

2011



for the public good

The publication highlighting
select pro bono work of
K&L Gates LLP.

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Working Together For Those in Need



As part of a law firm whose platform depends on lawyers across the globe working together, we at K&L Gates experience daily the power of collaboration. When it comes to pro bono work, this power through partnership is no less significant. K&L Gates has often partnered with our corporate clients to render pro bono legal services, putting the weight of two resources behind a shared cause.

The origins of these collaborative relationships are varied. Sometimes they emerge from a shared vision. In other instances, the client has identified a need in a community where it is located and seeks to collaborate with the firm's lawyers to make the contribution more effective. Other times, the client may wish to address a particular legal or social issue on a national or international level for which the firm's geographic reach and experience is well-suited.

In this edition of "for the public good," we reflect on the firm's various partnerships with our corporate clients, from assisting unaccompanied minors in immigration disputes with Kids in Need of Defense to sponsoring a pro bono fellow with Equal Justice Works. In addition to partnering with clients, the firm often works with pro bono organizations, particularly those organizations assisting immigrants, and many lawyers across the firm's offices devote a significant amount of time representing immigrants in asylum and detention proceedings.

We also spotlight our lawyers' efforts to protect women and children and to support basic legal needs, including helping to clean up a judicial corruption scandal in Pennsylvania, assisting a widow in receiving a presumption of death certificate, obtaining child support and custody orders for indigent mothers, and advising on real estate closings for Habitat for Humanity, among others.

These endeavors illustrate the myriad ways our lawyers play an integral role in assisting the rights of people and communities in need. I hope these stories inspire you.

*By Peter Kalis, Chairman and
Global Managing Partner*

Partnerships



K&L Gates Partners with Clients to Serve Communities in Need



The firm's collaborations with existing corporate clients in pro bono efforts take a variety of forms. Sometimes the firm's role is a matter of administrative facilitation, and sometimes the partnership came about because the combined resources of the client and the firm could make the contribution have more impact. In other instances, as illustrated by our sponsorship of an Equal Justice Works fellow, the collaboration can arise from a shared vision with a longstanding client. In all cases, the combined resources of two can help make a difference in our communities.

Equal Justice Works

This year, K&L Gates and firm client DuPont are sponsoring an Equal Justice Works fellow. Equal Justice Works is an organization that partners with law schools, law firms, corporate legal departments, and nonprofit organizations to provide the training and opportunities that enable lawyers to represent vulnerable populations. Recognizing that many obstacles prevent committed lawyers from practicing in the public interest field, Equal Justice Works created a program of two-year fellowships offering salary and loan repayment assistance, national training and leadership development, and other forms of professional development opportunities.

The fellow sponsored by the firm, Sarah Sherman-Stokes, recently graduated from Boston College Law School and will be working with the Political Asylum/Immigration Representation Project in Boston. For her two-year fellowship, Sherman-Stokes will provide representation and other services to detained refugee youth in Massachusetts deportation proceedings. She will offer direct representation, as well as legal education and re-entry planning and access to social services.

KIND

Kids In Need of Defense (KIND) which was launched in collaboration with Microsoft in 2008, is perhaps the most visible of the pro bono service partnerships in which we are involved. K&L Gates was one of the founding firms to sign on to KIND. The KIND project involves providing representation to unaccompanied minors in proceedings before the United States Immigration

and Citizenship Service. Six of the firm's offices are involved in the program. While close to 25 firms joined the KIND program in 2008, lawyers from K&L Gates' Pacific Northwest offices were part of a much smaller group that helped establish the genetic code for the KIND program through our work, again in collaboration with Microsoft, in the Volunteer Advocates for Immigrant Justice program (VAIJ). For a number of years prior to the development of KIND, VAIJ provided similar services to children in the Pacific Northwest.



One such matter involves Newark associate Loly Tor, who is working to obtain a special juvenile status visa for a client from Guatemala. The client grew up in Guatemala with an abusive mother and father. Her father often beat her mother and, after the father moved out, the client's mother became increasingly hostile and violent towards all the children.

After bouncing between her father's house and her grandparent's house in an effort to get away from her mother's abuse, the client was forced to move back in with her mother, where the children sometimes did not have enough food to eat. The client left her mother's house at age 14, and she

and her older sister took care of her three younger siblings with no adult supervision.

When the client was 17, her father returned to Guatemala from the United States where he had been living for the last several years. When he returned to the United States, the client left with him. She and her father traveled from Guatemala to Arizona by bus and on foot; however, once they crossed the border they were detained by immigration authorities. A family friend agreed to act as the client's guardian so that she could stay in the United States while her immigration proceedings were pending.

Tor first had to work to have New Jersey state court rule that the client was dependent on the state even though she is no longer a minor due to her mother's neglect and abandonment. Without this finding, the client would not qualify for a special juvenile status visa, which permits the client to remain in the United State legally and ultimately apply for residency. With the successful dependency ruling, the team is in the process of applying for the special juvenile status visa.

In the meantime, the client is enrolled in a high school equivalency program and is currently working toward getting her GED.

W*I*L*L*S for First Responders

Another illustration is our work with the W*I*L*L*S for First Responders program in collaboration with MetLife. The project seeks to provide wills, powers of attorney, and health care proxies to volunteer first responders such as fire fighters and others who put themselves in harm's way for the benefit of the community. This year, the firm is assisting in the organization's June 2011 event by providing templates and forms, training leading up to the event, assistance to MetLife volunteers during the event, and technical support and software during the event.

The K&L Gates team includes Pittsburgh partner Andrew Gespass, New York of counsel Bob Ambrose, Pittsburgh associate Theresa Schroeder, Newark associate Christina Burke, and New York partners Willie Dennis and Pat Loughlin.

