

## 2011-2012 *Pro Bono* Year in Review

At Fish, we are institutionally committed to making *pro bono* work an integral part of our professional culture. We back up this commitment by providing our attorneys with full-hours credit for approved *pro bono* matters and by assigning a principal-level attorney in each of our US offices the task of seeking out and publicizing local *pro bono* opportunities. Each year our attorneys contribute a significant number of *pro bono* hours to serve the legal needs of individuals and nonprofit organizations, benefiting the communities where we live and work.

In 2011, Fish attorneys demonstrated this commitment by representing *pro bono* clients in need of legal representation in a variety of arenas. In fact, Fish attorneys contributed an average of 30 hours per attorney last year to *pro bono* causes, and they are on track to surpass that number in 2012. These volunteer efforts have resulted in significant and meaningful gains for our clients, from securing asylum for a persecuted refugee to obtaining citizenship for immigrant children fleeing abuse and violence in their home countries to preserving intellectual property rights for income-qualifying inventors and nonprofit organizations. At a time when funding for legal services and access to justice for low-income individuals are at all-time lows, the *pro bono* work done by Fish attorneys is critically important in providing access to justice.

"We strongly encourage all of our attorneys to take on *pro bono* matters as part of their caseload. Over the past five years, the *pro bono* program at Fish & Richardson has seen tremendous growth, both in the number of *pro bono* matters that the firm handled and in the number of hours contributed by our legal staff. While we are proud of this continued growth in our *pro bono* program, numbers alone do not adequately capture the myriad ways in which Fish attorneys are able to make a difference in the lives of their clients and their communities through *pro bono* work."



Lawrence K. Kolodney, Firmwide *Pro Bono* Chair

### *Kids in Need of Defense: Special Immigrant Juvenile Status*

Since 2009, Fish has been engaged in a partnership with Kids in Need of Defense, a coalition founded by Microsoft and Angelina Jolie, to provide legal counsel to unaccompanied immigrant children in the US. In its first case in 2009, Fish represented a 15-year-old girl who fled a violent situation in El Salvador and sought Special Immigrant Juvenile Status. Fish attorneys forged through more than two years of proceedings, and the young woman was ultimately granted permanent resident status and will receive her green card.

### *Habeas Corpus*

Since early 2008, Atlanta attorneys have been working on Georgia state *habeas corpus* petitions for clients referred by the Georgia Innocence Project. Fish *habeas* teams have committed significant time and resources to reviewing extensive dockets, drafting and filing petitions identifying procedural and substantive defects in the underlying actions, conducting discovery, and ultimately appearing at *habeas* hearings around the state. One such case involves a team of Fish Atlanta attorneys who represented a Georgia inmate in his state *habeas* appeal to the Georgia Supreme Court, claiming ineffective assistance of counsel. Prior to Fish involvement, the inmate's case went up to the Georgia Supreme Court and his conviction was affirmed in May 2005. Fish attorneys took over and dedicated numerous discovery and travel hours to a new investigation of the facts, and ultimately the man's application for a certificate of probable cause was granted by the Georgia Supreme Court – a huge victory for our client and our team.

## Highlights

### Immigration

#### Asylum

A team of Boston attorneys represented a Congolese man who was forced to flee the Democratic Republic of Congo with his family 16 years ago because of ethnic violence against his people, the Banyamulenge Tutsi, and was then forced to live for 12 years in refugee camps in Rwanda, unable to return to his homeland because of continued turmoil and unrest. While in Rwanda he advocated for peace by serving as leader of the political group *Coalition Pacifique des Minorités Congolais* and was arrested, detained, beaten, and falsely accused of organizing protests in this leadership role. His family was also threatened and even brutally assaulted. In 2008, he fled to the US. Through the Political Asylum/Immigration Representation project, Fish attorneys represented him at a merits hearing in September 2011, and in early 2012 he was granted asylum.

#### Human Trafficking

In 2008, Fish was co-counsel with the Asian American Legal Defense and Education Fund ("AALDEF") in a civil case brought in federal court on behalf of two Indonesian women who were illegally brought into the US, held in captivity, and enslaved by force for years, essentially without any compensation, by a wealthy Indonesian/Indian couple who lived on Long Island. The wealthy couple was convicted of federal crimes arising from this conduct. The civil action brought by Fish included claims under the federal racketeering statute and under a federal statute that permits a victim of slavery and trafficking to recover damages. In late 2011, an agreement rewarded the women with a substantial settlement. The verdicts won in this case provided critical precedents in human trafficking law that AALDEF can now rely on for the benefit of other victims of human trafficking.

