

2015 DAVIS WRIGHT TREMAINE

# PRO BONO Report

ACROSS THE FIRM | FREE SPEECH | HOMELESSNESS | PUBLIC RECORDS | AWARDS





Davis Wright Tremain LLP is a national, full-service business and litigation law firm representing clients located in the United States and around the world.

**The firm was founded on a simple guiding principle:**

to provide clients with high-value legal services customized to their particular needs. Today the firm has grown to include approximately 500 attorneys and nine offices, covering a wide range of practice and industry areas. We believe that all citizens deserve a voice and representation and that all lawyers have an obligation to assist people and organizations that otherwise would effectively have no access to the justice system. We are pleased to provide you this report on our pro bono activities during the 12 months ending Sept. 30, 2015.

**[DWT.COM/PROBONO](http://DWT.COM/PROBONO)**

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> **Jeffrey P. Gray**  
Managing Partner

# Dear Clients & Friends,

As I look back over the past year, I am very pleased and incredibly proud of what we have been able to accomplish through our pro bono activities. As you will see from the stories in the report, we have helped people traditionally underserved by the legal industry and have made a positive difference in the communities where we work and live. In many cases, we have changed lives and given people hope.

Our commitment to pro bono work is an important part of who we are as a firm and something for which we can all be proud. I feel very fortunate to be a part of a firm where pro bono activities are encouraged and valued, and I look forward to many more pro bono successes in the future.

I hope you enjoy reading the report.

## In the latter part of 2014 and throughout 2015, we continued to work on behalf of constitutional speech rights and continued to press for more government transparency by increasing the accessibility to government records.

- We successfully concluded an on-campus speech case that we first filed in January 2008.
- Our lawyers were successful in getting the IRS to agree to make the tax returns of nonprofits available to the public in a clearer and easier-to-read format.
- We won two victories to enforce the right of the public and the media to access public records on behalf of a prisoner newspaper.
- A team was successful in thwarting the efforts of a California city to silence a persistent critic by means of a copyright claim.
- An associate in our Portland office won a decision on behalf of the Oregon ACLU that allows Oregon courts to consider the merits of cases involving important issues even when the case becomes moot.

## We also expended considerable efforts on behalf of individuals, organizations and small businesses.

- A Seattle team submitted an amicus brief on behalf of the Innocence Network to the Montana Supreme Court.
- An Anchorage team won a default judgment for a client defrauded over a mobile home.
- A Bellevue associate successfully sealed juvenile records that were a barrier to employment for a veteran.
- A San Francisco partner secured a work authorization for a victim of trafficking.
- Our New York lawyers facilitated a legal workshop geared toward startup nonprofits.
- Teams of lawyers in multiple offices participated in a variety of legal clinics to assist low-income tenants facing eviction, youth aging out of foster care, veterans, individuals seeking records expungement or vacating, small businesses, homeless adults and youth, domestic-violence survivors, Medicare Part D recipients, and individuals needing assistance with the preparation of income tax returns.



> **Julie Orr**  
Pro Bono Administrator

Managing the firm's pro bono program gives me the opportunity to work with and support our talented lawyers who provide their unique legal skills in service to the community. The firm has a pro bono policy that encourages participation and gives our lawyers the latitude to engage with clients and issues about which they are passionate.

The primary purpose of our pro bono program is to provide access to lawyers for people, organizations and causes that might otherwise not have it, while making it possible for our lawyers to meet their ethical obligation to do pro bono. We also value the opportunities for legal skills development for our junior associates and mentorship and investment for our senior lawyers.

In addition, our community partners, who do this vital work every day, make it possible for us to participate by providing many of the matters, training and technical support.

Each story is fundamentally about the people of our communities and demonstrates how the lawyers and staff at DWT are giving back to them.



> **Christopher R. Helm**  
Partner and Chair, Pro Bono & Public Service Committee

As I wrap up my first year as chair of our Pro Bono & Public Service Committee, it is an honor and a pleasure to reflect upon our many accomplishments over the past year. This report covers the 12-month period from October 2014 through September 2015. At DWT, more than 375 lawyers have provided these services this past year. However, they have been supported by countless more paralegals and staff who are equally committed to serve the community.

As a signatory to the Law Firm Pro Bono Challenge, we are mindful that the applicable definition of what "counts" as pro bono falls into three categories: (a) the delivery of legal services to persons of limited means or to organizations in matters which are designed primarily to address the needs of persons of limited means; (b) the provision of legal assistance to individuals, groups or organizations seeking to secure or protect civil rights, civil liberties or public rights; and (c) the provision of legal assistance to... organizations in matters in furtherance of their organizational purposes, where the payment of standard legal fees would significantly deplete the organization's economic resources or would be otherwise inappropriate.

Of the more than 21,700 hours of legal work provided by our lawyers, paralegals, librarians and other staff, which fit within this definition, over 15,000 hours were spent in service to low-income clients and the organizations that serve them, more than 5,000 hours were devoted to protecting civil rights or public rights, and 1,700 hours were contributed in service to low-income nonprofits. I should add that our lawyers contributed an additional 22,000 hours (not qualifying as pro bono under the above definition) to community and civic organizations.

As you read the stories in our report, you may be touched and sometimes enlightened. You will discover that some of the cases present interesting legal issues. However, each story is fundamentally about the people of our communities and demonstrates how the lawyers and staff at DWT are giving back to them.

# 12 MONTHS OF PRO BONO WORK

October 2014 through September 2015

## 21,702

TOTAL PRO BONO HOURS BY DWT LAWYERS  
AND PARALEGALS DURING 12 MONTHS

## 66%

DWT LAWYERS PARTICIPATED IN PRO BONO  
WORK DURING THIS PERIOD

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# \$9.5 Million

TOTAL VALUE OF PRO BONO WORK DURING THIS PERIOD



**DWT** IS DEVOTED TO HELPING OTHERS  
WITH OUR **PRO BONO WORK.**

Our attorneys have a broad range of interests and political philosophies, and they are free to pursue those interests within the guidelines of our pro bono program. These projects are often emotionally demanding and may even involve unpopular causes or clients. But they're always rewarding.

# Across The Firm



# HELPING EX-OFFENDERS Compete for Jobs and Reintegrate into Society



> **Karen Henry**  
Counsel | LA

**ACCORDING** to estimates compiled by the National Employment Law Project, nearly 65 million people in this country—roughly a quarter of the U.S. population—have been convicted of a criminal offense. Meanwhile, the Bureau of Justice Statistics says an average of 700,000 inmates will be released from federal and state prison each year, not counting the number of inmates expected to be released from local jails,

including California, have implemented policies that help qualified people with criminal records compete more fairly in the job market. Among these policies is the availability of an expungement.

An expungement allows an ex-offender who meets certain conditions to open his or her criminal case, set aside the conviction, and dismiss the case. After an expungement is obtained, the

The ability to secure and maintain employment is a critical element of any ex-offender's successful reintegration into society.

The ability to secure and maintain employment is a critical element of any ex-offender's successful reintegration into society. However, Americans with criminal records encounter significant legal and social barriers that thwart their job searches and block employment opportunities. Many prospective employers have implemented blanket policies against hiring ex-offenders, regardless of the applicant's age, the date of the offenses and/or evidence of rehabilitation.

Recognizing that this growing number of unemployable workers threatens the health of the economy, and that providing opportunities for stable employment lowers recidivism and increases public safety, many states,

person's record no longer shows the conviction, and he or she can lawfully answer "no" on a private employer's job application when asked whether he or she has been convicted of a crime.

Understanding the critical role expungements can play in helping ex-offenders rebuild their lives, DWT's Karen Henry guided and led the creation of the Fresh Start Expungement Clinic, which was held on two consecutive Saturdays in August at the Crossroads United Methodist Church in Compton, Calif., where Karen grew up. Karen enlisted her alma mater, Southwestern Law School, to recruit student volunteers who worked at the clinic. These students were trained and supervised

by volunteer lawyers from the Legal Aid Foundation of Los Angeles. The church and the city of Compton provided support and food. Nearly 100 individual petitions were handled at the event, with more than two dozen other people receiving counseling.

"This means so much for the participants," said Karen. "To not have to be identified as a criminal marks an end to a difficult period in their life, and permits them to rejoin society. I am so proud of all the organizations that came together to provide this incredibly important service."

