

## Pro Bono Firm Of 2012: White & Case

By **Bill Donahue**

*Law360, New York (September 13, 2012, 6:13 PM ET)* -- Whether it's winning \$500 million for low-income schoolkids or just making sure a store clerk isn't wrongly convicted of stealing \$500 from the cash register, attorneys from White & Case LLP earned a spot on Law360's list of top pro bono firms by providing a voice to those who often can't be heard.

Like Saneisha Walcott, a late-night attendant at a 7-Eleven in the Bronx, whom the store accused of swiping a few hundred dollars from the till. Based on a spliced-together surveillance tape of the night in question, a New York state court convicted Walcott of attempted petit larceny and attempted possession of stolen property. But White & Case helped Walcott overturn that decision, sealing its spot among Law360's Pro Bono Firms of 2012.

Partnering with the Legal Aid Society — a frequent collaborator with the firm — White & Case partner Dave Hille and a team of associates appealed Walcott's conviction, arguing that the blurry, 90-second clip didn't conclusively show her taking money. After viewing the tape, which Hille's team submitted along with their brief, an appeals court unanimously overturned Walcott's conviction.

The victory might seem small — especially compared to some of the firm's other pro bono accomplishments — but Ian Forrester, who heads up White & Case's global pro bono practice, would disagree. To those without adequate resources, he said, legal challenges are anything but small.

“There exists in many countries, certainly the United States, an immense gap between legal needs and available counsel,” Forrester said. A seemingly small matter, such as Walcott's, is really just a “narrow and specific problem which poses an enormous challenge for that individual.”

Often, all people need is a competent attorney that can explain their side of the story and help with the procedural workings of the justice system, Forrester said. But, because of lack of education, resources and other interfering factors, huge numbers of people go without that basic counsel.

“The scales sometimes are so grotesquely skewed that it's an immense challenge,” Forrester said, mentioning as an example deportation hearings for immigrant children who often lack both appropriate representation and a full comprehension of the hearings' importance.

Led by Forrester, White & Case's pro bono group is trying to address those challenges. Though it's not formally mandated, the firm's attorneys logged more than 82,000 hours of pro bono work in 2011 — or 43 hours per attorney. Looking just at the U.S., the number jumps to 94 hours per lawyer.

“Leveling the playing field,” is how White & Case partner Greg Little describes the process of evening out the balance for those who can't afford — or don't know how to find — good counsel. And while sometimes that's as simple as providing a competent attorney for a hearing, other times it takes more, like providing the full firepower of a corporate law firm to take on major nonprofit causes.

That was the case in 2011, when Little teamed up with the Education Law Center to fight New Jersey Gov. Chris Christie's cuts in education spending, which reduced the state's school spending by more than \$1 billion.

The ELC alleged that Christie's cuts — aimed at addressing a multibillion-dollar state budget shortfall — reneged on the state's obligation under *Abbott v. Burke*, a landmark state Supreme Court case that said New Jersey's constitution required the state to ensure a free, high-quality school system.

The underlying 1985 ruling said New Jersey had violated the rights of students in 31 low-income and mostly urban school districts, where local funding didn't do enough to provide the constitutionally required level of education. *Abbott* and subsequent rulings established that the state was required to take special care to ensure funding for those 31 districts.

In 2008, the state passed court-sanctioned legislation that allowed it to expand spending to help all 591 districts in the state, but with the proviso that the Legislature continue “adequately” funding the special *Abbott* districts. After Christie was elected in 2010, however, he made good on his campaign promises to slash education spending.

With a team of 12 associates, Little and the ELC coped with an extremely short briefing schedule — 10 weeks to prepare their arguments — to argue before the state high court that the cuts had violated the *Abbott* mandate to provide for the 31 districts, making the reductions unconstitutional.

The court's majority opinion came down strongly on the side of Little's team, saying the state's education budget cuts amount to “nothing less than a reneging on the representations it made” when the state got court approval to change the laws in 2008. The court ordered the state to increase funding for the 31 districts by \$500 million.

