

In This Issue

From The Chair	2
Awards And Honors	3
Public Interest / Leadership	4
Asylum	5
Criminal Defense	6
Education	7
Family Law	7
Inmate Civil Rights	8
Post- Conviction	9
Poverty Law Project	10
Practice Groups In Action	12
Appellate Practice	12
Corporate	12
Employee Benefits	13
Employment	13
Intellectual Property	14
Real Estate	15
Tax	15

Vol. 17 / Summer 2012

Karl Leonard Helps Secure Release of Wrongfully Convicted Man

At a hearing before a Cook County Judge, Chicago associate **Karl Leonard** secured an order that vacated the conviction and ordered the immediate release of James Kluppelberg, who was wrongfully convicted of starting a deadly fire that killed six and injured another on March 24, 1984. Kluppelberg had been wrongfully convicted of six counts of murder and three counts of arson and sentenced to a term of natural life. He spent 23 years in prison for the crime despite always maintaining his innocence. Leonard and attorneys from the Exoneration Project at the University of Chicago Law School have represented Kluppelberg for the last several years in his efforts to prove his innocence.

During the initial investigation into the crime for which Kluppelberg was convicted, the police determined that the fire was an accident. Four years later, a witness avoided prison time on burglary and theft charges by



Karl Leonard accompanies James Kluppelberg upon his release after 23 years in prison

Continued on page 5

FROM THE CHAIR

Reflections on the Role of Pro Bono Work at Winston & Strawn

Kimball Anderson



As Americans, we can be proud that we have a judicial system that is the gold standard for the world. We have an independent judiciary. We have courts of general jurisdiction and special jurisdiction. And, we have multiple levels of judicial review. Our Constitution

guarantees important rights that are uniformly applied throughout the country. We are a country that prides itself on adhering to the rule of law.

Unfortunately, having invested centuries and billions of dollars constructing the world's finest judicial system, our country has made this very fine system mostly inaccessible to the vast majority of Americans. Only the wealthiest individuals and corporations can afford to access to our judicial system as a means of resolving disputes. We are not just talking about the poor who cannot afford to hire lawyers. Tens of millions of Americans, including most of our middle class, simply are walled-off from our judicial system. To them, going to court to obtain judicial relief is an unattainable pipe dream. Having no access to justice, they resort to other means of resolving conflict and/or are left without remedies for the deprivation of their legal rights.

What's the point of having the world's finest judicial system if access to that system is unattainable for most Americans?

No relief is in sight on a national level. President Lyndon Johnson made famous a national "War on Poverty." Today, we see only a war on the poor – particularly in the area of funding for legal services. Federal funding for the federal Legal Services Corporation, for example, was slashed by 15 percent in 2012. Similar cuts are occurring in many states, including Illinois, California, and New York.

Coming to somewhat of a rescue is our own profession. Lawyers in private practice are stepping up to the plate and assuming greater responsibility for increasing access to justice. Law firms like Winston & Strawn, recognizing that the pro bono business is good business for large law firms, are investing in sophisticated pro bono programs and are imposing strongly suggested pro bono minimum hour requirements. Lawyers also are dipping into their own pockets to fund legal services for the poor. In Chicago, for example, the Chicago Bar

Foundation just completed its annual Investing in Justice Campaign, which raised more than \$1.5 million from individual lawyers. The entire proceeds are being distributed as I write this column to more than 40 public interest organizations that provide legal services to the poor.

Moreover, our courts and judicial commissions are trying to motivate lawyers in private practice to do more pro bono work. For example, the Illinois Supreme Court's Commission on Professionalism and its MCLE Board are considering the merits of a new rule that would allow attorneys who participate in pro bono to secure a limited amount of CLE credit for their time. New York implemented a similar rule a few years ago. I, for one, question whether CLE for pro bono works makes sense. I am concerned that providing CLE credit will serve principally as a post-hoc reward for those already actively involved in pro bono and that such credit will not materially increase participation. Most attorneys accept a pro bono matter principally because of the extrinsic value they place on pro bono service. Providing a credit where none was needed potentially weakens the inherent value of pro bono.

In another recent development, New York Chief Judge Jonathan Lippman announced that beginning in 2013, New York will become the first state to require lawyers to perform 50 hours of pro bono work before being licensed to practice. However, I am skeptical about whether mandatory pro bono by new lawyers is a good way to address the huge amount of unmet legal needs. Funding remains necessary to provide oversight and supervision within the legal services community. Further, law school curricula must be revamped to train new lawyers properly for this undertaking.

At Winston & Strawn, all we can do is continue what we have been doing for the last 160 years – providing the highest quality of services to our clients and giving back to the communities where we practice law. Pro bono work is deeply embedded in the culture of our firm. We know that doing pro bono work is good for us individually and for our communities. In addition, we know that pro bono work provides the firm with huge value in terms of training of our lawyers, enhancing the firm's institutional reputation, and creating important ties with clients and community leaders. Keep up the good work.

About the Pro Bono Reporter

Content for the Reporter was prepared by Greg McConnell, Pro Bono Counsel. Nicole Pérez, in Graphic Resources, developed the layout, design and production. Please contact Greg (gmccconnell@winston.com) or Nicole (nperez@winston.com) if you would like additional copies of the Reporter, or have questions about the information presented.

AWARDS AND HONORS

Innocence Project Exceptional Service Award



Partner David Koropp accepts award from Innocence Project

At its 20th Anniversary Gala, the Innocence Project recognized the firm's long-standing commitment to justice for those who have been

wrongfully convicted. Among other accolades, the Innocence Project acknowledged the firm's commitment of nearly 30,000 hours to the creation of the online, fully searchable Innocence Record database, which contains thousands of documents and transcripts from exonoree case files. Also highlighted was the firm's active contribution to addressing the mistaken testing and related testimony provided by the FBI crime lab regarding the now de-bunked theory that composite bullet lead testing could identify a unique "signature" for bullets and or "melts" of bullets.

Washington Lawyers Committee for Civil Rights Recognizes Firm's Asylum Practice



Neema Kumar

The Washington Lawyers' Committee for Civil Rights and Urban Affairs recognized the efforts of attorneys in the Washington, D.C. office representing asylum seekers at its annual Wiley A. Branton Awards Luncheon. Among others,

Matt Campbell, Greg Ewing, Neema Kumar, Matt Lewis, Rhonda Love, Rachel Miras-Wilson, and Matt Spencer have handled asylum cases referred by the Lawyers' Committee.

The *New York Law Journal* Honors Doug Lancet as an "Unsung Hero"

Doug Lancet, Director of Global Practice Development-Litigation, was recognized by the *New York Law Journal* as an "Unsung Hero" for his efforts representing Holocaust survivors in reparations claims from a program established by the German government. Doug worked with the firm's pro bono department to coordinate the participation of New York office attorneys in this extensive national pro bono project. As a result of Doug's efforts, he and firm attorneys helped survivors recover tens of thousands of dollars in compensation for the work they performed in Nazi ghettos during World War II.

Increased Participation Leads to Strong 2011 Pro Bono Performance

Tom Fitzgerald



Last year in an effort to increase firm-wide participation in pro bono, Managing Partner **Tom Fitzgerald** asked that all attorneys strive to meet the firm's recommended goal of 35 hours and set an ambitious goal that 62 percent of all attorneys contribute at least 20 pro bono hours. To facilitate participation, the firm launched its new Pro Bono Dashboard, which among other things provides graphic information tracking progress toward participation goals. In response, every practice group and every office increased its participation rate from 2010 levels and surpassed the firm's goal, with 62.4 percent of attorneys meeting the

20-hour participation rate threshold. Firm associates led the way, achieving an 87 percent participation rate. The San Francisco office was the most active with an 85 percent participation rate. These efforts resulted in a 2011 ranking of 31 by *The American Lawyer* in its annual pro bono rankings – the firm's highest ever such ranking. Recognizing that the legal needs of our communities remain substantial, the firm is striving to further improve its attorney participation rate to 70 percent in 2012.

The Seventh Circuit Bar Honors Team That Defended Families Wrongly Accused of Abuse



U.S. Supreme Court Justice Elena Kagan congratulates Jason Burke, Julie Bauer, Joanna Wade and Dan Pozdol

Hernandez, led to a successful appeal in the Seventh Circuit that has become one of the most significant opinions in the child welfare field.

The Seventh Circuit Bar Association recognized the success of a team consisting of partner **Julie Bauer**, of counsel **Mike Bess**; associates **Dan Pozdol** and **Joanna Wade**; and former associates Jason Burke and Chaitanya Maddali. The team successfully represented two families in separate lawsuits against various employees of the Illinois Department of Children and Family Services (DCFS), under 42 U.S.C. § 1983, who acted outside their authority when they removed children from their parents' custody after their parents were wrongly accused of child abuse. One of the lawsuits,

PUBLIC INTEREST / LEADERSHIP

South Brooklyn Legal Services, Inc. Volunteers of Legal Service, Inc. (New York) Legal Services-NYC, Inc.



New York partner **John Aerni**, who recently joined the firm from Dewey & LeBouef where he was a co-chair of the firm's pro bono committee, is Chair of the Board of Directors of South Brooklyn Legal Services, Inc., and Chair of the Board of Directors of

Volunteers of Legal Services, Inc. He is also a member of the Board of Directors of Legal Services – NYC, Inc.

The National Immigrant Justice Center (Chicago)

Chicago partner **Ivan Poullaos** joined the Leadership Board of the National Immigrant Justice Center, a national leader in the field of asylum and immigration concerns.

Public Counsel (Los Angeles)

Los Angeles associate **Jason Hamilton** joined the Associate Leadership Board at Public Counsel.

Considered to be the largest pro bono agency in the country, Public Counsel assisted more than 30,000 low-income individuals in 2011.

Chicago Volunteer Legal Services Foundation

Chicago associate **Monique Bhargava** joined the Junior Board of the Chicago Volunteer Legal Services Foundation and is serving as Third Chair. CVLS is one of the largest providers of pro bono services in Chicago, providing legal assistance to low-income persons in high-demand areas such as family, consumer, and bankruptcy.

Center for Disability and Elder Law (Chicago)

Chicago associates **Scott Sakiyama** and **John Arendshorst** joined the Young Professionals Board of the Center for Disability and Elder Law. CDEL provides pro bono assistance to low-income elderly and disabled individuals with various legal concerns such as health care directives, guardianships, and estate planning.

Chicago Lawyers Committee for Civil Rights Under Law

Associates **Scott Sakiyama** and **Gina Rozman** joined the Young Professionals Advisory Board of the Chicago Lawyers Committee for Civil Rights Under Law. The Lawyers' Committee is one of the oldest

public interest law agencies in Chicago and specializes in traditional areas of civil rights and community economic development.

Chicago Bar Foundation

Chicago associate **Charley DeVore** joined the Young Professionals Board of the Chicago Bar Foundation. The CBF is one of the most prominent funders and leaders of pro bono within the City of Chicago.