In a formal letter thanking Karen for her role in organizing the clinic, the Honorable Aja Brown, mayor of Compton, wrote: "I am extremely grateful for the compassion you have for our community and your vision to assist our residents in removing barriers to employment." She added: "Every detail was well thought out and it was evident that you were truly led by love to touch the lives of our community through service." ■

"I am extremely grateful for the compassion you have for our community."

## 65 Million Ex-Offenders

ACCORDING TO ESTIMATES COMPILED BY THE NATIONAL EMPLOYMENT LAW PROJECT, NEARLY 65 MILLION PEOPLE IN THIS COUNTRY—ROUGHLY A QUARTER OF THE U.S. POPULATION—HAVE BEEN CONVICTED OF A CRIMINAL OFFENSE



## Reason To Help

The growing number of unemployable workers threatens the health of the economy.

# IMPORTANT CONSTITUTIONAL LAW

## Case Won by Associate at Oregon Supreme Court

**I**n one of the most important constitutional law cases in Oregon in recent years, Portland associate Alan Galloway won a decision that allows the courts of Oregon to consider the merits of cases involving important issues even when the case becomes moot—that is, when the court’s decision will no longer affect the parties’ interests directly.

Until recently, Oregon was the only state that did not recognize any jurisdiction to hear moot cases. Federal and state courts had long recognized and applied exceptions, such as the federal doctrine allowing courts to hear cases that are “capable of repetition, yet likely to evade review.”

So, for instance, if discrimination at an Oregon public high school resulted in a student being barred from giving a graduation speech, but the ceremony had passed, the case would become moot before it can reach the appellate courts and would therefore be dismissed—leaving the merits unresolved. Similarly, many key election-law cases became moot before they could reach the appellate courts—again, leaving key questions of election law unresolved by the Oregon Court of Appeals and the Oregon Supreme Court.

In 2007, the Legislative Assembly passed a law that directed courts to start applying the capable-of-repetition exception. But it was uncertain whether the Legislative

Assembly had the authority to override what the Oregon Supreme Court had previously said was a constitutional justiciability requirement.

That question finally reached the court in this case, *Couey v. Atkins*, in which a signature-gatherer for ballot initiatives challenged the constitutionality of a state statute that prohibited individuals from gathering signatures for pay in one campaign while gathering signatures on a volunteer basis for another campaign. During the pendency of the litigation, however, the election occurred, and since the campaigns were over, plaintiff was no longer working as a paid signature collector and a volunteer. The Secretary of State moved for summary judgment on the ground that the action had become moot. The secretary won at trial and on appeal. Accordingly, it looked as though the courts might never be able to decide whether the law at issue violated plaintiff’s constitutional rights of free expression and association.

The American Civil Liberties Union of Oregon Inc., asked Galloway to file an amicus brief in the case. After Galloway had filed the brief, the petitioner’s counsel asked if he would also take on the portion of the oral argument addressing the court’s jurisdiction to hear moot cases. Galloway argued the case in June 2014.

In a decision issued a year later, the court adopted the position that Galloway (representing the ACLU) had advocated. The justices also cited an

article by DWT partner Greg Chaimov, as they found that the state legislature did possess the constitutional authority to enact the “capable-of-repetition” statute.



The decision “does change the landscape in Oregon significantly,” says Galloway. “In recent years, there have been several cases dismissed as moot, preventing the Oregon Supreme Court from providing the public and/or government with needed clarifications of the law. In this case, for instance, the Court of Appeals had upheld dismissal of the case, preventing us from finding out whether the restriction on signature-gatherers is constitutional or not.” That question will now be addressed on remand. But the larger objective—gaining the ability to obtain decisions from the state’s highest court on important constitutional issues, even in types of cases that often become moot before reaching the court—has been achieved. ■

# First-Year Associate Wins at Oregon Appeals Court on Behalf of Wheelchair-Bound **VETERAN DENIED MEDICAL TRANSPORT**

**FIRST-YEAR** associate Caitlin Shin won a ruling in August from the Oregon Court of Appeals on behalf of a wheelchair-bound veteran who was denied transportation to a medical appointment by a state contractor.

The two-judge panel found that even though our client no longer had need for the specific appointment, Oregon's law providing for a capable-of-repetition exception when determining mootness (see previous story - p.8) applied in his case.

Shin, a 2014 University of Washington Law School grad, raised her hand to assist this pro se client after the Court of Appeals sought briefing on the case. The referral came from the Oregon State Bar's Appellate Pro Bono Program, whose Executive Committee Members include DWT partner Derek Green. Portland litigation partner Greg Chaimov also encouraged Shin to take the case and helped review her briefing.

The veteran is paralyzed and covered by Oregon's version of Medicaid, known as the Oregon Health Plan. After losing both his wheelchairs to theft, he called the health plan's transportation provider, TransLink, for help traveling to a doctor to seek a replacement. But his request was denied because TransLink determined the veteran's appointment was not with the provider closest to his home. When he later sought a hearing on the

matter with Oregon's Division of Medical Assistance Programs, he was told his hearing request had arrived too late. He sought a hearing on the timeliness of his hearing request. That too was denied.

Shin was tasked with arguing that his case fell under the mootness exception provided for in the 2007 Oregon law. "There's not a lot of guidance on when this statute would apply," she says. But she succeeded in persuading the judges that our client had standing, that the government's act was "capable of repetition" (since TransLink could deny future requests), and that similar acts were "likely to evade judicial review in the future" (since a medical appointment would arrive sooner than any denial could be adjudicated)—all as required under the law.

Working on the case was a great experience, Shin says. "It was really rewarding to help a pro se litigant who had done quite well on his own, to help him with understanding civil procedure and constitutional law. It was also fantastic to be handling a Court of Appeals case and doing all kinds of things for the first time—setting up my account, filing a motion for an extension of time." Shin also got experience with client advocacy in settlement discussions and in communicating with the state. "Winning is really great too," she adds.

While Shin's work is over, the case has been remanded to address the timeliness of the veteran's request for a contested case hearing. Our client says he did not meet the required deadline for protesting TransLink's actions because TransLink's written note of refusal was sent—twice—to the wrong mailing address. Issuance of that notice is what starts the clock running for a hearing request.

## TransLink's note of refusal was sent to the wrong address.

If the veteran is able to prevail on the timeliness issue, the court will turn next to the merits of his transportation request. He contends that TransLink relied on an irrelevant administrative rule to deny him service, and that the agency lacks the knowledge to overrule a medical provider's recommendation. ■



DWT  
Associate

> Caitlin Shin  
Associate | PDX



### Seattle Team Helps Provide Post-Conviction Relief on Behalf of the Innocence Network

Two of DWT's Seattle lawyers, Taylor Ball and Ross Siler, submitted an amicus brief to the Montana Supreme Court on behalf of the Innocence Network, seeking to reverse a district court decision denying a petition for post-conviction relief on behalf of Robert Wilkes. Mr. Wilkes was accused of deliberate homicide after his son tragically died while in his care. His conviction turned largely on a diagnosis of abusive head trauma (also known as shaken baby syndrome), and his attorney did not put on any scientific evidence to combat this diagnosis.

Our brief focused on recent legal and scientific developments regarding problems with the use of abusive head trauma as a basis for conviction. The science underlying abusive head trauma is questionable and yet, given the tragic details surrounding these cases, there is reluctance among courts and prosecutors to challenge the diagnosis or to consider alternative causes of death, including accidental causes. But this summer, the Montana Supreme Court reversed the district court's decision and instructed it to reconsider Mr. Wilkes' claims of insufficient evidence and ineffective assistance of counsel. Montana Innocence Project is handling the case going forward.



### New York Team Achieves Settlement to Keep Confidential Medical Information Confidential

New York associate Yonatan (Yoni) Berkovits, working with partners Ed Davis and James Rosenfeld, negotiated an important settlement for a client whose confidential medical information was disclosed to a family member by his pharmacy. Pursuing litigation would have risked further exposing the client's HIV status and details of his family life. Instead the client came away with an appropriate settlement. The case was referred to DWT by The Legal Action Center, the only nonprofit law and policy organization in the U.S. whose sole mission is to fight discrimination against people with histories of addiction, HIV/AIDS, or criminal records, and to advocate for sound public policies in these areas.



### Anchorage Team Wins Default Judgment for Client Defrauded Over a Mobile Home

A DWT team in Anchorage is helping a client who was defrauded in a mobile-home sale. Their client, who runs a housecleaning service, purchased a mobile home from a seller who did not own the home. Although the seller acknowledged that he owed her the \$7,000, he did not make good and stopped answering phone calls.