Additional Collaborative Efforts

While our Chicago office has partnered with several clients over the years, the office has worked recently with Lawyers for the Creative Arts (LCA), which is itself a client. One of the projects of LCA is connecting arts organizations and artists with appropriate legal representation, and we provide pro bono representation to many such entities and individuals. In our Dallas office, our lawyers have partnered with HP Plano to staff a legal clinic for low income families. In our Anchorage office, in connection with our legal work for the state of Alaska, we are providing pro bono service through an initiative launched by the state under the auspices of the Alaska Network on Domestic Violence and Sexual Assault.

Corporate



MANA Nutrition Secures Multi-million Dollar Investment and Opens 30,000 Square Foot Therapeutic Food Production Facility



Thanks to a team of lawyers from the firm's Charlotte, Seattle, London, and Washington, D.C. offices, K&L Gates recently played a major role in providing a cure to severe acute malnutrition.

After serving 10 years as a missionary in Africa, MANA Nutrition (an acronym for Mother Administered Nutritive Aid) founder Mark Moore moved to Charlotte last year and enlisted the help of Charlotte partner Chad Warpula in the formation, structuring, and funding of the organization. Over several months and hundreds of hours, a multi-disciplinary K&L Gates team assisted MANA in its ambitious initiative to secure more than \$7 million in financing and build its 30,000 square foot production facility in Fitzgerald, Ga. The multi-million dollar restricted grant investment came from one of the largest charities in Europe, The Children's Investment Fund Foundation (CIFF).

The funding enabled MANA to open its first factory in May 2011 to produce Ready to Use Therapeutic Food (RUTF), a mixture of peanut butter, fortified milk, and vitamins in a ready-to-use package that has been designed specifically to treat children diagnosed with severe acute malnutrition. UNICEF has already ordered 6,000 metric tons of RUTF, an enormous order given MANA's new status. In MANA's new facility, more than 2,100 children will be fed each time one of the holding tanks of peanut butter is emptied and packaged.

Throughout the project, the K&L Gates team assisted MANA in negotiating foreign-based equity investments and bridge loan financing; structuring food production and supply arrangements; advising on FDA compliance; drafting contracts; advising on patent law; and structuring real estate agreements and economic incentives, loan documents, and tolling agreements, among other items. In a letter thanking the K&L Gates team, Moore writes that "we quite literally never could have paid you for the work done, and the professionalism

and dedication of this team in this pro bono effort has been staggering to us at times. It is not an exaggeration to say that hundreds of thousands of kids will live because of this excellence and dedication to the oath they all took as barristers.”

Along with Warpula, the team included Charlotte lawyers John Johnson, Brian Holofchak, Christine Hoke, Anna McLaughlin, John Blair, Rusty Reed, and Brittany Doolittle; Seattle partner Tammy Watts; Washington, D.C. partner Suzan Onel; and London partner Kevin Greene.



Temporäre Kunsthalle Berlin Sold to Viennese Art Foundation

A team of lawyers from the firm’s Berlin office advised Cube Kunsthalle Berlin gGmbH on the sale of the Temporäre Kunsthalle Berlin. During its two-year run, the temporary art exhibit center held 17 exhibitions and was created as one of the temporary uses of the former Palace of the Republic in Berlin. The Temporäre Kunsthalle was closed as planned on August 31, 2010 to make room for the construction of a subway station, which began this year.

The construction set of the Temporäre Kunsthalle was acquired by Thyssen-Bornemisza Art Contemporary, a Viennese private art foundation. Once in Vienna, the building will function as a temporary exhibition hall for an additional five to seven years. The K&L Gates team has been advising Cube Kunsthalle Berlin for the past two years in various pro bono capacities, including corporate, sponsoring contracts, copyright, employment, and real estate matters. The team included Dr. Rüdiger von Hülst, Christoph Mank, Manfred Hack, Dr. Friederike Gräfin von Brühl, Kristina Fiebach, and Oliver Kern.

Integrity Mentoring Obtains Tax-exempt Status

Chicago associate David Wolpa successfully obtained recognition of tax-exempt status for Integrity Mentoring, an Illinois nonprofit corporation operating in the Proviso Township area of Cook County.

Integrity Mentoring is a community organization that focuses primarily on providing mentoring services, education support services, and other programs with the goal of spurring community involvement in the development of the area’s at-risk youth.

Be Free Global Gains Governance Advice and Tax-exempt Status

K&L Gates represents Be Free Global, a nonprofit micro-finance organization whose mission is to provide alternative funding opportunities for creative projects worldwide that improve the lives of children of diverse backgrounds. Without micro-grants, these projects would not exist. Since the organization’s inception in 2008, the firm has provided organizational and tax planning advice, including qualifying Be Free Global as a tax-exempt organization. In addition, K&L Gates continues to provide ongoing counseling to Be Free Global with respect to governance, fundraising efforts, and other general corporate matters. The lawyers who routinely work with Be Free Global are Walter Loughlin, Martin Richman, and Holly Hatfield.

Basic Legal Needs



U.S. Supreme Court Affirms Prison Overcrowding Decision

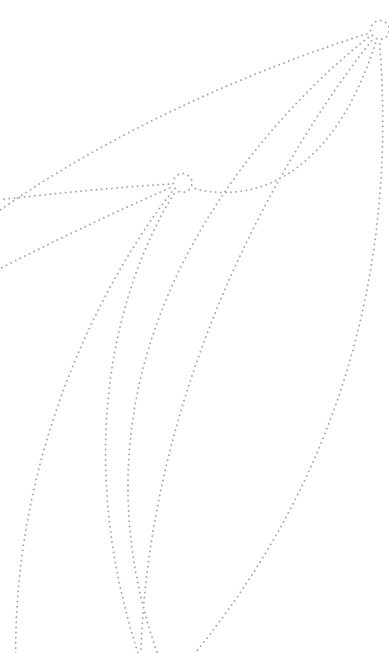


The U.S. Supreme Court recently affirmed the decision of a three-judge panel convened to address the chronic and pervasive deprivation of medical and mental health care caused by overcrowding in California prisons. Lawyers, paralegals, and staff from the firm's California offices devoted significant hours during the discovery and trial of this case, and were active in presenting critical evidence to the three-judge panel on behalf of the prisoners.

