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HOUSE OF DELEGATES
Agenda Item #8

June 10, 2016

By E-mail

Carol L. Van Scoyoc, Esq.
White Plains Corporation Counsel's Office
Municipal Office Building, 255 Main Street
White Plains, NY 12207

Re: Model Pro Bono Policy & Procedures for Attorneys
in State and Federal Government Agencies

Dear Carol:

As President of the New York State Bar Association (NYSBA) and Chair of NYSBA's Executive Committee, I am writing to confirm our conversation on June 8, 2016, concerning the Model Pro Bono Policy & Procedures for Attorneys in State and Federal Government Agencies (Model Pro Bono Policy). The President's Committee on Access to Justice (PCAJ) has asked the Executive Committee and House of Delegates to approve the Model Pro Bono Policy and that request is on the agendas for both the Executive Committee and House of Delegates meetings in Cooperstown next week.

As you are aware, the Golden Gavel Subcommittee of the PCAJ developed the Model Pro Bono Policy, over the course of several years, to encourage government agencies to adopt pro bono policies tailored to their particular circumstances that would authorize their attorney employees to perform pro bono service, to help meet the significant unmet need of low-income New Yorkers for civil legal services and to provide opportunities for their attorneys to meet the aspirational goal, contained in the New York Rules of Professional Conduct, for all New York attorneys to perform at least 50 hours of pro bono service each year. At its meeting in September 2015, the PCAJ adopted a version of the Model Pro Bono Policy that also was designed for use by local government agencies.

Pursuant to NYSBA protocol for consulting with other interested NYSBA entities before seeking Executive Committee approval of a proposed report, last fall, the PCAJ shared that version with the newly-renamed Local and State Government Law Section, which you chair. The Section raised concerns about including local government agencies in the Model Pro Bono Policy; I am informed that it did not raise concerns about the remainder of the Model Pro Bono Policy or its application to attorneys in state or federal government agencies. After discussions with representatives of the Section, the Golden Gavel Subcommittee recommended addressing the Section's concerns by revising the Model Pro Bono Policy to delete all references to local government agencies, with the understanding that the Section would support the revised version

and would consider formulating a model pro bono policy for local government attorneys. At its next meeting in January 2016, the PCAJ agreed to that approach. The Golden Gavel Subcommittee thereafter revised the Model Pro Bono Policy accordingly. The PCAJ adopted the revised Model Pro Bono Policy at its next meeting, on April 4, 2016, and, in accordance with NYSBA policy, the Model Pro Bono Policy was posted on the Reports Page.

As Section Chair, you submitted a letter to the Executive Committee dated June 2, 2016, supporting the concept of encouraging government attorneys to provide pro bono services but opposing adoption of the Model Pro Bono Policy. The usual practice at NYSBA is for a NYSBA entity or other bar association reviewing a proposal by another NYSBA entity to provide detailed comments or objections tied to particular provisions in the proposal, so that the propounding entity can respond to the comments or objections and consider amending the proposal to address them. As we discussed, your letter does not identify any particular provisions of the Model Pro Bono Policy with which the Section takes issue or specific bases for its objection to adoption of the Model Pro Bono Policy.

Your letter has been included in the materials provided to the Executive Committee and House of Delegates concerning the PCAJ's request for approval of the Model Pro Bono Policy. As we discussed, if the Section has specific objections to provisions of the Model Pro Bono Policy, it may wish to provide a supplemental letter detailing those objections prior to the Executive Committee and House of Delegates' consideration of the Model Pro Bono Policy at the end of next week. If the Section does so, please also send a copy to PCAJ Co-Chairs William Russell (wrussell@stblaw.com) and Sharon Stern Gerstman (sgerstman@magavern.com), to maximize the opportunity for the PCAJ to consider those objections before the meetings.

Sincerely,



Claire P. Gutekunst

President, New York State Bar Association