Our team stepped in and eventually filed suit. After associate Kristal Leonard obtained a default judgment, associate Jason Hartz joined the team to first-chair collections efforts. Hartz and

Leonard first attempted to resolve matters informally by setting up a workout payment schedule with the seller. He initially appeared receptive to these informal efforts, but then once again dropped off the map and did not return calls or emails. Leonard and Hartz, along with paralegal Kim Oberst and with strong assistance from legal secretary Mary Todd, then moved forward with traditional collections work, including bank sweeps, post-judgment discovery, and attachment/garnishment. The first proceeds from the initial bank sweeps were released by the court in August.



### Seattle Team Aids Microenterprises, Small Nonprofits, and Low-Income Entrepreneurs

Nonprofit organizations and small businesses face a similar challenge: With limited resources, they don't always have access to vital advice and support. In 2003, attorneys in Seattle got together to form an organization that would help provide legal services for these clients. DWT has been closely involved with this organization, now known as Wayfind, from its beginnings. David Lawson, an associate in our tax-exempt organizations practice, currently has a seat on the Wayfind board and regularly devotes time to Wayfind-related matters, as does Maya Yamazaki, a frequent volunteer and trainer whose practice focuses on IP, media and technology law. "Wayfind client needs can encompass everything from Form 1023 exemption applications to contract review to corporate work to employment work—essentially, anything that's not litigation," says Lawson.

In September, Wayfind joined forces with the Seattle Office of Economic Development and numerous other partners to organize a special Small Business Legal Clinic for clients who are at or below 80% of King County's median income. The event was part of the United Way Day of Caring and a half-dozen DWT lawyers participated, including Yamazaki, who coordinated with 10 lawyer volunteers from Microsoft, and Lawson. Attorney teams and law students from Seattle University met with clients, whose questions encompassed choice of entity, intellectual property, contracts, and employment issues. The clinic was held at the headquarters of Ventures, an organization that helps low-income people create small businesses, and was attended by almost 50 Ventures clients and nonprofits. Also supporting the event were Pinchot University's Center for Inclusive Entrepreneurship and Mercy Corps NW.



### LA Team Helps Salvadoran Family Seek Asylum

DWT attorneys Michael Baldock and Brendan Charney assisted a young man seeking asylum from gang violence in El Salvador. When our client refused to join the infamous "MS-13" street gang, they beat him and threatened to kill him if he did not "disappear" or join the gang. The young client was forced to make a perilous journey to flee persecution by MS-13. Because he arrived in the United States alone as a minor, he enjoys the benefits of relaxed procedures and may present

his asylum claim to an asylum officer in an informal setting, rather than within the adversarial process of immigration court. A decision on the asylum application currently is pending. Loring Rose also recently accepted representation of the client's sister, who was also forced to flee from MS-13. Both clients were referred by Kids in Need of Defense (KIND).



### Bellevue Associate Helps Veteran Seal Juvenile Record

Robert Miller, an associate in our Bellevue office, assisted a veteran referred through the Veteran's Project at Northwest Justice Project. The client served in the military from 2002 to 2005 and was honorably discharged. He is now in his mid-30s and raising a child on a very small income. He found that his juvenile burglary offense from 1996 and other juvenile and adult records were barriers to employment. Working with him, Miller was able to obtain a court order to seal the records. Since Washington state expungement statutes are very narrow, the burglary record was the only one that could be expunged. Even so, the client was extremely grateful to no longer have this on his record after nearly 20 years. The process involved preparing the motion, declaration, etc., and filing it with the court. The prosecutor agreed that Miller's client met all the requirements and signed a stipulated order. We then sent the order to all relevant state agencies and police departments to make sure they know they may not disseminate the record.

The client recently started his own small business providing process service.



### San Francisco Partner Secures Green Card for Trafficking Victim

Asian Pacific Islander Legal Outreach (APILO) in San Francisco routinely helps trafficking victims and their dependents receive T visas. Once trafficking victims have been in the U.S. for three years under T-1 visa status, they and their dependents are usually able to apply for adjustment so that they can become lawful permanent residents. DWT's San Francisco office has developed a partnership with APILO to handle as many of these adjustment applications as possible. DWT partners Vid Prabhakaran, James Hsue and Phil Albert are helping.

Three years ago, APILO managed to secure a T visa for a woman who was being forced to work at a nightclub to pay off her debt for being brought into the country. She was sexually assaulted and nearly raped during her indentured servitude. Obtaining the visa enabled her to leave that job and seek employment elsewhere.

When she came back to APILO to apply for adjustment, she was matched with Prabhakaran. In mid-April her green card came in. Prabhakaran was looking forward to giving it to her and seeing her happy reaction. He was not prepared for her to immediately ask with tears in her eyes: "Does this mean I can go see my mother? I haven't seen her in 12 years." Prabhakaran replied: "Words cannot express my joy in being able to say 'Yes' to that question." Prabhakaran was also able to secure a green card for her husband.

"Does this mean I can go see my mother? I haven't seen her in 12 years."



### Seattle Lawyers Help Young Sisters in a Distressed Family

Joseph Hoag represented a guardian ad litem in a heartbreaking family matter. There were three legal actions occurring with the family—a family law case, a criminal case and a dependency proceeding. Initially, Gillian Murphy worked up the dependency case and appeared at several hearings. When that action was delayed pending the criminal trial, Murphy passed the case to Hoag to go on parental leave. In the course of the dependency proceedings, Hoag was able to keep the Court Appointed Special Advocate (CASA), who was representing the best interests of two young girls, from throwing in the towel, which she was close to doing due to opposing counsel's tactics. The CASA was a valuable advocate for the children.

The most memorable moment was when the judge entered the order for the father in the maternal medical abuse case—it was such a good outcome for the children.

The girls were exhibiting strange medical symptoms. They lived with their mother who was a nurse. Their father was a drug addict. The mother told hospital staff that each girl suffered from a host of medical problems, from seizures to sleep apnea to hypertension. Most often though, she claimed her daughters weren't eating. She convinced doctors to surgically implant a feeding tube in her older daughter. Both girls were put on powerful medications typically

inappropriate for children their age and placed on strict limited diets. It turned out none of this was necessary because the mother was causing the problems and manufacturing the symptoms. This was eventually discovered when the parent of a child in the next hospital bed observed the mother repeatedly forcing her daughter to vomit.

Both girls were placed in protective custody that day. The father had rehabilitated and wanted to be a responsible parent. It took a number of hearings and proceedings for the father to win custody.

In the dependency action, Hoag attended mediation and participated in settlement negotiations and court hearings. He collaborated with the attorney general and the father's attorney. The most memorable moment was when the judge entered

the order for the father in the maternal medical abuse case—it was such a good outcome for the children. The mother was eventually tried on charges of medical child abuse. Acknowledging that she would likely be convicted, she entered an Alford plea and avoided a prison term. Hoag says he has always wanted to do pro bono work for families to protect them from abuse and manipulation.



### New York Lawyers Provide Valuable Instruction for Nonprofits

J.J. Leitner and Coleen McGrath, both counsel in our New York office, facilitated a workshop in April for New York Lawyers for the Public Interest (NYLPI). The workshop was geared toward startup nonprofits, with information on incorporation and tax exemption including what it means to be nonprofit and tax exempt, the advantages and disadvantages, and how to apply.

Jessica Lauredan, an assistant director of pro bono programs at NYLPI, said: "Your presentation was extremely thorough and accessible, and you are both great teachers. This workshop (as you can glean from attendance) is highly valuable to the nonprofit community. There are very few offerings of this kind in NYC."



### Portland Associates Help Undocumented, Unaccompanied Minors Seek a Safer Future

Undocumented minors who have entered this country unaccompanied by adult family members and without any family here into which they can be placed are particularly vulnerable. Our Portland associates, Bethany Coleman-Fire and Caitlin Shin, have partnered with a nonprofit law firm called Immigration Counseling Service to assist these young people with their immigration matters.

"These kids have often faced obstacles we are barely able to imagine," says Shin. "They just want to grow up

safe, work hard, and be productive members of society. For a young lawyer, these cases also present great opportunities to develop legal skills. I've spent time strategizing about the best way for the client to obtain status, drafting compelling arguments, and working on proceedings in both state and federal court."

"These kids have often faced obstacles we are barely able to imagine."

The work generally involves two concurrent issues: a) defending the minors in deportation proceedings, and b) helping them apply to become legal resident aliens in the U.S. Coleman-Fire and Shin are both working on their first cases.

