC registration form. All attorneys must respond to both questions, even if they did not perform any pro bono work or make a qualified monetary contribution in the preceding 12 months.

Question 1: Pro Bono Legal Services.

- Attorneys who did *not* perform any pro bono work in the preceding 12 months should check the "No" box on Question 1 and state whether the attorney is prohibited from providing legal services because of his or her employment.
- Attorneys who did perform pro bono work in the preceding 12 months should check the "Yes" box on Question 1 and identify the number of hours within each category of legal services listed.

Question 2: Monetary Contributions.

- Attorneys who did *not* make a monetary contribution to an organization that provides legal services to persons of limited means or that contributes money to such an organization should check the "No" box on Question 2.
- Attorneys who did make a monetary contribution within the preceding 12 months should check the "Yes" box and identify the approximate amount of the contribution.

IV. Penalty for Noncompliance

An attorney's failure to report the required information will result in an attorney's name being removed from the master roll of licensed attorneys in Illinois.

Amended Supreme Court Rule 756

(In Pertinent Part)

(f) Disclosure of Voluntary Pro Bono Service. As part of registering under this rule, each lawyer shall report the approximate amount of his or her pro bono legal service and the amount of qualified monetary contributions made during the preceding 12 months.

(1) Pro bono legal service includes the delivery of legal services or the provision of training without charge or expectation of a fee, as defined in the following subparagraphs:

(a) legal services rendered to a person of limited means;

(b) legal services to charitable, religious, civic, community, governmental or educational organizations in matters designed to address the needs of persons of limited means;

(c) legal services to charitable, religious, civic, or community organizations in matters in furtherance of their organizational purposes; and

(d) training intended to benefit legal service organizations or lawyers who provide pro bono services.

In a fee case, a lawyer's billable hours may be deemed pro bono when the client and lawyer agree that further services will be provided voluntarily. Legal services for which payment was expected, but is uncollectible, do not qualify as pro bono legal service.

(2) Pro bono legal service to persons of limited means refers not only to those persons whose household incomes are below the federal poverty standard, but also to those persons frequently referred to as the "working poor." Lawyers providing pro bono legal service need not undertake an investigation to determine client eligibility. Rather, a good-faith determination by the lawyer of client eligibility is sufficient.

(3) Qualified monetary contribution means a financial contribution to an organization as enumerated in subparagraph (1)(b) which provides legal services to persons of limited means or which contributes financial support to such an organization.

(4) As part of the lawyer's annual registration fee statement, the report required by subsection (f) shall be made by answering the following questions:

(a) Did you, within the past 12 months, provide any pro bono legal services as described in subparagraphs (1) through (4) below? ___ Yes ___ No

If no, are you prohibited from providing legal services because of your employment? ___ Yes ___ No

If yes, identify the approximate number of hours provided in each of the following categories where the service was provided without charge or expectation of a fee:

(1) hours of legal services to a person/persons of limited means;

(2) hours of legal services to charitable, religious, civic, community, governmental or educational organizations in matters designed to address the needs of persons of limited means;

(3) hours of legal services to charitable, religious, civic or community organizations in furtherance of their organizational purposes; and

(4) hours providing training intended to benefit legal service organizations or lawyers who provide pro bono services. Legal services for which payment was expected, but is not collectible, do not qualify as pro bono services and should not be included.

(b) Have you made a monetary contribution to an organization which provides legal services to persons of limited means or which contributes financial support to such organization? ____
Yes ____ No

If yes, approximate amount: \$_____.

(5) Information provided pursuant to this subsection (f) shall be deemed confidential pursuant to the provisions of Rule 766, but the Commission may report such information in the aggregate.

(g) Removal from the Master Roll. On February 1 of each year the Administrator shall remove from the master roll the name of any person who has not registered for that year. A lawyer will be deemed not registered for the year if the lawyer has failed to provide trust account information required by paragraph (d) of this rule or if the lawyer has failed to provide information concerning malpractice coverage required by paragraph (e) or information on voluntary pro bono service required by paragraph (f) of this rule. Any person whose name is not on the master roll and who practices law or who holds himself or herself out as being authorized to practice law in this State is engaged in the unauthorized practice of law and may also be held in contempt of the court.

The complete amended Rule is available at <http://www.state.il.us/court/SupremeCourt/Rules/Amend/2006/061406.pdf>.