The Supreme Court reviewed the panel's decision in two consolidated cases challenging the adequacy of medical and mental health care provided to California state prison inmates. The district courts in the cases ruled that the services fell so far below acceptable levels as to constitute cruel and unusual punishment. Both district judges issued numerous orders requiring remedial measures.

When the remedial measures did not alleviate the issues, the plaintiffs' counsel in both cases filed motions to appoint a three-judge panel to consider whether any relief short of a prison release order could bring up the level of care. Nearly 150 cities, counties, politicians, prosecutors, and law enforcement officers intervened in the case to oppose the relief sought by the prisoners. The size of the proceeding caused the plaintiffs' counsel to seek the firm's assistance. The panel held that overcrowding was the primary cause of pervasive constitutional violations and that no relief other than a prisoner release order would remedy the violations. It also held that the state could reduce the population of its prisons without adversely impacting public safety and ordered the defendants to develop a plan to reduce the state's prison population by approximately 46,000 inmates.

The defendants appealed to the Supreme Court, and the court affirmed the panel's decision, clearing the way for the reduction of California's prison population. The team included San Francisco partners Ed Sangster and Jeff Bornstein, Los Angeles partner Fred Heather, San Francisco associate Rachel Chatman, and paralegals Chanell Yates and Linda Woo.



Widow Obtains Motion for Presumption of Death



A cross-office team of Pittsburgh and Miami lawyers led by partner Barbara Simanek successfully persuaded a Florida judge to approve a motion for presumption of death for a mother of five children whose husband disappeared in December 2008.

The husband disappeared in 2008 and has not been heard from since. His wife was suddenly left with only a school teacher's salary, with five children and a mother-in-law to support while still dealing with the emotions of having a loved one disappear without a trace.

The wife contacted Boston partner Rick Novak, a close friend of the husband's, for assistance in navigating the paperwork morass associated with her husband's disappearance. Novak contacted Miami partner Jonathan Morton, who enlisted the help of Simanek.

Beyond the emotional difficulties, the family was struggling with the financial implications of the husband's disappearance since the wife had no access to his insurance or pension without a death certificate. The wife was in limbo—she couldn't transfer joint assets, receive insurance benefits, sell the family's home, or access her husband's IRA because her husband was considered neither dead nor alive. The team now faced the emotionally charged task of having someone's loved one declared dead by the court so the wife could receive a death certificate.

Florida law provides that a missing person is not presumed dead until he or she has been missing for five years. However, Simanek and the team decided the wife needed to petition for an early presumption of death, which, if approved, would allow the wife to receive a death certificate for her husband.

An initial conversation with the judge was discouraging, with the judge saying there was no proof that the husband was dead. However, the team persisted, and in late 2010, the judge granted the petition for presumption of death. Now, with the husband's death certificate, the wife has the ability to sell the family's home, receive her husband's social security benefits and insurance, transfer joint assets, access her husband's IRA, and achieve some form of closure for her family.

The team working on this emotional case included Pittsburgh associate Sara Miller, Miami associate Ayman Rizkalla, and Pittsburgh of counsel Chuck Pegher, who prepared court examinations. Other lawyers who provided aid were Woody Turner, Marc Auerbach, and Carol Lumpkin.

Zoning Contest Restores Land to Former Value

Berlin partner Christian Hullmann advised a client in a planning law proceeding involving a parcel of land in Werneuchen, Germany. The client held a vacant lot she had acquired in 1998, and she had planned to build a small house on the land for her retirement. However, when the client became disabled and lost her job, the land was her only remaining asset. In 2006, the client became aware of a zoning plan the city had enacted in 2003 that declared her lot to be a wooded area. The zoning plan removed the client's right to build a house on the site and the market value of the land declined by 90 percent. All the deadlines for contesting the zoning plan had already passed when the client initially reached out to K&L Gates for help. After three years of negotiations with the city, Hullmann was able to obtain a building permit for the client, who is now able to sell the land at its former market value.

Greenfield Baseball Association Wins Summary Judgment

The Greenfield Baseball Association (GBA), which promotes youth baseball, is a community organization established in Pittsburgh in 1951. It relies entirely on volunteers, donations, and league entry fees.

In 2008, a property owner, whose home is adjacent to one of the main baseball fields used by the GBA, filed a lawsuit against the city of Pittsburgh alleging that the GBA was a nuisance and in violation of city permits. The GBA worked closely with the city in an attempt to mediate the dispute and reach an amicable resolution. However, those efforts were unsuccessful, which led the plaintiff to subpoena the GBA. The subpoena sought financial records and other documentation relating to the GBA's activities, and even requested that a GBA representative submit to a deposition.

Pittsburgh associates Brian Anderson and Joseph Valenti filed for a protective order to prohibit or limit the scope of the GBA president's deposition and related document requests. In the interim, they also encouraged the city to file a motion for summary judgment in hopes of obtaining a dismissal. The city did file a motion for summary judgment, and as a result the court deferred ruling on the propriety of the subpoena.

In August 2010, the court granted the city's motion for summary judgment and dismissed the plaintiff's claims with prejudice. However, in early 2011, the plaintiff appealed. Anderson and Valenti intend to file an *amicus* brief on behalf of the GBA and expect the appeal to be decided by fall.

City of Charlotte Wins Zoning Appeal

Charlotte associate Collin Brown, with support from partners John Carmichael, Bill Brian, and other members of the Charlotte and Research Triangle Park land use teams, represented the city of Charlotte pro bono in a zoning appeal victory.

