

An Interview with Pro Bono Law Firm of the Year: Morrison & Foerster

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The 2015 Who's Who Legal Pro Bono Award is presented to Morrison & Foerster in recognition of the long-standing pro bono tradition at the firm and the inspiring level of senior buy-in. In an exclusive interview, its members discuss what makes the practice stand out from others and how the firm maintains such a high level of participation among its lawyers.



Jennifer Brown

“A commitment to pro bono practice is in our firm’s DNA.” That’s the message from Morrison & Foerster, winner of the 2015 Who’s Who Legal Award for Pro Bono Law Firm of the Year. From its founder Alexander Morrison’s role in the creation of the Legal Aid Society of San Francisco in 1916, to partner Bob Raven convening the first American Bar Association meeting for large law firm chairs on pro bono work in 1991 – which resulted in the creation of the Law Firm Pro Bono Challenge – pro bono is at the core of the firm’s mission.

Further proving Morrison & Foerster’s entrenched commitment to pro bono, it is one of the first firms to dedicate the time and talent of a full-time lawyer to the role of pro bono counsel. Kathi Pugh, who held the role for almost 20

years before her retirement in 2013 and is the namesake of the firm's annual award for pro bono service, built a model for the practice that – in the words of senior pro bono counsel Jennifer Brown – “has proved both enduring and flexible”. Since Pugh's retirement, the practice has continued to grow from strength to strength, benefiting from the structures and routines put into place in those early days.

The firm-wide pro bono committee is chaired by Sean Gates, a partner in the Los Angeles office. It is comprised primarily of partners from each of the US offices, and four of the largest offices outside the US (London, Berlin, Hong Kong and Tokyo). Pro bono committee members approve all new matters, as well as the policies that govern the programme, and promote pro bono within their respective offices. The practice also has a specific pro bono staff which Brown, as senior pro bono counsel, leads. The staff are responsible for the day-to-day management of the programme, as well as outreach and new initiatives.

For Brown, the most satisfying part of her role is “helping lawyers to find ways of contributing to the well-being of their communities using their legal skills”. She adds, “Our lawyers find this work so rewarding and are often surprised by how much satisfaction it brings them.”

Among the firm's greatest achievements this year is securing a \$2.075 million settlement for seven former foster children in their lawsuits against Clark County (Las Vegas), Nevada. The clients sought redress from child welfare officials for serious violations of their constitutional and statutory rights. In 2010, a federal trial court dismissed the case holding that the government officials who ran the system were immune from suit; but Morrison & Foerster, along with co-counsel the National Center for Youth Law, fought back and won a 2012 federal appeals decision reinstating the case. Following extensive discovery, settlement talks began in 2014. The case saw the involvement of dozens of Morrison & Foerster lawyers, including 10 of the firm's partners, over the course of more than four years. In addition to the monetary relief secured as part of the settlement, a court ruling obtained during the course of

the litigation established beyond doubt that children have a constitutional right to safety and proper medical care while in the custody of a foster care system.

While Morrison & Foerster's many pro bono victories and triumphs are undeniably impressive, what makes the practice stand out from others is the time taken to match matters to lawyers' skill sets and interests, making it a truly personal and unique experience for each individual involved. As Brown explains, "Our pro bono counsel spend substantial time getting to know our lawyers and looking for opportunities that suit their talents and interests, often recruiting individual partners to take on particularly well-matched matters." In addition, the firm "encourages attorneys to follow their own pro bono passions... These pro bono passions... can launch some great pro bono partnerships, and we enjoy working with our attorneys to make that happen."

Encouraging lawyers to bring forward their own ideas plays an important role in keeping engagement high, as well as safeguarding quality. "We believe the best pro bono work is done when lawyers make their own choices about what work they do," says Brown. While the firm, as a signatory to the Pro Bono Challenge, commits to contributing 5 per cent of billable time to pro bono work and asks its US lawyers to average at least 25 hours of pro bono service a year, it still believes that "mandatory pro bono service sends the wrong message about its desirability and may not be in the pro bono client's best interest." That said, the firm "reminds lawyers of this expectation, and in autumn each year notifies lawyers who have not yet reached 25 hours that they should look for opportunities to do so".

It is clear that pro bono service is taken very seriously at Morrison & Foerster, and this is demonstrated by the firm chair Darren Nashelsky who is described as a "constant voice encouraging lawyers at all levels of the firm to provide pro bono services". Nashelsky makes sure to celebrate every pro bono award the firm receives with a firm wide e-mail and personally presents the annual Kathi Pugh award. The 2015 award was presented to litigation associate Natalie Fleming Nolen in the Washington, DC, office in recognition of her developing role as the firm's east coast in-house human rights expert. She has contributed to the representation of 13 asylum and two special immigrant

juvenile status clients, as well as a group of Haitian sexual assault victims attacked in post-earthquake encampments. Nashelsky said on the announcement: “Natalie is an outstanding advocate for her pro bono clients and an inspiration and role model for integrating pro bono representation in a MoFo career.”

While there is a strong pro bono tradition at Morrison & Foerster, the practice refuses to rest on its laurels. There is a constant focus on engaging lawyers throughout their careers to ensure the next generation of leaders pledges the same level of commitment. Brown recalls several changes she has observed since entering the field in 2008 to manage the firm’s east coast pro bono activities, one of which is the “increased efforts to connect pro bono at firms with pro bono at corporate legal departments”.

Recently, the firm has been co-counselling a start-up social enterprise that links international volunteers from around the world with micro-entrepreneurs in Africa, in order to help grow innovative businesses that create jobs, on how to best protect IP created by its employees, contractors and volunteers. Morrison & Foerster has been collaborating with its client Unisys on the project; as London-based associate Caroline Stakim explains, “The partnership has worked well and it has been great to have the input of in-house lawyers who are able to offer an alternative view and perspective on both the potential legal and non-legal issues that can arise.”

Pavel Klimov, general counsel for the UK and EMEA at Unisys explains working with law firms on projects provides “greater opportunities to engage in pro-bono work” and that “cooperation on these matters has always been very productive”. For the legal department, the experience is both “rewarding from the social perspective as well as... professionally interesting”.

For every practice, no matter its success, there are areas for improvement and further growth. For Morrison & Foerster the focus is on continuing to balance the pro bono practice with large-impact litigation cases, individual

representation for poor people, non-litigation individual services, and transactional pro bono for non-profit organisations and social enterprises. For Brown, her personal goals are to “engage our transactional practices in pro bono work and to increase direct legal representation of low-income individuals”. She says, “Sophisticated and complex transactional pro bono matters are among the most challenging projects to identify.” But she adds: “The efforts made by some of the international clearing houses to engage private practice lawyers in helping social enterprises worldwide have been really helpful in providing these opportunities.” Increasing the involvement of offices outside of the US is also an aim whether that be in local projects or multi-office projects.

Returning to Brown’s own description of the practice, it is the “enduring and flexible” principles on which the practice is built that will see it move into the future with continued success leaving a lasting impact on the communities and individuals aided along the way.