Pro Bono for House Counsel Not Licensed in Illinois

On July 1, 2008, amendments to Illinois Supreme Court Rules 716 and 756 went into effect that give retired and inactive attorneys as well as in-house attorneys with limited admission status the ability to provide on a pro bono basis critical legal assistance to vulnerable and disadvantaged people who would otherwise be shut out of the justice system. The amendments grew out of a desire of retired, inactive and in-house attorneys across the state who wanted to help meet the legal needs of the most vulnerable in Illinois, but were previously barred from doing so.

The [Attorney Registration and Disciplinary Commission's \(ARDC\)](#) website includes the forms that organizations ("sponsoring entities") and pro bono attorneys must complete in order to perform pro bono work under the amended rules. The Rules are summarized below, with references to the relevant ARDC forms.

In a nutshell, the amendments to Rules 716 and 756:

- Provide that retired, inactive and in-house attorneys with limited admission status may do pro bono work — without charge or expectation of a fee — for individuals of limited means or charitable, civic, community or other similar groups; and
- Include safeguards to ensure that clients are receiving high quality legal services and that the profession is adequately protected.

Potential Pro Bono Attorneys Covered by These Amendments Must:

- Provide pro bono services under the auspices of a sponsoring entity, which is defined as "a not-for-profit legal services organization, governmental entity, law school clinical program or a bar association providing pro bono services";
- Register their pro bono participation, along with verification from the sponsoring entity, with the ARDC on an annual basis (Form: [Attorney 1 on the ARDC website is the initial form to be completed](#); [Form: Attorney 2 is the renewal form](#)); and
- Participate in any trainings required by the sponsoring entity (the amendments exempt retired or inactive attorneys engaged in pro bono from meeting Illinois' MCLE requirements).

Legal Aid Organizations That Want to Work with These Attorneys Must:

- Submit an application to the ARDC describing the organization's pro bono program in which retired, inactive or in-house counsel may participate ([Form: Sponsor 1 on the ARDC website](#));
- Certify that the organization will provide appropriate training and support to pro bono attorneys
- Provide malpractice insurance to pro bono attorneys; and
- Submit an annual statement to the ARDC verifying the continuation of any pro bono programs and describing any changes in pro bono programs in which retired, inactive or in-house counsel participate. ([Form: Sponsor 2 on the ARDC website](#)).

Additional information about the Rules is available at www.IllinoisProBono.org; the webpage includes a list of legal aid and pro bono organizations that have registered with the ARDC to act as a sponsoring entity under Rule 756.

Why Do Pro Bono Work?

I. Professional Obligation

It is our ethical obligation as attorneys in Illinois to provide pro bono assistance to persons in need of legal services who cannot afford them.

The preamble to the Supreme Court of Illinois Rules of Professional Conduct provides, in pertinent part, as follows:

It is the responsibility of those licensed as officers of the court to use their training, experience and skills to provide services in the public interest for which compensation may not be available. An individual lawyer's efforts in these areas is evidence of the lawyer's good character and fitness to practice law.

The Chicago Bar Association also has a standing resolution, updated and reaffirmed in October 2008, that attorneys should contribute 50 hours of pro bono or make a \$250 contribution or the equivalent of two billable hours to support the legal aid system, or some combination thereof.

II. Unmet Legal Needs

The most obvious and compelling reason to perform pro bono work is the need to address the gap between the millions of persons who need assistance but cannot afford or obtain it, and the limited resources available to meet those needs through legal aid organizations. The assistance provided by volunteer attorneys is critical, as there are just over 300 legal aid attorneys to serve all of Illinois.

III. Recruiting and Retention; Morale

Competition for hiring good legal talent can be intense. Companies with active pro bono programs likely enjoy a competitive advantage, particularly when a new attorney may be deciding between opportunities with substantially similar or even identical compensation and benefit structures.

In today's environment, attorneys are more mobile than at any time in the past. The costs of replacing departing attorneys are high (often involving recruitment fees and training expenses) and the time involved in transitioning a new attorney is substantial. A strong pro bono culture can contribute to a positive office environment and, in turn, strengthen attorney loyalty to the corporation.

Finally, a successful pro bono program can provide opportunities for lawyers from different practice areas, along with non-lawyer staff, to work together as a team. Pro bono victories and awards can be shared with the entire office, fostering a sense of pride and accomplishment among attorneys and staff.

IV. Marketing

Pro bono is an effective marketing tool that can provide positive publicity, heightened visibility, opportunities to work with other departments of the corporation, improved client relationships, and evidence of good corporate citizenship. With most corporations investing significantly in community service and corporate citizenship projects, pro bono is an excellent means for the corporation's legal staff to use their special skills and training to add to the corporation's community contributions.

