

Pro Bono Firm Of 2012: Gibson Dunn & Crutcher

By **Sean McLernon**

Law360, New York (August 29, 2012) -- By defending the right of a nonprofit to open a public charter preschool and training African lawyers to fight international corruption, Gibson Dunn & Crutcher LLP has continued its recent tradition of public interest success to earn itself a place among Law360's top pro bono firms of the year.

Gibson Dunn secured its spot among Law360's Pro Bono Firms of 2012 by committing more than 104,000 hours to pro bono work over the last 12 months, averaging 114.9 hours per attorney. The firm has made public interest matters a top priority over the last decade by providing all lawyers with the same billable credit for pro bono time as for other work.

"That's called putting your money where your mouth is," Gibson Dunn's National Pro Bono Coordinator Scott Edelman said.

Edelman has held his position since it was created in 2002 after Kenneth M. Doran became managing partner and spearheaded an effort to revitalize Gibson Dunn's pro bono program. The firm has had a number of notable achievements since then, including a victory on behalf of AppleTree Institute for Education Innovation Inc. that allowed a new public charter preschool to open in Washington, D.C.

Led by partners Mark A. Perry and Jason J. Mendro, Gibson Dunn donated more than 3,000 hours in the legal fight since 2005, battling a well-funded coalition of community activists looking to stop construction of the facility.

After AppleTree purchased the land for the school, a local community board changed the law retroactively to prevent the construction of a school building, according to Mendro. When zoning lawyers told AppleTree that there was no way to win the battle, Gibson Dunn attorneys pored through local zoning regulations and identified grandfathering provisions that secured AppleTree the right to build.

The fight didn't end there, however, as opponents of the project filed numerous challenges to AppleTree's permit, racking up legal costs that the nonprofit would not have been able to absorb without Gibson Dunn's help.

"Challenges like these impose massive costs on the party that seeks to develop," Mendro said. "Just by filing lawsuits these groups can really raise the costs of doing business in a major way. It is a particular challenge for nonprofit organizations that do not have a lot of funding. Gibson Dunn gave AppleTree the chance to fight back."

Gibson Dunn's expertise made a big difference as well, as the firm used the federal Administrative Procedure Act to shoot down the opposition's argument that relied on an obscure Washington, D.C., statute allowing challenges to "unlawful construction."

"At first blush, it seemed like they had the right to make that type of argument," Mendro said. "But we looked at the APA and it says that a challenge to a regulatory decision has to go to a regulatory body and cannot head straight to a trial court. They were trying to short-circuit the entire administrative process. By pointing this out to the trial court, we staved off the last round of litigation."

Beating back a final preliminary injunction motion in the spring of 2011 was critical for AppleTree, which had public bonds that depended on children attending the school by that fall. Thanks to Gibson Dunn's persistent success fighting 11 appeals to various agencies over a six-year period, the school was able to open in October.

"There's no amount of legal work or court victories that can replace that true satisfaction of seeing children in a supportive learning environment," Perry said. "This case allowed us to use our legal skills in a way that directly and immediately benefits the community in which we work. We don't need to talk in abstractions, we can just look at those 60 kids at their desks and say we made that difference."

The local focus is a key element of Gibson Dunn's pro bono approach, which Edelman describes as "very decentralized." Although some cases are discussed at the national level, the firm's pro bono coordinator said that the real work happens at the local level, where each office has relationships with the pro bono providers in their respective cities and decide which cases to take on.

Each individual lawyer is given the freedom to pursue pro bono work they are passionate about, Edelman said, allowing Gibson Dunn attorneys to follow their hearts when they choose cases. Consistent with that freedom, Gibson Dunn does not make pro bono work a requirement for attorneys, but the firm makes it clear that such work is highly valued.

"When someone has low billable hours and isn't doing any pro bono work, we mention it in the review," Edelman said. "We understand that the economy may be slow or practice group work may be slow, but we tell them there is so much great pro bono work out there that they could be doing."

Over the past year that work has included protecting the rights of disabled citizens to obtain Social Security benefits and preserving Civil War-era landmarks from private development.

Arguing that the U.S. Social Security Administration was not fairly adjudicating disability claims, a Gibson Dunn team headed by partner Jim Walden secured a preliminary victory in October when a magistrate judge denied the SSA's attempt to stay discovery. The ruling forced the government to produce documents relevant to the allegations.

In the landmark preservation fight, which was also led by Walden, Gibson Dunn represented a coalition of New York neighborhood associations seeking to protect a pair of structures that date back to the mid-19th century from being leveled. The pro bono team convinced a federal judge in July 2011 to vacate and remand U.S. National Park Service decision that had illegally removed the landmarks from federally protected park land.

In a pro bono assignment that can't be easily measured by courtroom results, a Gibson Dunn team led by partner Joel Cohen went all the way to Kenya this summer to implement a training program it developed with Lawyers Without Borders focused on international corruption issues. Over 80 magistrates, prosecutors and defense counsel participated in the program.

The team provided participants with laminated cards that summarized areas of case law, a particularly useful tool in a country where most lawyers lack regular access to computers. Cohen said the feedback has been "incredibly favorable" and the team has already been invited back to hold the training again next year.

Cohen also led a Gibson Dunn team last year that took on the Danbury, Conn., police force over alleged racial profiling in a sting operation and helped eight Connecticut day laborers receive an award of \$650,000 in the largest settlement recovery of its kind.

Earlier this month, a friend of Cohen's involved in immigration issues asked if Gibson Dunn could help review applications for deferred action status to make sure undocumented applicants avoided errors that could lead to deportation. Interested in assisting, Cohen sent out an email to associates and partners in the New York office seeking volunteers, but wondered what kind of response he would get for such a sudden request in the middle of August.

Cohen was delighted, if not entirely surprised, when 15 Gibson Dunn attorneys showed up at the meeting.

"Someone has an idea, I say let's do it, and suddenly 15 people are here. In a sense it's almost like cheating," Cohen said with a laugh. "It's not cheating, of course, but I find here there are a lot of public-interest focused people. They are more devoted to it here than anywhere else."

--Editing by Katherine Rautenberg.