

Pro Bono Firm Of 2011: Jenner & Block

By **Megan Stride**

Law360, New York (July 15, 2011) -- Jenner & Block LLP's established history of pro bono work and the self-propelled commitment of its attorneys has allowed the firm to successfully take on cases fighting discrimination and human trafficking, landing it a spot on Law360's Pro Bono Firms of 2011 list.

Jenner & Block attorneys racked up 66,693 total pro bono hours between May 1, 2010, and May 1, 2011, according to the firm, averaging out to roughly 144 hours per lawyer. Jenner & Block also reported that 100 percent of its associates and about two-thirds of its partners have clocked at least 20 pro bono hours per year since 2007.

That hefty time commitment is not the result of any mandated hour requirement, according to Gabe Fuentes, a Jenner & Block partner and a co-chairman of the firm's pro bono committee. Jenner & Block attorneys' genuine desire to get involved with local communities and speak up for those in need of help is more than strong enough to power the firm's pro bono program, Fuentes explained.

"We're blessed that our lawyers are as interested in doing this work as they are, because we find as a result it's not particularly necessary for us to impose a rigid structure," Fuentes said. "Our attorneys very much want to do this work."

Jenner & Block's pro bono program took off in the mid-1950s, according to Fuentes, when a group of its attorneys, including eventual firm Chairman Jerold Solovy, one-time U.S. District Judge Prentice Marshall and current firm partner Thomas Sullivan, started representing criminal defendants in Chicago on a pro bono basis.

That legacy of community work has continued through the present day and has helped fuel the steady stream of pro bono matters that courts and advocacy groups send Jenner & Block's way, according to firm partner Julie Carpenter, co-chairwoman of the pro-bono committee.

"We're able to attract such terrific pro bono work because we have this long history of stepping up," Carpenter said. "It's kind of a self-fulfilling prophecy in many ways."

The firm's pro bono committee, which is also co-chaired by partner Brian Fischer, includes members from all four of the firm's offices in Chicago, Los Angeles, New York and Washington, and meets once a month by video conference to go over new projects, recent case results, pro bono policies and opportunities for cross-office work, according to Carpenter.

The committee's co-chairs take in paperwork from attorneys proposing new pro bono matters and make sure that the firm's internal procedures are properly followed. As long as the project qualifies as a true pro bono matter, it earns the committee's green light to get going, Fuentes said.

That open-minded approval system allows for Jenner & Block to take on pro bono projects involving a wide swath of matters — including asylum, domestic violence, human trafficking and civil rights cases, among others — that match its attorneys' interests and fill needs in the pro bono marketplace, Fuentes said.

The firm scored one major pro bono victory before the U.S. Supreme Court in June 2010, when a team led by Jenner & Block partner Paul Smith scored a 5-4 ruling holding that a public university law school can require on-campus student groups to open their membership to all students, and can decline to fund a religious student group that requires members to agree with its religious beliefs.

Jenner & Block represented Hastings Law School student group Hastings Outlaw as an intervenor in the case launched by Christian Legal Society, which excluded members on the basis of "unrepentant homosexual conduct" and other factors. CLS claimed that the law school's refusal to officially recognize it as an on-campus student group violated its First Amendment free speech, expressive association and religious freedom rights.

Hastings Outlaw, which aims to promote a positive atmosphere at the school for lesbian, gay, bisexual and transgendered students, intervened to support Hastings' open membership policy, and Jenner & Block joined the fray when the National Center for Lesbian Rights asked the firm to be its co-counsel for the LGBT-focused group.

"What the case was really about was an effort to find a way to justify discrimination against LGBT people in the name of religion and to increase the sphere in which religious freedom could be used as a justification for discrimination," Smith said.

The main goal at the high court was to focus on the stipulated facts that Hastings required all student groups looking for official recognition, not just CLS, to allow membership to all students regardless of their beliefs or status, Smith said. That point, on which the Supreme Court agreed, showed that CLS was not being singled out.

