



Model for Pro Bono Engagement: BIA Appeals

One organization has had success working with pro bono attorneys to complete appeals to the Board of Immigration Appeals (BIA). CILA spoke with Kristie-Anne Padron, Managing Attorney of [Catholic Legal Services, Archdiocese of Miami, Inc. \(CLS\)](#) in Florida. The organization helps low income immigrants in South Florida in family-based claims, removal defense, and orientation programs. Padron manages the organization's women and children's programs spanning multiple services including working with unaccompanied children, women and children, and separated families, as well as providing an Immigration Court Help Desk and a Legal Orientation Program for Custodians ([LOPC](#)) of Unaccompanied Children.

The Start of the Model for CLS: Padron describes that the model of working with pro bono attorneys to do BIA appeals started almost organically for the organization in 2016. In an effort to get pro bono attorneys involved, Padron would go to different law firms and talk to them about the clients the organization represents, clients' need for representation, and provide an overview of asylum law and Special Immigrant Juvenile Status (SIJS). In explaining the different opportunities to get engaged, she would include the option to help with briefs to the BIA. "I think it spoke to some people who were afraid of litigation. Then, we started to do it more actively," Padron said. In some cases, pro bono attorneys decided to continue with their underlying case to the appellate levels.

Other Pro Bono Efforts to Help with Appeals: CLS had experience working with pro bono attorneys on appellate matters before, but in a different context. In approximately 2014-2015, when there was a surge of unaccompanied children coming to the United States, some local state court judges did not understand SIJS and began denying petitions when they saw increased numbers. Some judges said they could not act as immigration judges to issue orders relevant to the children and youth's SIJS cases. In 2015-2016, CLS, Americans for Immigrant Justice, and Cuban American Bar Association (CABA) Pro Bono Project worked with pro bono attorneys to take some of the matters through the appellate levels to Florida's Third District Court of Appeal and in one case, up to the Florida Supreme Court. Padron describes it as a time when everyone was engaged and the local area legal service providers all worked together, along with pro bono attorneys, and law school clinics, Florida International University (FIU) Law School's Immigrant Children's Justice Program and University of Miami (UM) School of Law's Children & Youth Law Clinic. Padron expressed, "it was out of our wheelhouse as immigration providers." They leaned on the expertise of everyone that came together to take the cases up in state court and collaborated by doing moot courts, for example.

The Pro Bono Program Process: Currently, one of their focuses is placing BIA appeals with pro bono attorneys. When one of the organization's cases is lost in immigration court, the organization automatically files a BIA appeal to ensure the 30-day deadline is met. Padron explained from their

experience that “typically, there are eight to fourteen months before briefing will be due, so we file the appeal and have it ready to try and match.” The organization adds the case to a spreadsheet, and they draft a summary of what has happened in the case. Then they add the case to all of their lists to recruit. Additionally, when they speak about their cases, they mention these opportunities for pro bono attorneys to get involved. They monitor the cases after the appeal is filed, and CLS works to place the case with a pro bono attorney before they receive the BIA briefing schedule, if possible, so attorneys can start working on getting legal arguments ready.



CLS hosts continuing legal education (CLE) training for pro bono attorneys in October 2019.

The organization has several different pockets of volunteers and ways to get involved. Generally, the organization will recruit pro bono attorneys by reaching out in the AILA South Florida newsletter which goes out weekly, as well as by sending tips and a list of open cases in their own in-house newsletter that goes out about twice a month. The organization also posts other cases for direct representation on the Florida State Bar’s [Florida Pro Bono Matters](#) and unaccompanied children’s cases on [CILAs Pro Bono Matters for Children Facing Deportation](#) platform.

CLS offers monthly pro bono roundtable meetings – previously in-person and now over the phone so they also frequently inform attendees about the opportunities to work on pro bono BIA appeals at those meetings as well. Those meetings often serve as a way to help support and train pro bono attorneys who are newer to practice. The organization has continued to work with law firms and solo practitioners with appellate work experience to help the organization with BIA appeals. Recently the organization has also reached out to the appellate section of the Florida bar to seek engagement.

