

## EXPANDING “SUCCESS” AT FEDERAL PRO SE CLINICS IN THE CENTRAL DISTRICT OF CALIFORNIA

BY LEIGH FERRIN



**Everybody defines success differently.** The dictionary defines it simply as a favorable or desired outcome, or the correct or desired result of an attempt. In the legal profession, and particularly for litigators, success often means winning a case. However, the first thing I learned as a volunteer attorney at a legal services organization is that if winning was my only

definition of success, then I would not find much satisfaction. This is true no matter where you practice law, but it is particularly true in volunteer legal services, and perhaps even more so when working with pro se litigants. With these populations, success must be redefined to include the smaller victories along the way.

Pro se litigants face many extra difficulties. They often have an idea about the substantive law—their research skills are impressive at times—but they are rarely familiar with procedure. Many pro se litigants have limited formal education, are lower income, and have fewer resources; many also have limited English proficiency or a disability. Altogether, these disadvantages create challenges, not only for the litigants themselves, but for the clerks’ office staff, the judges and their staff, and the other litigants in federal court.

Recognizing this problem, Proskauer Rose LLP and Public Counsel teamed up to open a pro se clinic at the federal district court in Los Angeles in 2009. Two years later, a similar clinic opened at the federal district court in Riverside. Six months after that, in mid-2012, the third clinic opened at the federal district court in Santa Ana. Pro se litigants can visit the clinics to get advice on their cases in federal district court.

Each clinic is run by a separate, non-profit legal services organization and is open between one and three days a week. A wide range of substantive issues come into the

clinics, including civil rights cases, social security appeals, and foreclosure cases. Both plaintiffs and defendants seek help through the clinic, and the litigants are in every stage of filing, including pre-filing, discovery, dispositive motions, and trials. The litigants meet with attorneys from the legal services organization running the clinic or local volunteer attorneys.

One thing all attorneys who staff the clinic have to keep in mind is that winning every case is not the goal of the clinic. If that were the sole aim, many attorneys would go home disappointed. Instead, the principal goal of the clinic is to help pro se litigants understand the procedural aspects of litigation in district court well enough to have their cases decided on the merits, rather than dismissed for avoidable procedural violations.

The staff at the Santa Ana clinic has taken to celebrating victories and successes on a regular basis, even when they may not correspond with most attorneys’ definitions of success. For instance, the clinic in Santa Ana assisted two litigants defending against a motion for attorneys’ fees after the litigants had already lost their case. The litigants successfully defeated the motion, allowing them to put the litigation behind them and focus on taking care of their family. The clinic also successfully assisted a pro se litigant with a disability who was requesting leave to amend his complaint. This litigant’s initial draft motion for leave to amend contained largely irrelevant information, and without the clinic’s help, the request may have been denied.

The volunteer attorneys also experience success at the clinics. Some are brand new associates, some are senior associates, and some are partners. The younger associates are often particularly nervous initially. One such attorney came to volunteer at the Santa Ana clinic recently, unsure of what to expect from the experience. The clinic matched her with a litigant who needed assistance understanding the local rules regarding discovery disputes, something the young attorney had recently encountered in her private practice. She was happy to put that experience to use, explaining the rules and providing information regarding next steps. The litigant received excellent assistance and the volunteer enjoyed her time at the clinic, making it more likely she will return.

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Leigh Ferrin is the head of Public Law Center’s Consumer Law and Bankruptcy Unit, and provides direct legal services to low-income clients in need of assistance with debt collection defense, student loan disputes, identity theft, foreclosure prevention, bankruptcy and other consumer-related issues. She also supervises three of PLC’s courthouse-based self-help clinics, one at the Federal District Court and two at the Bankruptcy Court, all in Santa Ana.

The ultimate success at the pro se clinics is representation. If the staff and volunteer attorneys can find representation for a pro se litigant, the case is much more likely to be resolved on the merits. Sometimes it is as simple as suggesting the litigant contact her insurance carrier to see if representation is included in the policy, and other times it means helping the litigant clarify her claims so she understands what the legal issues are, and then providing contact information for a lawyer referral service. Finally, it can mean finding an attorney willing to represent a litigant pro bono, which frequently results in a positive outcome. One litigant was able to settle his case within a few weeks of pro bono counsel substituting in after fighting the case alone for months. Another litigant was able to get a copyright infringement case filed against him by a well-known personality dismissed after obtaining pro bono counsel. In an unusual case, a litigant was able to amend her naturalization certificate to reflect her correct birth date only after obtaining pro bono counsel—who made it clear there was only one possible resolution!

Over the three years that the Santa Ana clinic has been open, the litigants who have found representation have been fortunate; they have experienced the traditional success of resolving cases in their favor more often than not. However, those who have not gotten representation have found success as well. When volunteer attorneys help a pro se litigant understand a judge's order or what a Motion for Summary Judgment is, they not only make a difference for the litigant, they also alleviate the burden on the clerk's office, the judges

and their staff, and the other parties in district court. The volunteers also experience the success of giving back to litigants who have nowhere else to turn and helping the communities in which they live and practice—something as important as any other success they may achieve.

The Federal Pro Se clinic teaches us to appreciate the small victories in life. In a profession hyper-focused on outcomes, smaller victories help manage attorney and client expectations. Regardless of the verdicts, integrating pro bono into your practice fills your career with success.

***For more information or to volunteer, please contact:***

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