ASYLUM

Houston Team Wins Special Immigrant Juvenile Visa for El Salvadoran Minor

Melinda Lackey



A team of attorneys including **Melinda Lackey** and **Rich McCarty** were able to convince a Harris County District Judge that the conditions in a juvenile El Salvadorian immigrant's home country were such that it was not in her interest to return. The

team highlighted the prevalent gang violence targeted specifically at the client's family and that because her father had abandoned her as an infant, precluding any reconciliation with a parent in that country, she was eligible for special immigrant juvenile status. This case is unique because the client, who is older than 18 years is not subject to the Texas Family Courts' jurisdiction but is eligible for special immigrant juvenile status

which recognizes majority at age 21. The team had to persuade the district court to assert jurisdiction (required for the statutory leave) and make the critical factual findings needed for the USCIS to grant special immigrant juvenile status. Her petition is now pending with the immigration court for adjustment of her status to lawful permanent resident.

Team Wins Appeal for Honduran Man Fleeing Persecution Because of His Sexual Orientation

Nicole Dogwill



A team of attorneys that included San Francisco partner **Nicole Dogwill**, Los Angeles partner **Pete Perkowski**, and former Charlotte associate **Kelly Lineberger** convinced the Board of Immigration Appeals to remand back to immigration

court to reconsider whether to allow withholding of removal for a homosexual man who fled persecution in Honduras. The client had been abused or persecuted on the basis of his sexual orientation since he was a child. In 1997, he fled from Honduras to Mexico because he was threatened by a group of four men, including one brandishing a machete. Unable to find employment in Mexico because he was undocumented, he was forced to provide sex to his employer and others as a condition of accepting a job. He later fled to the United States seeking safety.

Karl Leonard Helps Secure Release of Wrongfully Convicted Man *Continued*

falsely claiming that he watched Kluppelberg go back and forth to the scene of the fire from an attic window. Aerial photographs showed that the view from the attic window was blocked by another building. In addition, a former fire department employee theorized during testimony that the fire was started by igniting a pile of newspapers or rags and that alleged burn patterns demonstrated that the fire was arson. The witness has since admitted that he lied, and advances in science have proven that the arson theory is impossible.

The Exoneration Project also uncovered evidence that another person may have been involved in starting the fire, evidence that had not been previously disclosed to Kluppelberg. At the hearing, the Cook County State Attorney's Office conceded it could not meet its burden of proof and that Kluppelberg should be released.

After receiving the order securing Kluppelberg's release, Leonard flew early the next morning to Menard Correctional Center in southern Illinois and returned with Kluppelberg to the Chicago area just in time to celebrate his 47th birthday as a free man.

Maria Kutnick Joins Firm in Newly Created Pro Bono Coordinator Position

Maria Kutnick



Maria Kutnick recently joined the firm in the newly created position of pro bono coordinator. Maria will be responsible for performing a broad range of duties in support of the firm's overall pro bono program, including developing and placing appropriate pro bono opportunities, maintaining pro bono opportunity lists and resources for cases, assisting with public relations and marketing efforts, and responding to various pro bono administration demands.

Maria is an experienced public interest attorney and comes to the firm from the Legal Assistance Foundation of Metropolitan Chicago where she was a senior attorney in the Immigration Project. Prior to working at LAF, she was a supervising attorney at the National Immigrant Justice Center.

Zach Spencer Secures Asylum for Former Guatemalan Customs Director

Zach Spencer



New York associate **Zach Spencer** won asylum for the former director of Guatemala's customs agency who fled Guatemala out of fear that he and his family would be killed because he initiated anti-corruption reforms designed to purge the customs agency of corruption.

His reforms were unprecedented and widely publicized, and they frustrated the criminal actions of powerful criminal organizations with strong ties to corrupt government officials. As a result, his life was threatened and he required 24-hour security. He and his family members received threats after fleeing to the United States, and his niece was murdered.

Jacob Calvani Wins Asylum for Congolese Dissident

Chicago associate **Jacob Calvani** won asylum for a native of the Republic of the Congo, who was persecuted because he participated in peaceful rallies and protests on behalf of the Union for Democracy and the Republic, a party opposed to the ruling government. He was arrested and endured several weeks of torture, threats, and imprisonment, as well as the constant threat of imprisonment, torture, and death should he have been discovered after having escaped prison. He was forced to live in a small cell with

between 15 and 20 other political prisoners, enduring daily beatings, stress positions in the equatorial sun, and threats of execution.

CRIMINAL DEFENSE

Eric Robinson Defends Witness at Roger Clemens Perjury Trial

Eric Robinson



New York partner **Eric Robinson** represented a clubhouse employee who worked with the Yankees, Astros, and Mets. Our client interacted extensively with Mr. Clemens and other players. In addition to his clubhouse work, the client provided *ad hoc* offseason training services to Mr. Clemens and several other All Stars. Our representation commenced shortly before Congressional hearings in 2008. It continued through a federal grand jury and related investigation; the indictment of Mr. Clemens; and during trial testimony after our client was subpoenaed in *U.S. v Clemens*. While many did so, the client declined to volunteer testimony to Congress. He also did not testify before the grand jury, but cooperated with investigative efforts post-indictment. The client's avoidance of the attention and scrutiny that befell others, among other things, allowed him to continue his employment, and eventually qualify for a medical pension.

EDUCATION

Los Angeles Team Negotiates Education Plan for Special Needs 5th Grader

Kathryn Leonard



Of counsel **Tony Borrego** and associate **Kathryn Leonard** represented a 5th grade student and her guardian in connection with developing an Individualized Education Plan (IEP) with the Burbank Unified School District.

The student was designated as special needs because of emotional disturbance which was manifested in excessive lying, anti-social and disruptive behavior including fights, and similar social and emotional problems. The child, who lived with her aunt, had come from a difficult home experience having witnessed her substance-abusing mother arrested in front of her. The team worked with the client and the school to establish an IEP that called for emotional counseling and therapy and also classroom tutoring to address the negative impact of her social problems on her ability to succeed in the classroom.

Washington Team Challenges Charter Revocation

Chip Molster



A team of Washington, D.C. attorneys, led by partners **Gene Schaerr**, **Chip Molster**, and **Barry Hart**, and including associates **Adam Hess** and **Ralph Pantony**, is fighting to preserve the charter of the Kamit Institute for Magnificent Achievers (KIMA), a

public charter school that has served predominantly low-income African-American students in the District of Columbia for more than a decade. While it was in operation, KIMA's students graduated from its high school and attended college at rates well above the local and national average for similarly situated students. Despite KIMA's proven academic record, in the summer of 2010 the District of Columbia Public Charter School Board (PCSB) revoked KIMA's charter. KIMA immediately challenged the charter revocation through a petition for review and a civil complaint. Unfortunately, the D.C. Superior Court affirmed the

decision in the agency review and dismissed KIMA's civil complaint. KIMA filed its appeal soon thereafter, which Gene Schaerr argued before the D.C. Court of Appeals. A victory in this appeal may not only restore KIMA's charter, but could benefit the entire D.C. public charter school community by helping to establish statutorily authorized and constitutionally compatible guidelines applicable to D.C. public charter schools in their dealings with the PCSB.

FAMILY LAW

Eric Zion Secures (Another) Success as GAL for Child in Foster Care

Eric Zion



Charlotte of counsel **Eric Zion** secured another success in the role of appellate attorney for the guardian *ad litem*, representing a child facing the possibility of being returned from foster care to a drug addict father. After

a history of intervention, the Vance County (NC) Department of Social Services filed a petition alleging the child to be a neglected and dependent juvenile. The child had been discovered in her father's care when he was arrested for drug trafficking in a hotel room where the child had access to heroin, marijuana, and several hazardous substances. Thereafter, the mother relinquished her parental rights and the child was then placed in foster care. DSS then filed a motion to terminate the father's parental rights, which was granted. On appeal, the father alleged that the motion to terminate was procedurally flawed because it was filed during the pendency of a prior appeal. Eric, as GAL appellate attorney, successfully refuted these procedural arguments and the father's appeal was denied, ensuring that the child would not be returned to the danger of living with her father.

New York Office Participates in City of New York Public Service Program

Lou Russo



A team of nearly 20 New York associates participated in the City of New York Public Service Program. Participating attorneys received a limited appointment as Special Assistant Corporation

Counsel to appear as counsel in the name of the Corporation Counsel, principally for the purpose of taking and defending the City in connection with cases concerning police wrongful arrest or assault, City-owned automobile liability, and pedestrian “slip and fall” situations. Partners **Luke Connelly, Richard Falek, Neil Mitchell, Mike Murray, John Roesser, and Stacy Yakaboski** supervised the group and organized training sessions for participants. Associate **Lou Russo** was the organizational lead with assistance from **Jacque Hammer**.

Aviva Grumet-Morris Wins Appeal for Victim of Domestic Violence

Aviva Grumet-Morris



Chicago associate **Aviva Grumet-Morris** secured a reversal and entry of an order of protection for a woman who had filed for a domestic order of protection against her cousin, whom she alleged had threatened her with physical and sexual violence; and

had brandished guns and knives around her. At the initial hearing, the judge denied the client’s *pro se* petition from the bench, finding that our client hadn’t experienced a recent act of domestic violence and that our client had not previously told her cousin to stop his behavior. On appeal, Aviva successfully argued that the Washington State Domestic Violence Prevention Act does not require a recent act of domestic violence and does not require a victim to wait for a more recent act of violence in order to obtain protection under the statute.

Kathleen Barry Secures Custody for Teenage Parent Wrongly Accused of Abuse

Kathleen Barry



Chicago of counsel **Kathleen Barry** secured custody for a teenage parent who had custody of her child revoked by the juvenile court at a hearing at which the client was not present or represented. Based on allegations by the Department of Children and Family Services (DCFS), the court had found probable cause for abuse and neglect and awarded DCFS temporary custody of our client’s son. Kathleen drafted a brief in support of our client’s position that there was no probable cause and no urgent and immediate necessity. Just prior to the hearing on our motion, the state and DCFS agreed to return legal custody to our client and grant her unsupervised visitation provided the child was under the general care of our client’s aunt and agreed to other certain restrictions. Kathleen then assisted our client in closing the juvenile court case and entering a guardianship with the client’s aunt with unsupervised visitation for our client.

INMATE CIVIL RIGHTS

San Francisco Team Regains Prison Access for Inmate Advocate

Robb Adkins



San Francisco partners **Robb Adkins** and **Krista Enns**, with assistance from associate **Beth Derby**, successfully convinced the California Department of Corrections to rescind its exclusion of an attorney from Pelican Bay State Prison. The attorney was an integral part of the Prisoner Hunger Strike Solidarity Coalition, an organization formed to support and publicize the inmate hunger strikes protesting the conditions of the Security Housing Unit at Pelican Bay. The hunger strike started in July 2011 and resumed on September 26. Immediately after the resumption, the Department sent the attorney a letter summarily informing her that she could no longer visit Pelican Bay State Prison. Research revealed that the exclusion was unfounded and so working

in conjunction with counsel for another excluded attorney, the team pushed the Department to provide evidence supporting its exclusion decision. The team also developed a potential litigation strategy should the Department not reverse its position. In December 2011, the Department of Corrections sent a letter formally rescinding the exclusion.

