

Pro Bono Firm Of 2014: Ropes & Gray

By **Benjamin Horney**

Law360, New York (October 22, 2014, 3:00 PM ET) -- Between fighting for low-income HIV patients' right to receive due funding for health care and helping ensure troubled youths are given a fair shake, Ropes & Gray LLP attorneys and professional staff devoted over 115,000 hours to free advocacy this past year, earning the firm a spot on Law360's list of top pro bono firms of 2014.

The firm handled a wide variety of pro bono cases between June 2013 and June 2014, with 832 of its U.S. lawyers dedicating an average of nearly 197 hours per attorney, Ropes & Gray said. According to Bill Sussman, litigation partner and co-chair of Ropes & Gray's pro bono committee, the firm has more than doubled the amount of annual free hours put forth by its attorneys since 2007. In addition, Sussman noted that about 65 percent of Ropes & Gray's U.S. attorneys had more than 20 hours in the past year.

"The numbers are just a reflection of the fact that its part of our professional responsibility. We really believe that," Sussman told Law360. "It's specifically part of what it means to be a lawyer at Ropes & Gray."

Sussman hammered home how important pro bono work has been to Ropes & Gray throughout its nearly 150-year history by pointing to the example of John Huffington, a client of 25 years who was convicted of a double murder in 1981. Ropes & Gray helped Huffington get a new trial because of DNA evidence proving that hairs discovered at the murder scene, which had been essential to his original convictions, were not his. In July, after having served 32 years in prison, nine of which were on death row, Huffington was released on bail.

"When you're our client, you're our client," Sussman said.

One of the toughest pro bono cases Ropes & Gray worked on this year occurred in Louisiana, with partner Jeff Bushofsky leading a team of lawyers who fought to force insurance companies to heed the Affordable Care Act and accept federally mandated funds, known as Ryan White premium assistance funds, designed to help low-income, HIV-infected individuals.

"The hope was that we could essentially put together a civil rights case," Bushofsky said. "It was exciting to be able to be one of the first people to test the waters of the civil rights provisions of the new act."

Certain insurers were poised to refuse the funds, Bushofsky told Law360, which would have left a variety of affected people unable to afford the care they sorely needed. Bushofsky and his team were whisked to Louisiana in February with little time to figure everything out because the closing of the ACA

enrollment period was nearing. People were afraid to enroll, fearing that the funds wouldn't be accepted.

"We jumped into it with both feet and put a team together quickly," Bushofsky said. "It was a very time sensitive issue. We had to do everything in the course of days. It was exciting and challenging, and it took a lot of deep thinking."

"This was so important for the people, and with such little time to figure everything out," Sussman added.

Bushofsky and his team scored a temporary restraining order against the insurers in late February, which stopped them from refusing to accept the Ryan White funds for a bit while the case continued. But the real break in the case came at an early March hearing, when Bushofsky and his Ropes & Gray colleagues presented their arguments and evidence.

During a break in the proceedings, the insurers — possibly realizing they were on what was going to eventually be the losing side — agreed to step down, at least until the beginning of the following year's open enrollment period.

"It was an important test case, because it's not just Louisiana and Baton Rouge," Bushofsky said. "You could probably safely guess that other exchange participants around the country were closely watching this."

According to Ropes & Gray, Bushofsky's victory may have directly led to a rule published by the Centers for Medicare & Medicaid Services requiring qualified health plans to accept the Ryan White funds.

"This development should help prevent future discrimination against individuals qualified for Ryan White Fund assistance across the United States," the firm said in a statement.

Also this year, Ropes & Gray's work with the Massachusetts Pay for Success Initiative helped pave the way for roughly 900 young men in Massachusetts to have a shot at not getting stuck in the revolving door that often is the U.S. justice system.

Partner Winthrop Minot headed up the Ropes & Gray team in connection with Pay for Success, which is a program that aims to help youths break away from difficult pasts by providing counseling, key life skills, education and vocational training.

"It was the opportunity to help some 900 kids who'd been caught up in the justice system that was so attractive to us," Minot said. "Getting them out of that downward spiral, getting them job skills and jobs, and giving them something to improve their lives."

The program, developed and overseen by Third Sector Capital Partners Inc., is set up as a public-private partnership, Minot explained. Private entities like Goldman Sachs Group Inc., The Kresge Foundation and New Profit Inc. commit millions of dollars in financing, and are later repaid by Massachusetts, as long as the program works.

"The way it's set up, what Massachusetts pays the funding providers is what they will save by not having to pay for these people in prison," Minot told Law360. "Massachusetts comes out monetarily ahead, and that doesn't even factor in what it does for people."

It was a complicated project though, Minot said, because of the plethora of parties involved, including government entities, private foundations, probation officers and more.

"It originally came in as a project simply to set up a nonprofit charitable organization, but it rapidly grew into something much more complex," Minot said. "Everyone had different goals, different desires, and different approaches to how the deal might get done. It was a lot of organizing the project, managing the project, getting everyone to work together."

The project, which Minot called "precedential," ended up seeing the negotiation and drafting of 27 separate contracts, with more than 20 Ropes & Gray attorneys working more than 1,500 hours combined.

"A program of this size is unprecedented," Minot said. "We knew that these documents would be used as a precedent in future cases, so we really wanted to get it right. It's rare that you get a project of this magnitude, to really feel that you've accomplished something."

--Additional reporting by Andrew Strickler. Editing by Mark Lebetkin.

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