V. Training and Professional Development

Pro bono projects can also be used as training vehicles to provide a wide variety of high quality skills training. Through pro bono work, junior attorneys may try cases and gain substantial client contact earlier in their career. With adequate supervision, junior attorneys can be afforded greater autonomy in a pro bono matter, gaining meaningful work experience and accelerated professional development opportunities that benefit both the individual attorney and the employer.

THE CHICAGO BAR ASSOCIATION PRO BONO RESOLUTION

Updated and Reaffirmed by the CBA Board of Managers on October 16, 2008

WHEREAS, equal access to justice is central to our democratic society, integral to the effective functioning of our justice system, and a critical part of the safety net for vulnerable members of our community; and

WHEREAS, a recent statewide legal needs study sponsored by The Chicago Bar Association, The Chicago Bar Foundation and other bar groups found that tens of thousands of less fortunate individuals continue to lack access to legal assistance that is often critical to their safety and independence, forcing them to resolve complex legal problems on their own, including domestic violence, divorce, child custody, evictions, mortgage foreclosures and the physical and financial abuse of the elderly; and

WHEREAS, there are fewer than 300 legal aid attorneys to serve the Chicago area's more than one million low-income residents; and

WHEREAS, while thousands of attorneys in Illinois have made a laudable commitment to providing pro bono services and making financial contributions to legal aid organizations, the study demonstrates that a huge unmet need for legal assistance remains for the low-income and disadvantaged Chicagoans who are in the most critical need of the protections of our legal system; and

WHEREAS, Illinois Supreme Court Rule 756 (f) underscores that lawyers have a special professional obligation to ensure that our justice system is accessible to everyone; and

WHEREAS, The Chicago Bar Association is committed to increasing pro bono legal services and funding for the legal aid system through its charitable affiliate, The Chicago Bar Foundation; and

WHEREAS, increased pro bono services and financial contributions to the pro bono and legal aid system can significantly expand the availability of legal services for low-income persons.

THEREFORE, it is resolved by The Chicago Bar Association that:

1. The Chicago Bar Association formally reaffirms its commitment and resources to increasing pro bono legal services for low-income and disadvantaged residents in the Chicago area and financial contributions to the legal aid system; and
2. The Chicago Bar Association adopts a suggested standard for each of its members (other than members employed as staff attorneys for legal aid organizations or by government agencies that are prohibited from performing other legal services) to perform or support pro bono legal services by taking the following actions:
 - a. Participate for a minimum of 50 hours in pro bono activities consistent with Illinois Supreme Court Rule 756 (f) which include providing without fee or expectation of fee:
 - i. Legal services to a person of limited means;
 - ii. Legal services to an organization designed to address the needs of persons of limited means;
 - iii. Legal services to charitable, religious, civic or community organizations in furtherance of their organizational purposes; and
 - iv. Pro bono training intended to benefit legal aid organizations or lawyers who provide pro bono services; and
 - b. Contribute a minimum of \$250 or the equivalent of two billable hours, whichever is greater, per year to support the legal aid system by contributing to 1) the CBA's

charitable affiliate, The Chicago Bar Foundation, which provides grants and other support to legal aid and pro bono organizations in the Chicago area; 2) an organization which has as its principal purpose the provision of free or low-cost legal services to low-income and disadvantaged residents of the Chicago area; and/or (3) an organization which provides free or low-cost legal services to nonprofit organizations addressing the needs of low-income persons; and

- c. Support advocacy efforts at the federal, state, and local levels dedicated to ensuring adequate funding for legal aid and access to justice.
3. Each CBA member employed as a staff attorney of a legal aid organization or by a government agency or the judiciary should cooperate with and facilitate pro bono service by attorneys.
4. The Chicago Bar Association will continue to offer a Pro Bono Support Program through The Chicago Bar Foundation to assist CBA members with questions about how to satisfy this resolution.



STATEMENT OF PRINCIPLES FOR THE CHICAGO BAR FOUNDATION CORPORATE LEADERSHIP CIRCLE

As lawyers and leaders in the profession, corporate counsel have a special responsibility to ensure that everyone has access to our justice system. Fulfilling that responsibility requires contributions of time and money as well as a strategic use of the influence corporations have in our community. By committing to this Statement of Principles, corporations demonstrate their leadership and make an investment in their employees, in the communities where their employees live and work, and in the future of our system of justice.