Looking back, Little said the firm was able to throw its considerable resources behind an organization that's fighting “2/47 for schoolkids,” often without the means it deserves.

“They're underfunded, and there remain massive problems with K-12 education in New Jersey,” Little said. “In order to obtain relief, they're going up against the state, which obviously has significant resources. We were able deliver resources that at least made it a level playing field.”

Like the ELC, environmental nonprofits like the Nature Conservancy and the World Wildlife Fund are often outgunned in their bid to address global natural problems, lacking the resources of private companies or foreign governments. That need provided White & Case with an opportunity to bring one of its strengths — cross-border deal making — to bear for the nongovernmental organizations in a pro bono arrangement.

Led by partner Wendell Maddrey, White & Case served as counsel for the Nature Conservancy and WWF in a so-called debt-for-nature swap with the Indonesian government. At \$28.5 million, it was the second largest-ever such deal between the U.S. government and the Indonesians.

Through a series of transactions, a debt-for-nature swap enables a creditor country to forgive a debtor nation's unpaid liabilities in exchange for spending some portion of the debt on conservation issues within the country. The deals allow countries like the US to turn debt that was likely never going to be repaid into capital for environmental progress.

With years of putting together international corporate and financial transactions for White & Case under his belt — and three more as head of the firm's office in Jakarta, Indonesia — Maddrey was able to help the two environmental groups broker a transaction between the U.S. and Indonesia they might not have been able to on their own.

"They're certainly very rewarding transactions, both from the law firm's perspective and in terms of the type of support and assistance the NGOs need, [which is] a firm that's familiar with the transactions, with their structures, and that has experience working on cross-border investments," Maddrey said. "The end product is something that's beneficial to the country and the environment."

The nature deals are just one aspect of the firm's foreign pro bono work. With more than two-thirds of their attorneys working in offices outside the United States, Forrester said White & Case looks for ways to get all of its global offices in on the action. In Africa, that meant building a legal database of violent crimes against women in 27 countries, to help governments fight what Forrester called "a scourge." In Latin America, it meant commissioning attorneys to research and write a report on children's rights.

But the firm's highest-profile pro bono job was at home, where White & Case attorneys represented conservative gay advocacy group Log Cabin Republicans in their successful bid to fight the U.S. military's controversial "don't ask, don't tell" policy, which barred openly gay service members.

In July 2011, then-White & Case partner Daniel Woods won an order from the Ninth Circuit that directed the U.S. to stop enforcing the policy.

"This is a tremendous victory for the many Americans who want nothing more than to serve their country honorably and patriotically without regard to their sexual orientation," Woods said at the time. Woods has since moved to Musick Peeler & Garrett LLP.

Though close to half of White & Case's 1887 attorneys pitched in to help in 2011, the firm's vision for how it handles pro bono work comes through Forrester, the practice head, whose commitment has deep roots.

As a young attorney in 1970, Forrester worked on a pro bono appeal with Robert B. Fiske — who went on to serve as U.S. attorney for the Southern District of New York and later as special prosecutor in the Whitewater scandal — seeking to overturn the conviction of man they argued had been coerced by aggressive interrogators into admitting a murder. The Second Circuit eventually agreed, and reversed the man's conviction.

The drive to lend legal counsel — and a legal voice — to those who need it is still strong, more than 40 years later.

“Pro bono is not an option. You may think it's a waste of money, or you may think it's a wonderful thing, but no large law firm cannot do pro bono,” Forrester said, recalling a meeting with his global pro bono leaders. “It is a moral and professional obligation, which is ineluctable.”

“This isn't just pious courtesy,” Forrester said he told his team. “It is a professional necessity. We are a prosperous and very successful law firm. We cannot honorably refrain from engaging in this activity.”

--Editing by Kat Laskowski.

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