"Stories about the hardships and incredible journeys of some of these teenagers instantly captured my heart and my interest," says Coleman-Fire. Especially compelling to her, she says, is the fact that Portland hosts most of the LGBTQ unaccompanied minors in the country, some of whom had to flee prejudice and abuse in their home country. "These clients demonstrate regularly the power of human resilience," says Coleman-Fire, "and give us the chance to try to provide a much safer and secure future."

An interaction with a therapy animal can bring comfort but also create health benefits.



### Seattle Associate Helps Domestic Violence Victims Make Their Best Case for a Protection Order

As a volunteer for the Domestic Violence Impact Project (DVIP) in Seattle, Lauren Dorsett helps victims of domestic abuse obtain protection orders against abusers. Every month, DVIP provides in-shelter legal clinics during which survivors can meet with a volunteer attorney to get help preparing a petition for a protection order, a renewal for a pre-existing protection order, or an appeal from denial of protection orders. The purpose of the clinic is to educate and prepare survivors to go into court pro se. Dorsett helps them gather evidence, draft declarations and tell their stories. Dorsett says she finds it "beyond rewarding" to be able to help.



### Team Assists Bellevue Therapy-Animal Training Organization

Pet Partners is a Bellevue-based national organization that evaluates and registers therapy animals and their handlers. Therapy animals—which include not only dogs and cats but also the occasional pig and miniature horse—are different from service animals in that they interact with many people in a variety of situations, from social visits to goal-oriented interventions under medical supervision. An interaction with a

therapy animal can bring comfort but also create health benefits like lowering blood pressure or reported levels of pain while impacting mood. Pet Partners teams can be found in a wide variety of settings, such as reading programs in libraries, hospital units, assisted living, and supporting those in crisis. A team of DWT lawyers recently counseled the client on the uses of electronic signatures in preparing and executing agreements with therapy-animal handlers. We have also assisted Pet Partners in drafting a sponsorship agreement for use with corporate sponsors.



### Seattle Partner Aids Homeowner in Qualifying for Low-Interest Home-Improvement Loan

Clayton Graham stepped in to help a client with an unusual real-property issue. The client was unable to qualify for a low-interest home-improvement loan from King County, Wash., to complete repairs to her leaky roof and other critical maintenance items affecting her home. The county initially denied the loan because the Torrens Act registration for the property had not been updated to include several conveyances over the prior 50 years. Graham, with help from paralegal Annette Gilliland, was successful in getting the court order and approvals necessary to reregister the land in the client's name. There were a number of twists and turns due to the amount of time that had passed since the initial "gap" arose on the title, and the number of transactions affecting the property in the prior half-century. The client's home-repair loan can now move forward.

## DHS agreed not to oppose Prabhakaran's motion to terminate deportation proceedings.



### San Francisco Partner Helps Child Immigrant Stay in the U.S. to Live With Her Brother

Vid Prabhakaran succeeded in having the Department of Homeland Security terminate its deportation proceedings against his client, who came to this country to escape a terrible family situation in Guatemala. A former DWT associate secured the client's brother to be her legal guardian in July 2014 and applied for Special Immigrant Juvenile Status, a program to help foreign children in the United States who have been abused, abandoned or neglected. After that status was approved, DHS agreed not to oppose Prabhakaran's motion to terminate deportation proceedings against our client, and the court granted our motion. Prabhakaran will now be seeking to adjust her status to allow her to become a permanent resident.



### Seattle Associate Helps Alaska Railroad Preservationist Organization Gain Tax-Exempt Status

Engine 557 Restoration Company is a small nonprofit in Anchorage dedicated to the restoration and operation of the Alaska Railroad's last operating steam engine. There are only five examples left in North America of this particular class of locomotive, and none is currently operational.

Seattle associate David Lawson has been working with the company to get tax-exempt status, which it obtained in November 2014. The status allowed the organization to receive deductible contributions and opened up new sources of grant funding.

There are only five examples left in North America of this particular class of locomotive.



### Seattle Office Hosts Pro Bono Fair

DWT's Seattle office was pleased once again to host a pro bono fair during National Celebrate Pro Bono Week in October 2014. Nearly two dozen local pro bono organizations were on hand to discuss opportunities for service with the many lawyers and law students who attended.



### New York Associate Consults With Entrepreneurs at Small Business Legal Academy

DWT associate Jisoo Kim was among attorneys from 25 different firms who volunteered their time at the Small Business Legal Academy, held at Brooklyn Law School in November 2014. The Academy is a one-day event bringing together corporate law firms, civil legal services organizations, financial services consultants, government agencies, and other service providers to strengthen New York City's vibrant and diverse small-business community. Nearly 150 aspiring entrepreneurs attended the event to receive free consulting services, learn about starting and managing a business or nonprofit, and uncover solutions to the legal and financial challenges facing their organizations.



### LA Partner Helps Protect Access to Services for People with Developmental Disabilities

Working with Disability Rights California (DRC), Terri Keville has been advocating on behalf of people with developmental disabilities to obtain fair notice and access to services. California's Lanterman Act imposes important requirements on regional centers concerning services provided to their developmentally disabled consumers. After receiving numerous

Nearly 150 aspiring entrepreneurs attended the event.

complaints that certain centers failed to comply with Lanterman Act requirements — such as providing timely, adequate notices of denial, reduction or termination of services; providing information and access to due process rights; arranging for services promptly; and providing required translations — the DRC has been working with Keville to advocate, negotiate and obtain very substantial positive changes in how regional service centers serve their consumers.



### Seattle Associates Help Victim of Narcotraficantes Pursue a New Life

Shortly after arriving at DWT, two new associates, Tim Han and Omar Vasquez, volunteered to work with Kids in Need of Defense (KIND), a nonprofit organization that partners attorneys with unaccompanied immigrant and refugee youth who are facing deportation proceedings.

KIND paired them with Ernesto, now 18 years old, who came from Northern Mexico as a victim of human trafficking. Having grown up in a community where public institutions have been overrun by a major drug cartel, Ernesto had been surrounded by violence his whole life. Like many young males in his community, he had been pressed into gangs and made to work against his will by threat of violence to him, his mother and his younger siblings. On several occasions, the narcotraficantes physically beat Ernesto and forced him to accompany groups of migrant workers crossing the U.S.-Mexico border into the desert of southwest Texas, where he was always immediately apprehended by Customs and Border Patrol agents.

(After conducting research into cartel patterns and practices, we believe he was being used to decoy U.S. law enforcement so that the narcos could smuggle drugs across the border.)

With only one month before Ernesto Han and Vasquez quickly worked to secure Unaccompanied Refugee Minor (URM) services for Ernesto, which provided him an opportunity to attend classes and live in a youth shelter with excellent facilities, instead of a holding cell. After several interpreter-assisted interviews, they built a rapport with Ernesto and came to understand the violence he had endured. They then filed a T-visa application (for human-trafficking victims) and an application for asylum, both of which are pending.

After a few hearings in Immigration Court and a cooperative interview Ernesto gave to special agents from Immigration and Customs Enforcement, we are proud to report that Ernesto was granted Continued Presence (which is a temporary legal status), work authorization and a Social Security number. Now, with the support of a local community organization, Ernesto lives in an apartment just outside Seattle, where he attends high school and works a nearly full-time job to pay rent and provide for himself.



### Heart of Justice Award Winner

Each year, DWT honors one associate at the firm who has demonstrated an outstanding commitment to pro bono service. This year, the Heart of Justice Award was given to James Corning, a litigation associate in our Seattle office.

Corning describes his commitment to pro bono work this way:

“For too many people, the doors to the courthouse are closed because they cannot afford the high cost of legal representation. Instead, they are forced to represent themselves without any legal experience or training, and their struggles are among the most important they face in their lives—preserving housing, fighting unlawful discrimination, avoiding deportation, protecting themselves from domestic violence, and so on. The very least we can do is donate some small portion of our time to help that underserved population get equal access to the justice system.”

