From the Co-Chairs

As Co-Chairs of Jenner & Block’s Pro Bono Committee, we are pleased to share with you the latest edition of *The Heart of the Matter*.

This edition chronicles pro bono and public service activities undertaken by Jenner & Block attorneys in the past two years on behalf of clients whose voices may not otherwise have been heard in the justice system. On all fronts, from criminal to civil matters, from state courts to the U.S. Supreme Court, from battles for human rights and civil liberties to death penalty challenges, Jenner & Block attorneys have redrawn the pro bono advocacy map, advancing case law in pro bono matters one groundbreaking case at a time.

This issue covers high profile cases, such as Associate Lindsay C. Harrison’s important victory for an asylum client at the U.S. Supreme Court in her first argument ever before any court, and a significant win at the U.S. Supreme Court securing judicial review of administrative decisions in immigration cases. Across the country, Jenner & Block attorneys challenged the use of lethal injections to carry out the death sentence and have advocated for many death-sentenced individuals at the state level and at the U.S. Supreme Court. Jenner & Block continues its longstanding tradition of aiding victims of human trafficking and prisoners at Guantánamo Bay and has filed numerous amicus briefs on behalf of public interest groups and underprivileged individuals, challenging courts to clarify key substantive and procedural aspects of the law.

Other pro bono advocacy includes a groundbreaking lawsuit challenging inequities in school funding for pupils of different socio-economic status in Illinois and the defense of clients’ First Amendment rights. The many ways Firm attorneys give back to their communities through tutoring, educational and other charitable programs are also detailed inside this issue, including transactional assistance to non-profit institutions and community programs.

These and many more pro bono representations are highlighted inside. We are deeply proud of our tradition of public service at Jenner & Block and look forward to a future of serving clients in need.
Asylum & Immigration Matters
Firm Wins Landmark Asylum Case at U.S. Supreme Court

In a landmark ruling, the U.S. Supreme Court in April 2009 clarified an important aspect of immigration law that affects thousands of individuals seeking asylum in the U.S. after fleeing persecution abroad. The 7-2 ruling paved the way for Jenner & Block pro bono client Jean Marc Nken to continue the appeal of his deportation to Cameroon, which Mr. Nken fled after being detained, interrogated, and beaten for his advocacy for free elections.

The case was argued on January 21, 2009 by Associate Lindsay C. Harrison. It was her first argument in the U.S. Supreme Court or in any court.

The Court ruled that asylum applicants in the U.S. who are appealing an order of removal by the Board of Immigration Appeals in federal court should not be deported while their appeal is pending if they have a likelihood of success in their appeal and would suffer harm if deported. The Court rejected the Government’s position that asylum-seekers should almost always be deported pending appeal.

The decision allowed the Firm’s client a chance to appeal his deportation before the Fourth Circuit. On October 31, 2009 the Fourth Circuit remanded the case back to the BIA—another victory for Nken and Harrison. This decision brings Nken one step closer to securing permanent safety from persecution in Cameroon, and to keeping him in the U.S. with his wife and baby, both of whom are U.S. citizens.

“How many firms would say to the associate who gets cert granted in a pro bono case, ‘that’s your argument,’” she told Above the Law. Coverage of Ms. Harrison’s argument and win was also included in the AmLaw Litigation Daily, ABA Journal and Legal Times. Mr. Nken, a pro-democracy advocate in Cameroon, applied for asylum in the United States in 2001. After several years of court and administrative proceedings, his motion to reopen his asylum case was denied by the Board of Immigration Appeals. He sought review in the U.S. Court of Appeals for the Fourth Circuit. The Court of Appeals, however, declined to issue a stay of his removal while the appeal there was pending, meaning that he could be deported back to Cameroon notwithstanding the grave danger he faced there.

Ms. Harrison filed an emergency motion in the U.S. Supreme Court, seeking a stay and contending that the standard that the Court of Appeals had used in denying the stay was incorrect and unjustified by federal immigration law. The Supreme Court granted the application for the stay and scheduled argument.

