

Pro Bono Firm Of 2016: Ropes & Gray

By **Cara Mannion**

Law360, New York (October 5, 2016, 7:33 PM EDT) -- Ropes & Gray has helped persuade the U.S. Supreme Court to legalize gay marriage, secured the release of a man wrongfully convicted of rape and brokered a deal to help end inmate abuse at a New York City jail, landing it a spot on Law360's Pro Bono Firms of 2016.

Ropes & Gray LLP clocked an average of 101 pro bono hours per attorney from May 2015 to May 2016 despite having no formal requirements for doing pro bono work. The number of lawyers who completed 20 hours or more of pro bono work in London and Asia tripled this past year, said Bill Sussman, one of three co-chairs for the firm's pro bono program.

"If you're going to be a Ropes & Gray lawyer, you must think of pro bono work," he said. "It's part of who we are."

The firm's tradition of donating its legal expertise dates back to its inception, when one of its founders, John Ropes, provided free legal services to the families of Civil War soldiers. Sussman said the firm channels this history while focusing on its future goal: international expansion of the firm's pro bono work.

"As the firm has gotten global, the program has gotten global," he said. "It's probably only going to get more robust as time goes on."

Sussman scored his own pro bono victory in 2015 for inmates at a notorious New York City jail who said they were injured when guards used excessive force against them, reaching a deal to improve jail conditions after the firm spent 30,000 hours working on the case.

Ropes & Gray partnered with the Legal Aid Society in 2011 to launch a class action against the city's jail on Rikers Island. The complaint teemed with inmates' horror stories. For example, a



man partially lost his hearing and vision after a correctional officer beat him, and another had to get facial reconstructive surgery and a metal plate inserted after he was beaten and maced by guards while lying handcuffed on his stomach.

In 2014, the U.S. Department of Justice intervened in the class action on behalf of adolescent inmates, saying jail workers confined unruly teens, about half of whom are mentally ill, to 6-by-8-foot cells for 23 hours a day. It also accused the guards of routinely striking inmates in the head, which contributed to the 1,088 inmate injuries reported that year. Sussman said his team welcomed the federal agency's involvement.

"Their findings and reports vindicated what we had been saying all along," he said.

In 2015, New York City settled the case. The deal included the appointment of a federal monitor, surveillance camera installation in the jail and the development of an "early warning" program to shine a spotlight on guards whose conduct could be viewed as excessive.

One Ropes & Gray associate who worked on the suit, Anna Friedberg, left the firm to advance the settlement's reforms as a deputy monitor.

"What effect does a case like this have on people?" Sussman asked. "Anna made it her life's work."

In another high-profile pro bono case, Ropes & Gray partner Douglas Hallward-Driemeier was part of the team that persuaded the U.S. Supreme Court to legalize same-sex marriage in all 50 states.

While stopped at a red light on a Friday night, Hallward-Driemeier received an email from a fellow Harvard Law School classmate and National Center for Lesbian Rights attorney Chris Stoll. Hallward-Driemeier immediately pulled over and called him, hearing about how just the day before, the Sixth Circuit Court of Appeals had ruled that Tennessee and other states could continue to ban same-sex marriage. Hallward-Driemeier took on the case that night.

His team had just seven days to prepare a petition convincing the Supreme Court to hear the appeal, he said. Because most petitions have a 90-day preparation window, Hallward-Driemeier broke out of his typical role reviewing his team's work to draft his own section.

"It was an all-hands-on-deck project," he said.

Once the Supreme Court agreed to take on the case, Hallward-Driemeier worked with Gay & Lesbian Advocates & Defenders attorney Mary L. Bonauto to craft their argument: that marriage was as fundamental to same-sex couples' lives as any opposite-sex couple. The 14th Amendment protected this right, they told the Supreme Court.

"Some states had tried to reduce marriage to being about procreation and only about maintaining the biological relationship between a child and parent," he said. "I don't think that that's true to most of our experiences of marriage."