Sean Meenan Gains Settlement for Inmate with Untreated Cancer

On the verge of trial, a San Francisco team led by associate **Sean Meenan** and former associate Mari Overbeck, with supervision from **Dean Morehous**, secured a significant settlement in a case involving allegations of medical malpractice and deliberate indifference to medical needs. For nearly three years, our client complained to state doctors of irritation and pain in his right thumb. He was repeatedly diagnosed with a mere infection, and sent away with limited prescriptions such as Motrin and band-aids. Ultimately, an outside specialist performed a biopsy, which revealed Squamous Cell Carcinoma. In the years that followed, our client underwent numerous excisions, resulting in the loss of a significant portion of his thumb. After being appointed, the team convinced the court to re-open discovery, took and defended fact and expert depositions, and litigated the case to the pre-trial conference stage.

POST- CONVICTION

Team Secures Release for Inmate Incorrectly Sentenced as Career Offender

Adèle Auxier Keim



On appointment by the Seventh Circuit Court of Appeals, attorneys **Steffen Johnson, Adèle Auxier Keim, and Benjamin Ellison** represented federal inmate Derrick Harvey in an unusual appeal under the original *habeas corpus* statute, 28 U.S.C. §

2241. Harvey argued that he should not have been sentenced as a career offender because one of his prior convictions was no longer considered a crime of violence. Although Seventh Circuit case law was overwhelmingly in his favor, Harvey could not

gain relief under the typically used *habeas* statute, Section 2255, because he had already filed one petition under that statute before the Supreme Court changed the law in his favor, and Section 2255 does not allow for successive petitions where, as here, the Supreme Court’s ruling turns on the interpretation of federal statutes, not the U.S. Constitution. The team successfully negotiated with the Department of Justice to have the case remanded to the district court, where the U.S. Attorney’s Office agreed not to oppose Harvey’s immediate resentencing. Harvey, who had already served more than the suggested sentence for his other underlying offenses, was released and reunited with his family less than three months after the team accepted the case.

Team Secures Substantial Financial Settlement for Man Wrongly Convicted in 1951

Pete McCabe



Partner **Pete McCabe** and associate **Jenny Mauer** secured a substantial settlement for Oscar Walden, Jr., an African-American who was convicted by an all-white jury of raping and robbing a 48-year-old white woman in 1951.

He has been trying to clear his name for the past 60 years. In 1978, Governor James R. Thompson granted Walden a general pardon. In 2003, Illinois Governor George H. Ryan granted a pardon to Walden based on innocence. Thereafter, Walden sued the City of Chicago in 2004 seeking \$15 million in damages on the basis that he had been tortured into confessing his guilt. His case went to civil trial, but a jury ruled against him last year. The settlement occurred after the district court set aside the decision and ordered a second trial, while criticizing the tactics of the city’s lawyers.

The crime for which Walden was wrongfully convicted occurred in 1951. The victim was severely beaten and hospitalized. She described her attacker as a black man who wore thick-lens glasses. She later called police and reported that she had just seen her attacker on a bus. Police responded immediately and forcibly removed Walden, a 20-year-old Moody Bible Institute student with thick glasses, from the bus. Walden was brought face to face with the victim, but she failed

to identify him. Over the next three days, Walden was interrogated by police officers whom Walden accused of threatening to strip him naked, hang him from overhead pipes, and beat him with rubber hoses unless he apologized to the victim, tacitly admitting the crime. The court sentenced Walden, who had no prior record, to 75 years in prison. Later, a man who was convicted for three rapes that occurred in the same area at the same time and closely resembled Walden admitted that he had committed the rape for which Walden had been convicted.

Bryce Cooper and Tyler Johannes Secure Disclosure During Parole Hearings



Bryce Cooper

Chicago associates **Bryce Cooper** and **Tyler Johannes**, supervised by **Chris Essig**, represented two longtime “C Number” inmates, a class of inmates serving indeterminate sentences with the actual length determined by the Prisoner Review Board (PRB) at

periodic parole hearings. After being denied parole in 2008, the inmates alleged that the PRB failed to follow its own procedures in conducting the parole hearing and failed to disclose certain information and documents prior to their parole hearing. In particular, they alleged that the PRB failed to disclose information gathered during so-called “opposition” hearings at which persons objecting to parole may present testimony to the PRB outside the presence of the inmates or their counsel. A Cook County court granted summary judgment for our clients, holding that the PRB may not withhold evidence unless it makes a finding that to release the information would cause actual risk of physical harm. Further, the PRB was specifically required to inform the inmate of the existence and contents of the protest statements.

Pro Bono by the Numbers

31

The firm’s ranking in the 2011 American Lawyer Pro Bono Survey – its highest score ever

74

Average pro bono hours per attorney during 2011

62

Percent of attorneys who devoted at least 20 pro bono hours during 2011

70

The firm’s 2012 goal for percentage of attorneys who provide at least 20 pro bono hours

1989

The year the firm opened a matter for Brad Lieberman, who has contested his civil detention on various grounds, and is the longest continuously engaged individual pro bono client at the firm.

POVERTY LAW PROJECT

Charlotte Attorneys Participate in “Wills for Heroes” Project



Aaron Weiner

Charlotte attorneys **Elizabeth Timkovich**, **Aaron Weiner**, and **Julie Williamson** participated in the “Wills for Heroes” program, which provides essential legal documents free of charge to our nation’s first responders (police, firefighters, EMS, etc.), including

wills, living wills, and powers of attorney for both medical and financial concerns. Attorneys were trained on the North Carolina statutory forms for those documents, and then met one-on-one with first responders and their families to draft and review the estate planning documentation and answer any questions the first responders had concerning their wishes and providing guidance to their families after their passing.

Chicago Associates Score Successes for *Pro Se* Litigants in Municipal Court

Several Chicago associates secured successes for clients referred to the firm through the Municipal Court Pro Bono Program, a program that provides representation to *pro se* litigants appearing in Cook County Municipal Court.

Andrew Sullivan



Michael Bergerson and Andrew Sullivan, supervised by **Larry Desideri and Bryna Dahlin**, successfully obtained monetary relief for a client whose car was damaged by a suburban commuter bus. They filed an amended complaint, defeated a motion to dismiss, successfully excluded a piece of prejudicial video-tape evidence prior to the hearing, and ultimately conducted a full hearing before a panel of arbitrators.

Andrew Erskine, supervised by **Delilah Flaum**, secured a favorable settlement for his client who worked at Papa John's to put himself through college. The night before he was to start delivering pizzas, the client's car was destroyed while parked overnight on street parking. The client filed a *pro se* complaint against the driver, who—according to the police report—had been speeding in snowy conditions. Andrew secured a favorable decision at the mandatory arbitration, which the driver rejected. On the day of trial, however, the driver agreed to settle for the full limit amount of his insurance policy.

Mike DiGiannantonio and Scott Sakiyama, supervised by former partner **Ethan York**, represented a man who was struck by a police car while riding his bike home one evening. After preparing for trial on the merits, including the possible testimony of expected witnesses, Mike and Scott negotiated a favorable financial settlement with the City of Chicago shortly before trial.

Los Angeles Team Beats Back Illegal Rent Increases

Steve Atlee



Los Angeles partner **Steve Atlee** and former associates **Ivan Hernandez** and **Andrew Koehler** teamed up with the Inner City Law Center to represent eight tenants who alleged that their landlord had violated the Los Angeles Rent Stabilization Ordinance by raising

rents excessively and that the living conditions at their apartment were inhabitable. The case presented a novel legal issue because the applicability of the rent stabilization ordinance turned on when the certificate of occupancy had been first issued, but there were multiple competing certificates of occupancy because the apartments had been relocated from other parts of the city decades earlier. Through mediation, Winston and ICLC lawyers were able to recover double the rent overpayments for their clients, as well as obtain important concessions from the landlord who could not have been won in court, such as new carpet and replacement of an intimidating apartment manager. The landlord also agreed to provide the tenants with all of the protections of the rent stabilization ordinance, including eviction protections and limitations on rent increases.

Washington Team Secures Favorable Settlement for Client Facing Eviction

Eric Nitz



After a contested hearing, a team of Winston associates, including **Ryan Spiegel, Greg Ewing, and Eric Nitz**, supervised by **Bob Ruyak**, obtained a favorable settlement agreement on behalf of a client facing eviction in the Landlord-Tenant Branch of the

D.C. Superior Court. While successfully resisting a default judgment on the landlord's motion for sanctions, the team compiled evidence of numerous housing code violations that jeopardized the client's safety. After confronting the landlord's attorney with this evidence, the landlord agreed to a favorable settlement that allowed the client to break the lease early but permitted her six weeks to find a new apartment. Most importantly, the settlement agreement did not require the client to pay any of the back rent that she allegedly owed.

Hong Kong Office Champions Effort to Combat Human Trafficking



FIGHTING THE BUSINESS OF SLAVERY

Hong Kong office managing partner **David Hall-Jones**, with assistance from **Mark Jacobsen**, has taken a lead role in the development of The Mekong Club, a Hong Kong-based NGO created to combat human trafficking and slavery. Among other projects, The Mekong Club is developing a voluntary “slavery-free” logo that will be applied to selected food and manufactured products – initially within the Mekong

David Hall-Jones



countries. To apply the mark, businesses will need to demonstrate, through a standardized supply chain audit, that their products are made without the use of slave labor. Another initiative is an iPhone app created to combat slavery in the fishing industry and alert marine police when young men are discovered aboard shipping vessels. Jacobsen and Hall-Jones have also drafted the formation papers and handled other corporate requirements. Hall-Jones is Chairman of the Board of Directors.

PRACTICE GROUPS IN ACTION

APPELLATE PRACTICE

Team Establishes That Court Must Consider Financial Status Before Requiring a Bond

Dee Bansal



Associate **Dee Bansal** supervised by partner **Geoff Eaton** persuaded the Seventh Circuit Court of Appeals that a district court’s power to impose a bond in order to secure a defendant’s costs could not be used to bar an indigent’s access to the

courts. The team represented a mentally disturbed inmate with a long history of self-mutilation. After suffering from years of intentional medical neglect and mistreatment in the Tamms Correctional Center, a “super maximum” prison where inmates are placed in solitary confinement for up to 23 hours a day, the client sued mental health professionals at the prison alleging constitutionally inadequate treatment and retaliation for a prior lawsuit. He specifically alleged they refused to prescribe psychotropic medication to help control his self-mutilating tendencies. Without evaluating the merits of the client’s case or properly considering his indigence, the district court required him to post a \$1,000 bond to cover the defendants’

costs should the suit prove unsuccessful. When the client did not post the required bond, the district court dismissed his case with prejudice. The Seventh Circuit reversed and remanded, stating that “before requiring a bond to cover costs under Rule 54(d), a court must consider a party’s ability to pay. A court abuses its discretion when it requires a cost bond that it knows the party cannot afford.”