## This year, the Heart of Justice Award was given to James Corning.

Other nominees for the award were Alison Schary (DC), Yonatan Berkovits (NYC) and Vanessa Norman (ANCH). ■



# ACROSS THE FIRM

DWT Attorneys and Staff Featured in the Previous Section



> **Phil Albert**  
Partner | SF



> **Michael Baldock**  
Associate | LA



> **Taylor Ball**  
Counsel | SEA



> **Yonatan Berkovits**  
Associate | NYC



> **Brendan Charney**  
Associate | LA



> **Bethany Coleman-Fire**  
Associate | PDX



> **James Corning**  
Associate | SEA



> **Ed Davis**  
Partner | NYC



> **Lauren Dorsett**  
Associate | SEA



> **Annette Gililand**  
Paralegal | SEA



> **Clayton Graham**  
Partner | SEA



> **Tim Han**  
Associate | SEA



> **Jason Hartz**  
Associate | ANCH



> **Joseph Hoag**  
Associate | SEA



> **James Hsue**  
Partner | SF



> **Terri Keville**  
Partner | LA



> **Jisoo Kim**  
Associate | NYC



> **David Lawson**  
Associate | SEA



> **J.J. Leitner**  
Counsel | NYC



> **Kristal Leonard**  
Associate | ANCH



> **Coleen McGrath**  
Counsel | NYC



> **Robert Miller**  
Associate | BEL



> **Gillian Murphy**  
Counsel | SEA



> **Vanessa Norman**  
Associate | ANCH



> **Kim Oberst**  
Paralegal | ANCH



> **Vid Prabhakaran**  
Partner | SF



> **James Rosenfeld**  
Partner | NYC



> **Alison Schary**  
Associate | DC



> **Caitlin Shin**  
Associate | PDX



> **Ross Siler**  
Associate | SEA



> **Mary Todd**  
Secretary | ANCH



> **Omar Vasquez**  
Associate | SEA



> **Maya Yamazaki**  
Associate | SEA

# Free Speech



# City Government Attempt to **SILENCE A CRITIC IS BLOCKED**



**A CALIFORNIA** city's attempt to silence a persistent critic by means of a copyright claim was thwarted in court, thanks to pro bono work from a DWT team.

The action arose from videos posted to YouTube by Joseph Teixeira, a resident of Inglewood, a city of about 112,000 people located near Los Angeles International Airport. The videos feature short clips from the official recordings of Inglewood City Council meetings, heavily modified with critical

comments from Mr. Teixeira about Inglewood mayor James T. Butts Jr.

One video, for example, juxtaposes original footage documenting traffic problems near a well-known Inglewood event venue with short clips of Mayor Butts positively characterizing the traffic situation in remarks at a council meeting. Mr. Teixeira also criticizes the mayor's remarks directly with on-screen text superimposed over the meeting footage and with narration accusing the mayor of lying.

The city filed suit against Mr. Teixeira in March 2015, claiming that his use of footage from the city's public meeting videos constituted copyright infringement. The city's complaint sought actual damages and attorneys' fees, as well as injunctive relief. The defense of Mr. Teixeira came to DWT through Californians Aware, an advocacy organization focused on open government and public forum law.

In a comprehensive opinion granting Mr. Teixeira's motion to dismiss, U.S. District Judge Michael W. Fitzgerald agreed with our client that the city is precluded by California law from asserting copyright protection in public records of its council meetings. Even if it could assert such a claim, said the judge, the videos are protected by the fair-use doctrine. Indeed, the judge wrote, the videos targeted by the city's complaint "are quintessential transformative works for the purpose of criticism and commentary on matters of public concern."

Finding that any amendment of the claim would be futile, the court dismissed the city's complaint without leave to amend.

Mr. Teixeira was represented by L.A. associates Dan Laidman and Diana Palacios, along with San Francisco partner Thomas R. Burke. ■

## *The Team*



> **Dan Laidman**  
Associate | LA



> **Diana Palacios**  
Associate | LA



> **Thomas Burke**  
Partner | SF

# PARODY IS VINDICATED as Playwright's Use of "Three's Company" Is Found To Be Noninfringing

IN a case that Law360 called "one of the 7 biggest copyright rulings" so far this year, Davis Wright Tremaine prevailed in New York federal court on behalf of a playwright who had been accused of infringing the copyright in the television series, "Three's Company."

David Adjmi had gone to court seeking declaratory relief, after the owner of "Three's Company" threatened litigation to stop all production and publication of his play *3C*, an absurdist parody of the chirpy 1970s show. Recognizing the importance of this case for the cause of artistic expression, a long list of theater luminaries—including Edward Albee, Stephen Sondheim and Aaron Sorkin—had voiced their support for Adjmi.

In October 2013, the playwright enlisted our Seattle partner Bruce Johnson to help him resolve threats from the show's owners, DLT Entertainment. Johnson serves on the advisory committee for Theatre Communications Group, a national organization supporting the country's professional, nonprofit theaters. He was joined in the pro bono representation by now-former DWT

associate Camille Calman, who took the lead in writing the briefs, and partner Ed Davis, both in New York. The case was previously highlighted in DWT's Spring 2014 Pro Bono Report.

In an April 2015 ruling that received wide media coverage, U.S. District Judge Loretta A. Preska granted Adjmi's motion for judgment on the pleadings, agreeing that his play was "a highly transformative parody" of "Three's Company" and clearly allowed under the doctrine of fair use.

Adjmi had praise for his DWT team. "The quality of representation was astoundingly high," he said. "I felt a true partnership on every level from Ed, Camille, and Bruce. They were so respectful and so humane and caring. I am deeply grateful for the rigor and seriousness with which they approached the case and I'm thrilled that Judge Preska has rewarded that work with a judgment in our favor."

The parties have since settled the case, and the play will soon be published by Theatre Communications Group and by Samuel French Inc., two opportunities that were put on hold by threats of legal liability. The first post-litigation reading of *3C* took place in at the New School in New York City on October 26.

"From the very beginnings of theater, parody has been a part of the playwright's arsenal," said Johnson. "Aristophanes' *The Frogs*—which

opened in 405 B.C.—was a parody of other plays. *Hamlet* includes a parody of Christopher Marlowe, one of Shakespeare's competitors. Parody survives the development of modern copyright laws. For example, the first great novel in the English language, *Pamela*, was immediately followed by the parody, *Shamela*."



David Adjmi

Photo Courtesy of Berkeley Repertory Theatre

Johnson expressed gratitude to the Dramatists Legal Defense Fund, which submitted an important amicus brief in the case and was represented by its general counsel, Ralph Sevush, and by David H. Faux. Three entities that produced the off-Broadway run of *3C*—Rising Phoenix Repertory Inc., Rattlestick Productions Inc., and piece by piece productions Inc.—were brought into the case as counter-defendants by DLT Entertainment and were represented by Toby Butterfield and Andrew Ungberg of Frankfurt Kurnit Klein & Selz PC. ■

## The Team



> Bruce Johnson  
Partner | SEA



> Ed Davis  
Partner | NYC

# DWT Successfully Concludes **ON-CAMPUS SPEECH** Case and Launches National Campaign

**JULY** saw the successful conclusion of *Barnes v. Zaccari*, a pro bono case protecting student First Amendment rights that was first filed in January 2008. Our client, Thomas Hayden Barnes, was a student at Valdosta State University in Georgia who had peacefully protested, on environmental grounds, the university's plan to construct a new, \$30 million parking deck. In response to his activism, then-university president Ronald M. Zaccari personally ordered that Mr. Barnes be "administratively withdrawn" from the institution.

DWT partnered with the Foundation for Individual Rights in Education (FIRE) to rectify this violation of Mr. Barnes' constitutional right to due process, and to hold Zaccari and the university accountable. In the nearly eight years since litigation was first filed, the DWT team prevailed on summary judgment, won in two separate trips to the 11th Circuit, and won a jury award of \$50,000 to be paid by Zaccari for breaching his contract with our client. In July, the case wrapped up with a \$900,000 settlement between Barnes and the university, covering damages, out-of-pocket expenses, and attorneys' fees.

As the case progressed, Mr. Barnes finished his degree at another Georgia university, graduated from the University of Baltimore School of Law, and passed the Georgia bar. "It is fair to say that the events that led to this case and his long-running fight for vindication changed the direction of his life," says Robert Corn-Revere, a partner in our D.C. office and lead attorney on the matter. Lisa Zycherman and Ronnie London also devoted hundreds of hours to Mr. Barnes' case.

"This case changed the direction of his life."

This was DWT's first collaboration with FIRE, and it led directly to the firm being engaged by FIRE for the Stand Up for Speech project, a major litigation campaign to protect constitutional rights on university campuses across the country. So far, 10 cases have been filed as part of this initiative, which launched in July 2014, with more to come. ■



> **Robert Corn-Revere**  
Partner | DC



> **Ronald London**  
Counsel | DC



> **Lisa Zycherman**  
Associate | DC

The Team

# Home- lessness



## HOMELESSNESS



### Downtown Emergency Services Center Seattle

For many years we've been sending a team of lawyers and legal staff to this large homeless shelter every month to meet with shelter residents. We listen to their legal problems, which may include landlord/tenant disputes, issues for small claims court, resolving payment of legal costs and fees.