The case involved a controversy over the height of a building structure. Before beginning construction, the developer, a K&L Gates client, requested a written letter from the city's zoning administrator explaining how the height provisions of the zoning ordinance would be interpreted and applied to the structure being built. The zoning administrator responded to the developer with a written interpretation with a 30-day appeal period, and the developer completed the structure in accordance with the zoning administrator's letter.

Several months after the structure was completed, an adjoining property owner sought to appeal the city's decision to issue an occupancy permit on the basis that the structure violated the ordinance's height provision. The superior court found for the adjoining property owner. On appeal, the K&L Gates team's approach focused on proving that the appeal was actually an appeal of the zoning administrator's original decision, and was therefore not timely since it was not filed within the 30-day appeal period.

Had the city of Charlotte not appealed the superior court's decision and subsequently prevailed at the court of appeals, substantial questions would have been raised regarding the finality of decisions and orders of municipal planning departments in North Carolina.

Historic European Choir Free to Tour United States

Pittsburgh of counsel Ellen Freeman secured the approval of a pro bono petition for a choir to perform on a U.S. tour. The 37-member Oxford University Christ Church Cathedral Choir is one of the oldest European choirs and dates back to the 1500s. A former firm client came to the firm to request assistance in acquiring visas for the choir members, and Freeman worked for five months to obtain all the necessary visas and approvals.

Softball Players File Sexual Orientation Discrimination Charge

Seattle partner Suzanne Thomas and associate Peter Talevich have initiated litigation to vindicate the rights of three individuals who experienced unlawful sexual orientation discrimination and privacy violations when playing in the Gay Softball World Series in Seattle in 2008.

The North American Gay Amateur Athletic Alliance (NAGAAA) places a cap of two “heterosexual” players on any world series roster. Players on other teams protested that the plaintiffs, all men of color, were heterosexual, and NAGAAA responded by subjecting the plaintiffs to a hearing in which invasive questions were asked about their sexual orientation. The organization ultimately voted that they believed the plaintiffs were heterosexual, resulting in their disqualification and the disqualification of their team. The case is still ongoing, and has a August 2011 trial date.

Elder Law & Advocacy Secures New Lease

San Diego associate Cheryl Allaire recently aided Elder Law & Advocacy in the negotiation of a lease for the client’s new office space.

Working with the executive director of Elder Law & Advocacy, Allaire negotiated key points with the landlord’s attorney. Her review and revision of the lease drafts was essential to the outcome, producing the best possible final document for the client’s needs.

Elder Law & Advocacy is a group of experienced professional staff and trained volunteers who are dedicated to serving seniors in San Diego and Imperial counties. The organization provides civil legal services in matters concerning seniors, Medicare and Medicare-related counseling and advocacy, and referrals to community senior service providers, among other services.

Charlotte Office Partners with Habitat for Humanity

In 2010, the Charlotte office real estate team worked on 20 home closings for Habitat for Humanity of Charlotte. For more than eight years, the Charlotte office has partnered with Habitat Charlotte, and the office has been recognized in years past with a Large Law Firm Annual Pro Bono Award from the Mecklenburg County Bar Association in acknowledgement of the partnership.

Associate Anna Nisbet serves as the firm’s liaison with Habitat Charlotte and partner Lee Cory works with Nisbet to ensure that the program runs smoothly and that the necessary resources are in place to handle the closings. Each year, the Charlotte office real estate team handles between 18 and 40 home closings for the organization. The team structures the staffing of Habitat Charlotte work so that at all times a partner and an associate are handling the matters and rotating the closing duties so all of the office’s real estate lawyers participate in the program over time.

Policy Team Assists Eastern Congo Initiative

A team of policy lawyers assisted actor Ben Affleck’s Eastern Congo Initiative (ECI) in continuing to gain exposure and assistance for its cause in eastern Congo. The ECI is the first U.S.-based advocacy and grant-making initiative wholly focused on working with and for the people of eastern Congo. ECI envisions an eastern Congo vibrant with abundant opportunities for economic and social development, where a robust civil society can flourish.

The team assisted ECI in many efforts including the release of a premier white paper on U.S.-Congo relations; assistance with a House Armed Services Committee Hearing on the situation in eastern Congo, which included public recognition by the committee for ECI’s efforts; a packed panel discussion with Affleck, Senator Kerry, Senator-elect Boozman, and State Department Assistant Secretary Johnnie Carson; publication in the *Washington Post* of an op-ed piece by Affleck; and press coverage by outlets including CBS News, *The Boston Globe*, and *Agence France-Presse*.

Protecting Women and Children



Seeking Justice for Victimized Juveniles



A team of lawyers from the firm's Harrisburg and Pittsburgh offices is working to help bring justice to Pennsylvanians who, as juveniles, were the victims of a corrupt judge in Luzerne County. The judge, Mark Ciavarella, has been convicted of accepting kickbacks from the owners of a privately operated juvenile-detention facility. Between 2003 and 2008, Ciavarella adjudicated thousands of juveniles delinquent and ordered them detained in the private facility.

In 2009, the Pennsylvania Supreme Court appointed a special master to review every case Ciavarella had adjudicated in the five and a half year period. The special master, after going through nearly 5,000 files, reported that the systematic breakdown of process was so grave that there would be no way to be confident about the outcome of any single case. In an unprecedented step, the Pennsylvania Supreme Court ordered expunged every case Ciavarella had handled during this time period.

The process of expunging records, however, is time consuming, and some of the juveniles who were erroneously sentenced are now adults who have since been sentenced for adult crimes. Guidelines allow sentences to be heightened for aggravating factors and lowered for mitigating factors, and one aggravating factor is previous criminal history. Some juvenile crimes count toward previous criminal history.

The K&L Gates team, led by Harrisburg partner David Fine, includes 18 lawyers who are working with the Supreme Court's special master to determine which juveniles who appeared before Ciavarella later were sentenced as adults and had their sentences enhanced because of a now-discredited Ciavarella adjudication. The firm's team members will likely visit several county courthouses to review hundreds of files of potential affected persons. The K&L Gates team will report its findings to the Supreme Court, which will then determine whether any of the affected persons should be resentenced or given some other form of relief.