CORPORATE

New York Team Advises Social Service Agency on Acquisition

Jason Werner



A team including partners **Bob Ericson** and **Amit Kalra** with assistance from associates **Jason Werner** and **Jerry Chen**, is advising the Family Services Society of Yonkers (“FSSY”), a nonprofit provider of human services, regarding the possible

acquisition of another local agency with similar operations and mission. FSSY was founded in 1883 and provides support for families and individuals in Westchester through a range of programs and services. It has become the premier provider of home health care services to the elderly and disabled in Yonkers. Through an acquisition, FSSY expects to expand its programs while maintaining its current high level of client service.

New York Attorneys Assist Musician Form Recording Company

John Corrigan



Associate **John Corrigan** supervised by partner **Richard Falek** assisted a musician in creating his new album by drafting a form music rights purchase agreement and limited liability company documents.

The musician, a military veteran, was in the process of recording his first album and sought assistance in securing his composition and master recording rights on a work-for-hire basis and in limiting his liability through formation of the company, Dirt Road Records.

EMPLOYEE BENEFITS

Mark Weisberg and John Arendshorst Assist Client Combat Predatory Lending

Marc Weisberg



Chicago attorneys **Marc Weisberg** and **John Arendshorst** assisted Emerge Financial Wellness, an organization that aims to combat predatory payday loans by offering low-interest loans and financial guidance within the workplace. Emerge sought advice

relating to the legal implications of implementing post-tax payroll deductions as a means of loan repayment. The team analyzed the applicability of ERISA and state wage assignment laws to Emerge's proposed programs, helping Emerge to assure employer partners of the legality of their solutions. Additionally, the team assisted Emerge with legal questions regarding its development of a direct deposit program for loan repayment.

EMPLOYMENT

Appellate Win Leads to Substantial Settlement for Postal Employee

Pursuant to an appointment by the Northern District of Illinois, a team consisting of Chicago associates **Sara Arbogast**, **Tiana Nell Evans**, and **Heather**

Sara Arbogast



Lehman, with assistance from paralegal **Kathy Bates** and supervised by former partner Kevin Cloutier, represented a former employee of the United States Postal Service who was terminated after 32 years of employment as a mail processing

clerk. The Postal Service contended that it fired our client because she told her psychiatrist she was having thoughts of killing her supervisor, and it believed she posed a danger to her fellow employees. Our client alleges that her termination was discriminatory (she is African-American and a woman) and retaliatory. In support of her disparate treatment claims, she presented evidence that two white male employees at the same facility had recently threatened another employee at knife-point, yet received only one-week suspensions from the same manager who fired her. The team handled this case through extensive discovery and briefed cross-motions for summary judgment. After the trial court granted summary judgment for the Postal Service, the team successfully appealed the decision to the Seventh Circuit. Subsequently, the team secured a substantial financial settlement for the client.

Los Angeles Team Provides Harassment Training

Laura Petroff



Los Angeles office Managing Partner **Laura Petroff** and associates **Monique Ngo-Bonnici** and **Emilie Woodhead** conducted two sex harassment avoidance training sessions for managers and employees of Big Brothers Big Sisters of Greater Los Angeles

and Inland Empire. The client is a nonprofit that offers a mentoring program to at-risk youth from Los Angeles, San Gabriel, and Riverside counties and employs several employees in client service and first level management positions. The team provided training and advice on how to prevent harassment, discrimination and retaliation in the workplace and on social networking sites such as Facebook and Twitter, and how to take corrective actions to end it.

INTELLECTUAL PROPERTY

Houston Team Defends CB Radio Operator Against Forfeiture

Kevin Keeling



A team of Houston office attorneys defended a disabled Houston veteran against whom the U.S. government levied a \$10,000 forfeiture action for alleged intentional violations of Federal Communications Commission (FCC) regulations relating to the operation of the client's home citizen's band (CB) radio. FCC regulations require the power output of amateur CB stations not exceed four watts. The client was accused of intentionally violating this restriction based on interference complaints received from neighbors and FCC investigations that concluded he was operating a CB at up to 40 watts and presumed intent. However, the team demonstrated that the allegedly intentional violation was the result of an equipment malfunction that was undetectable during

normal operation — such equipment malfunctions are not considered “intentional” violations of the FCC regulations. The team included associates **Ashley Dickey**, **Kevin Keeling**, and **Melinda Lackey**; summer associates **Renee Wilkerson** and **Andrew Fritz**; paralegal **Bryan Burditt**; and partner **Jeffrey Phillips**.

San Francisco Team Prevents Forfeiture of Domain Name for Music Site

Joon Oh



Joon Oh and a team of San Francisco attorneys represented the entrepreneur and “taste leader” of the popular hip-hop and music blog “Dajaz1.com” in the successful return of that domain name, which the Department of Homeland Security, Immigration and Customs Enforcement (ICE) seized – and kept for a year through a series of secret court proceedings. ICE shut down Dajaz1.com as part of the Operation In Our Sites initiative, which targeted purported rogue sites engaging in criminal copyright infringement,

Washington Team Assists Effort to Ease Burdens on Overseas Voters

Barry Hart



A Winston team consisting of partners **Barry Hart** and **John Waits**, and associates **Eric Silva** and **Eric Nitz** assisted pro bono client Overseas Vote Foundation (OVF) address significant problems in 2011 revisions made to the required voting forms by the Federal Voting Assistance Program (FVAP). FVAP helps military voters and American citizens residing overseas vote in federal elections through its implementation of the Uniformed and Overseas Citizens Absentee Voting Act. Under this Act, FVAP distributes the Federal Post Card Application, which permits military and overseas voters to register for federal and state elections. The 2011 revisions to this form required overseas civilian voters to indicate whether they intended to return to the United States, creating problems for many expatriates whose intent to return to the United States may be uncertain when they fill out the form.

FVAP rebuffed initial requests by our client to revert back to the previous version of the form, which had been proven effective. The team drafted a letter memorandum to the Office of the Inspector General at the Department of Defense calling attention to legal deficiencies in the process FVAP employed in revising the Post Card Application as well as the practical and legal consequences of the new language. Working with OVF, the team coordinated delivery of the letter with letters submitted by members of Congress. After receipt of these letters, FVAP reversed course, pulling all references to the 2011 form from its website and re-posting the previous version. Additionally, FVAP agreed to employ more transparency and opportunity for public comment in revising the application for the 2014 elections.

in this instance, allegedly pirating of copyrighted music. Even though Dajaz1.com received music from the music industry itself, the government failed to either return the domain name or initiate a forfeiture proceeding within the 90-day deadline. Instead, the government filed a series of secret court extensions, which it refused to provide Dajaz1.com. After a year, Dajaz1.com was exonerated when the government finally returned the domain name, never bringing any civil or criminal charges. The secret extensions were eventually unsealed, showing that the government had lacked the probable cause to seek a forfeiture of the domain.

REAL ESTATE

Chicago Attorneys Instrumental to Opening of Museum of Broadcast Communications



For the last several years, a team of attorneys, including **Andrea Briski**, partners **Christi Graff** and **Chris Murtaugh**, and former partner Ankur Gupta, performed a variety of tasks supporting the Museum of Broadcast

Communication's move to a new, 62,000-square-foot state-of-art building located at 360 North State Street in Chicago. One of only three museums dedicated to broadcast history in the nation, the Museum is home to America's only National Radio Hall of Fame Gallery. The team completed multiple tasks associated with the purchase and re-purposing of the property and the museum facility. Among other things, the team negotiated a crucial component of the Museum's opening, the construction agreement between the Museum and its general contractor. The team also represented the Museum in connection with the loan transactions necessary to finance the construction.

TAX

Team Assists in Completion of Largest Single Carbon Issuance for Cookstove Project

Washington, D.C. partners **Barry Hart** and **Ben Fishburne** assisted Relief International's

EnterpriseWorks (RI/EW) division secure the largest single issuance for all cookstove projects under the Gold Standard Registry – a carbon finance authority of the Voluntary Market. This record-breaking issuance of carbon credits firmly places RI/EW as the leader in applying innovative finance to the power of entrepreneurship as a business model to combat poverty. Since 2002, EW has played a critical role in Ghana, realizing sustained growth in sales of fuel efficient cookstoves, capturing carbon credit while reducing disease and poverty. Nearly three billion people worldwide use open fires and rudimentary cookstoves for their cooking. These cookstoves are unhealthy, unsafe and inhaling the acrid smoke and fine particulates they emit leads to nearly two million deaths a year. The design of the EW Cookstove allows charcoal to burn more efficiently and reduces toxic emissions, cutting charcoal usage by more than 50 percent. The resultant savings at the household level are significant. In 2010 alone, users of the EW cookstoves in Ghana saved \$8.5 million in fuel costs. Deforestation from the harvesting of wood for charcoal production has also slowed dramatically.

Chicago Attorneys Assist Liquidated Small Business Address Tax Liability



Chicago attorneys **Alan Lindquist** and **Mike Mueller** assisted a small business owner work out payment plans for unpaid Illinois sales taxes and federal and state withholding and unemployment compensation taxes due in the aftermath of the financial bankruptcy of her business. The financially destitute owner was faced with more than \$30,000 in unpaid tax liabilities that she was unable to pay, consisting primarily of Illinois sales taxes collected from customers, but unpaid to the state. In response to a petition filed on behalf of the taxpayer, the Illinois Department of Revenue Board of Appeals agreed to issue an order ceasing all collection action by the Department in return for the taxpayer's agreement to make a minimal monthly payment toward her unpaid sales tax liability for a period of three years.

Successful Launch of Fellowship Program Provides Incoming Associates Valuable Experiences

Last fall, the firm successfully launched the new Winston & Strawn LLP Fellowship Program with 14 incoming associates completing a fellowship placement. The fellowship program is available to all incoming associates, and those who participate receive a stipend to work at public interest law organizations during the period following graduation and prior to their official start date at the firm. Those participating agree to work for a period of approximately 8 to 10 weeks and 35 hours/week. In the incoming class of 2012, 17 associates agreed to participate in the fellowship program. Participating associates describe the benefits they received from the program:

Mason Freeman



Charlotte associate Mason Freeman, a fellow at the Charlotte-Mecklenburg Public Defender's Office: "I was able to conduct my first trial as an attorney. It gave me a great deal of confidence going into my practice here at Winston."

Andrew Ward



Chicago associate Beth Louie, a fellow at the National Immigrant Justice Center: "I believe that my participation allowed NIJC to work with clients who otherwise would have had to wait for pro bono assistance. Meeting with the clients individually had a huge impact on me, both professionally and personally."

Beth Louie



Houston associate Andrew Ward, a fellow at Justice for Children: "I had a motion that suspended supervised visitation that was traumatic for the child. I am continuing to work on the case now that I am with Winston."

