

Pro Bono Firm Of 2015: Morrison & Foerster

By Benjamin Horney

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Morrison & Foerster LLP found itself thrust into the throes of multiple free advocacy cases featuring historic implications over the last year, including fights for marriage equality and abortion rights, earning a spot on Law360's list of top pro bono firms of 2015 for the sixth consecutive year.



The firm's focus on pro bono work is deep-rooted, with Morrison & Foerster having been named to Law360's pro bono list each year since it started publishing. The firm, which last year enacted a policy under which U.S. attorneys are now "expected" to be regularly involved in pro bono work and to average at least 25 hours annually, logged over 97,000 hours of free advocacy work globally in 2014 and over 90,000 in the U.S., according to data provided by senior pro bono counsel Jennifer K. Brown. Meanwhile, U.S. lawyers averaged 112 hours apiece of pro bono work this past year.

"We have a really strong tradition here," Brown told Law360. "We're really proud that [Morrison & Foerster] has been recognized as a pro bono firm of the year every year."

Ruth Borenstein, a partner at Morrison & Foerster, explained that pro bono is "truly ingrained" at the firm.

"It's not something we try to make numbers for some survey," she said. "It is a big, important part of what we are."

Borenstein has been involved in the fight for marriage equality for years, and in late 2014 she helped make Montana the 35th U.S. state to permit same-sex marriage through her work on *Rolando v. Fox*. Borenstein told Law360 that the case-in-question actually dates back several years, when Morrison & Foerster, working with the American Civil Liberties Union, brought an action in Montana state court to oppose an amendment to the state's constitution that did not allow same-sex couples to marry.

The case saw Borenstein helping represent four same-sex couples who alleged that Montana was violating their constitutional rights by prohibiting them from marrying. As the case wiggled its way through Montana's court system — ultimately going all the way to the state's top court — major things were happening throughout the country, including a Ninth Circuit decision to strike down similar bans in Idaho and Nevada. Borenstein said that Ninth Circuit decision sparked a motion for summary judgment

in the case she was involved in, which was granted, immediately enjoining Montana's enforcement of its marriage law.

All of the little fights throughout the country for marriage equality were given the ultimate validation in June, when the U.S. Supreme Court handed down its landmark decision prohibiting state-level bans on same-sex marriage.

"I'm very proud to have played some role in it," Borenstein said. "It's really very personal. Being an out lesbian from the very first days I came to the firm, being able to use my law degree to help make progress on LGBT rights, it's very personal because it affects me and it affects people like me across the country."

Borenstein reflected on the historic fight in which she was involved, noting that if someone had asked her 20 years ago whether same-sex marriage would be legal throughout the country in 2015 she would have "scoffed at the idea."

"It seemed like an unreachable goal," she said.

Marriage equality is only one of the major battles Morrison & Foerster has firmly planted itself in the trenches of, as the firm is also in the midst of a Texas abortion rights case.

In August 2014, the firm, working with the Center for Reproductive Rights, secured a victory when a Texas federal judge deemed unconstitutional two major state abortion restrictions, one that required doctors performing abortions to have active admitting privileges at a hospital no more than 30 miles from where abortion is induced and one that required the minimum building standards for an abortion facility to be equivalent to those for ambulatory surgical centers.

The state appealed immediately, and the case has been winding its way through the court system ever since. Most recently, the U.S. Supreme Court granted a Morrison & Foerster motion to stay a Fifth Circuit ruling that largely struck down the injunction the firm had secured in federal court. Morrison & Foerster filed a petition for a writ of certiorari just last week.

"Any sort of truthful person would admit the laws have one purpose, and that's to shut down clinics," said Alex Lawrence, a partner at Morrison & Foerster who has been heavily involved in the abortion case.

Lawrence said that he is grateful for how the firm allows its attorneys to choose the specific type of pro bono cases they want to work on if they so desire.

"There's no doubt about it, the firm's pro bono culture makes [Morrison & Foerster] unique," he said.

For Lawrence, the fact that the firm encourages its attorneys to get involved in free advocacy work dear to them is important because, in the case of abortion rights, it has allowed him to follow in his grandmother's footsteps.

His grandmother, also a lawyer, represented an abortion clinic in Chattanooga, Tennessee — where Lawrence grew up — when he was just a kid. Now 90 years old, his grandmother still practices to this day.

"She's the reason I became a lawyer, so [abortion rights] is something that's always interested me," Lawrence said. "Somewhat of an homage, I suppose."

Brown noted that while the firm does indeed encourage its attorneys to seek out work in which they have a vested interest, lawyers are also urged to leave their comfort zone and help with cases "they may have never imagined themselves doing."

"We often find lawyers who step out [of their comfort zone] are nervous at first, going into a field they know nothing about," Brown said. "We certainly make sure they have plenty of support and access to the information they need to be an effective lawyer for the client, and the satisfaction of going into some area unfamiliar to you can be really, really deep."

Other pro bono cases the firm has been involved in over the past year include a fight over abuse of children in foster care that ended with a \$2 million settlement for seven former foster youths in Nevada, a struggle over disclosure of information that saw the FBI forced to hand over information it was trying to withhold about its surveillance of Arab, Middle Eastern, Muslim and South Asian communities in Northern California, and a battle over Asian-American voting rights in Washington, D.C., that ensured voting access for Asian-American voters with a limited proficiency in English.

According to Brown, it's the firm's constant vigilance and desire to help those in need that keeps the requests for pro bono representation rolling in.

"Our willingness to take on contentious matters brings more of them to our doorstep," she said.

-- Additional reporting by Daniel Wilson and Brandon Lowrey. Editing by Jeremy Barker.