- 1. Adopt Written Pro Bono Policies and Practices to Encourage and Support Pro Bono Work**
 - We will adopt and periodically distribute written policies that encourage each attorney in the corporation's legal department to provide pro bono legal services; adopt practices that encourage our lawyers to do pro bono work; and award and recognize lawyers for their pro bono activities, including, among other things, recognition in performance reviews.
- 2. Provide Financial Support for Pro Bono, Legal Aid and Access to Justice**
 - We will provide meaningful financial support for pro bono, legal aid and related access to justice initiatives as part of our overall charitable giving in the Chicago area.
- 3. Encourage Outside Counsel to Adopt Sound Pro Bono Policies and Practices**
 - We will encourage pro bono service and other assistance at the outside law firms which we employ, and consider the pro bono commitment of law firms in making future hiring decisions.
 - Specifically, to underscore the importance we place on promoting pro bono and equal access to justice, we will encourage our outside law firms in the Chicago area to be members of The Chicago Bar Foundation Law Firm Leadership Circle.
 - We will consider granting requests from law firms for conflict of interest waivers in pro bono matters where appropriate and practicable for the corporation.
- 4. Adopt Additional Policies and Practices to Support Pro Bono, Legal Aid and Access to Justice**
 - a. Support Advocacy Efforts Promoting Adequate Government Funding for Legal Aid and Access to Justice**
 - We will support broad-based advocacy efforts at the federal, state, and local levels dedicated to ensure adequate funding for legal aid and access to justice.
 - b. Promote Cy Pres Awards for Pro Bono, Legal Aid, and Access to Justice**
 - We will encourage our attorneys in matters involving the corporation to advocate for cy pres awards to go to support pro bono, legal aid, and access to justice initiatives when residual funds cannot be returned to the corporation.
 - c. Provide Administrative and Legal Support for Pro Bono and Legal Aid Organizations**
 - To the extent practicable, we will provide administrative and legal support for pro bono and legal aid organizations; host meetings and events for these organizations; and encourage our legal department's vendors to provide pro bono support to these organizations.

Corporation: _____

Signed: _____

Name (print) and Title: _____

Date: _____

For more information about the Corporate Leadership Circle and Statement of Principles, please contact Joan Fencik, Co-Chair of the Leadership Circle, at (312) 394-8339 or joan.fencik@exeloncorp.com, or CBF Executive Director Bob Glaves at (312) 554-1205 or bglaves@chicagobar.org.



FREQUENTLY ASKED QUESTIONS REGARDING THE STATEMENT OF PRINCIPLES FOR THE CHICAGO BAR FOUNDATION CORPORATE LEADERSHIP CIRCLE

What is the purpose of the Corporate Leadership Circle?

While we all are asked to support a number of worthy causes throughout the year, as lawyers we need to make a more concerted effort to ensure that everyone has access to the justice system. With the increased challenges to achieving that goal resulting from the current economic downturn, our leadership role in this cause has never been more important. To that end, the Leadership Circle and its accompanying Statement of Principles for corporations in the Chicago area are intended to embody best practices for corporate legal departments on pro bono, giving and related issues. The Statement of Principles underscores both the integral role that corporate counsel have in ensuring equal access to our justice system and the critical importance of solid leadership from our region's corporate law departments.

Corporations contribute to a variety of good causes, so why is the Leadership Circle limited to Access to Justice issues?

As lawyers and leaders in the profession, corporate counsel have a special responsibility to ensure that everyone has access to our justice system. Fulfilling that responsibility requires contributions of time and money as well as a strategic use of the influence corporate counsel have in our community. Both individual attorneys and corporate legal departments have a critical role to play, but as leaders of the profession corporate counsel need to set the right tone on this issue.

While corporations support a variety of charitable initiatives, as a profession lawyers have a special responsibility to ensure that everyone has access to our justice system. As the Preamble to the Illinois Rules of Professional Conduct underscores, “[i]t is the responsibility of those licensed as officers of the court to use their training, experience and skills to provide services in the public interest for which compensation may not be available,” and “[i]t is the responsibility of those who manage law firms to create an environment that is hospitable to the rendering of a reasonable amount of uncompensated service by lawyers practicing in that firm.” Those who manage corporate legal departments share a similar responsibility to law firms in this regard, and fulfilling this responsibility requires contributions of time and money as well as a strategic use of the influence lawyers and corporate legal departments have in our community.

Why is the Corporate Leadership Circle needed?

