

Pro Bono Firm Of 2010: Covington & Burling

By Allison Grande

Law360, New York (November 24, 2010) -- From its successful representation of a domestic abuse victim in a U.S. Supreme Court case challenging her right to bring a criminal contempt charge against her abuser to its work in squashing a legal challenge to same-sex marriage in Washington, Covington & Burling LLP's wins in pro bono cases in the past year have earned the firm a spot on Law360's Pro Bono Firms of 2010 list.

With a commitment to pro bono work that dates back to the founding of the firm in 1919, Covington attorneys accumulated an average of 162 pro bono hours in 2010 through their work on capital defense, discrimination and civil rights matters for underprivileged clients in venues ranging from the nation's highest court to remote prison facilities.

In the recent U.S. Supreme Court case *Robertson v. United States ex rel. Watson*, Covington represented a domestic violence victim in a matter that questioned the constitutionality of allowing an individual to bring a criminal contempt proceeding for violation of a protective order.

In a 5-4 vote on May 24, the Supreme Court agreed with Covington partner and appellate group chair Bob Long's argument that the case should be dismissed as improvidently granted, leaving the D.C. Court of Appeal's decision allowing the Covington client's contempt charge as the final decision in the case.

Pro bono work for Covington lawyers usually begins shortly after they arrive at the firm, with lawyers from the most junior associate to the most senior partner having the opportunity to work on in-depth and high-profile matters based on their specific area of interest.

In 2010, Covington management committee chairman Timothy Hester helped win a decisive victory in the U.S. Court of Appeals for the Fifth Circuit in the long-running case of pro bono client William Wiley, who in 1982 was convicted and sentenced to the death penalty for killing store owner J.B. Turner and seriously injuring Turner's daughter during a robbery the previous year.

Following years of unsuccessful attempts to overturn this sentence in Mississippi state court, the Northern District of Mississippi set aside this sentence in November 2009 after finding that Wiley is mentally retarded and therefore ineligible for a death sentence.

The state of Mississippi appealed this decision to the Fifth Circuit in December but, following oral argument on Oct. 5, the appellate panel returned a judgment affirming the district court's findings.

Hester said the work done on this case — which Covington attorneys have been working consistently on since 1998, and had also worked on for a few years during the mid-1980s — exemplifies the commitment and effort the firm brings to each pro bono matter.

“Pro bono work has always been a great tradition at this firm, and has been seen as part of the firm's culture,” Hester said. “The Wiley case took a long time and a lot of work, but we ultimately succeeded in getting our client relief, and we're very proud of the outcome.”

In his current capacity as the head of the management committee that runs the firm, Hester makes sure to keep at least one pro bono case on his calendar at a time, a routine he has known since his second day as a new associate at Covington in 1983, when he was put on his first pro bono death penalty case.

Hester pointed out that the experience he gained from working on pro bono cases as an associate — including the opportunity less than five years into his career at Covington to argue before a Florida district court as to why certain mitigating evidence should trump an inmate's death sentence — helped give him confidence and experience that he would have had a harder time finding in a commercial setting.

“When you're arguing for someone's life in a death penalty case, you learn toughness and how to deal with pressure,” Hester said. “It really helped me to develop the ability to stand on my feet and argue cases on my own early in my career.”

Current third-year Covington associate Henry Liu learned these lessons firsthand earlier this year, when he was given a chance to argue in front of the U.S. Court of Appeals for the Third Circuit for the reversal of a 79-year-old New Jersey inmate's felony murder conviction.

After a 22-year fight, the Third Circuit agreed with Liu's argument that the trial court had violated inmate Anthony Alongi's Sixth Amendment right to represent himself during his state court trial and reversed his conviction, leading to Alongi's release on April 1.

Although arguing in front of the Third Circuit as a new associate would normally be a daunting task, Liu said the support he received from both senior associates and partners at Covington — who, in preparation for his argument, read all the briefs and major cases in order to provide him with a mock argument similar to the one he would face in the appellate court — helped put him at ease.

“While the judges in the Third Circuit asked tough questions, they were not as hard as some of the questions my colleagues asked me when I was preparing for the case,” Liu said.

The amount of resources invested in this preparation is far from unique for the firm, according to Liu.

“The firm really encourages associates to take on these cases and gives all cases the same supervision, resources and treatment,” Liu said.

Covington litigation partner and public service committee chair Tony Herman noted that the firm's pro bono matters — which during the past year have regularly taken Covington lawyers to multiple international locales, such as Guantanamo Bay, where the firm currently represents 13 detainees — are not constrained by a budget.

“Our tradition and policy dictates that we treat pro bono litigation the same way as commercial litigation, with the goal of doing the best possible job for our clients,” Herman said.

Covington's pro bono program is managed by a full-time pro bono counsel as well as three pro bono coordinators in Washington, D.C., California and New York who all actively seek pro bono opportunities and match new matters with lawyers' interests.

The firm's public service committee — comprised of roughly 45 lawyers who participate on a volunteer basis — is responsible for setting the overall policy of the program, as well as for approving potential pro bono cases, organizing an annual event recognizing the lawyer's pro bono achievements and publishing a quarterly newsletter, according to Herman.

In 1969, the firm established its first six-month rotation programs for associates, and now maintains three rotations with D.C.-based legal organizations Neighborhood Legal Services Program, the Children's Law Center and Bread for the City. Herman believes that these programs are important in not only "closing the justice gap that exists in the country, but are also an important training tool in giving young associates in-court experience."

In 2009, the Washington Lawyers' Committee asked Covington to participate in the parole representation program of the DC Prisoners' Project. As a result of this undertaking, more than 20 Covington lawyers from various practices currently represent 24 inmates at nine different facilities around the country, sometimes having to drive to remote areas in order to provide this free legal counsel to inmates at parole hearings.

Tom Williamson, the former chair of the firm's public service committee and current chair of the firm's employment practice group, said that he has been able to realize a "whole spectrum of benefits" from his pro bono work, which he began shortly after joining the firm 36 years ago.

In the past year, Williamson became involved in the representation of a broad amicus coalition of LGBT organizations, local clergy and same-sex couples defending the marriage rights of same-sex couples in the District of Columbia.

After the D.C. Council passed legislation providing equal access to marriage to all couples regardless of sexual orientation, a small group of individuals sought to repeal the marriage legislation by filing numerous cases in D.C. superior and federal court in an effort to prevent the legislation from taking effect.

To date, Covington lawyers have been able to achieve the dismissal of all but one of these challenges, which remains on appeal, and the District of Columbia began issuing marriage licenses in March.

"There's a satisfaction you get when you use your professional skills to assist people who are particularly needy or vulnerable, and it's personally gratifying to help in ways that are able to impact people's lives," Williamson said.

This attitude permeates the culture at Covington, where lawyers continue to consistently accumulate hours in excess of the American Bar Association's benchmark of 50 pro bono hours per year despite the fact that the firm has never required attorneys to perform any pro bono work.

"For someone who's come out of law school in the past five years, there seems to be a tendency after law school to either become a lawyer in a large commercial firm or to work in the public sector for the government or for a nonprofit," Liu said. "The draw for me is that Covington doesn't see these two paths as distinct, and pro bono is treated as a substantial part of the firm's everyday practice."

Methodology: Law360 invited over 400 law firms to participate in its Pro Bono Firms Of The Year series. Participants were asked to identify major wins in pro bono cases in the past year. Submissions were reviewed several times by a committee of four editors. The firms with the biggest wins in pro bono cases that also displayed a major commitment to pro bono work in 2010 were selected to be profiled in this series.