This year, among other clients, we met a young man who had arrived in Seattle from the Midwest in late 2014 to look for a job. Shortly afterward, his job offer fell through and his money was swindled by a dishonest landlord when he entered into a verbal rental agreement to rent and live aboard a boat moored in a marina. Once he'd paid most of the money he had for first and last month's rent and deposit, he moved onboard, only to learn that living aboard a moored boat was not permitted by the marina. Eventually the marina manager kicked him out, forcing him to leave his belongings behind.

When we met him he was living at a homeless shelter and working 12 to 15 hours a day as a day laborer. Our lawyers Brooke Howlett and Lisa Koperski provided legal assistance in his dispute with the landlord. Paralegal Andrea Carino and Seattle office facilities manager Lisa Wabik were able to help him with retrieving his belongings and storing them at the law firm temporarily. Over the months of assisting him, his life improved tremendously and he transitioned to more-permanent housing and earned pay raises at his job. He is no longer homeless in Seattle and is working toward obtaining relief from the landlord in the rental dispute.

Some of the most vulnerable clients we assist are those who are homeless or at risk of homelessness. Helping them preserve housing, keep or get benefits, and resolve other problems strengthens not only the individuals but our communities as a whole. We work with a number of organizations serving this population around the country.



### Washington Legal Clinic for the Homeless Washington, D.C.

Washington Legal Clinic for the Homeless (WLCH) works to use the law to bring justice to those who struggle with homelessness and poverty. DWT's Washington, D.C., lawyers have been volunteering with this program for almost 15 years. Leslie Moylan made it possible for a WLCH client to remain in a shelter with her one-year-old daughter and continue to receive child care. Moylan's client even wrote an email to the legal clinic expressing her gratitude. Moylan also helped a client obtain an extension of her housing subsidy payments, which were set to end, and assisted a client with an appeal of the denial of his SSI benefits. Tajma Rahimic preserved Section 8 housing for a tenant threatened with eviction and also assisted a client with a consumer warranty by facilitating negotiations with a mattress company.

the Housing Justice Project, Ruben Pagan has helped tenants prepare and submit reasonable accommodation and grievance hearing requests to secure basic rights such as therapeutic pet ownership, given advice on how to end unhealthy landlord-tenant relationships without jeopardizing valuable government subsidies or incurring negative marks on rental histories, and counseled non-English-speaking immigrants on their basic tenancy rights and how to enforce them. Pagan volunteers at HJP because "it's a great way to combat homelessness in Seattle while gaining invaluable experience working with clients' highly diverse experiences and varying degrees of sophistication." Other HJP volunteers include Conner Peretti and James Corning.



### Outside In Portland

Outside In helps homeless youth and other marginalized people move toward improved health and self-sufficiency. For many years lawyers in our Portland office have provided pro bono services to clients of this project.



### Housing Justice Project Seattle

King County Bar Association's Housing Justice Project (HJP), situated inside both the Seattle and Kent courthouses, provides legal advice and representation to low-income tenants facing eviction. While volunteering for



### Second Chance Legal Clinic San Francisco

Lawyers Committee for Civil Rights of the San Francisco Bay Area runs a Second Chance Legal Clinic. The clinic assists clients who are seeking to overcome barriers to employment and housing due to past arrest and conviction records. Colin Wells and Zeb Zankel, under the supervision of partner Tom Burke, are working on behalf of a homeless veteran, fighting to expunge a 25-year-old DUI record. He has committed himself to rehabilitation, earned a commercial driver's license and related certifications. The last hurdle on the path to his goal of being a truck driver is to expunge his record. Wells and Zankel filed a motion to expunge and will argue the motion.

Emily Sangi worked on behalf of a client who immigrated to the U.S. with his family as a child, and has been living in California for nearly five decades, but had not applied for citizenship, in part because he feared his previous criminal convictions would undermine his application. Under the guidance of partner Martin Fineman, Sangi worked with the client over the course of several months to prepare petitions to dismiss three convictions for offenses committed between two and three decades ago. The petitions included a declaration from the client expressing his regret for his past actions and

demonstrating his rehabilitation and nine letters of support from friends, family and colleagues attesting to the client's excellent character and positive contributions to the community.

Sangi represented the client at a court hearing and spent hours on the phone with court clerks navigating the unique issues presented by petitioning to dismiss a conviction so old that its court records had been purged. The courts ultimately granted the petitions and all three convictions have been dismissed and set aside. Throughout the dismissal process, Sangi kept in regular communication with the client's immigration attorney and secured certified copies of all relevant court papers to include in the client's citizenship application, which was filed this year.



### Homeless Women's Shelter Clinic Bellevue

For several years, lawyer Linda Atkins has volunteered at a legal clinic provided by the Eastside Legal Assistance Project (ELAP) at The Sophia Way. Sophia Way operates a day and night shelter for homeless adult women, providing shelter, life-skills training, social services and a path to permanent housing. Atkins typically has four appointments in a two-hour period, and for each woman, she does what she can to listen, triage, and refer to either one

of the ELAP legal-service programs or other community resources for help with their specific problems.

"The service adds substantial meaning to my legal practice and my life."

Virtually all the women Atkins has seen at Sophia Way once had jobs, homes and families. Homelessness happens for many reasons, but often it's divorce, domestic violence or medical problems that cause disability, job loss and debt. Atkins says it's her pleasure to serve these women "in whatever way I can and the service adds substantial meaning to my legal practice and my life." ■

# HELPING THE HOMELESS

Lawyers and Staff Featured in the Previous Section



> **Linda Atkins**  
Counsel | BEL



> **Thomas Burke**  
Partner | SF



> **Andrea Carino**  
Paralegal | SEA



> **James Corning**  
Associate | SEA



> **Martin Fineman**  
Partner | SF



> **Brooke Howlett**  
Associate | SEA



> **Lisa Koperski**  
Associate | SEA



> **Leslie Moylan**  
Associate | DC



> **Ruben Pagan**  
Associate | SEA



> **Conner Peretti**  
Associate | SEA



> **Tajma Rahimic**  
Associate | DC



> **Emily Sangi**  
Associate | SF



> **Colin Wells**  
Associate | SF



> **Zeb Zankel**  
Associate | SF

## REASONS TO HELP

578,424

PEOPLE IN JANUARY 2014 WERE EXPERIENCING HOMELESSNESS ON ANY GIVEN NIGHT IN THE UNITED STATES

49,933

ABOUT 9% OF HOMELESS PEOPLE ARE VETERANS

1/4

OF HOMELESS PEOPLE ARE CHILDREN

1/5

OF HOMELESS PEOPLE SUFFERS FROM UNTREATED SEVERE MENTAL ILLNESS

# Public Records



# SHEDDING LIGHT on Mistreatment of a Highly Vulnerable Population

**FOR** years, California's nonprofit Center for Investigative Reporting (CIR) has sought to document abuses at the state's homes for people with mental illness and developmental disabilities. About 1,700 highly vulnerable Californians, with conditions such as cerebral palsy and severe autism, live in these long-term health facilities, which are owned and operated by the state and regulated by the Department of Public Health.

CIR's research into conditions at these facilities has been obstructed, however, by limited access to information. When CIR submitted a public records request to the Department of Health, seeking a decade's worth of records relating to citations issued against a half-dozen facilities, the documents received were so heavily redacted that it was impossible to discern what had happened or what prompted the citations. Lawyers for the state contended the redactions were necessary because medical services provided to the developmentally disabled are confidential under California law.

Representing the center pro bono, a DWT team won a trial court ruling that more of the information should be released. However, that judgment was vacated in part by the Court of Appeal. The team turned next to the California Supreme Court. DWT's Rochelle Wilcox, assisted by Tom Burke, along with co-lead counsel from Jassy Vick Carolan LLP, successfully petitioned the court for review. In February 2015 they won a unanimous favorable decision.

The team successfully persuaded the court that California's Long-Term Care, Health, Safety and Security Act of 1973—which mandates that the public have access to citations that are issued to facilities found to be in violation of the law—was a special exception to California's general rule of confidentiality. The court found that while the names of patients affected by the alleged violations are not open to public inspection, the underlying facts giving rise to citations are required to be available to the public.

