

Raising the Bar: Dallas Lawyers Give to North Texas Food Bank

BY AMANDA COTTRELL

I am thrilled to share the incredible success of this year's Food from the Bar campaign, benefiting the North Texas Food Bank. The commitment of the North Texas legal community to fighting hunger is truly inspiring. This year, lawyers and law firms from the Dallas Bar Association raised over \$167,000, collected 930 pounds of food, and 91 people volunteered at the North Texas Food Bank. The money and food donated translates to more than 520,000 nutritious meals. The success of this year's campaign was made possible by 24 law firms and legal organizations, setting a new record.

For those who may not be familiar, the Food from the Bar campaign is more than just a food and funds drive; it is evidence of our shared dedication to making a positive impact in our community. Since its inception in 2019, this campaign has been a friendly competition aimed at fighting summer childhood hunger in North Texas. Each year, our contributions help provide nutritious meals to children and families facing hunger, especially during the summer months when school meals are not available. Over the past six years, Dallas law firms have raised \$677,896.

On behalf of the Board of



Directors and campaign members, I want to extend my heartfelt thanks to every firm and individual who contributed to this effort. Your gifts are already hard at work prepping meal boxes for the summer months. It is moments like these that highlight the true spirit of our legal community—a spirit of camaraderie, a commitment to justice beyond the courtroom, and maybe a little bit of healthy competition. *Who knew lawyers could be so competitive outside of a courtroom?*

This year at the DBA, our theme is all about reconnecting in person and reigniting the camaraderie that makes our legal community so special. And what better way to do that than by competing to see who can raise the most money and pack the most boxes? Participating in initiatives like the annual Food from the Bar campaign is a wonderful example of how we can achieve this. Not only do we support a great cause, but we also strengthen the bonds within our DBA community. Plus, it's a lot of fun to see which firm can outdo the others.

To see this year's participants and winners, or for up-to-date information on the Food from the Bar campaign, visit ntfb.org/foodfromthebar. **HN**

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Binding Provisions to Consider in Non-Binding Letters of Intent

BY MICHAEL COLEMAN, UMEMA SYED, AND BRADLEY HOLDBROOK

In commercial real estate and corporate transactions, a non-binding letter of intent (LOI) is often one of the first legal documents prepared by the parties to reflect the key business terms of the deal. In this article, we explore the provisions in an LOI that buyer's counsel would be prudent to ensure are expressly identified as being binding on the parties.

1. Exclusivity

An exclusivity provision contained in an LOI (also referred to as a "no shop" provision) benefits the buyer in that it prohibits the seller from negotiating with, and marketing the subject property to, third parties for a negotiated time period. This provides the buyer with time to negotiate the purchase agreement without competing with other parties for the deal. It is important to note that in order for an exclusivity provision to be binding in states like Texas, the provision must be supported by consideration.

The following is an example of an exclusivity provision to consider:

"Exclusivity. From the LOI effective date and continuing for a period of 45 days thereafter, Seller shall not, whether directly or indirectly, through any affiliate or representative, or otherwise take any actions to solicit, invite submission of, encourage, entertain, accept, consider, or respond to proposals or offers from any person or entity relating to the subject property or any transaction substantially similar to the transaction contemplated within this LOI."

2. Confidentiality

A confidentiality provision contained in an LOI benefits both parties in that it ensures that neither party will disclose the LOI or any of the matters described therein, except in specific limited circumstances (e.g., disclosure of the LOI to either parties' officers, investors, lenders, and legal and financial advisors who need to know such information to evaluate or execute the proposed transaction described in the LOI, or to the extent required by applicable law, rule, judicial process, or regulation). Parties should also consider entering into a non-disclosure agreement in conjunction with an LOI if any confidential information pertaining to either party or the target asset

will be shared among the parties during the period between execution of the LOI and execution of the definitive agreement.

3. Governing Law

A governing law provision provides what law should apply in the event a dispute arises between the parties under the LOI. This provision is important because if it is omitted, then, under Texas choice of law rules, the laws of the state with the most significant relationship to the asset will apply, which in many cases may not be the intention of either party.

4. Non-Binding Effect

It is imperative that an LOI expressly state it is non-binding on the parties, except for any specific, limited provisions that the parties intend to make binding. This language is necessary to clearly establish the intent of the parties in the event of a dispute.

The following is an example of a non-binding provision to consider:

"Non-Binding Effect. Except for the sections of this LOI entitled 'Exclusivity,' 'Confidentiality,' and 'Governing Law,' which sections are intended to be binding, the parties agree that this LOI is not intended to be a binding agreement among the parties, but merely an expression of their intent with regard to the proposed transaction, that the parties are under no obligation to negotiate or consummate the proposed transaction, unless and until a definitive and binding purchase agreement is mutually executed."

Conclusion

An LOI is intended to contain the key business terms and provisions that the parties would like to see reflected in the definitive agreement(s). Its length and complexity will ultimately depend on size of the transaction, sophistication of the parties, and the bargaining power between the parties. Although an LOI is generally non-binding, it is prudent for attorneys representing buyers to consider making the specific provisions described above to be expressly binding on the parties. **HN**

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DVAP's Finest



KATHERINE PENNETTI

Katherine Pennetti is a Partner at Nelson Mullins.

1. How did you first get involved in pro bono?

I started working on pro bono cases several years ago; however, I have devoted a significant amount of time to pro bono work (specifically with DVAP) since I joined my firm, Nelson Mullins, in March 2023. Nelson Mullins is very devoted to pro bono work and encourages all its attorneys to give back. I am thankful to work for a firm that cares about my community as much as I do.

2. Describe your most compelling pro bono case.

Most recently, I helped to resolve a decades-long dispute over familial property for an elderly client.

3. Why do you do pro bono?

Because no person should ever be made to feel like his/her economic means are a barrier to receiving good legal services.

4. What impact has pro bono service had on your career?

My pro bono work is one of the best parts of my career. I love turning my clients' problems into solutions and counseling them on how to avoid future pitfalls.

5. What is the most unexpected benefit you have received from doing pro bono?

It sounds cliché, but getting to work with and help people in your community is so rewarding. There is no better feeling than knowing you are making a difference in someone's life simply by showing up when others wouldn't.

Pro Bono: It's Like Billable Hours for Your Soul.

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DBA Community Involvement Committee
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