Ms. Harrison said she has long had a particular interest in immigration and asylum cases. Her father came to the United States as an immigrant from the Soviet Union in 1975. Ms. Harrison is a 2003 graduate of the Harvard Law School. As a summer associate, she was a member of the Firm’s litigation team that obtained reversal of the lower court’s decision in the landmark Supreme Court case of Lawrence v. Texas, in which the Supreme Court held that the Constitution does not permit a state to criminalize private consensual sexual behavior.

For her work on this case and other matters, Ms. Harrison was honored with the Firm’s Albert E. Jenner, Jr. Pro Bono award.

Continuing Tradition of Obtaining Asylum

Jenner & Block attorneys helped over 20 individuals secure asylum in the U.S., permitting the refugees—who had been persecuted in their native lands on ethnic and political grounds—to remain in the U.S. and seek citizenship.

- Jenner & Block obtained political asylum for a Guinean client wrongfully arrested at a student protest, imprisoned in the notorious prison in Conakry and tortured because of his political affiliation and ethnicity. Partner Brian J. Fischer helped his client produce the testimony needed at his removal hearing to convince the Immigration Law Judge to grant asylum. Partner Katya Jestin also participated in the case.
- Jenner & Block obtained political asylum for an Eritrean client arrested, beaten and tortured for her membership in an outlawed political organization. Associates worked extensively with experts and specialists in medical forensics, psychotherapy and country conditions to bolster the asylum claim. Partner Lawrence S. Schaner and Litigation Counsel Laura E. Pelanek participated in the case.
- Jenner & Block aided another Eritrean client who had been imprisoned and brutally beaten and tortured 3-4 times a week for criticizing the Eritrean government's restrictive policies. Associate Jacob P. Zipfel’s thorough preparation of the case at the interview stage resulted in the granting of asylum without the need for a hearing, a rare occurrence in immigration proceedings. Partner Megan B. Poetzl participated in the case.
- Firm attorneys obtained asylum for a mother and daughter from Kyrgyzstan in a bride kidnapping case, where the client escaped from her forced and brutal marriage and fled with her daughter to the United States. The case presented a significant advance in asylum law by apprising the Court of recent developments in the law favorable to the issue of whether victims of domestic violence meet the requirements for granting asylum. Partner Matthew J. Thomas participated in the case.
- Jenner & Block won a significant victory for our client, an Egyptian Coptic Christian who sought asylum in the United States after being persecuted by extremists for his opposition to the Egyptian government and certain fundamentalist Muslim groups in Egypt, when the Ninth Circuit Court of Appeals granted his petition to review a denial by the BIA to reopen his case. Associate Damon A. Thayer was amicus curiae counsel and presented oral argument in the case. In remanding the client’s case to the BIA with directions to reopen, the Ninth Circuit’s decision relied on several arguments he set forth. The Firm’s team also included Partners Jerold Oshinsky and Kenneth K. Lee and Associate Jean Marie Doherty.

Jenner & Block Number One for Pro Bono for Three Years in a Row

For the third year in a row, The American Lawyer magazine named Jenner & Block the number one law firm in the country for pro bono service in its annual pro bono rankings. More than 69,000 hours of pro bono service were provided by Firm attorneys in 2009 in a wide range of matters, from helping fledgling non-profits to representing the needy in courts across the country, including the U.S. Supreme Court.

The Firm obtained the number one rank through a combination of having 161.1 average pro bono hours per attorney, and having 83.5% of its attorneys, representing 100% of associates and nearly two-thirds of partners, contribute more than 20 hours to pro bono matters.

