

Pro Bono Firm Of 2015: Covington & Burling

By **Dani Kass**

Law360, New York (August 28, 2015, 10:44 PM ET) -- For fighting back against racial profiling on an airline and in an Arizona sheriff's department, freeing families seeking asylum from imprisonment, reversing a wrongful conviction and other work to help those in need, Covington & Burling LLP has earned a spot as one of Law360's Pro Bono Firms of 2015.

Over the last year, Covington's U.S. attorneys have worked 74,152 pro bono hours, averaging about 104 hours per attorney, according to the firm.

"Covington is a longtime member of the community and we recognize an obligation because we enjoy a very privileged place in our society," said Alan A. Pemberton, co-chair of the firm's public service committee. "We have a corresponding obligation to those who can't afford legal services but badly need them."

The firm, along with the American Civil Liberties Union, reached a \$40,000 settlement for Shoshana Hebshi, who was arrested at gunpoint in 2011 upon disembarking a plane. She was jailed, strip searched and prohibited from telling her family where she was, without ever facing charges, the firm said.

Hebshi sued the government and Frontier Airlines Inc. in federal court. As part of the agreement reached, Frontier agreed to change its training procedures, employee handbook and customer complaint policy to emphasize a zero-tolerance policy toward discrimination.

"It was great to work on a team with a lot of people who are working to see justice get done for Ms. Hebshi," said associate Sarah Tremont, one of the attorneys who put in nearly 200 hours combined for the case.

Covington has spent nearly 1,500 hours in an ongoing case against an Arizona county's targeting of Latino drivers under Sheriff Joe Arpaio. A judge had found racial discrimination was a part of all of the department's traffic operations; deputies would look for Latino drivers and passengers as a way of apprehending undocumented immigrants.

Arpaio appealed the district court's injunction preventing the department from using race as a way to decide whether to pull a driver over and ordering a federal monitor to make sure other reforms were made. In April, the Ninth Circuit upheld the injunction, but the case is still ongoing.

While attorneys at Covington are not required to work a certain amount of pro bono hours, they are

encourage to meet the American Bar Association's recommendation of 50 hours a year.

Four attorneys in New York, San Francisco and Washington focus full time on running Covington's pro bono program.

"It's certainly a value around here to do pro bono work," associate David M. Zions said. "When we take on the case it's emphasized to us that it's a regular case. We're not cutting corners ... they are our clients. We treat them like any other client."

Tremont said the firm actively incentivizes and encourages its attorneys to use all resources they can for pro bono cases.

Special counsel Benjamin S. Haley said Covington has always been supportive when he needs to fly across the country for hearings and meetings, or use other financial resources. Haley said that, as a summer associate, he was drawn to Covington because even the top partners talked about their pro bono work with an incredible amount of passion, professionalism and commitment, and he's seen that continually during his time at the firm.

"We put our money where our mouth is in that sense," he said.

Pro bono litigation has also been a great way for inexperienced associates to get meaningful experience faster than they might be able to on larger commercial cases, Haley said.

In December, Covington and the ACLU Immigrant Rights Project sued the U.S. Department of Homeland Security for allegedly holding Central American families that were seeking asylum in prison-like facilities as a way to deter further immigration.

In July, a federal judge found the detention of immigrant families violates a major settlement reached nearly two decades ago and ordered that parents must also be released if they aren't a flight or safety risk.

"It was frankly a large-scale injustice that the government was detaining large numbers of mothers and children who were fleeing violence in their home countries and looking for refuge in America, and we're saying, 'We're going to lock you up — not because of anything individual to you, you may be able to prove you are entitled to stay here, but we're going to lock you up anyway just to send a message to other people not to come,'" said Zions, who estimated working 200 hours on the case.

In all, the Covington team said it put in nearly 800 hours fighting DHS' policy.

In another case that took more than 2,500 pro bono hours, Covington was able to get a settlement for a man who spent 15 years in prison after being wrongfully convicted of murder.

Covington had worked with the Innocence Project New Orleans to have Michael Williams released after proving prosecutors had failed to hand over exculpatory information to the defense. Additionally, the one eye witness recanted their testimony. Once Williams was freed, Covington sued alleging violations of Williams' constitutional rights. They reached a settlement near the end of discovery.

Haley said he's worked at least three wrongful conviction cases in Louisiana with Covington. He said the relationships that develop with the clients in those cases remain strong and that he still talks to the first

man he defended in civil litigation after being freed from a wrongful conviction regularly.

“He’s not somebody who has a lot of people in the world and it’s fantastic to be able to have had a real tangible sort of effect in his life and be somebody he counts on for advice,” Haley said. “It really means a lot to me.”

Tremont said this year she has been part of a team that is fighting an Alabama death row inmate's 2006 conviction, and is awaiting the court's resolution.

For years, Covington has been working with the Washington Lawyers’ Committee for Civil Rights and Urban Affairs creating a series of reports looking at criminal justices issues in the district from a civil rights point of view. In the last year, they dedicated more than 650 pro bono hours to the work.

Those reports have looked at conditions in Washington’s jail and racial disparities in arrests for marijuana, among other related topics. Covington is pushing to get the jail closed given the “deplorable conditions” and to move control of a companion facility to city employees instead of a contractor, Pemberton said.

“The city’s response was muted because i think they may in fact agree with our conclusions in that report,” he said.

The marijuana report, which showed a 9:1 disparity in arrests by race, likely contributed to the city’s legalization of the drug, Pemberton said.

--Editing by John Quinn.