

The Metropolitan Corporate Counsel

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Volume 17, No. 8

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August 2009

Pro Bono – Law Firms

A Firm Whose Lawyers Live Pro Bono

The Editor interviews Steve Schulman, Pro Bono Partner, Akin Gump Strauss Hauer & Feld LLP.

Editor: As Akin Gump's Pro Bono Partner what do you consider your primary role in this capacity at the firm?

Schulman: My primary role is really to ensure that the pro bono practice is as vibrant as possible at the firm. I view myself as a law firm lawyer who does public interest work rather than a public interest lawyer who happens to be at a law firm – an important distinction. While I don't minimize at all the importance of the public interest role, I am first and foremost a partner at Akin Gump; my job is to make sure that our pro bono practice is a point of pride for the firm, a point of training for our associates, and a point of excitement for our lawyers. My job, aside from representing my clients, is making sure that all of our attorneys are able to participate to their fullest extent in our pro bono practice.

Editor: Why is the pro bono culture so deeply inculcated at the firm? How many pro bono hours did the firm log in 2008?

Schulman: We logged about 72,500 pro bono hours last year, about twice as many as a couple of years ago. This firm was founded on the principle of public service, which has always taken on the form of pro bono work, but never to the same extent as is being realized today. We have always been a firm where people felt they weren't just law firm lawyers but lawyers for the community, whether that applies to the individual client you are representing or to the community as a whole. It is very important for Akin Gump lawyers to feel that they are contributing to the profession, to the community and to their clients directly.

Editor: How do you introduce your first-year associates and lateral hires into the culture?

Schulman: The best way is to get them working on pro bono matters. Nearly all our first-year associates work on pro bono matters – whether they're litigators or corporate lawyers – and we've been able to get them involved in a broad variety of work since not every lawyer wants to do litigation-oriented pro bono. We've come up with a number of projects that are transactionally focused: working with microinsurance entities, working with Appleseed on the treatment of people with mental health issues in the immigration court system, representing the Liberian government, working with KIPP and other charter schools.

Editor: Please tell us about your latest victory.

Schulman: In the last several months we've been representing a refugee from Burundi named Louis who fled to the United States in November 2007 after being harassed repeatedly by a rebel organization in Burundi called the FNL. Louis is quite a courageous man. All the FNL wanted from him was for him to join them as a member and pay about \$80; however, he didn't believe in what the FNL did even though he, like the FNL members, was an ethnic Hutu. He felt that the FNL was an organization that engaged in human rights abuses, and he wanted no part of this. On one occasion the FNL stopped his bus, taking his and his fellow passengers' lunches, while on another occasion they robbed him



Steve
Schulman

of 5,000 Burundi francs (about \$4). Louis eventually fled to the U.S. when the FNL told him that if he didn't give them \$80 (100,000 Burundi francs) they would kill him. When he came to the United States and told his story to the Department of Homeland Security (DHS) he was put in jail, where he remained for nearly 20 months even though he has no criminal history and had a U.S. citizen willing to house him at no cost to the government. At his immigration court hearing, DHS argued that the lunch and \$4 confiscated from him constituted "material support for terrorism" since the FNL falls under the statutory definition of a terrorist group. The immigration judge bought DHS's argument and, though he found Louis otherwise eligible for asylum, denied his application.

We took over the case and appealed to the Board of Immigration Appeals, which on July 10 ruled that Louis had not "committed an act" to aid the FNL and that in any event any support provided was not "material," adopting the reasoning of our brief. Our team was composed mainly of corporate transactions lawyers in New York. Louis was released from jail on July 20; picking him up and having dinner with him was a special experience for all of us.

Editor: Last year in your interview you discussed the case of *Mamani v. Sanchez Berzain*, which was only in the preliminary stages. Perhaps you could reiterate some of the facts in that case and report to our readers its current status.

Schulman: We are representing nine Bolivian families who lost family members in massacres in 2003 in Bolivia; our clients are all Bolivians who live in Bolivia; the defendants, Sanchez Berzain and Sanchez De Lozada, both live in the United States; Sanchez Berzain is the former defense min-

ister and Sanchez de Lozada is the former president of Bolivia. We are seeking to hold them responsible for these deaths under the Alien Tort Statute. We presented an oral argument; the defendants filed a motion to dismiss. The case is pending in federal court in the Southern District of Florida. The judge has issued only a partial decision, granting a motion to dismiss claims under the Torture Victim Protection Act without prejudice, finding that our plaintiffs need to show that they have exhausted whatever remedies might exist in Bolivia. The judge has still not addressed the major issue brought under the Alien Tort Statute.

Editor: Another interesting case, which your partner Tom Goldstein handled in oral argument before the Supreme Court, was that of *Jiminez v. Texas*. Please tell our readers more about this case – the manner in which miscarriages of justice had previously occurred before Akin Gump’s lawyers were introduced to the case. Also, tell us about the work of Carl Cecere of your Dallas office who played a key role in securing the *Jiminez* representation for the firm.