National Center for Youth Law Fights for District of Columbia Youth



During the summer and fall of 2010, New York partner Pat Loughlin and associates Brian Koosed and Avital Malina represented the National Center for Youth Law (NCYL) as *amicus curiae* in a landmark institutional reform litigation arising out of allegedly unconstitutional and statutorily deficient conditions in the District of Columbia's child welfare system.

For nearly 20 years, the plaintiffs in *LaShawn A. v. Gray* have sought to remedy the conditions in the District's child welfare system and improve the lives of children in the District's custody. In early 2010, the trial court ruled that the District had to abide by the terms of the consent decree and implementation plans it had entered into with the plaintiffs in an earlier phase of the case. The District promptly appealed.

NCYL, represented by K&L Gates, appeared as *amicus curiae* and filed an *amicus* brief. The brief highlighted NCYL's extensive experience in similar child-welfare reform suits in Utah, Arkansas, and Washington, and explained the detrimental impact that the District's position, if adopted, would have on future institutional reform litigation. The efforts paid off, and in February 2011, the appeals court affirmed the trial court's ruling, holding that the District had to comply with the terms of the consent decree and implementation plans.

Client Prevails in Contested Divorce Appeal

Chicago associates James Reiland and Sangmee Lee successfully represented a recently divorced mother with two minor children before the Illinois Appellate Court. The client was referred to the firm by the Chicago Legal Clinic after her ex-husband filed an appeal from a divorce trial judgment, arguing that the trial court abused its discretion by awarding sole custody of the two children to the client and contesting the amount of child support and maintenance he was required to pay.

The appellate court affirmed the divorce judgment on all counts in favor of the client. Additionally, due to the ex-husband's tendency to make disparaging remarks against the client in his pleadings and briefs, the court also granted the client's motion to place the entire record under seal.

Appleseed Lobbies for Uniform Partition of Heirs Property Act

A team led by Pittsburgh partner Pierce Richardson assisted Appleseed, a nonprofit network of 16 public interest justice centers, in the organization's lobbying efforts by working to compare the Uniform Partition of Heirs Property Act against existing state law in Delaware, Maine, Massachusetts, New Hampshire, and Pennsylvania. The team prepared the information as a tool for Appleseed to use when discussing the act with state legislators. With the report, Appleseed lobbyists would have a summary of the provisions of the act as compared to the state's current law as well as the effect the act would have on the state's law.

The Uniform Partition of Heirs Property Act addresses a widespread, well-documented problem of the deprivation of property rights and loss of wealth that many low to middle-income owners of family real property have experienced over the past several decades.

Boston associate Katie Thomason drafted the report for Maine, Massachusetts, and New Hampshire; Pittsburgh associate Kristy Storms researched Delaware; and Pittsburgh associate Sarah Hinton prepared the Pennsylvania report.

Ex-Parte Restraining Order Granted in Child Abduction Case

Newark associate Margaret Korgul secured an ex-parte restraining order in a case where a Jordanian father tried to flee the United States with his 11-month-old daughter.

The ex-parte restraining order prohibited the father from leaving the United States, and the father was required to surrender his American and Jordanian passports. The ex-parte order, which imposed a restraint on behalf of one party without representation or notification of other party, was a significant relief for the girl's mother and allowed the Department of State to implement security measures across border checkpoints to prevent the abduction.

The Newark office has been actively working with the Department of State and has accepted pro bono cases implementing the Hague Convention on the Civil Aspects of International Child Abduction. The Hague Convention allows a person whose child has been wrongfully removed from the United States to petition for their return.

Warsaw Lawyers Author International Child Abduction Report

Warsaw associate Agnieszka Suchecka-Tarnacka and former associate Arthur Barczewski authored a report addressing the growing problem of child abduction by estranged parents across international borders.

The report was prepared for the ITAKA Center for Missing People. New York associate Margaret Korgul, who had been working on child abduction cases linked to Poland, reached out to the Warsaw team about writing the report.

The report aims to provide a comprehensive, readable, and useful tool for practitioners and includes references to Polish and foreign jurisdictions as well as an overview of the Hague Convention's operation on a global scale. Starting with determining the scope of applicability of the Convention, Suchecka-Tarnacka and Barczewski also included the substantive prerequisites of an application for the return of a wrongfully retained or removed child.

New York Lawyers Team with inMotion to Support Indigent Women

For six years, the firm's New York office has partnered with inMotion, a New York nonprofit organization that provides and coordinates legal services to indigent women in custody, support, abuse, divorce, and immigration proceedings. Each year, as part of its summer associate program, the office assigns to each summer associate a pro bono client referred by inMotion. The summer associates represent these clients, supervised by more senior associates and partners, and often make their first court appearances on behalf of their clients. This program not only provides important legal services to women in need, it also conveys to our summer associates that pro bono work is a core value of the firm.

In 2010, 22 partners, associates, summer associates, and paralegals in the New York office devoted nearly 680 hours to the representation of seven inMotion clients. The program is coordinated by partner Pat Loughlin and paralegal Eugenia Frenzel.

Mother Fights for Child Support Petition

Working with inMotion, New York partner Ted Van Buskirk and associate Lindsey Plotnick successfully represented a mother on a child support case.

The client has several children with severe allergies and respiratory problems, each of whom are on constant medication and inhalers. She was unable to work due to her children's medical problems, and her ex-husband refused to pay child support.

Van Buskirk and Plotnick created detailed records of the client's attempts to secure employment, the children's medical history and financial needs, and the history of the ex-husband's failure to pay child support, and presented the case to the Bronx Family Court.

The team's efforts were successful, and the client was awarded an increase in child support going forward as well as a significant amount of retroactive child support payments and medical expenses. The court's order also requires the payments to be deducted automatically from the ex-husband's paychecks.

