



Professor Deborah Rhode of Stanford Law School gave the keynote address.

## *Baldy conference examines the promise and pitfalls of pro bono programs*

**A**long with the speakers, the location sent a message at an April 24 event kicking off a Baldy Center conference on “Private Lawyers in the Public Interest: The Evolving Role of Pro Bono in the Legal Profession.” The event, held in downtown Buffalo’s Main-Seneca Building, opened a two-day conference that explored developments in pro bono work and the opportunities and limitations of pro bono in expanding access to the justice system. Then-Baldy Center Director Lynn Mather said the downtown site was chosen in order to build the Law School’s ties to the Buffalo legal community and make it accessible to practicing lawyers.

“This is the first conference in my six years as director in which we have partnered with the legal profession,” Mather told the audience in the marble lobby of the former bank building. “There are two complementary aspects to this conference: the theoretical/academic, and a real engagement with the community. We want to be working with judges and private lawyers to ask, how can we really make a difference?”

Conference organizer Robert Granfield, chair of UB’s Department of Soci-

ology and an expert on the legal profession, laid out the challenge of the gathering when he said, “Pro bono often expresses what is most admirable in the profession. But a broader commitment to pro bono often is more theoretical than actual.”

Introduced by Hon. Rose H. Sconiers ’73 of the New York State Supreme Court, 8<sup>th</sup> Judicial District, the keynote speaker was Deborah Rhode of Stanford Law School.

Rhode began by acknowledging a

truth that often goes unspoken when lawyers provide pro bono service: “In practice it has never been only about what is good for the public, but about what is good for lawyers in order to enhance their practice and reputation.”

Part of the challenge, she said, is measuring pro bono work done by lawyers. “We do not really know what it is or how much there is,” she said. Only five states require lawyers to report their pro bono work, she said, “and many attorneys take considerable liberties in how it is defined.”

As it is, she said, attorneys broadly average about 30 minutes weekly of pro bono work, “and much of that does not go to serve low-income clients.” Only two-fifths of lawyers at the nation’s 200 most profitable firms contribute at least 20 hours a year to pro bono work, Rhode said.

Working for free does touch many attorneys’ charitable impulses, she said. “Pure selflessness is an impossible ideal,” Rhode said, “but some measure of altruism is what makes the pro bono tradition so valuable to maintain. Certainly part of what individuals find rewarding in volunteer work is that they are putting private morals into action to serve a societal objective.

“We know that pro bono provides lawyers with their most tangible personal and professional benefits. It offers a way to feel like they are making a difference, and to express the values that sent them to law school in the first instance.”

With such service, she said, comes increased contacts and visibility for the attorney. And there are other benefits: junior attorneys gain experience; attorneys facing retirement may continue to contribute on a less demanding schedule by doing pro bono work; such work enhances the reputation of the profession as a whole; and it increases morale within law firms. “Everyone feels they touched a life,” Rhode said, “and no office picnics or parties can match that.”

But what would seem to be a win-win situation – the public benefits from free legal advice, and the attorneys who provide it feel good and help their careers – can be tainted in the execution, Rhode said.

**J**unior lawyers may provide poor-quality representation, she said, and law firm associates may find themselves working for the partners’ favorite causes and organizations. She cited one associate who spent much of his pro bono time drafting letters to the Internal Revenue Service on behalf of the church that a senior partner attended. Most importantly, Rhode said, firms often lack a strategic focus in their pro bono work. “Most firms are strikingly unbusinesslike in the way they structure their program,” she said. “The result is missed opportunities for both the profession and the public.

Seldom do they even attempt to monitor the satisfaction of their clients or the success of public initiatives.” Such lax oversight, she said, leads to a lack of accountability for the consequences of pro bono work.

The conference continued the next day in O’Brian Hall at the Law School, with panel discussions on pro bono in the context of law practice; law schools’ relationship with pro bono work; pro bono as a tool for social change; and pro bono in the life of the legal profession. Attendees also heard from keynote speaker Karen Mathis, immediate past president of the American Bar Association. Mathis made encouraging pro bono work a cornerstone of her ABA term.

“When lawyers serve, when we ac-

knowledge that we are part of a greater whole, and through service each of us becomes better, stronger and more valuable to the world we live in, I think we are at our highest and best use,” she said. “Whether we are lawyers or judges, scholars or students, whether we prosecute or defend, draft legislation or help our clients comply with a raft of diffi-



Karen Mathis



Kenneth A. Manning ’77



Hon. Rose H. Sconiers ’73

cult laws, we serve the legal system and through it our country. Through our training and our work, we do serve others. We serve because it is in our nature to serve.”

The profession, she said, has made some strides toward providing such service, to address the “justice gap” between rich and poor. “But despite our best efforts,” Mathis said, “what is happening now is not enough.”

A likely source of more pro bono

service, she said, is the coming of the baby boomers’ retirement. Over 400,000 lawyers will retire in the next 10 to 15 years, she said, and like the rest of their generation, “they are redefining retirement, and it is changing from a time of leisure to a time of vigor and continuing involvement.”

If each of those new retirees gave 50 hours a year to pro bono and volunteer work, she said, “we would have a 2 million hour resource. If each gave 80 hours, we would have nearly 3 million hours every year. This is a new alternative energy source to power our communities and serve our citizens.”

Mathis acknowledged that many retired attorneys perceive barriers to doing pro bono work, but she said none of those barriers is a deal-breaker. For example:

“I no longer carry malpractice insurance.” Pro bono programs, she said, generally carry such insurance for their volunteers.

“I no longer have office space and administrative help.” Many firms, Mathis said, will allow retirees to continue to use office space, equipment and secretarial help for pro bono work.

“Low-income people don’t need my area of specialization.” Retired lawyers can be trained to do applicable work, and can also leverage their experience by mentoring other lawyers to do pro bono service.

“I do not want to keep a regular schedule.” “Pro bono work can generally accommodate an irregular schedule,” Mathis said, and legal work can be divided into discrete tasks including brief advice and counsel, mentoring, legislative advocacy, co-counsel arrangements and drafting briefs.

“I have relocated and do not have the proper license.” Twenty-five states and the District of Columbia, Mathis said, have created emeritus rules, giving senior lawyers limited admission to the bar, or an exemption from the requirement of admission, for the purpose of pro bono work.

As a resource, Mathis pointed to the ABA’s “Second Season of Service” campaign, launched in 2006. A Web site, [www.secondseasonofservice.com](http://www.secondseasonofservice.com), maintains a database of volunteer and pro bono opportunities.

Robert Granfield and Lynn Mather are now editing the 15 papers presented at the conference and have a contract with Oxford University Press to publish the volume in 2009.