

Pro Bono Firm Of 2014: Gibson Dunn

By **Alex Lawson**

Law360, New York (October 07, 2014, 5:54 PM ET) -- Gibson Dunn attorneys dedicated a substantial portion of their workload over the past year to a slew of advocacy-based litigation, tackling cases centering on human trafficking, government oversight and religious freedom issues, and securing the firm's status as one of Law360's top shops for pro bono work.

Buttressing the firm's third consecutive appearance among Law360's pro bono elite were the 129,575 pro bono hours logged among its roughly 971 U.S.-based attorneys, which amounted to an average of 133 hours per attorney. That rate places many of Gibson Dunn's lawyers well ahead of the 60-hour minimum enshrined in the Pro Bono Institute's Law Firm Pro Bono Challenge, to which the firm is a signatory.

Katie Marquart, Gibson Dunn's pro bono director, said that the firm's robust participation numbers are due not only to its strong relationships with numerous special interest and advocacy groups, but also its encouragement of enterprising attorneys to bring in cases of interest on their own accord.

"I would say pro bono work is in keeping with the general philosophy and culture here at Gibson Dunn in that the ... projects are generally initiated by interested, committed partners and associates who have a particular desire to do a particular type of work," Marquart told Law360. "I think it's a great way to do it because it encourages attorneys to go out there and find an issue or an organization that they are passionate about."

Partner Mitchell A. Karlan, a commercial contracts and transactional litigator by trade, told Law360 that the key to Gibson's pro bono prowess has been in the firm's unflinching dedication of resources to those cases.

"The pro bono program is second to none," Karlan said. "I've been practicing law in New York City for 35 years now and there isn't a firm around that has a greater dedication of firm resources, time and lawyers to pro bono."

Marquart and Karlan took the lead on a pair of Gibson Dunn efforts to combat the scourge of global sex and labor trafficking, both in the courtroom and in prominent geopolitical fora such as the United Nations.

In March, Marquart led a team of Gibson Dunn attorneys in addressing the U.N.'s Commission on the Status of Women, addressing a slew of best practices and strategies for global stakeholders on the

identification of human trafficking victims, investigation and interview tactics and tools for aggressive prosecution of offenders.

The firm earned the right to speak at the U.N. due in large part to its collaboration with Lawyers Without Borders, with whom the firm developed an interactive board game as a sort of training tool for investigators, police, lawyers, judges, government officials and other global actors with an interest in curbing human trafficking.

As Marquart and the Gibson Dunn team were leading the charge on advocacy and awareness, Karlan was hard at work securing legal redress in New York federal court for victims of an elaborate labor and sex trafficking scheme crafted by defendants Joseph Yannai and his wife Elena Fusillo.

The lawsuit claimed that Yannai would pursue young women seeking au pair positions in the U.S. and subject them to sexual, physical and psychological abuse. Karlan's civil action on behalf of three plaintiffs was stayed until Yannai was convicted and sentenced by federal authorities on criminal charges.

By then, even though Yannai was insolvent, Karlan and his fellow Gibson Dunn attorneys were able to secure a \$1 million settlement for the victims. While the details of the allegations were at times grotesque and disturbing, Karlan said that the key to his success was to approach the case with the same focused and passionate energy that drives his billable work.

"We try, and we succeed, in bringing the same ferocity and single-mindedness to our representation of pro bono clients as we do to our paying clients," he said. "The whole point of a pro bono case, if done correctly, is that it's done no differently. You are intentionally blind to the fact that the client is not paying you."

Gibson Dunn also flexed its pro bono muscles by standing up for a class of aggrieved New Yorkers who alleged that they were being systematically denied Social Security disability benefits from five administrative law judges at the Queens Office of Disability Adjudication and Review.

Partner Jim Walden worked in concert with the Urban Justice Center on what began as a training session to represent individual disability claimants who were having a tough time receiving benefit payouts from the Queens office. Once Walden heard input from the various applicants, he suggested that they attack the problem more broadly by bringing a class action against the Social Security Administration.

Walden said that the case turned when records of the ALJs' internal communications to staff came to light in discovery, at which point the judge overseeing the case indicated to the SSA that it was very likely to face liability in the case and recommended pursuing a settlement.

"An ALJ is not a regular judge, an ALJ is actually supposed to help the claimant develop the record for benefits," Walden told Law360. "They have an obligation to help the claimant get the evidence that's necessary. In this case, they were doing quite the opposite."

The court in October 2013 approved a settlement that provided relief to disabled claimants, ensuring new full and fair hearings for at least 4,000 class members and also providing for sweeping reforms in the Queens office, including retraining, recertification and monitoring of the ALJs.

Walden, who served as a New York federal prosecutor for nine years, made clear that he takes the issue of government malfeasance very seriously, a principle that guided him through the SSA litigation along

with scores of other pro bono cases.

“When the government digs in its heels and refuses to listen to the people its supposed to serve, that's a bad day in our democracy,” he said.

Walden and fellow New York partner Randy Mastro also secured a significant pro bono victory for a group of New York University faculty members and New York Assembly member Deborah Glick in their effort to beat back a university development project that encroached on numerous public parks in lower Manhattan.

Building on experience he gained litigating against the state's seizure of a historic warehouse in Brooklyn Bridge Park several years ago, Walden teamed with Mastro to convince the judge that the NYU development amounted to a breach of the public trust and enjoin the project from further construction. That case is currently on appeal at the Second Circuit.

In a testament to the hefty resources the firm allots to pro bono cases, Gibson Dunn fought back against a challenge to Greece, New York's practice of opening town hall meetings with a prayer in the U.S. Supreme Court, convincing the justices to reverse a Second Circuit judgment that faulted the town for its meeting prayer.

A 5-4 opinion from the high court determined that the practice of legislative prayer has “long been understood as compatible with the Establishment Clause” of the First Amendment and that the town's prayer practice aligned with a steady tradition followed by Congress and state legislatures.

Taking the lead in that case was partner Thomas Hungar, co-chair of Gibson Dunn's appellate and constitutional law practice group, who told Law360 earlier this year that the firm's strategy was to focus on similar practices in other legislative proceedings and use the justices' 1983 ruling in *Marsh v. Chambers*, in which the court upheld the Nebraska Legislature's practice of opening sessions with a prayer given by a paid Presbyterian minister, to bolster its case.

"We were making judgment calls about how much focus to on [Marsh] and a narrower win, or a broader challenge based on establishment clause jurisprudence, and ultimately we focused on that narrower approach on the specific context of legislative prayer," Hungar said.

For pro bono director Marquart, Gibson Dunn's pro bono work before the high court and elsewhere has fostered a congenial and benevolent environment at the firm that cuts to the core of the legal services profession.

“I think so many of us went to law school wanting to do good and help those who can't help themselves, and I think that the fact that the firm is so committed to doing pro bono and so supportive of it ... creates an environment of attorneys who are really proud of what they do and where they work,” Marquart said.

--Additional reporting by Andrew Strickler. Editing by Mark Lebetkin.