Mother Retains Custody of Four Children

In another case with inMotion, associates Shauna-Kay Gooden and Roberto Alonso-Olmo obtained a settlement agreement for a mother in a custody battle with her husband.

The client is a single mother of four children. In 2009, she ended the abusive relationship with her children's father. Throughout her marriage, she had endured many kinds of abuse, including attempts to keep her away from her family, destroying her clothing, and cutting off her hair with a kitchen knife. Shortly after ending the relationship, she obtained a default final Order of Protection.

In April 2010, the husband sought visitation with their children, and the family court granted weekly visitation with the children. But despite the court order, the visitation issue was not resolved since the children refused to meet with their father, accusing him of speaking negatively about their mother. The court assigned a social worker to facilitate the father's visitation process. Despite the challenges surrounding the visitation matter, the team eventually reached a settlement agreement in which the client will have full custody of the children. Other matters involving the case are still ongoing.

Mother Obtains Visitation Order Modification

Also working with inMotion, partner Eric Moser, associate Michael Gomez, former of counsel Bob Michaelson, and summer associate Jaime Madell represented a mother in a child visitation matter against the child's father.

The client's relationship with the father was rocky before their daughter was born. The father threatened and verbally abused the client and began spending lengthy periods of time away from the couple's home. In 2008, the client was granted a year-long order of protection from the father. Additionally, the court granted full custody of the daughter to the client and granted the father visitation. Over the next several years, the client began to assume all of the parental obligations with no child support payments from the father, and the client became concerned with the quality of the time her daughter was spending with the father.

In February 2009, the father filed the first Petition for Violation of an Order, alleging that the client was refusing to allow him to see his daughter. Despite having filed the petition, the father did not attend the court hearing. He resumed visiting with the daughter, but stopped again shortly after, serving the client with a second petition.

The team filed a petition requesting a modification of the visitation order, arguing that it was the father who had stopped visiting. After the father again failed to appear at the scheduled hearing, the court entered a default judgment against him and granted the requests in the client's petition.

Project Together Provides Training to Volunteer Lawyers

In December, the Research Triangle Park Women in the Profession (WIP) Committee launched a pro bono initiative offering training on how to represent victims in obtaining domestic violence protective orders.

The program, Project Together, is provided by Legal Aid of North Carolina and aims to recruit, train, and coordinate volunteer lawyers to represent indigent clients in matters involving domestic violence protective orders. In the first training of 2011, the office had more than 10 lawyers attend the three-hour session. Two of these lawyers have already put their training to work to help a young woman obtain a protective order against a former boyfriend who had been stalking and threatening her.



Immigration



Wrongfully Detained U.S. Veteran



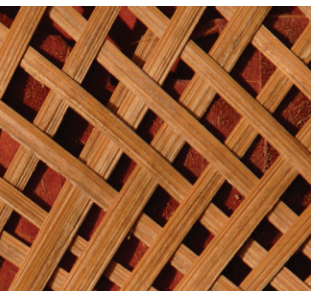
K&L Gates served as litigation counsel for Rennison Castillo, a U.S. citizen and Army veteran wrongfully detained by Immigration and Customs Enforcement (ICE) for more than seven months.

In 2005, while serving a sentence for violating a protection order, Castillo was interviewed by ICE officers. Despite Castillo's claim to be a naturalized U.S. citizen, ICE had Castillo transferred to ICE custody at the conclusion of his sentence rather than releasing him. Again, despite repeated explanations to ICE officers and an immigration judge that he was a naturalized U.S. citizen, ICE relentlessly pursued deportation proceedings, including obtaining an order of deportation. During his appeal on his deportation order, Castillo's status as a U.S. citizen was confirmed by data that had been accessible to the ICE officers through routine computer database searches. Castillo ultimately was released, and he filed a *Bivens* action against the ICE officers responsible for his detention.

Seattle partners Theo Angelis and Doug Greenswag and former associate Kimberly Evanson took over the case, formulated a successful strategy for overcoming the government agents' qualified immunity, defeated the government's motion to dismiss Castillo's claims, and obtained a favorable settlement consisting of a \$400,000 payment, a formal apology, and a revision to ICE policy to protect others from the months of wrongful incarceration Castillo suffered.

Immigration Cases Around the Firm

Lawyers in many of the firm's offices provide representation to immigrants seeking asylum and other relief in the United States.



El Salvador

Washington, D.C. lawyers Hank Judy, David Tallman, and Collins Clark worked to help a Salvadoran couple in their application for temporary protected status. The Department of Homeland Security (DHS) opposed the application, saying that the husband had participated in human rights abuses when he was forcibly conscripted into the Salvadoran army during the country's civil war. The DHS had also sought to deport the client and his wife, despite the fact that the couple had lived in the United States for 20 years and have two children who are U.S. citizens.

The team's efforts were successful and the couple was granted temporary protected status.

El Salvador

San Francisco partner Kate Wheble and associates Alice Ahn, Holly Hogan, Roseanna Castillo, and Megan Cesare-Eastman achieved a significant victory on behalf of a mother and her three minor daughters. The family feared they would be subjected to further domestic violence and face death or serious bodily harm or otherwise be forced to engage in various illegal activities, including prostitution and gun smuggling by members of a violent and powerful gang if forced to return to El Salvador. The team's hard work ended successfully when they were able to overcome the legal bar imposed by the one-year time limit on filing of asylum application and secured asylum for the mother and her daughters.

Paralegal Lesbia Duarte and secretary Silvia Traughber gave valuable assistance in preparing the clients and making their case to the Asylum Office and the Department of Homeland Security.