As a result, CIR was able to review the citations in-depth, and in April, they published a groundbreaking story. It detailed a record of disturbing negligence and neglect that had directly caused the deaths of 13 people since 2002, and indirectly caused the deaths of six more. "The centers often not only failed to protect residents from harm, but also had an active hand in resident mistreatment and deaths," CIR reported. ■

## The Team



> **Rochelle Wilcox**  
Partner | LA



> **Thomas Burke**  
Partner | SF



"The centers often not only failed to protect residents from harm, but also had an active hand in resident mistreatment and deaths."

# DWT Secures Two Victories on Behalf of **PRISON LEGAL NEWS**

**FIGHTING** to enforce the right of the public and the media to access public records is a longtime focus of pro bono work at Davis Wright Tremaine. The firm won two victories in this fight on behalf of *Prison Legal News*, a monthly magazine published by the Human Rights Defense Center that emphasizes reporting on prisoners' rights issues.

"It was an excellent outcome for the client and for government accountability."

In the first case, D.C. lawyers Ronnie London and Lisa Zycherman won an appellate ruling that may help extract information from the U.S. Federal Bureau of Prisons regarding the money it has spent settling suits filed against it by prisoners and employees.

*Prison Legal News* has been seeking the information for over a decade and received no documents at all until filing suit itself in 2005. At that point the bureau produced 11,000 pages of documents, more than a quarter of which contained redactions.

Redacted out were names and other identifying information of people involved in suits filed against the bureau—such as employees who were the subject of discrimination claims.

## The Team



> **Angela Galloway**  
Associate | SEA



> **Ronald London**  
Counsel | DC



> **Eric Stahl**  
Partner | SEA



> **Lisa Zycherman**  
Associate | DC

After our client prevailed in several successive rounds of summary judgment, the bureau ultimately managed to convince the trial court to let the agency slide, arguing that these redactions fell under Freedom of Information Act (FOIA) exemptions for personnel files.

But the U.S. Court of Appeals for the District of Columbia Circuit reversed that decision in June. The court agreed with our client that the bureau used too broad a brush in justifying its redactions, failing to distinguish, for instance, between the privacy interests of victims versus perpetrators, or between those who suffered a slip-and-fall and those who suffered sexual assault.

The court remanded the case to the district court, with instructions that it more properly balance individuals' privacy interests against the public interest in disclosure. The DWT team, with assistance from Portland associate Ashley Vulin, has since started a new case for *Prison Legal News*, involving similar records for years subsequent to those in the ongoing litigation.

In the second case, DWT lawyers Eric Stahl and Angela Galloway pursued

records concerning the terms and rates for detainee phone services out of the federal immigration detention facility near Seattle. Citing "egregious" delay on the part of U.S. Department of Homeland Security in responding to our client's FOIA request, Chief U.S. District Judge Marsha Pechman granted our summary judgment motion (and denied the government's cross-motion) in June.

Homeland Security initially ignored our client's request, then released most of the documents prior to the summary judgment motions. The agency refused, however, to release portions of its agreement with the private phone contractor, including the contractor's performance incentive rate, on trade secret grounds. Judge Pechman found the evidence supporting that argument insufficient.

"It was an excellent outcome for the client and for government accountability," says Galloway. "It is also important case law: It affirms that courts will hold government agencies accountable not only when they wrongfully withhold public records, but also when they refuse to acknowledge valid records requests until they hear from a lawyer." ■

# IRS Agrees to Make **NONPROFIT TAX RETURNS** Available in User-Friendly Format

**THANKS** to a legal campaign by pro bono client Public.Resource.Org, the IRS agreed to make tax returns filed by nonprofit organizations (or Form 990s) available to the public in a machine-readable format that is clearer and more supportive of high-volume research and analysis.

The ruling will increase public access to “a vital source of market information for one of our most important economic sectors,” says Carl Malamud, the head of Public.Resource.Org and a longtime campaigner for increased government transparency.

The ruling will increase public access to information for one of our most important economic sectors.

Since 2008, Public.Resource.Org has been processing millions of Form 990s and posting the data online in a searchable format. The organization has also uploaded its data onto the Internet Archive, so it is available in bulk for others to use. This year, Malamud began working with the nonprofit journalism site ProPublica to process the most current data, and he provided ProPublica with disk drives so that the site’s “Nonprofit Explorer” tool had a complete database of all 8 million Form 990s.

However, Malamud had been slowed and stymied by the IRS practice of

releasing returns as an image-only PDF, a format that is not machine-readable.

Over half of Form 990s today are actually e-filed with the IRS, says Malamud, in a format that is highly amenable to machine processing. Yet the government has been imaging that data before publicly releasing it, then providing it in the same format as scans of paper returns. The agency’s explanation was that the format change was integral to its system for redacting sensitive or personally identifiable information from the returns.

Malamud spent years seeking release of the agency’s full database of e-filed returns, without success—until he enlisted Davis Wright Tremaine to file a Freedom of Information Act (FOIA) lawsuit on his organization’s behalf. In January, a California federal judge ruled in our client’s favor on summary

judgment, finding that the IRS must release nine returns that were the subject of a FOIA request in an XML format.

The victory went beyond the nine returns, however. Several months after the ruling, following continued pressure on the IRS to come up with a more systematic solution, the IRS announced that it had made “substantial progress in developing a technology solution that, when perfected, will allow the IRS to provide electronically-filed Forms 990 in a machine-readable format. This solution will ensure that sensitive or personally identifiable information continues to be protected from public distribution. The IRS expects that this technology solution should be in place in early 2016.”

Malamud congratulated the IRS on taking “this important step.”

“We expect that the outcome of this case will not only lead the IRS to begin to produce its records in a machine-readable format but also encourage all federal agencies to make their records available in useful electronic formats,” says DWT’s Tom Burke. Together with Dan Laidman and Ronnie London, Burke devoted over 550 hours to the case. ■



> **Thomas Burke**  
Partner | SF



> **Dan Laidman**  
Associate | LA



> **Ronald London**  
Counsel | DC

*The Team*

# Awards



## AWARDS

## Community Impact Award

In October 2014, DWT was honored by *Seattle Business* magazine at the publication's inaugural Community Impact awards. The firm took home Silver recognition in the Pro Bono Services category for our participation in the Washington-Medical Legal Partnership, a partnership we helped launch with Seattle Children's Hospital and other institutions that identifies and addresses legal barriers to better health for low-income families. (See the Fall 2014 DWT Pro Bono Report for more.)

Wrote *Seattle Business* magazine:

*In 2005, the attorneys and staffers at Davis Wright Tremaine recognized the dire need for pro bono legal services among patients and families at Seattle Children's Odessa Brown Children's Clinic and at Harborview Medical Center's Pediatric Clinic. At the time, 90 to 95 percent of clients served by these clinics were from low-income families, and many desperately needed legal assistance. Davis Wright Tremaine helped create the Washington Medical-Legal Partnership (MLP), providing free legal services, board participation, sponsorships and fundraising for the organization. The results have been incredible: Since 2008, MLP has provided direct legal assistance to 2,200 individuals.*

## Honorees



> **Bill Miner**  
Partner-in-Charge | PDX



> **Paul Southwick**  
Associate | PDX



> **Victor Kovner**  
Partner | NYC

## Pro Bono Challenge Award

In October 2014, DWT was honored by the Oregon State Bar Association for having contributed the most pro bono hours of any large law firm in the state. At a gala ceremony at the World Trade Center Portland, our Portland office partner-in-charge Bill Miner was on hand to accept the Pro Bono Challenge Award for the Highest Level of Pro Bono Service from the bar's New Lawyers Division. The firm has won the award multiple times over the past dozen years.

## Equity Award

Paul Southwick, a litigation associate in our Portland office, together with his client Jayce M., was honored in November 2014 with an Equity Award from Oregon's Equity Foundation, which supports social, economic, and political equality for the LGBTQ community. Southwick represented Jayce, a transgender male student at George Fox University, in his petition to live on campus with his male friends.

Himself a George Fox alumnus, Southwick assisted Jayce pro bono in his negotiations with the university and filed complaints on his behalf with the U.S. Department of Education and the Northwest Commission on Colleges and Universities. Southwick also enlisted several minority bar associations in Oregon to sign a joint letter protesting George Fox's policies.

Following these efforts, the university changed its policy and gave Jayce the option of living on campus with his male friends.

