

Pro Bono Firm Of 2014: Akin Gump

By Joshua Alston

Law360, New York (September 29, 2014, 7:24 PM ET) -- Akin Gump Strauss Hauer & Feld LLP's recent pro bono victories run the gamut from voting rights in Arizona to the death penalty in South Carolina, evidence of the robust social justice work that landed the firm a spot among Law360's top pro bono firms of 2014.

Perhaps the splashiest pro bono work Akin Gump did between June 2013 and June 2014 took place in Texas, where the firm upended the state's ban on same-sex marriage, clearing a path for marriage equality in a state whose conservative bent made it an unlikely candidate. It was a personal victory for Akin Gump as one of the plaintiffs, Nicole Dimetman, is a former Akin Gump associate whose out-of-state marriage was not recognized in Texas.

The lead attorneys on the case, Barry Chasnoff and Neel Lane, faced an uphill battle toppling a ban against same-sex marriage in Texas, which passed in November 2005 with approximately 77 percent of the vote. But as with other same-sex marriage cases across the country, Chasnoff and Lane were armed with the U.S. Supreme Court's ruling in *U.S. v. Windsor*, which invalidated a provision of the Defense of Marriage Act withholding federal benefits from same-sex partners.

Lane said his clients were never given a moment to lose sight of just how fierce the opposition is.

"Our first challenge was the one that any civil rights case has, which is that you're championing the rights of a minority group that isn't politically powerful enough to secure its own rights," Lane said. "And it was particularly true with this case because the entire political structure of Texas, including the governor, the attorney general and every statewide official that went on record was opposed to marriage equality.

U.S. District Judge Orlando L. Garcia issued an injunction in February to prohibit the state from enforcing the constitutional ban after Chasnoff and Lane cut the legs out from under the Texas attorney general's arguments.

"All of the unfounded studies that have been done talking about the harm to children have been invalidated," Chasnoff said. "The only argument for treating people differently, other than the ones based on junk science, is that the state has always treated same-sex couples differently and should therefore continue to treat them differently. The judge recognized that."

Akin Gump secured another important civil rights victory in Arizona, in which the firm represented the

Inter Tribal Council of Arizona to topple a restrictive voter registration law that disenfranchised tens of thousands of voters. The state imposed laws requiring proof of citizenship beyond those set forth by the Election Assistance Commission's form, which requires a signed affirmation of citizenship.

Michael Small, a senior litigation counsel, said winning the case was dependent upon the team's ability to appeal to all nine justices of a politically divided Supreme Court.

"We were concerned that the more conservative members of the court would be sympathetic to Arizona's stated efforts to make sure that only citizens could vote in the state," Small said. "So our challenge was crafting a brief that would apply to a cross-section of the court, not just the more liberal justices we thought would be sympathetic to our clients."

In June 2013, Akin Gump won in a 7-2 decision, following a forceful oral argument by Patricia Millett, who formerly headed the firm's Supreme Court practice and has since gone on to a judgeship on the U.S. Court of Appeals for the D.C. Circuit. The majority, led by Justice Antonin Scalia, struck down Arizona's evidence of citizenship requirement, ruling it was preempted by the National Voter Registration Act.

Akin Gump litigation partner Mark MacDougall continued his decadelong work lobbying for defendants faced with the death penalty in South Carolina, taking on the case of Earnest Daise, who was convicted of a 2009 double murder. MacDougall played a role throughout the litigation of the case but provided key support in the sentencing phase, convincing a jury drawn from a state that generally favors capital punishment to unanimously recommend life imprisonment. The October 2013 result was South Carolina's first unanimous verdict of life imprisonment in more than 12 years.

MacDougall said the case was tough but emphasized the importance of aggressive representation in ensuring indigent defendants aren't put to death simply because they could not afford counsel.

"The facts, as in every death penalty case, were terrible," said MacDougall. "There was a brutal murder and difficult evidence to contend with, but our goal is always to preserve the defendant's life, and we were able to do that unanimously, which is a result that comes from devoting hours to a case. And for many defendants, that simply is not feasible."

The firm, which averages 82 pro bono hours per year for its stateside attorneys, is able to secure such results for its clients because it has made pro bono work a key component of the firm's culture. Akin Gump demonstrated its dedication to working with underrepresented clients by hiring Steven Schulman in 2006 to head up its pro bono effort, the firm's first full-time pro bono partner.

Since his hire, Schulman has focused on broadening the Washington, D.C., firm's pro bono practice, an effort demonstrated by the group's migration into transactional pro bono work to complement its litigation work. The firm represented charter schools KIPP LA and Rocketship, assisting the former with the closing of a bond financing and the latter with a merger of its Northern California schools.

Schulman said the firm handles as many as 800 pro bono cases per year, which are referred to the firm by its many legal aid partners across the country. His latest case involves work with undocumented Central-American immigrants.

Schulman said Akin Gump has always had a dedication to public service legal work, which is as important as it's ever been.

“There are many social justice issues that require dedicated, qualified litigation and many clients whose rights are not being looked out for if not for the type of pro bono work that is part of Akin Gump's DNA,” Schulman said.

--Additional reporting by Jeremy Heallen. Editing by Christine Chun.

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