Winston & Strawn LLP Pro Bono Committee

Kimball R. Anderson Chicago	Eric Bloom Washington, D.C.	Barry J. Hart Washington, D.C.	Dave E. Koropp Chicago	Sam Mendenhall Chicago	Elizabeth Timkovich Charlotte
Steven D. Atlee Los Angeles	Luke A. Connelly New York	Paul H. Hensel Chicago	Thomas Lane New York	Norah Mugambi London	May E. Wall Washington, D.C.
Susan Berkwitz New York	Michael T. Dyson Washington, D.C.	Jérôme Herbet Paris	Woody Lay Charlotte	Ashlea Raymond Pflug Los Angeles	Jennifer N. White New York
Wilder Kendrick Berry Chicago	Christi Graff Chicago	David A. Honig San Francisco	Greg McConnell Chicago	Jeff Phillips Houston	

FROM THE CHAIR

Reflections on the Role of Pro Bono Work at Winston & Strawn

Kimball Anderson



As Americans, we can be proud that we have a judicial system that is the gold standard for the world. We have an independent judiciary. We have courts of general jurisdiction and special jurisdiction. And, we have multiple levels of judicial review. Our Constitution

guarantees important rights that are uniformly applied throughout the country. We are a country that prides itself on adhering to the rule of law.

Unfortunately, having invested centuries and billions of dollars constructing the world's finest judicial system, our country has made this very fine system mostly inaccessible to the vast majority of Americans. Only the wealthiest individuals and corporations can afford to access to our judicial system as a means of resolving disputes. We are not just talking about the poor who cannot afford to hire lawyers. Tens of millions of Americans, including most of our middle class, simply are walled-off from our judicial system. To them, going to court to obtain judicial relief is an unattainable pipe dream. Having no access to justice, they resort to other means of resolving conflict and/or are left without remedies for the deprivation of their legal rights.

What's the point of having the world's finest judicial system if access to that system is unattainable for most Americans?

No relief is in sight on a national level. President Lyndon Johnson made famous a national "War on Poverty." Today, we see only a war on the poor – particularly in the area of funding for legal services. Federal funding for the federal Legal Services Corporation, for example, was slashed by 15 percent in 2012. Similar cuts are occurring in many states, including Illinois, California, and New York.

Coming to somewhat of a rescue is our own profession. Lawyers in private practice are stepping up to the plate and assuming greater responsibility for increasing access to justice. Law firms like Winston & Strawn, recognizing that the pro bono business is good business for large law firms, are investing in sophisticated pro bono programs and are imposing strongly suggested pro bono minimum hour requirements. Lawyers also are dipping into their own pockets to fund legal services for the poor. In Chicago, for example, the Chicago Bar

Foundation just completed its annual Investing in Justice Campaign, which raised more than \$1.5 million from individual lawyers. The entire proceeds are being distributed as I write this column to more than 40 public interest organizations that provide legal services to the poor.

Moreover, our courts and judicial commissions are trying to motivate lawyers in private practice to do more pro bono work. For example, the Illinois Supreme Court's Commission on Professionalism and its MCLE Board are considering the merits of a new rule that would allow attorneys who participate in pro bono to secure a limited amount of CLE credit for their time. New York implemented a similar rule a few years ago. I, for one, question whether CLE for pro bono works makes sense. I am concerned that providing CLE credit will serve principally as a post-hoc reward for those already actively involved in pro bono and that such credit will not materially increase participation. Most attorneys accept a pro bono matter principally because of the extrinsic value they place on pro bono service. Providing a credit where none was needed potentially weakens the inherent value of pro bono.

In another recent development, New York Chief Judge Jonathan Lippman announced that beginning in 2013, New York will become the first state to require lawyers to perform 50 hours of pro bono work before being licensed to practice. However, I am skeptical about whether mandatory pro bono by new lawyers is a good way to address the huge amount of unmet legal needs. Funding remains necessary to provide oversight and supervision within the legal services community. Further, law school curricula must be revamped to train new lawyers properly for this undertaking.

At Winston & Strawn, all we can do is continue what we have been doing for the last 160 years – providing the highest quality of services to our clients and giving back to the communities where we practice law. Pro bono work is deeply embedded in the culture of our firm. We know that doing pro bono work is good for us individually and for our communities. In addition, we know that pro bono work provides the firm with huge value in terms of training of our lawyers, enhancing the firm's institutional reputation, and creating important ties with clients and community leaders. Keep up the good work.

About the Pro Bono Reporter

Content for the Reporter was prepared by Greg McConnell, Pro Bono Counsel. Nicole Pérez, in Graphic Resources, developed the layout, design and production. Please contact Greg (gmccConnell@winston.com) or Nicole (nperez@winston.com) if you would like additional copies of the Reporter, or have questions about the information presented.

AWARDS AND HONORS

Innocence Project Exceptional Service Award



Partner David Koropp accepts award from Innocence Project

At its 20th Anniversary Gala, the Innocence Project recognized the firm's long-standing commitment to justice for those who have been

wrongfully convicted. Among other accolades, the Innocence Project acknowledged the firm's commitment of nearly 30,000 hours to the creation of the online, fully searchable Innocence Record database, which contains thousands of documents and transcripts from exonoree case files. Also highlighted was the firm's active contribution to addressing the mistaken testing and related testimony provided by the FBI crime lab regarding the now de-bunked theory that composite bullet lead testing could identify a unique "signature" for bullets and or "melts" of bullets.

Washington Lawyers Committee for Civil Rights Recognizes Firm's Asylum Practice

Neema Kumar



The Washington Lawyers' Committee for Civil Rights and Urban Affairs recognized the efforts of attorneys in the Washington, D.C. office representing asylum seekers at its annual Wiley A. Branton Awards Luncheon. Among others,

Matt Campbell, Greg Ewing, Neema Kumar, Matt Lewis, Rhonda Love, Rachel Miras-Wilson, and Matt Spencer have handled asylum cases referred by the Lawyers' Committee.

The *New York Law Journal* Honors Doug Lancet as an "Unsung Hero"

Doug Lancet, Director of Global Practice Development-Litigation, was recognized by the *New York Law Journal* as an "Unsung Hero" for his efforts representing Holocaust survivors in reparations claims from a program established by the German government. Doug worked with the firm's pro bono department to coordinate the participation of New York office attorneys in this extensive national pro bono project. As a result of Doug's efforts, he and firm attorneys helped survivors recover tens of thousands of dollars in compensation for the work they performed in Nazi ghettos during World War II.

Increased Participation Leads to Strong 2011 Pro Bono Performance

Tom Fitzgerald



Last year in an effort to increase firm-wide participation in pro bono, Managing Partner **Tom Fitzgerald** asked that all attorneys strive to meet the firm's recommended goal of 35 hours and set an ambitious goal that 62 percent of all attorneys contribute at least 20 pro bono hours. To facilitate participation, the firm launched its new Pro Bono Dashboard, which among other things provides graphic information tracking progress toward participation goals. In response, every practice group and every office increased its participation rate from 2010 levels and surpassed the firm's goal, with 62.4 percent of attorneys meeting the

20-hour participation rate threshold. Firm associates led the way, achieving an 87 percent participation rate. The San Francisco office was the most active with an 85 percent participation rate. These efforts resulted in a 2011 ranking of 31 by *The American Lawyer* in its annual pro bono rankings – the firm's highest ever such ranking. Recognizing that the legal needs of our communities remain substantial, the firm is striving to further improve its attorney participation rate to 70 percent in 2012.

The Seventh Circuit Bar Honors Team That Defended Families Wrongly Accused of Abuse



U.S. Supreme Court Justice Elena Kagan congratulates Jason Burke, Julie Bauer, Joanna Wade and Dan Pozdol

Hernandez, led to a successful appeal in the Seventh Circuit that has become one of the most significant opinions in the child welfare field.

The Seventh Circuit Bar Association recognized the success of a team consisting of partner **Julie Bauer**, of counsel **Mike Bess**; associates **Dan Pozdol** and **Joanna Wade**; and former associates Jason Burke and Chaitanya Maddali. The team successfully represented two families in separate lawsuits against various employees of the Illinois Department of Children and Family Services (DCFS), under 42 U.S.C. § 1983, who acted outside their authority when they removed children from their parents' custody after their parents were wrongly accused of child abuse. One of the lawsuits,

PUBLIC INTEREST / LEADERSHIP

South Brooklyn Legal Services, Inc. Volunteers of Legal Service, Inc. (New York) Legal Services-NYC, Inc.



John Aerni

New York partner **John Aerni**, who recently joined the firm from Dewey & LeBouef where he was a co-chair of the firm's pro bono committee, is Chair of the Board of Directors of South Brooklyn Legal Services, Inc., and Chair of the Board of Directors of

Volunteers of Legal Services, Inc. He is also a member of the Board of Directors of Legal Services – NYC, Inc.

The National Immigrant Justice Center (Chicago)

Chicago partner **Ivan Poullaos** joined the Leadership Board of the National Immigrant Justice Center, a national leader in the field of asylum and immigration concerns.

Public Counsel (Los Angeles)

Los Angeles associate **Jason Hamilton** joined the Associate Leadership Board at Public Counsel.

Considered to be the largest pro bono agency in the country, Public Counsel assisted more than 30,000 low-income individuals in 2011.

Chicago Volunteer Legal Services Foundation

Chicago associate **Monique Bhargava** joined the Junior Board of the Chicago Volunteer Legal Services Foundation and is serving as Third Chair. CVLS is one of the largest providers of pro bono services in Chicago, providing legal assistance to low-income persons in high-demand areas such as family, consumer, and bankruptcy.

Center for Disability and Elder Law (Chicago)

Chicago associates **Scott Sakiyama** and **John Arendshorst** joined the Young Professionals Board of the Center for Disability and Elder Law. CDEL provides pro bono assistance to low-income elderly and disabled individuals with various legal concerns such as health care directives, guardianships, and estate planning.

Chicago Lawyers Committee for Civil Rights Under Law

Associates **Scott Sakiyama** and **Gina Rozman** joined the Young Professionals Advisory Board of the Chicago Lawyers Committee for Civil Rights Under Law. The Lawyers' Committee is one of the oldest

public interest law agencies in Chicago and specializes in traditional areas of civil rights and community economic development.

Chicago Bar Foundation

Chicago associate **Charley DeVore** joined the Young Professionals Board of the Chicago Bar Foundation. The CBF is one of the most prominent funders and leaders of pro bono within the City of Chicago.

ASYLUM

Houston Team Wins Special Immigrant Juvenile Visa for El Salvadoran Minor

Melinda Lackey



A team of attorneys including **Melinda Lackey** and **Rich McCarty** were able to convince a Harris County District Judge that the conditions in a juvenile El Salvadorian immigrant’s home country were such that it was not in her interest to return. The

team highlighted the prevalent gang violence targeted specifically at the client’s family and that because her father had abandoned her as an infant, precluding any reconciliation with a parent in that country, she was eligible for special immigrant juvenile status. This case is unique because the client, who is older than 18 years is not subject to the Texas Family Courts’ jurisdiction but is eligible for special immigrant juvenile status

which recognizes majority at age 21. The team had to persuade the district court to assert jurisdiction (required for the statutory leave) and make the critical factual findings needed for the USCIS to grant special immigrant juvenile status. Her petition is now pending with the immigration court for adjustment of her status to lawful permanent resident.

