

**Criminal****Pro bono work, power of empathy | Ryan Wozniak**By **Ryan Wozniak**

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(November 19, 2021, 10:17 AM EST) -- Lawyers generally do well for themselves, cloistered from the suffering and inequality that plague too many corners of our society. We are free to decide what work we will do and how much we will be paid for doing it. Consequently, over time, whether deliberately or not, we can lose our ability to be empathic and become detached from the struggles of those who do not enjoy these vocational perks.

Having empathy is essential to being an effective advocate, and to surviving our own journeys as lawyers. First, empathy is a demonstration of respect for a client, cultivating a relationship of mutual trust and confidence. Second, having empathy helps us maintain our mental health. If we are merciful towards and understanding of others, then we are more likely to be merciful with and understanding of ourselves. As Chief Justice of Ontario George Strathy said in his May 17, 2021 address at the Law Society of Ontario Mental Health for Legal Professionals Summit, one of the most difficult aspects of mental illness is self-stigma — internalized

feelings of guilt, shame and inferiority. Many lawyers are type-A personalities who are driven to succeed, perfectionistic and unforgiving. Clemency for others begets clemency for oneself.

Empathy is about putting yourself in someone else's shoes — walking the path that they walk and seeing their reality through their eyes. To that end, performing pro bono work is one of the best ways to experience life on the other side of our desks; it offers something far more substantial than the empty calories we get from generic mission statements. It is at once both very enlightening and very humbling.

Working with Pro Bono Ontario has brought the seriousness of the access to justice crisis into sharp relief for me. The inquiries that I field demonstrate just how bad the problem really is: individuals with disabilities cut off from their financial and social safety nets, single mothers denied termination pay and unable to make ends meet, people suffering from mental illness or addiction refused accommodation by their employers, all of whom have nowhere else to turn, overwhelmed by the complex system of laws and rules they must navigate on their own to assert rudimentary legal rights.

I recall having a phone conversation with an elderly lady who emigrated to Canada from Romania. Both she and her husband are disabled. English is not their first language. Their only asset of any value is their house. One day a salesman showed up at their front door and made a high-pressure pitch, ultimately convincing them to buy a carbon water filtration system for their home. The contract was for about \$6,000, installation included. However, the system was not installed. Therefore, the woman and her husband refused to pay. The company proceeded to rely on a "security agreement," which was not explained at the time of sale, effectively allowing it to encumber the title to the couple's property. As a result, they cannot renew their mortgage or obtain financing to pay their bills. They cannot afford a lawyer. The woman is terrified to tell her children for fear that she will "disrupt their work" and embarrass her family. The call was heartbreaking. The worst part was experiencing the total powerlessness that they were experiencing. How during this short phone call could I stop these unscrupulous scammers? How can this lady and her husband realistically move for injunctive relief on their own?

On another occasion, I spoke with a young man suffering from severe depression and addiction. He could not work, was estranged from his family and his employer would not accommodate his

condition. He said he had no way of paying his bills, no one else he could call for help. He told me that he has lived a troubled life, but is committed to his recovery, and to moving on.

The importance of pro bono work dates back to the Bible. For example, take the story of Susanna and the elders, found in the Book of Daniel. After Susanna is accused of adultery by two elders with whom she refused to have sex, the people of Israel, acting as both judge and jury, hear the testimony of the elders together and based on that evidence, sentence Susanna to death. Susanna then cries out to God for help. God rouses the spirit of Daniel to defend her. Daniel intervenes and cross-examines the elders separately. This time, the elders tell differing accounts of where Susanna's alleged adultery took place (one says under a mastic tree, the other says under an oak tree). As a result, Susanna is acquitted, and the elders are sentenced to death for bearing false witness.

Of course, secular pathogens require secular antidotes. And while volunteering alone will not solve all the world's problems, increased exposure to the frontlines of the access to justice crisis through activities like volunteering with Pro Bono Ontario can at least amplify a lawyer's appreciation of the extraordinary degree to which many people in this country are without a legal lifeline, and in turn, motivate them to do more to attack the access to justice problem.

Finally, having a strong sense of empathy can enrich our personal lives. My father struggled with alcoholism his entire adult life. The sheer destructive force of his addiction plundered his family relationships and ultimately caused his death. He was a victim of his innate predilections, stalked by natural-born tendencies over which he had no real control. Extraordinarily talented, highly intelligent, revered by his friends, and a lifelong hostage of his own mind. I was very hard on my father when I was younger — judgmental and ignorant of the pathology fuelling his behaviour. After becoming a lawyer and volunteering for the past 10 years, I grew to understand my father's reality, and to appreciate the awesome power of addiction. To put it bluntly, I shed some of my own immaturity.

Experiences such as those I have described in this article can be watershed moments in a lawyer's career. They bring home the reality that what we do involves far more than the arcane principles of law we argue on behalf of names we read on sheets of paper. Behind those names are real people with real stories, sometimes tragic ones. Our actions, and more importantly, our inactions, have wide ramifications for society as a whole, even if we can't see it.

In Canada, we have universal health care, but we do not have universal legal care. One can credibly argue that access to competent legal representation in civil matters is also a fundamental human right. However, that debate is for another day. Suffice it to say here that the pro bono volunteer work lawyers do in this province is a tremendously valuable commodity, even if can't single-handedly solve the broader problem of access to justice. There is much to be gained from seeing the world through someone else's eyes. The more of us who do it, the better.

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