The day before oral arguments, Hallward-Driemeier met the couples involved in the case for the first time. He heard their stories firsthand in his office, including an Army sergeant who lost legal recognition of his marriage after being transferred to Tennessee. The emotional impact allowed him to argue their cases more forcefully in front of the justices, he said.

“The Supreme Court is not a place for just telling heart-wrenching stories to try and tug on the emotions of the justices,” he said. “But for each of these plaintiff couples, there was something about their stories that really embodied the legal arguments that we were making.”

In June 2015, the Supreme Court sided with Hallward-Driemeier’s clients in a 5-4 opinion, ruling states must license same-sex marriages and recognize the marriages of same-sex couples legally performed out of state. Ropes & Gray Chairman Brad Malt immediately sent out an email to the entire firm and its client list celebrating the victory.

“Because of the firm’s long-standing pro bono history and its commitment to LGBT rights and equality, there was never a moment’s hesitation whether the firm would be 100 percent behind this suit,” Hallward-Driemeier said. “That was absolutely the case.”

Another example of Ropes & Gray’s pro bono brawn is its work securing a new trial for a Massachusetts man sentenced to life in prison after being falsely convicted of raping a 78-year-old woman. This win reportedly marks the first time a U.S. court has overturned a conviction based on largely discredited hair analysis forensics.

George Perrot was a 17-year-old Springfield resident in 1985 when there were a series of attacks against elderly women in the area. In late November, a 78-year-old woman, who was Perrot’s neighbor, was raped for the third time in 18 months. Perrot found himself at the top of the suspect list.

Police subjected Perrot, who was reported to be high and incoherent at the time, to 12 hours of unrecorded interrogation, leading to a confession that he had broken into the woman’s home but that he did not sexually assault her. He later said he did not remember signing the confession.

Witness' testimony didn't connect Perrot to the crime. None of the three elderly women assaulted in the preceding weeks identified him as their attacker during a lineup. The 78-year-old victim later said at trial that Perrot couldn’t be guilty of the assault because the man who raped her was clean-shaven. At the time of his arrest, Perrot had a goatee and long, curly hair.

Despite all the evidence pointing to his innocence, Perrot's conviction came down to a single hair found at the scene. An FBI agent testified that forensic hair analysis of the strand undisputedly proved Perrot was in the woman’s house, going as far to say only someone with a “lesser amount of training” would disagree. Decades later, the FBI and other forensic scientists conceded this type of hair analysis cannot confirm a person’s identity.

Ropes & Gray attorney Kirsten Mayer, who represented Perrot in his 2016 bid for a new trial, said it was unusual for the prosecution to pursue a case so aggressively when even the victim said Perrot was not at fault. The lack of other biological evidence made the hair testimony crucial to strengthen the prosecution’s case, she said.

“Critically, there just wasn’t any evidence other than the FBI forensic hair testimony that put Perrot in the victim’s bedroom,” she said.

Ropes & Gray took on the case in late 2011 after Perrot had been sentenced to life in prison in 1985 and again at a second trial in 1992. DNA testing, which wasn’t widely available during Perrot’s first trials, couldn’t exonerate him because the hair was lost. Without any biological evidence, Mayer turned to the

argument that Perrot deserved another trial on the grounds that new evidence proved the crucial hair testimony amounted to bogus science.

A Massachusetts Superior Court judge agreed with Mayer in late January 2016, releasing Perrot after more than 30 years in jail. The state has since filed an appeal.

Mayer said attorneys representing defendants in similar positions to Perrot's have reached out to her since the decision.

"I think that what we've done can provide a roadmap for other defendants who were convicted in significant part because of hair analysis," she said.

With wins like Perrot's case, pro bono committee co-chair Sussman said the program will continue to grow while focusing on its main mission: to help the unrepresented, the underprivileged and the underdogs.

"It's very gratifying to see real people's problems being solved in the real world by Ropes & Gray," he said.

--Editing by Jill Coffey.