Eritrea

For three and a half years, Los Angeles partner Ron Stevens has represented an Eritrean national (Eritrea is the southern half of what used to be known as Ethiopia) in the man's quest to receive political asylum in the United States. Since 2002, the Eritrean government has recognized only four religions. Conscription into the military is mandatory (and often effected by arrest), for an indefinite period and conscientious objectors are imprisoned. The client was imprisoned for being a Pentecostal Christian, which is not one of the four recognized faiths, and for refusing to participate in the military outside of a non-combatant, medical capacity. The client was kept in military prisons for 27 months without any hearing or contact with his family or anyone else. For two years of that time, he was kept in an underground cell with 15 other prisoners and one bucket of drinking water and one bucket for a toilet that was emptied once every 24 hours. While imprisoned, he was beaten with a plastic-covered lead pipe and subjected to other forms of torture. As a result, he suffered partial amputation of one finger and loss of use of another.

The client eventually escaped from prison in December 2006, and spent several months hiding from Eritrean authorities and traveling to the United States via an "underground railroad," from Eritrea, through several African countries to South Africa, from there to South America, Central America, Mexico, and finally into the United States, where he was arrested when he crossed the border in May 2007. His case was transferred to Los Angeles, where the client has a sister who has been a permanent U.S. citizen for years. Stevens filed the client's original asylum application in December 2007. After 14 hearings, including a two-day trial, the Immigration Court on April 20, 2011, finally issued an order granting the client permanent asylum in the United States. The client is finally free of the threat of deportation and the government has agreed not to appeal the case.

Ethiopia

Washington, D.C. lawyers Steve Roberts, Rick Valentine, and Amy Eldridge filed an application for a discretionary grant of asylum for an Ethiopian refugee, who at the age of 14 was targeted, beaten, and imprisoned by the Ethiopian government because of his membership in an opposition political party. Because all cases involving the disposition of unaccompanied minors require supervisory review by the asylum office, the application is still pending. In the interim, the client is continuing his education at a private Catholic high school.

Guatemala

Seattle associate Taki Flevaris, during his third year of law school and with the assistance of partner Theo Angelis, began working on an asylum case for a native Mayan man from Guatemala. He has continued working with the client since joining K&L Gates.

The client fled Guatemala as a child in the midst of a longstanding civil war. The military was engaging in ethnic cleansing of indigenous Mayans, who were seen as being supportive of the rebel guerilla fighters. The client's parents were killed before his second birthday for allegedly aiding the guerillas. When the client was nine years old, the military returned to his village and his grandparents, hoping to save his life, sent him with strangers who were fleeing to the United States. After he fled to the United States, the client's estranged uncles back in Guatemala joined a dangerous gang and stole his father's land. They have threatened to kill him if he ever returns.

The immigration judge denied the client's initial application for asylum without tracking the law governing asylum, and yet the Board of Immigration Appeals (BIA) summarily affirmed the denial. Flevaris and Angelis appealed to the Ninth Circuit, detailing the deficiencies of the immigration judge's opinion in their opening brief. After seeking and receiving three time extensions to respond, the government sought and was granted a remand to the BIA, which has not yet ruled.

In their appeal to the Ninth Circuit, Flevaris and Angelis also sought attorneys' fees under the Equal Access to Justice Act, arguing that the government's position had not been substantially justified. The team settled that claim with the government for slightly more than \$20,000; half of the proceeds will go to the firm's pro bono program, and the other half will go to the referring organization, Volunteer Advocates for Immigrant Justice.

Haiti

Seattle associate Taki Flevaris and former associate Jessica Skelton, with supervision from partner Theo Angelis, obtained a court order of eligibility for asylum for a client from Haiti. The client sought asylum based on his experience as a victim of political persecution in Haiti.

The case began more than four years ago and traveled from the Seattle Immigration Court to the Board of Immigration Appeals (BIA), then to the Ninth Circuit Court of Appeals, and then back on remand to the Los Angeles Immigration Court, which ruled that the client was eligible for asylum.

Skelton successfully argued before the Ninth Circuit that the BIA had improperly placed the burden on the asylum-seeker to prove that he could not relocate within Haiti. The Ninth Circuit remanded the case to the BIA, directing it to apply the proper burden. The BIA, in turn, remanded to the Los Angeles Immigration Court, where Flevaris assisted with briefing, former associate Sumona Das Gupta assisted with compiling evidence, and Skelton argued the case. The immigration court determined that the government had not met its burden to prove that the client could relocate within Haiti and held that the client was eligible for asylum.

When it began in 2006, the case was handled by Seattle lawyers Tom Wolfendale, Greg Luloff, and Portland lawyer Laura Salerno before the Seattle Immigration Court, and by William Gleason before the BIA. Along the way, many others assisted with the case, including Jon Jurich, Joell Parks, Dirk Middents, Bill Hill, and April Ingle, among others.

Senegal

A team of lawyers from the firm's Washington, D.C. office successfully obtained a discretionary grant of asylum for a Senegalese refugee and her husband. The client sought asylum based on her fear of involuntary circumcision if she returned to Senegal.

In only four weeks, the team met the client, drafted a comprehensive brief and declaration, compiled evidentiary materials, and prepared the client for the asylum hearing.

The team included David Tallman, Collins Clark, Amy Eldridge, and Hank Judy with assistance from summer associate Amy Caiazza.

Sri Lanka

Dubai associates Patricia Tiller and Wadih El Riachi assisted a woman seeking to return to her home in Sri Lanka. The woman had been working as a maid in Dubai, but her work visa had expired and her employer was forcing her to work illegally.

Employees in Dubai are unable to renew their work visas without employer sponsorship, but the employer in this situation had confiscated her passport and was forcing her to work illegally rather than pay the sponsorship fees. On days when the woman had refused to work, she was deprived of food by her employer, who was providing full board as a condition of her work visa. The woman had sought help from the Sri Lankan embassy, but was told that they could not assist until she was formally released from her employment.

Tiller and El Riachi assisted the woman in preparing an application to the Dubai Ministry of Labour for unilateral termination of her employment contract and waiver of individual foreign worker fines, which would otherwise have been payable for the period the client had remained in the country illegally. The fines would have been more than twice the woman's wage earned during her three-year stay in Dubai, and failure to pay would have led to imprisonment. Tiller and El Riachi also assisted in preparing applications to the Department of Naturalization and Residence to compel the employer to return the woman's passport.