### Areas of law in which Fish performs *pro bono* legal work

- Copyright
- Criminal Defense
- Criminal Prosecution
- Debtor/Creditor
- Death Penalty
- Disability Benefits
- Domestic Violence
- Election Protection
- Environmental Law
- Family Law
- First Amendment/Free Speech
- Government Benefits
- *Habeas Corpus*
- Landlord - Tenant
- Nonprofit - IP Representation
- Nonprofit - Regulatory
- Patent Law
- Political Asylum
- Public Benefits
- Science Fair Patents
- Section 1983/Prisoners' Rights
- Trademark
- Veterans' Benefits
- Volunteer Lawyers for the Arts - Artist IP Representation

## Highlights continued

### Intellectual Property

Fish represented a well-known sculptor and World War II veteran who created “The Column,” the centerpiece sculpture of the Korean War Veterans Memorial on the National Mall in Washington, DC. He had expressly retained and registered his copyrights of the work. In 2002, the US Postal Service incorporated a photo of “The Column” on a 37-cent postage stamp and eventually sold \$17 million worth of these stamps without our client’s authorization. He sued the Postal Service in the US Court of Federal Claims, which found that our client was the sole author of “The Column” and held valid copyrights that had been infringed but that the Postal Service had made a “fair use” of the sculpture and thus was not liable for copyright infringement. In May 2012, the US Court of Appeals for the Federal Circuit reversed and remanded the damages judgment of the Court of Federal Claims for our *pro bono* client, holding that the Court of Federal Claims erred in determining that our client could not seek damages for copyright infringement based upon lost licensing fees. In reaching this decision, the court held for the first time that damages for the fair market value of a license covering a defendant’s use are “actual damages” under the Copyright Act.

Fish is representing a widow in a dispute with Cardiovascular Systems, Inc. (“CSI”), over the ownership of patents and patent applications filed by her late husband, who was a prolific inventor in the area of rotational atherectomy devices. In fact, he founded CSI, which to this day sells the technology he invented and developed. After leaving the company, he continued to make new inventions and file patent applications. CSI claims to have an ownership interest in the patents based on the husband’s work at the company or alternatively through a purported co-inventor who has assigned his rights to the company. After the husband’s death in 2009, CSI filed documents with the US Patent and Trademark Office (“USPTO”) asserting ownership of the patent applications to prevent his widow from selling the applications to an entity that could develop the inventions, and CSI tortuously interfered with the widow’s efforts to obtain value for the only assets available to support herself and two children. Attorneys in our Twin Cities office have worked with the inventor’s widow for some time to prosecute and license the patent applications. When litigation became necessary, Twin Cities litigation attorneys became involved with the lawsuit, filing in federal court in Minnesota.

Twin Cities associate Christopher Hoff recently helped an inventor in the Twin Cities obtain the first patent ever to be issued under the USPTO’s America Invents Act *Pro Bono* Program. This pilot program was created in June 2011 to assist *pro se* inventors who have filed patent applications, by assigning them skilled patent attorneys to improve the quality of their applications, advise them regarding amendments, and bring their inventions to market.



Through the America Invents Act *Pro Bono* Program, Fish attorneys in our Southern California office have begun working with Workshops for Warriors (“W4W”), a 501(c)(3) nonprofit organization that trains and certifies returning veterans for manufacturing jobs. W4W has a 100% placement success rate thus far and is on its way, with Fish’s help, to becoming self-funded and self-sufficient by inventing and selling manufacturing tools and equipment that are designed and made by veterans in the program. Fish’s Patent Group currently has three patent applications pending for W4W.

The American Bar Association Death Penalty Representation Project has named Fish & Richardson as recipient of the 2012 Exceptional Service Award for our commitment and dedication to the representation of prisoners on death row. It is the project’s highest award, and Fish was selected from a field of outstanding law firms that have done significant *pro bono* work on behalf of death row inmates. Since taking on our first death penalty *pro bono* matter in 2008, Fish attorneys have developed an in-house expertise in death penalty representation, currently handling five active litigations with 31 attorneys, 10 paralegals, and many support staff from six of our offices.

### Death Penalty Representation

### Civil Rights

Attorneys in our Southern California office recently litigated a successful settlement on behalf of a client in his civil rights case against the California Director of Corrections. Our client, a prisoner at Calipatria State Prison, filed a civil complaint with Eighth and First Amendment claims after being assaulted by a group of prison guards while the prison was on lockdown. When the client tried to report the incident, he was threatened by two other guards and warned not to move forward with his grievance. During the course of the case, the Fish team took several depositions, and the team successfully contested a summary judgment motion to dismiss the First Amendment claim. The \$20,000 settlement obtained for our client is a victory for the team, as prisoner civil rights cases do not often have favorable odds when brought before a jury.

### Criminal Prosecution

Fish continues to grow its Lawyer-on-Loan program, which provides an opportunity for Fish attorneys to serve as temporary full-time prosecutors for periods of up to six months in local district attorneys’ offices. In addition to receiving invaluable daily motion and trial experience, these attorneys contribute to the public good by relieving overburdened prosecutors and improving the administration of the criminal justice system.

**For more information about Fish & Richardson’s *pro bono* efforts, please visit [www.fr.com](http://www.fr.com).**