Team Wins Appeal for Honduran Man Fleeing Persecution Because of His Sexual Orientation

Nicole Dogwill



A team of attorneys that included San Francisco partner **Nicole Dogwill**, Los Angeles partner **Pete Perkowski**, and former Charlotte associate **Kelly Lineberger** convinced the Board of Immigration Appeals to remand back to immigration

court to reconsider whether to allow withholding of removal for a homosexual man who fled persecution in Honduras. The client had been abused or persecuted on the basis of his sexual orientation since he was a child. In 1997, he fled from Honduras to Mexico because he was threatened by a group of four men, including one brandishing a machete. Unable to find employment in Mexico because he was undocumented, he was forced to provide sex to his employer and others as a condition of accepting a job. He later fled to the United States seeking safety.

Karl Leonard Helps Secure Release of Wrongfully Convicted Man *Continued*

falsely claiming that he watched Kluppelberg go back and forth to the scene of the fire from an attic window. Aerial photographs showed that the view from the attic window was blocked by another building. In addition, a former fire department employee theorized during testimony that the fire was started by igniting a pile of newspapers or rags and that alleged burn patterns demonstrated that the fire was arson. The witness has since admitted that he lied, and advances in science have proven that the arson theory is impossible.

The Exoneration Project also uncovered evidence that another person may have been involved in starting the fire, evidence that had not been previously disclosed to Kluppelberg. At the hearing, the Cook County State Attorney’s Office conceded it could not meet its burden of proof and that Kluppelberg should be released.

After receiving the order securing Kluppelberg’s release, Leonard flew early the next morning to Menard Correctional Center in southern Illinois and returned with Kluppelberg to the Chicago area just in time to celebrate his 47th birthday as a free man.

Maria Kutnick Joins Firm in Newly Created Pro Bono Coordinator Position

Maria Kutnick



Maria Kutnick recently joined the firm in the newly created position of pro bono coordinator. Maria will be responsible for performing a broad range of duties in support of the firm's overall pro bono program, including developing and placing appropriate pro bono opportunities, maintaining pro bono opportunity lists and resources for cases, assisting with public relations and marketing efforts, and responding to various pro bono administration demands.

Maria is an experienced public interest attorney and comes to the firm from the Legal Assistance Foundation of Metropolitan Chicago where she was a senior attorney in the Immigration Project. Prior to working at LAF, she was a supervising attorney at the National Immigrant Justice Center.

Zach Spencer Secures Asylum for Former Guatemalan Customs Director

Zach Spencer



New York associate **Zach Spencer** won asylum for the former director of Guatemala's customs agency who fled Guatemala out of fear that he and his family would be killed because he initiated anti-corruption reforms designed to purge the customs agency of corruption.

His reforms were unprecedented and widely publicized, and they frustrated the criminal actions of powerful criminal organizations with strong ties to corrupt government officials. As a result, his life was threatened and he required 24-hour security. He and his family members received threats after fleeing to the United States, and his niece was murdered.

Jacob Calvani Wins Asylum for Congolese Dissident

Chicago associate **Jacob Calvani** won asylum for a native of the Republic of the Congo, who was persecuted because he participated in peaceful rallies and protests on behalf of the Union for Democracy and the Republic, a party opposed to the ruling government. He was arrested and endured several weeks of torture, threats, and imprisonment, as well as the constant threat of imprisonment, torture, and death should he have been discovered after having escaped prison. He was forced to live in a small cell with

between 15 and 20 other political prisoners, enduring daily beatings, stress positions in the equatorial sun, and threats of execution.

CRIMINAL DEFENSE

Eric Robinson Defends Witness at Roger Clemens Perjury Trial

Eric Robinson



New York partner **Eric Robinson** represented a clubhouse employee who worked with the Yankees, Astros, and Mets. Our client interacted extensively with Mr. Clemens and other players. In addition to his clubhouse work, the client provided *ad hoc* offseason training services to Mr. Clemens and several other All Stars. Our representation commenced shortly before Congressional hearings in 2008. It continued through a federal grand jury and related investigation; the indictment of Mr. Clemens; and during trial testimony after our client was subpoenaed in *U.S. v Clemens*. While many did so, the client declined to volunteer testimony to Congress. He also did not testify before the grand jury, but cooperated with investigative efforts post-indictment. The client's avoidance of the attention and scrutiny that befell others, among other things, allowed him to continue his employment, and eventually qualify for a medical pension.

EDUCATION

Los Angeles Team Negotiates Education Plan for Special Needs 5th Grader

Kathryn Leonard



Of counsel **Tony Borrego** and associate **Kathryn Leonard** represented a 5th grade student and her guardian in connection with developing an Individualized Education Plan (IEP) with the Burbank Unified School District.

The student was designated as special needs because of emotional disturbance which was manifested in excessive lying, anti-social and disruptive behavior including fights, and similar social and emotional problems. The child, who lived with her aunt, had come from a difficult home experience having witnessed her substance-abusing mother arrested in front of her. The team worked with the client and the school to establish an IEP that called for emotional counseling and therapy and also classroom tutoring to address the negative impact of her social problems on her ability to succeed in the classroom.

Washington Team Challenges Charter Revocation

Chip Molster



A team of Washington, D.C. attorneys, led by partners **Gene Schaerr**, **Chip Molster**, and **Barry Hart**, and including associates **Adam Hess** and **Ralph Pantony**, is fighting to preserve the charter of the Kamit Institute for Magnificent Achievers (KIMA), a

public charter school that has served predominantly low-income African-American students in the District of Columbia for more than a decade. While it was in operation, KIMA's students graduated from its high school and attended college at rates well above the local and national average for similarly situated students. Despite KIMA's proven academic record, in the summer of 2010 the District of Columbia Public Charter School Board (PCSB) revoked KIMA's charter. KIMA immediately challenged the charter revocation through a petition for review and a civil complaint. Unfortunately, the D.C. Superior Court affirmed the

decision in the agency review and dismissed KIMA's civil complaint. KIMA filed its appeal soon thereafter, which Gene Schaerr argued before the D.C. Court of Appeals. A victory in this appeal may not only restore KIMA's charter, but could benefit the entire D.C. public charter school community by helping to establish statutorily authorized and constitutionally compatible guidelines applicable to D.C. public charter schools in their dealings with the PCSB.

FAMILY LAW

Eric Zion Secures (Another) Success as GAL for Child in Foster Care

Eric Zion



Charlotte of counsel **Eric Zion** secured another success in the role of appellate attorney for the guardian *ad litem*, representing a child facing the possibility of being returned from foster care to a drug addict father. After

a history of intervention, the Vance County (NC) Department of Social Services filed a petition alleging the child to be a neglected and dependent juvenile. The child had been discovered in her father's care when he was arrested for drug trafficking in a hotel room where the child had access to heroin, marijuana, and several hazardous substances. Thereafter, the mother relinquished her parental rights and the child was then placed in foster care. DSS then filed a motion to terminate the father's parental rights, which was granted. On appeal, the father alleged that the motion to terminate was procedurally flawed because it was filed during the pendency of a prior appeal. Eric, as GAL appellate attorney, successfully refuted these procedural arguments and the father's appeal was denied, ensuring that the child would not be returned to the danger of living with her father.

New York Office Participates in City of New York Public Service Program

Lou Russo



A team of nearly 20 New York associates participated in the City of New York Public Service Program. Participating attorneys received a limited appointment as Special Assistant Corporation

Counsel to appear as counsel in the name of the Corporation Counsel, principally for the purpose of taking and defending the City in connection with cases concerning police wrongful arrest or assault, City-owned automobile liability, and pedestrian “slip and fall” situations. Partners **Luke Connelly, Richard Falek, Neil Mitchell, Mike Murray, John Roesser, and Stacy Yakaboski** supervised the group and organized training sessions for participants. Associate **Lou Russo** was the organizational lead with assistance from **Jacque Hammer**.

Aviva Grumet-Morris Wins Appeal for Victim of Domestic Violence

Aviva Grumet-Morris



Chicago associate **Aviva Grumet-Morris** secured a reversal and entry of an order of protection for a woman who had filed for a domestic order of protection against her cousin, whom she alleged had threatened her with physical and sexual violence; and

had brandished guns and knives around her. At the initial hearing, the judge denied the client’s *pro se* petition from the bench, finding that our client hadn’t experienced a recent act of domestic violence and that our client had not previously told her cousin to stop his behavior. On appeal, Aviva successfully argued that the Washington State Domestic Violence Prevention Act does not require a recent act of domestic violence and does not require a victim to wait for a more recent act of violence in order to obtain protection under the statute.

Kathleen Barry Secures Custody for Teenage Parent Wrongly Accused of Abuse

Kathleen Barry



Chicago of counsel **Kathleen Barry** secured custody for a teenage parent who had custody of her child revoked by the juvenile court at a hearing at which the client was not present or represented. Based on allegations by the Department of Children and Family Services (DCFS), the court had found probable cause for abuse and neglect and awarded DCFS temporary custody of our client’s son. Kathleen drafted a brief in support of our client’s position that there was no probable cause and no urgent and immediate necessity. Just prior to the hearing on our motion, the state and DCFS agreed to return legal custody to our client and grant her unsupervised visitation provided the child was under the general care of our client’s aunt and agreed to other certain restrictions. Kathleen then assisted our client in closing the juvenile court case and entering a guardianship with the client’s aunt with unsupervised visitation for our client.

INMATE CIVIL RIGHTS

San Francisco Team Regains Prison Access for Inmate Advocate

Robb Adkins



San Francisco partners **Robb Adkins** and **Krista Enns**, with assistance from associate **Beth Derby**, successfully convinced the California Department of Corrections to rescind its exclusion of an attorney from Pelican Bay State Prison. The attorney was an integral part of the Prisoner Hunger Strike Solidarity Coalition, an organization formed to support and publicize the inmate hunger strikes protesting the conditions of the Security Housing Unit at Pelican Bay. The hunger strike started in July 2011 and resumed on September 26. Immediately after the resumption, the Department sent the attorney a letter summarily informing her that she could no longer visit Pelican Bay State Prison. Research revealed that the exclusion was unfounded and so working

in conjunction with counsel for another excluded attorney, the team pushed the Department to provide evidence supporting its exclusion decision. The team also developed a potential litigation strategy should the Department not reverse its position. In December 2011, the Department of Corrections sent a letter formally rescinding the exclusion.

Sean Meenan Gains Settlement for Inmate with Untreated Cancer

On the verge of trial, a San Francisco team led by associate **Sean Meenan** and former associate Mari Overbeck, with supervision from **Dean Morehaus**, secured a significant settlement in a case involving allegations of medical malpractice and deliberate indifference to medical needs. For nearly three years, our client complained to state doctors of irritation and pain in his right thumb. He was repeatedly diagnosed with a mere infection, and sent away with limited prescriptions such as Motrin and band-aids. Ultimately, an outside specialist performed a biopsy, which revealed Squamous Cell Carcinoma. In the years that followed, our client underwent numerous excisions, resulting in the loss of a significant portion of his thumb. After being appointed, the team convinced the court to re-open discovery, took and defended fact and expert depositions, and litigated the case to the pre-trial conference stage.