The case received nationwide attention, including a story in *The New York Times*, and is broadly recognized as breaking new ground in the fight for transgender rights on campus. The Equity Foundation saluted Southwick and Jayce for "their bravery" and said they are "at the forefront of one of our community's most pressing and current issues."

## New York Law Journal Lifetime Achievement Award For Public Service

In October 2014, Victor A. Kovner, a partner in DWT's media and First Amendment practice was honored by the *New York Law Journal* (NYLJ) for his career-long commitment to public service. He was recognized in the category of Lifetime Achievement in the NYLJ's 2014 list of "Lawyers Who Lead by Example."

According to the NYLJ, the awards recognize "attorneys in our community who have made an outstanding contribution by providing free legal services to low- and moderate-income New Yorkers and/or who have devoted their time to public service in the form of improvement to the courts, the laws or the profession."

Kovner's efforts to improve the judicial system have been extensive. In 1974, he was the youngest member of a statewide Task Force on Court Reform, whose work culminated in a constitutional amendment that provided for merit selection, rather than election, of judges to the New York Court of Appeals. In the years since, Kovner has chaired the New York State Commission

on Judicial Conduct, the City Bar Association's Judiciary Committee, and the Fund for Modern Courts. He has also served as a member of the Mayor's Advisory Committee on the Judiciary. In 2012, Kovner was honored by the New York City Law Department with its Corporation Counsel Award for Distinguished Service.

Last year, Kovner and 12 other community leaders were appointed to an emergency task force on hate crimes created by New York City Public Advocate Letitia James.

### Outstanding Public Service Award

Karen Henry, counsel in DWT's media and litigation practice groups, was honored for "Outstanding Public Service" by the Los Angeles County Bar Association. She was one of five legal professionals recognized with the Hon. Benjamin Aranda III Outstanding Public Service Award at a reception in May 2015. The award is named for a longtime Los Angeles municipal court judge who was a nationally known leader for minorities in the legal profession and an innovator in the administration of law.

Henry was recognized for her successful effort to win asylum for a Salvadoran man who had escaped to this country after being subjected to ongoing gang threats on his life when it became known he was gay. "There was no place in El Salvador, or in Central America, to escape the persecution he was subject to," says Henry. Her client is now living and working in Los Angeles.

### Arthur Liman Public Interest Award

Ed Davis, a litigator in our New York office, received a 2014 Arthur Liman Public Interest Award at the annual benefit of the Legal Action Center (LAC) in New York. The LAC is dedicated to improving public health and society by helping people with criminal records, histories of addiction, and HIV/AIDS to rebuild their lives. The Liman award—named for the pre-eminent litigator at the Paul Weiss firm, who set an example of dedication to practicing law in the public interest—honors two or three people each year for their exceptional commitment to the public interest and their service to the people LAC works to protect. Davis was recognized for his leadership in the legal community, his extensive history of pro bono service, and his decades-long commitment to LAC.

Adam Liptak, U.S. Supreme Court correspondent for *The New York Times*, came to New York to introduce Ed at the benefit reception attended by about 400 people. He praised Ed's "towering talent and doggedness" and gave credit to Davis Wright Tremaine: "The firm has his back in a way that is not universal among big law firms in New York City. It does not tolerate, it encourages Ed's heroic pro bono work."

### Governor's Volunteer Service Award

Chris Helm, a partner in our immigration practice, and chair of the firm's Pro Bono Committee, was recognized for his dedication to serving the immigrant community in Washington state with a 2014 Governor's Volunteer Service award. He and the other award recipients were honored at the Executive Mansion of Governor Jay Inslee. In the program for the event, the following was written about Helm:

*Chris Helm has been one of the most dedicated attorney volunteers for the Washington New Americans program, helping provide free legal assistance to people applying for U.S. citizenship. He has personally volunteered at 12 citizenship clinics since 2008, giving nearly \$20,000 worth of in-kind pro bono legal services. He has also served on the Citizenship Day committee of the American Immigration Lawyers Association, Washington Chapter, helping get the word out, recruiting and mentoring other attorney volunteers. Chris also helped expand the program through roving attorney clinics, mini citizenship days traveling across the state to rural and underserved areas to provide on-site help with applications. This year, Chris worked with AmeriCorps members to plan the first-ever clinic in the Walla Walla area. In addition, Chris has devoted much of his time to pro bono service, lending his skill and heart to many tough cases. ■*



> **Karen Henry**  
Counsel | LA



> **Ed Davis**  
Partner | NYC



> **Chris Helm**  
Partner | SEA

Honorees

# THEY'RE LOVERS AND THEY'RE FIGHTERS

In February, the DWT lawyers and paralegals below—along with others mentioned elsewhere in this report—received a Pro Bono Valentine for having completed at least 50 hours of pro bono service during the prior 12 months.

> **Scott Adams**  
Partner | SEA

> **Sarah Ames**  
Associate | PDX

> **Keith Baldwin**  
Partner | BEL

> **Robert Balin**  
Partner | NYC

> **Sam Bayard**  
Associate | NYC

> **Duane Bosworth**  
Partner | PDX

> **Meghan Bours**  
Associate | PDX

> **Cathy Braun**  
Paralegal | SEA

> **Erika Buck**  
Paralegal | PDX

> **Larry Burke**  
Partner | PDX

> **John Cameron**  
Partner | PDX

> **Greg Chaimov**  
Partner | PDX

> **Carly Chan**  
Associate | SEA

> **Jeremy Chase**  
Associate | NYC

> **Jennifer Chermoshnyuk**  
Paralegal | SEA

> **Graham Coleman**  
Partner | NYC

> **Jeff Coopersmith**  
Partner | SEA

> **Kathleen Cullinan**  
Associate | LA

> **Tim Cunningham**  
Associate | PDX

> **Jennifer Davis**  
Paralegal | PDX

> **Ambika Doran**  
Partner | SEA

> **Chip English**  
Partner | DC

> **Sarah Fallows**  
Associate | SF

> **Rhys Farren**  
Partner | BEL

> **Eric Feder**  
Associate | NYC

> **Gregory Fisher**  
Partner | ANCH

> **Boris Gaviria**  
Counsel | BEL

> **James Grant**  
Partner | SEA

> **Phillip Grillo**  
Partner | PDX

> **Brad Guyton**  
Associate | DC

> **Stuart Harris**  
Partner | PDX

> **Christine Hawkins**  
Associate | BEL

> **Wesley Heppler**  
Partner | DC

> **Mark Hutcheson**  
Partner | SEA

> **Nicolas Jampol**  
Counsel | LA

> **Jose Jimenez**  
Associate | SEA

> **Lisa Keith**  
Associate | NYC

> **Mike Killeen**  
Partner | SEA

> **Lance Koonce**  
Partner | NYC

> **Stacey Lee**  
Associate | PDX

> **Alexis Liistro**  
Associate | SEA

> **Chuck Maduell**  
Partner | BEL

> **Larry Martin**  
Partner | BEL

> **Christopher McCracken**  
Partner | PDX

> **Rebecca Meissner**  
Associate | SEA

> **Marisa Meltebeke**  
Associate | PDX

> **Matthew Moersfelder**  
Associate | SEA

> **Joanne Montague**  
Associate | SEA

> **Missy Mordy**  
Associate | BEL

> **Sanjay Nangia**  
Associate | SF

> **Bob Newell**  
Partner | PDX

> **Carol Noonan**  
Of Counsel | PDX

> **James Parker**  
Associate | PDX

> **Collin Peng-Sue**  
Associate | LA

> **Ron Ragen**  
Counsel | PDX

> **Micah Ratner**  
Associate | DC

> **Rich Rawson**  
Partner | SEA

> **Mary Sanden**  
Associate | BEL

> **Jonathan Segal**  
Associate | LA

> **Marni Shapiro**  
Paralegal | DC

> **Paul Sherman**  
Patent Scientist | SEA

> **Adam Shoemaker**  
Associate | DC

> **David Silverman**  
Partner | DC

> **Thomas Smith**  
Counsel | PDX

> **Robert Stewart**  
Partner | ANCH

> **Dipa Sudra**  
Counsel | SEA

> **Joanna Summerscales**  
Associate | NYC

> **Kate Tylee**  
Associate | BEL

> **Giancarlo Urey**  
Associate | LA

> **Nick Verwolf**  
Partner | BEL

> **Megan Vogel**  
Associate | SEA

> **Ashley Vulin**  
Associate | PDX

> **Rebecca Williams**  
Partner | SEA

> **George Wukoson**  
Associate | NYC

> **Tom Wyrwich**  
Associate | SEA



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