A dedicated group of pro bono and legal aid attorneys in Chicago provide vital legal services to many thousands of the most vulnerable residents in our community. However, due to a long-term underinvestment in our pro bono and legal aid system, tens of thousands of less fortunate individuals continue to lack access to legal assistance that is often critical to their safety and independence and are forced to try to solve often complex legal problems on their own. This gap has widened even further with the recent economic downturn.

As lawyers and guardians of the justice system, the huge gap in access to justice in our community today is simply unacceptable. The Corporate Leadership Circle underscores the commitment of Chicago's corporate counsel to reverse this trend.

Why is The Chicago Bar Foundation the umbrella organization for the Corporate Leadership Circle?

As the charitable arm of The Chicago Bar Association, The Chicago Bar Foundation mobilizes our legal community together around a cause that is uniquely important to lawyers and legal professionals: ensuring that everyone in the Chicago area has access to the justice system, particularly the low-income and disadvantaged Chicagoans who are in most critical need of the protections of the civil legal system.

With the support of thousands of individual donors, more than 150 law firms and corporations and other committed supporters, the CBF plays a distinct and vital role in the community by taking a system-wide approach to tackling this issue. Through grants, advocacy and other leadership, we:

- Advance the work of our community's pro bono and legal aid organizations;
- Enable dedicated lawyers to pursue careers in legal aid and help pro bono attorneys most effectively supplement their efforts; and
- Make the courts and legal system more user-friendly and accessible for all.

The Corporate Leadership Circle's Statement of Principles embodies The Chicago Bar Foundation's comprehensive approach to addressing the justice gap in our community.

Is the Corporate Leadership Circle just for large corporate legal departments?

No. The Corporate Leadership Circle and accompanying Statement of Principles are flexible standards that are specifically designed for corporate law departments of all sizes.

How were the individual commitments in the Statement of Principles chosen as the guiding principles for the Corporate Leadership Circle?

The Statement of Principles recognizes that fulfilling our special professional responsibility to ensure equal access to our justice system requires contributions of time and money as well as a strategic use of the influence we have in our community as corporate counsel. We believe this may be the first time that a truly comprehensive statement of principles has been developed to recognize the unique role that corporate law departments play in ensuring access to justice. However, each of the individual commitments in the Statement of Principles embodies best practices on these issues that previously have been acknowledged either in Chicago or other parts of the country. This Statement of Principles builds on the commitment that many law firms and corporations previously made through the Public Interest Law Initiative's (PILI) "Statement of Principles Regarding Pro Bono Legal Services" in 2002.

Our corporation already has signed a statement of principles for pro bono work. Why isn't our commitment to pro bono enough?

A corporate legal department's commitment to pro bono work by its lawyers is clearly one of its most important contributions to ensuring equal access to justice. But it would be virtually impossible for any corporation to have an effective pro bono program without partnering with one or more of the many outstanding legal aid organizations serving the Chicago area, and there are many ways that corporations can and should support the critical work of these organizations.

Why is support for legal aid organizations necessary for good pro bono programs?

Corporate legal departments need good legal aid organizations as partners in order to ensure effective pro bono programs, and investing in their work by providing the corporation's financial backing and other support is a necessary complement to good internal pro bono policies. Legal aid organizations provide the necessary infrastructure to support pro bono work for area corporate counsel (i.e., pro bono programs with solid screening, referral, training and support functions for volunteers). Legal aid programs also provide critical legal assistance to the most vulnerable members of our community in matters where pro bono is not a practical solution.

Is there further guidance available about the Statement of Principles?

Yes, The Chicago Bar Foundation is preparing a handbook to go with the Statement of Principles, and CBF staff is available to answer questions or offer additional guidance.

What is the Law Firm Leadership Circle?

The Law Firm Leadership Circle is a similar commitment and Statement of Principles for Chicago area law firms that was launched in 2008. Almost 30 firms already were members of the Leadership Circle as of August, 2009 (more information is available at www.chicagobarfoundation.org), and many more firms are expected to sign on over time.

Who do we contact if we have questions?

You can contact Joan Fencik, Co-Chair of the Leadership Circle, at (312) 394-8339 or joan.fencik@exeloncorp.com, or Bob Glaves, Executive Director of the CBF, at (312) 554-1205 or bglaves@chicagobar.org.

Where should we send our signed statement of principles?

You can mail it to Bob Glaves at The Chicago Bar Foundation, 321 S. Plymouth Ct., Suite 3B, Chicago, IL 60604; or email it to bglaves@chicagobar.org.