POST- CONVICTION

Team Secures Release for Inmate Incorrectly Sentenced as Career Offender

Adèle Auxier Keim



On appointment by the Seventh Circuit Court of Appeals, attorneys **Steffen Johnson, Adèle Auxier Keim, and Benjamin Ellison** represented federal inmate Derrick Harvey in an unusual appeal under the original *habeas corpus* statute, 28 U.S.C. §

2241. Harvey argued that he should not have been sentenced as a career offender because one of his prior convictions was no longer considered a crime of violence. Although Seventh Circuit case law was overwhelmingly in his favor, Harvey could not

gain relief under the typically used *habeas* statute, Section 2255, because he had already filed one petition under that statute before the Supreme Court changed the law in his favor, and Section 2255 does not allow for successive petitions where, as here, the Supreme Court’s ruling turns on the interpretation of federal statutes, not the U.S. Constitution. The team successfully negotiated with the Department of Justice to have the case remanded to the district court, where the U.S. Attorney’s Office agreed not to oppose Harvey’s immediate resentencing. Harvey, who had already served more than the suggested sentence for his other underlying offenses, was released and reunited with his family less than three months after the team accepted the case.

Team Secures Substantial Financial Settlement for Man Wrongly Convicted in 1951

Pete McCabe



Partner **Pete McCabe** and associate **Jenny Mauer** secured a substantial settlement for Oscar Walden, Jr., an African-American who was convicted by an all-white jury of raping and robbing a 48-year-old white woman in 1951.

He has been trying to clear his name for the past 60 years. In 1978, Governor James R. Thompson granted Walden a general pardon. In 2003, Illinois Governor George H. Ryan granted a pardon to Walden based on innocence. Thereafter, Walden sued the City of Chicago in 2004 seeking \$15 million in damages on the basis that he had been tortured into confessing his guilt. His case went to civil trial, but a jury ruled against him last year. The settlement occurred after the district court set aside the decision and ordered a second trial, while criticizing the tactics of the city’s lawyers.

The crime for which Walden was wrongfully convicted occurred in 1951. The victim was severely beaten and hospitalized. She described her attacker as a black man who wore thick-lens glasses. She later called police and reported that she had just seen her attacker on a bus. Police responded immediately and forcibly removed Walden, a 20-year-old Moody Bible Institute student with thick glasses, from the bus. Walden was brought face to face with the victim, but she failed

to identify him. Over the next three days, Walden was interrogated by police officers whom Walden accused of threatening to strip him naked, hang him from overhead pipes, and beat him with rubber hoses unless he apologized to the victim, tacitly admitting the crime. The court sentenced Walden, who had no prior record, to 75 years in prison. Later, a man who was convicted for three rapes that occurred in the same area at the same time and closely resembled Walden admitted that he had committed the rape for which Walden had been convicted.

Bryce Cooper and Tyler Johannes Secure Disclosure During Parole Hearings



Bryce Cooper

Chicago associates **Bryce Cooper** and **Tyler Johannes**, supervised by **Chris Essig**, represented two longtime “C Number” inmates, a class of inmates serving indeterminate sentences with the actual length determined by the Prisoner Review Board (PRB) at

periodic parole hearings. After being denied parole in 2008, the inmates alleged that the PRB failed to follow its own procedures in conducting the parole hearing and failed to disclose certain information and documents prior to their parole hearing. In particular, they alleged that the PRB failed to disclose information gathered during so-called “opposition” hearings at which persons objecting to parole may present testimony to the PRB outside the presence of the inmates or their counsel. A Cook County court granted summary judgment for our clients, holding that the PRB may not withhold evidence unless it makes a finding that to release the information would cause actual risk of physical harm. Further, the PRB was specifically required to inform the inmate of the existence and contents of the protest statements.

Pro Bono by the Numbers

31

The firm’s ranking in the 2011 American Lawyer Pro Bono Survey – its highest score ever

74

Average pro bono hours per attorney during 2011

62

Percent of attorneys who devoted at least 20 pro bono hours during 2011

70

The firm’s 2012 goal for percentage of attorneys who provide at least 20 pro bono hours

1989

The year the firm opened a matter for Brad Lieberman, who has contested his civil detention on various grounds, and is the longest continuously engaged individual pro bono client at the firm.

POVERTY LAW PROJECT

Charlotte Attorneys Participate in “Wills for Heroes” Project



Aaron Weiner

Charlotte attorneys **Elizabeth Timkovich**, **Aaron Weiner**, and **Julie Williamson** participated in the “Wills for Heroes” program, which provides essential legal documents free of charge to our nation’s first responders (police, firefighters, EMS, etc.), including

wills, living wills, and powers of attorney for both medical and financial concerns. Attorneys were trained on the North Carolina statutory forms for those documents, and then met one-on-one with first responders and their families to draft and review the estate planning documentation and answer any questions the first responders had concerning their wishes and providing guidance to their families after their passing.

Chicago Associates Score Successes for *Pro Se* Litigants in Municipal Court

Several Chicago associates secured successes for clients referred to the firm through the Municipal Court Pro Bono Program, a program that provides representation to *pro se* litigants appearing in Cook County Municipal Court.

Andrew Sullivan



Michael Bergerson and Andrew Sullivan, supervised by **Larry Desideri and Bryna Dahlin**, successfully obtained monetary relief for a client whose car was damaged by a suburban commuter bus. They filed an amended complaint, defeated a motion to dismiss, successfully excluded a piece of prejudicial video-tape evidence prior to the hearing, and ultimately conducted a full hearing before a panel of arbitrators.

Andrew Erskine, supervised by **Delilah Flaum**, secured a favorable settlement for his client who worked at Papa John's to put himself through college. The night before he was to start delivering pizzas, the client's car was destroyed while parked overnight on street parking. The client filed a *pro se* complaint against the driver, who—according to the police report—had been speeding in snowy conditions. Andrew secured a favorable decision at the mandatory arbitration, which the driver rejected. On the day of trial, however, the driver agreed to settle for the full limit amount of his insurance policy.

Mike DiGiannantonio and Scott Sakiyama, supervised by former partner **Ethan York**, represented a man who was struck by a police car while riding his bike home one evening. After preparing for trial on the merits, including the possible testimony of expected witnesses, Mike and Scott negotiated a favorable financial settlement with the City of Chicago shortly before trial.

Los Angeles Team Beats Back Illegal Rent Increases

Steve Atlee



Los Angeles partner **Steve Atlee** and former associates **Ivan Hernandez** and **Andrew Koehler** teamed up with the Inner City Law Center to represent eight tenants who alleged that their landlord had violated the Los Angeles Rent Stabilization Ordinance by raising

rents excessively and that the living conditions at their apartment were inhabitable. The case presented a novel legal issue because the applicability of the rent stabilization ordinance turned on when the certificate of occupancy had been first issued, but there were multiple competing certificates of occupancy because the apartments had been relocated from other parts of the city decades earlier. Through mediation, Winston and ICLC lawyers were able to recover double the rent overpayments for their clients, as well as obtain important concessions from the landlord who could not have been won in court, such as new carpet and replacement of an intimidating apartment manager. The landlord also agreed to provide the tenants with all of the protections of the rent stabilization ordinance, including eviction protections and limitations on rent increases.

Washington Team Secures Favorable Settlement for Client Facing Eviction

Eric Nitz



After a contested hearing, a team of Winston associates, including **Ryan Spiegel**, **Greg Ewing**, and **Eric Nitz**, supervised by **Bob Ruyak**, obtained a favorable settlement agreement on behalf of a client facing eviction in the Landlord-Tenant Branch of the

D.C. Superior Court. While successfully resisting a default judgment on the landlord's motion for sanctions, the team compiled evidence of numerous housing code violations that jeopardized the client's safety. After confronting the landlord's attorney with this evidence, the landlord agreed to a favorable settlement that allowed the client to break the lease early but permitted her six weeks to find a new apartment. Most importantly, the settlement agreement did not require the client to pay any of the back rent that she allegedly owed.

Hong Kong Office Champions Effort to Combat Human Trafficking



FIGHTING THE BUSINESS OF SLAVERY

Hong Kong office managing partner **David Hall-Jones**, with assistance from **Mark Jacobsen**, has taken a lead role in the development of The Mekong Club, a Hong Kong-based NGO created to combat human trafficking and slavery. Among other projects, The Mekong Club is developing a voluntary “slavery-free” logo that will be applied to selected food and manufactured products – initially within the Mekong

David Hall-Jones



countries. To apply the mark, businesses will need to demonstrate, through a standardized supply chain audit, that their products are made without the use of slave labor. Another initiative is an iPhone app created to combat slavery in the fishing industry and alert marine police when young men are discovered aboard shipping vessels. Jacobsen and Hall-Jones have also drafted the formation papers and handled other corporate requirements. Hall-Jones is Chairman of the Board of Directors.

PRACTICE GROUPS IN ACTION

APPELLATE PRACTICE

Team Establishes That Court Must Consider Financial Status Before Requiring a Bond

Dee Bansal



Associate **Dee Bansal** supervised by partner **Geoff Eaton** persuaded the Seventh Circuit Court of Appeals that a district court’s power to impose a bond in order to secure a defendant’s costs could not be used to bar an indigent’s access to the

courts. The team represented a mentally disturbed inmate with a long history of self-mutilation. After suffering from years of intentional medical neglect and mistreatment in the Tamms Correctional Center, a “super maximum” prison where inmates are placed in solitary confinement for up to 23 hours a day, the client sued mental health professionals at the prison alleging constitutionally inadequate treatment and retaliation for a prior lawsuit. He specifically alleged they refused to prescribe psychotropic medication to help control his self-mutilating tendencies. Without evaluating the merits of the client’s case or properly considering his indigence, the district court required him to post a \$1,000 bond to cover the defendants’

costs should the suit prove unsuccessful. When the client did not post the required bond, the district court dismissed his case with prejudice. The Seventh Circuit reversed and remanded, stating that “before requiring a bond to cover costs under Rule 54(d), a court must consider a party’s ability to pay. A court abuses its discretion when it requires a cost bond that it knows the party cannot afford.”

CORPORATE

New York Team Advises Social Service Agency on Acquisition

Jason Werner



A team including partners **Bob Ericson** and **Amit Kalra** with assistance from associates **Jason Werner** and **Jerry Chen**, is advising the Family Services Society of Yonkers (“FSSY”), a nonprofit provider of human services, regarding the possible

acquisition of another local agency with similar operations and mission. FSSY was founded in 1883 and provides support for families and individuals in Westchester through a range of programs and services. It has become the premier provider of home health care services to the elderly and disabled in Yonkers. Through an acquisition, FSSY expects to expand its programs while maintaining its current high level of client service.