Tiller and El Riachi were able to arrange temporary accommodation for the client, and persuaded the relevant government department to expedite the matter due to the client's circumstances. The applications were approved within two weeks and the woman was able to return home to Sri Lanka. Additionally, all fines were waived.

Sudan

Washington, D.C. lawyers David Tallman, Amy Eldridge, and Collins Clark successfully obtained a discretionary grant of asylum for a Darfuri refugee. The client was a member of the Zaghawa tribe from a small village in North Darfur. In 2003, she was severely injured in an attack by the Janjaweed militia, which is backed by Sudanese government forces. In 2006, she married a trained nurse who provided medical treatment to the community, possibly including members of one of the Darfuri rebel groups. Fearing that he was under government surveillance, her husband soon left their home. After he left, government agents abducted and tortured her, forcing her to falsely confess to anti-government political activities. Fearing for her life, the client fled to the home of her second cousin in Chad. Once there, the client discovered that her cousin intended to travel to the United States to escape the threats of her deceased husband's brother (a highly placed Chadian official).

The team, supervised by Hank Judy, overcame a number of difficulties in this extremely complex case, including an initial suggestion by the U.S. government that the client may have been ineligible for asylum because her husband's nursing activities may have constituted "material support" to a terrorist organization.

Uganda and Ethiopia

Chicago associates John Susoreny and Lauren Norris recently represented two pro bono clients, a woman from Uganda and a man from Ethiopia, who were both seeking political asylum in the United States.

The Ugandan client moved to northern Uganda in January 2007 to do humanitarian work for a charitable organization and was arrested by local police and interrogated regarding her politics. Susoreny and Norris filed her application and represented her before the immigration court.

The Ethiopian client came to the United States in 2007 to pursue a graduate degree. When he began to publicly criticize the Ethiopian government for its human rights violations, he worried for his safety should he ever return to the country. In May 2010, Susoreny and Norris filed an asylum application for the client after he'd already attempted two unsuccessful applications on his own. They also presented his case to the asylum office.

Susoreny and Norris were successful in both cases and both clients' asylum applications were granted. Both clients are now in the process of applying for permanent resident status in the United States.

Recognition



Thomas Awarded 2010 YLD's Professionalism Award



The Young Lawyers Division (YLD) of the Washington State Bar Association (WSBA) awarded Seattle partner Luke Thomas with the 2010 YLD's Professionalism Award. The award honors "the practitioner from the entire Washington legal community who has greatly enhanced the profession through his or her extraordinarily noble and honorable practice of law."

Unlike other YLD awards focusing on young lawyers, the Professionalism Award is open to any WSBA member. The award specifically mentions Thomas' contributions to the bar, from chairing various committees and legislation drafting task forces to his pro bono efforts with the WSBA's First Responders Will Clinic and the Fallen Heroes Project. Thomas also provides considerable pro bono representation to the Girl Scouts of Western Washington, the Make-a-Wish Foundation, and disadvantaged families of patients at Seattle's Children's Hospital.

American Cancer Society Honors Longstreth

The American Cancer Society Cancer Advocacy Network (ACS CAN) honored Washington, D.C. partner John Longstreth for his work in helping ACS CAN on a number of administrative and litigation matters, including a petition to the Centers for Medicare and Medicaid Services (CMS) that led to the reversal of an adverse breast and cervical cancer coverage decision in Tennessee as well as extensive work on the complex litigation surrounding the Patient Protection and Affordable Care Act (ACA) with D.C. associate Molly Suda.



In the Tennessee matter, the firm helped a woman who contacted ACS's Health Insurance Assistance Service for assistance after she was denied Medicaid coverage because she had a limited health insurance policy that covered cancer (known as a cancer-only health policy), even though she was eligible for coverage under the Breast and Cervical Cancer Prevention and Treatment Act of 2000. The firm assisted ACS CAN by petitioning the CMS, citing the case as an example of a practice with the potential to

affect many other women in the state. At CMS' request, Tennessee reviewed the record and reinstated the patient's eligibility, allowing coverage that may be life-saving.

The firm has also filed *amicus* briefs on behalf of ACS CAN, the American Cancer Society, and the American Heart and Diabetes Associations in several federal courts of appeal in which challenges to the ACA are pending. ACS CAN's president wrote the following to Longstreth and Suda in January 2011 after the first of the briefs was filed: "Through your volunteer efforts, the voices of tens of millions of survivors of serious life-threatening illnesses will be heard by courts across the country. The brief provides judges with the critical data they need to understand the true impact of their decisions on real people. It also ably links our scientific empirical research to the legal questions posed in the cases."

Washington State Bar Association Honors Kelly and Hepburn for Pro Bono Assistance

The Washington State Bar Association (WSBA) recently honored Seattle lawyers Tom Kelly and Joanne Hepburn with the 2011 WSBA Pro Bono Award for their work on the Larry Bill Elliott death penalty case. Kelly and Hepburn, with substantial assistance from many other lawyers and staff in a number of offices in the firm, represented Elliott from 2004 through to his execution in November 2009. The award selection committee was impressed with the length and depth of Kelly and Hepburn's effort and with the firm's commitment to supporting them. The committee also found Elliott's written statement, which Kelly read to the press immediately after Elliott's execution, illustrative of the importance of pro bono work by lawyers.

Texas Lawyer Recognizes Firm's Pro Bono Contributions

The K&L Gates' Texas offices were the lead story in the 2010 *Texas Lawyer* pro bono report. The report recognized the commitment that K&L Gates has made to pro bono work. The publication called out the fact that lawyers in the Texas offices had boosted their pro bono hours by more than 115 percent over the previous year.

For more information about our pro bono work, please contact:

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