Schulman: The *Jiminez* case was a *habeas corpus* case dealing with technical aspects of *habeas corpus*. Under the law there is a one-year statute of limitations for a prisoner to file a *habeas* petition after his direct case is dismissed. Our client’s direct state appeal ended prematurely because his original appellate counsel had not discharged his obligations. This direct appeal was reinstated on grounds of ineffective assistance of counsel, and his *habeas* petition was filed within a year of the dismissal of the reinstated direct appeal. The *habeas* case was then dismissed based on arguments made by the state of Texas that he should have filed his *habeas* claim within a year of the first appeal. The Supreme Court, in a 9-0 decision authored by Justice Thomas, reversed the lower court based on the proposition that the one-year period starts tolling when the appeal is finally dismissed, not when it may be prematurely dismissed.

Carl Cecere and others in our Dallas office were able to win the assignment of the case because they were able to find Mr. Jiminez’s aunt and speak with her about potentially representing him. Because we made a connection with the family, Mr. Jiminez decided to retain us as pro bono counsel for his appeal instead of other firms that were looking to represent him.

Editor: An example of the firm’s very different involvement is the work done

on behalf of the government of Liberia in providing advice on natural resource transactions. After the very brutal civil war in that country, this kind of aid to the enlightened new democratic government must have been warmly received. Could you tell our readers something about this work?

Schulman: Our work was done in conjunction with the International Senior Lawyers Project (ISLP). Liberia asked ISLP to help it find expertise in natural resources and mining transactions. One of my partners, Rick Gittleman, who works in our energy and global transactions practice, had substantial experience with African mining and other natural resources deals. His dedication led to a great relationship with President Ellen Johnson-Sirleaf; he has advised her and some of the top ministers in her cabinet on some of these very sophisticated transactions. On the other side of the table were Wall Street law firms representing large energy companies paying handsome legal fees. Because Liberia does not have the funds to pay for comparable representation, there was clearly the need for pro bono help. While Liberia has very talented people at the top, the country has lost mid-level people who would form a solid bureaucracy as a good cadre of lawyers.

Editor: One of the firm’s pet projects has been donating its services to KIPP (Knowledge Is Power Program). Last year you told us about the firm’s lawyers helping KIPP to set up a mortgage-financing vehicle to benefit building, renovation and leasing of schools across the U.S. How well has this program performed in light of the credit crisis?

Schulman: It’s performed very well. The facility was set up in advance of the credit crisis, and has allowed schools to access funds for needed renovations.

Editor: In our July issue Jean Berman of the International Senior Lawyers Project had high praise for the work done by the firm’s lawyers in connection with LeapFrog investments in setting up microinsurance programs for low-income microbusinesses in developing countries. Could you describe some of that work?

Schulman: LeapFrog is a very unusual pro bono client – it is not actually a non-profit but a private equity fund looking to invest in microinsurance and microbusinesses in Africa for a below-market return. The idea

behind LeapFrog is to set up a fund looking for investments that assist the very bottom of the pyramid, people who have very little access to the basic necessities. What microinsurance does is allow people to engage in economically productive yet somewhat risky work that they might not otherwise engage in because they don’t have a downside cushion. For example, if you don’t have any crop insurance, you’re likely just to farm at a subsistence level, but with crop insurance you know that a part of your downside is protected if you spread your crop over a wider area.

Editor: Two of your distinguished partners, Rex Heinke and Vernon Jordan, were presented with Hall of Fame awards in July. Perhaps you could describe some of their achievements.

Schulman: These awards were first presented a few years ago to honor lawyers who have had distinguished careers. The awards recognize the overall life of a lawyer, not just pro bono activity. Rex and Vernon are paradigms for all lawyers. Rex has done tremendous work in California and nationally is widely respected as a first amendment and media lawyer who has always carved out time to do pro bono work. He has just filed a constitutional challenge of the California two-thirds vote requirement on enacting new taxes. He was chair of Public Counsel, one of the nation’s largest public interest law firms in Los Angeles. He has always supported his colleagues in Los Angeles in pro bono work.

There’s not much more you can say about Vernon Jordan except that I wish we could give him an award every year. In accepting his award this year at a firmwide videoconference, Vernon gave a wonderful, moving speech in which he shared stories about his experiences as a civil rights lawyer in the very early ‘60s in southern Georgia.

Editor: What factors have continued to inspire the firm to steadily achieve more pro bono hours per attorney each year and to walk in new and innovative pathways that provide so many benefits to charitable groups and individuals at home and also abroad?

Schulman: I think it comes down to our lawyers and their individual interests. As long as we provide opportunities for our lawyers to do all sorts of different projects – whether it’s LeapFrog working on Africa microinsurance or KIPP working with schools here in the U.S. – we will continue to be successful.