For this pro bono model, the extent of CLS’s support to pro bono attorneys varies depending on the experience level of the individual pro bono attorney. In one case, CLS has acted as co-counsel, and in another case, one of their very experienced pro bono attorneys has served as a volunteer mentor. In other cases, firms have essentially ghost-written the BIA appeal briefs for the organization. Firms have turned around BIA briefs in quick timeframes with the organization filling in some facts and answering a

few immigration questions along the way. Some attorneys work closely with the organization, and others work more independently.

Padron explained they have a few recorded trainings, a BIA appeals training created by their AILA chapter and several on asylum law that they offer to their pro bono attorneys. Additionally, she will talk with attorneys one-on-one regarding some of the main issues at play in the case, whether that be credibility or an issue related to *Matter of A-B-* or *Matter of L-E-A- II*. “We provide some information about the process, some context, so they understand the administrative appeal process. Most of our pro bono attorneys have experience in state and federal court. Many of the cases involve asylum so we go over some asylum law, and we point them in the right direction of the issues so the attorneys are not on a fishing expedition.” CLS’s involvement throughout the case depends on the experience of the pro bono attorney, but it helps to have someone who can provide an introduction to the case and process, as well as answer some questions along the way.

The Benefits to the Organization and CLS’s Clients: When CILA asked about the pros and cons of the model, Padron answered, for CLS it has been “all pro – I would love to make the program stronger.” She described that it is a good way to involve non-immigration practitioners. “We have worked mostly with attorneys outside of the immigration bar. I think some may be hesitant to take an asylum case that may take two to three years, but an appeal, that is more contained, and we have a better idea of how long it will take.”

She elaborated on the advantages this brings to the organization. “The practitioners have a different skill set than ours. They might have paralegals to do cite checks, more resources – rather than it just being me.” When Padron first started working at CLS, the organization did not do BIA appeals. The organization did not have capacity for the work. Now the organization works on some BIA appeals in-house, and the organization has expanded its ability to continue advocating for clients to higher appellate levels with the help of pro bono attorneys. They have also taken a few of the cases to the 11th Circuit with pro bono assistance either with a pro bono attorney taking the lead on the case or with the help of a pro bono mentor to advise the organization. “We don’t have that many, but we have a few experienced attorneys and it has made a big difference. As an organization, we cannot brief every case because we are focused on getting so many new people facing removal proceedings assistance. It is a good backstop for people. We don’t want them to get lost in the system.”

Generally, when a pro bono attorney volunteers with CLS, the first training is how to communicate with their client, how to work with vulnerable populations and child-centered interviewing skills. In this model, client interaction with the pro bono attorney is pretty minimal as the organization continues to communicate with the child to keep them posted on their case’s status. The pro bono attorney’s involvement is predominantly focused on reading the transcript and doing the heavy lifting legally to write the brief.

Impact of the Current Times on the Model: “With immigration law in the news so much these days, we also market to people who want to help hold the agency accountable for arbitrary decisions. Some people have learned more about how the system works and want to help fight for justice for our clients.” Many of our pro bono attorneys through this program have helped our organization elsewhere or by taking on additional appeals. Padron connects the success they have had with the people, the pro bono attorneys they have worked with for this model of engagement. “They get personally engaged and

want to help and use their skill set. They feel strongly about helping our clients, personally connected to our work and inspired.”

During these unique times during the COVID-19 pandemic, Padron mentioned it has been a time for them to get organized because non-detained proceedings are slowed down. Additionally, some pro bono attorneys have gotten more involved. Recently, one attorney volunteered to help with six cases, which met the need to represent a family with multiple siblings they have been wanting to place.

3 THINGS TO DO TO START THIS TYPE OF PRO BONO PROGRAM IN YOUR ORGANIZATION

1. **Develop your internal process for the program.**
2. **Determine who you would like to recruit and where to do outreach.**
3. **Create or find a couple initial training recordings regarding working on a BIA appeal and the basics of asylum law.**

You are welcome to point pro bono attorneys to CILA’s trainings on the CILA website. We have a 2019 [101 training webinar on Introduction to Asylum for Unaccompanied Children](#) and a prior 2016 [live training Crafting your BIA Appeal](#) to get your organization started.

CILA is grateful to Padron and CLS for sharing their experience working with pro bono attorneys on BIA appeals. We hope this creative model helps spark some ideas for your organization.