New York Attorneys Assist Musician Form Recording Company

John Corrigan



Associate **John Corrigan** supervised by partner **Richard Falek** assisted a musician in creating his new album by drafting a form music rights purchase agreement and limited liability company documents.

The musician, a military veteran, was in the process of recording his first album and sought assistance in securing his composition and master recording rights on a work-for-hire basis and in limiting his liability through formation of the company, Dirt Road Records.

EMPLOYEE BENEFITS

Mark Weisberg and John Arendshorst Assist Client Combat Predatory Lending

Marc Weisberg



Chicago attorneys **Marc Weisberg** and **John Arendshorst** assisted Emerge Financial Wellness, an organization that aims to combat predatory payday loans by offering low-interest loans and financial guidance within the workplace. Emerge sought advice

relating to the legal implications of implementing post-tax payroll deductions as a means of loan repayment. The team analyzed the applicability of ERISA and state wage assignment laws to Emerge's proposed programs, helping Emerge to assure employer partners of the legality of their solutions. Additionally, the team assisted Emerge with legal questions regarding its development of a direct deposit program for loan repayment.

EMPLOYMENT

Appellate Win Leads to Substantial Settlement for Postal Employee

Pursuant to an appointment by the Northern District of Illinois, a team consisting of Chicago associates **Sara Arbogast**, **Tiana Nell Evans**, and **Heather**

Sara Arbogast



Lehman, with assistance from paralegal **Kathy Bates** and supervised by former partner Kevin Cloutier, represented a former employee of the United States Postal Service who was terminated after 32 years of employment as a mail processing

clerk. The Postal Service contended that it fired our client because she told her psychiatrist she was having thoughts of killing her supervisor, and it believed she posed a danger to her fellow employees. Our client alleges that her termination was discriminatory (she is African-American and a woman) and retaliatory. In support of her disparate treatment claims, she presented evidence that two white male employees at the same facility had recently threatened another employee at knife-point, yet received only one-week suspensions from the same manager who fired her. The team handled this case through extensive discovery and briefed cross-motions for summary judgment. After the trial court granted summary judgment for the Postal Service, the team successfully appealed the decision to the Seventh Circuit. Subsequently, the team secured a substantial financial settlement for the client.

Los Angeles Team Provides Harassment Training

Laura Petroff



Los Angeles office Managing Partner **Laura Petroff** and associates **Monique Ngo-Bonnici** and **Emilie Woodhead** conducted two sex harassment avoidance training sessions for managers and employees of Big Brothers Big Sisters of Greater Los Angeles

and Inland Empire. The client is a nonprofit that offers a mentoring program to at-risk youth from Los Angeles, San Gabriel, and Riverside counties and employs several employees in client service and first level management positions. The team provided training and advice on how to prevent harassment, discrimination and retaliation in the workplace and on social networking sites such as Facebook and Twitter, and how to take corrective actions to end it.

INTELLECTUAL PROPERTY

Houston Team Defends CB Radio Operator Against Forfeiture

Kevin Keeling



A team of Houston office attorneys defended a disabled Houston veteran against whom the U.S. government levied a \$10,000 forfeiture action for alleged intentional violations of Federal Communications Commission (FCC) regulations relating to the operation of the client's home citizen's band (CB) radio. FCC regulations require the power output of amateur CB stations not exceed four watts. The client was accused of intentionally violating this restriction based on interference complaints received from neighbors and FCC investigations that concluded he was operating a CB at up to 40 watts and presumed intent. However, the team demonstrated that the allegedly intentional violation was the result of an equipment malfunction that was undetectable during

normal operation — such equipment malfunctions are not considered “intentional” violations of the FCC regulations. The team included associates **Ashley Dickey**, **Kevin Keeling**, and **Melinda Lackey**; summer associates **Renee Wilkerson** and **Andrew Fritz**; paralegal **Bryan Burditt**; and partner **Jeffrey Phillips**.

San Francisco Team Prevents Forfeiture of Domain Name for Music Site

Joon Oh



Joon Oh and a team of San Francisco attorneys represented the entrepreneur and “taste leader” of the popular hip-hop and music blog “Dajaz1.com” in the successful return of that domain name, which the Department of Homeland Security, Immigration and Customs Enforcement (ICE) seized – and kept for a year through a series of secret court proceedings. ICE shut down Dajaz1.com as part of the Operation In Our Sites initiative, which targeted purported rogue sites engaging in criminal copyright infringement,

Washington Team Assists Effort to Ease Burdens on Overseas Voters

Barry Hart



A Winston team consisting of partners **Barry Hart** and **John Waits**, and associates **Eric Silva** and **Eric Nitz** assisted pro bono client Overseas Vote Foundation (OVF) address significant problems in 2011 revisions made to the required voting forms by the Federal Voting Assistance Program (FVAP). FVAP helps military voters and American citizens residing overseas vote in federal elections through its implementation of the Uniformed and Overseas Citizens Absentee Voting Act. Under this Act, FVAP distributes the Federal Post Card Application, which permits military and overseas voters to register for federal and state elections. The 2011 revisions to this form required overseas civilian voters to indicate whether they intended to return to the United States, creating problems for many expatriates whose intent to return to the United States may be uncertain when they fill out the form.

FVAP rebuffed initial requests by our client to revert back to the previous version of the form, which had been proven effective. The team drafted a letter memorandum to the Office of the Inspector General at the Department of Defense calling attention to legal deficiencies in the process FVAP employed in revising the Post Card Application as well as the practical and legal consequences of the new language. Working with OVF, the team coordinated delivery of the letter with letters submitted by members of Congress. After receipt of these letters, FVAP reversed course, pulling all references to the 2011 form from its website and re-posting the previous version. Additionally, FVAP agreed to employ more transparency and opportunity for public comment in revising the application for the 2014 elections.

in this instance, allegedly pirating of copyrighted music. Even though Dajaz1.com received music from the music industry itself, the government failed to either return the domain name or initiate a forfeiture proceeding within the 90-day deadline. Instead, the government filed a series of secret court extensions, which it refused to provide Dajaz1.com. After a year, Dajaz1.com was exonerated when the government finally returned the domain name, never bringing any civil or criminal charges. The secret extensions were eventually unsealed, showing that the government had lacked the probable cause to seek a forfeiture of the domain.

REAL ESTATE

Chicago Attorneys Instrumental to Opening of Museum of Broadcast Communications

Andrea Briski



For the last several years, a team of attorneys, including **Andrea Briski**, partners **Christi Graff** and **Chris Murtaugh**, and former partner Ankur Gupta, performed a variety of tasks supporting the Museum of Broadcast

Communication's move to a new, 62,000-square-foot state-of-art building located at 360 North State Street in Chicago. One of only three museums dedicated to broadcast history in the nation, the Museum is home to America's only National Radio Hall of Fame Gallery. The team completed multiple tasks associated with the purchase and re-purposing of the property and the museum facility. Among other things, the team negotiated a crucial component of the Museum's opening, the construction agreement between the Museum and its general contractor. The team also represented the Museum in connection with the loan transactions necessary to finance the construction.

TAX

Team Assists in Completion of Largest Single Carbon Issuance for Cookstove Project

Washington, D.C. partners **Barry Hart** and **Ben Fishburne** assisted Relief International's

EnterpriseWorks (RI/EW) division secure the largest single issuance for all cookstove projects under the Gold Standard Registry – a carbon finance authority of the Voluntary Market. This record-breaking issuance of carbon credits firmly places RI/EW as the leader in applying innovative finance to the power of entrepreneurship as a business model to combat poverty. Since 2002, EW has played a critical role in Ghana, realizing sustained growth in sales of fuel efficient cookstoves, capturing carbon credit while reducing disease and poverty. Nearly three billion people worldwide use open fires and rudimentary cookstoves for their cooking. These cookstoves are unhealthy, unsafe and inhaling the acrid smoke and fine particulates they emit leads to nearly two million deaths a year. The design of the EW Cookstove allows charcoal to burn more efficiently and reduces toxic emissions, cutting charcoal usage by more than 50 percent. The resultant savings at the household level are significant. In 2010 alone, users of the EW cookstoves in Ghana saved \$8.5 million in fuel costs. Deforestation from the harvesting of wood for charcoal production has also slowed dramatically.

Chicago Attorneys Assist Liquidated Small Business Address Tax Liability

Mike Mueller



Chicago attorneys **Alan Lindquist** and **Mike Mueller** assisted a small business owner work out payment plans for unpaid Illinois sales taxes and federal and state withholding and unemployment compensation taxes due in the aftermath of the financial bankruptcy of her business. The financially destitute owner was faced with more than \$30,000 in unpaid tax liabilities that she was unable to pay, consisting primarily of Illinois sales taxes collected from customers, but unpaid to the state. In response to a petition filed on behalf of the taxpayer, the Illinois Department of Revenue Board of Appeals agreed to issue an order ceasing all collection action by the Department in return for the taxpayer's agreement to make a minimal monthly payment toward her unpaid sales tax liability for a period of three years.

Successful Launch of Fellowship Program Provides Incoming Associates Valuable Experiences

Last fall, the firm successfully launched the new Winston & Strawn LLP Fellowship Program with 14 incoming associates completing a fellowship placement. The fellowship program is available to all incoming associates, and those who participate receive a stipend to work at public interest law organizations during the period following graduation and prior to their official start date at the firm. Those participating agree to work for a period of approximately 8 to 10 weeks and 35 hours/week. In the incoming class of 2012, 17 associates agreed to participate in the fellowship program. Participating associates describe the benefits they received from the program:

Mason Freeman



Charlotte associate Mason Freeman, a fellow at the Charlotte-Mecklenburg Public Defender's Office: "I was able to conduct my first trial as an attorney. It gave me a great deal of confidence going into my practice here at Winston."

Andrew Ward



Chicago associate Beth Louie, a fellow at the National Immigrant Justice Center: "I believe that my participation allowed NIJC to work with clients who otherwise would have had to wait for pro bono assistance. Meeting with the clients individually had a huge impact on me, both professionally and personally."

Beth Louie



Houston associate Andrew Ward, a fellow at Justice for Children: "I had a motion that suspended supervised visitation that was traumatic for the child. I am continuing to work on the case now that I am with Winston."

Winston & Strawn LLP Pro Bono Committee

Kimball R. Anderson Chicago	Eric Bloom Washington, D.C.	Barry J. Hart Washington, D.C.	Dave E. Koropp Chicago	Sam Mendenhall Chicago	Elizabeth Timkovich Charlotte
Steven D. Atlee Los Angeles	Luke A. Connelly New York	Paul H. Hensel Chicago	Thomas Lane New York	Norah Mugambi London	May E. Wall Washington, D.C.
Susan Berkwitt New York	Michael T. Dyson Washington, D.C.	Jérôme Herbet Paris	Woody Lay Charlotte	Ashlea Raymond Pflug Los Angeles	Jennifer N. White New York
Wilder Kendrick Berry Chicago	Christi Graff Chicago	David A. Honig San Francisco	Greg McConnell Chicago	Jeff Phillips Houston	