The case was also notable for the high court's rejection of CLS' argument that it was not discriminating against gay people, just their behavior, Smith said. The high court shot down that distinction between status and behavior, and the case has since been cited in other rulings for that particular point, according to Smith.

Smith said that working on the Hastings case and other pro bono matters that involve causes that resonate with him makes his practice as a lawyer more rewarding. Beyond that, he said, pro bono work is an integral part of Jenner & Block as an institution.

"It's the single most distinctive feature of our culture: that people are expected to work, not for pay, to make the world a better place," Smith said.

Jenner & Block turned in another top-notch pro bono performance in December, when a team led by partner Martina Vandenberg scored a \$1.2 million settlement for client Irma Martinez, who sued a family of five in a Wisconsin federal court for allegedly trafficking her to the U.S. for forced labor.

That settlement amount also included a six-figure cash payout from the defendants' three homeowners' insurance companies, making it the first human trafficking suit on record in which insurance carriers paid out substantial damages, according to the firm.

Vandenberg jumped into the matter upon request by the National Immigrant Justice Center following convictions in a related criminal case.

The Jenner & Block partner decided to launch a subsequent civil suit, and because the relevant trafficking law did not include a conspiracy provision at that time, she brought Martinez's claims under the Racketeer Influenced and Corrupt Organizations Act.

RICO was "the best vehicle to bring in additional defendants," Vandenberg said, adding that statute also worked in Martinez's favor given the strength of Jenner & Block's civil RICO experts. Those RICO specialists helped Vandenberg make the suit's complaint "dismissal-proof," Vandenberg said, a point proven by the three motions to dismiss the complaint ended up defeating.

The firm's insurance practice attorneys also played a major role in the case, according to Vandenberg, by helping to secure that groundbreaking six-figure payment from the defendants' insurers. That type of cross-practice collaboration is a regular hallmark of the firm's pro bono practice, she said.

"With these cases, it's all hands on deck," according to Vandenberg, who said the Martinez case was especially meaningful for her given the two-fold success of the settlement payment and the relatively novel application of RICO to target the alleged trafficking conspiracy.

"The best feeling is recovering something for a client, but the second greatest accomplishment for these cases is making a dent in injustice," Vandenberg said.

In yet another impressive pro bono turn, a Jenner & Block team collaborated with Northwestern University's Center on Wrongful Convictions to score an Illinois appeals court ruling in January granting ballistics testing to a defendant convicted of first-degree murder in 1993.

The precedential ruling overturned a lower court's decision and marked the first time ballistics testing had been granted under Illinois' post-conviction testing statute.

The firm's client, Patrick Pursley, had been trying to secure the testing ever since his conviction, and even ended up successfully petitioning the state legislature to write ballistics testing into the post-conviction statute during the course of his pursuit, according to Andrew Vail, now a Jenner & Block partner who began work on the case while still an associate.

After that statutory change, Pursley lodged a renewed court bid for ballistics testing, which Northwestern and Jenner & Block argued and lost before an Illinois Circuit Court before successfully appealing to the state appeals court.

The ruling was significant for the post-conviction testing precedent it set, Vail said, but it also carried potentially life-changing implications for the firm's individual client.

"It means the world to Patrick," Vail said. "It's one of the only ways he may be able to prove his unwavering assertion that he is innocent, and it's something he's been working hard on for 18 years now."

The Pursley case is also an example of a dedication to pro bono work that Vail said "really runs through the fabric" of Jenner & Block.

Other recent pro bono achievements for the firm include winning a motion to dismiss challenges to a trust benefiting client St. Jude Children's Research Hospital and securing a post-conviction evidentiary hearing for an Illinois client who says he was wrongfully convicted of kidnapping and murder.

Fuentes said that kind of pro bono work is an essential obligation for the firm.

"Pro bono cases give us an opportunity to speak on behalf of indigent persons, the powerless and the politically unpopular," Fuentes said. "I think that's something that many people at this firm are very proud of."

--Editing by John Quinn.

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