Jenner & Block’s long-standing tradition of providing legal services to those without the resources to pay for them has been recognized by The American Lawyer as one of the top ten programs in the country every since 1990, and the Firm has ranked number one in the country four times—in 2010, 2009, 2008 and 1998.
RICO Argument in Human Trafficking Case

In precedent setting advocacy, a team of Jenner & Block attorneys filed a RICO complaint in the U.S. District Court for the Eastern District of Wisconsin naming a family of five as defendants in a case alleging the family enterprise trafficked the Firm’s client into the United States and into 19 years of forced labor. The team presented a novel argument that a nuclear family unit can constitute an enterprise. Successfully surviving three separate motions to dismiss, Judge Adelman not only left the RICO counts standing against the defendants, he also found a civil remedy embedded in the Thirteenth Amendment. The court stated “A retrospective damages remedy is of a civil remedy embedded in the Thirteenth Amendment. Counts standing against the defendants, he also found a civil remedy embedded in the Thirteenth Amendment.”

Although the outcome of the case is still pending, significant human rights law was made with the court’s finding that trafficking victims have viable claims under the Thirteenth Amendment and RICO, which the Jenner & Block team hopes will encourage other jurisdictions to advance the jurisprudence in this area.

Jenner & Block’s team was led by Chairman Emeritus of the Firm Jerold S. Solovy and Partner Martina E. Vandenberg. Associates Reena R. Bajowala, Anna M. Baldwin, Sarah A. Maguire, and Anne M. Alexander briefed the opposition to the motions to dismiss. Partner R. Douglas Rees and Associate Sean P. Tarantino drafted the complaint and provided advice on the RICO claim.

Jenner & Block and ACLU Settle Class Action for Women Prisoners

In August 2010, Jenner & Block and the American Civil Liberties Union successfully settled a first-of-its-kind class action lawsuit on behalf of women prisoners at Taycheedah Correctional Institution, Wisconsin’s largest women’s prison. The suit, filed in 2006, alleged that medical, dental and mental health care at the prison was grossly deficient, causing inmates great physical pain and mental anguish. Among other things, the settlement calls for Taycheedah to attain medical accreditation, hire a new associate medical director to oversee clinical care, and meet new standards of care, including giving inmates a daily opportunity to ask for health care, ensuring proper follow-up care, providing 24-hour emergency medical services and health screening for all incoming prisoners, and providing medications on time.

Larry Dupuis, Legal Director of the ACLU of Wisconsin cited “the help of Jenner & Block lawyers” as being essential in the case. The Firm team includes Partners Robert L. Graham and Keri L. Holleb Hotaling and Associate Genevieve J. Essig.

Raising Awareness of Human Trafficking Nationwide

Partners Martina E. Vandenberg, Matthew L. Jacobs, Terrence J. Truax and Matthew S. Hellman participated in training and discussion events nationwide over the past two years to increase the visibility of the critical issue of human trafficking and to train attorneys regarding effective legal strategies to assist victims.

Trafficking of Women and Girls: Forced Labor, Forced Prostitution and Hope

The Firm’s Chicago office sponsored a panel discussion with Save Our Sisters and the Women’s Forum to discuss the forced labor aspect of human trafficking, especially in the case of women, including the use of forensic accounting as a way of detecting forced labor.

Partner Martina E. Vandenberg introduced the topic and Partner E. Lynn Grayson and Associate Reena R. Bajowala assisted in hosting the event.

Jenner & Block Advocacy Advances Trafficking Victims Protection Act


Ms. Vandenberg also participated in the U.S. State Department’s International Visitor Leadership Program “Combating Trafficking in Persons: A Multi-Regional Project Including Representatives from Israel, Thailand, Kosovo, Syria and Tanzania.”

Legal Immigration Status for Trafficking Victim

A young woman from Mexico smuggled into the U.S. by a trafficking ring and forced into prostitution in the U.S. obtained legal immigration status under the Trafficking Victims Protection Reauthorization Act in October 2009 after tremendous efforts by a dedicated Jenner & Block team. After numerous interviews with the DOJ and FBI, Of Counsel Iris E. Bennett persuaded the government to investigate the trafficker after our client escaped. The trafficker was located and the DOJ and FBI initially supported our client’s application until she was arrested for drug possession and placed on probation. Although a drug conviction is nearly fatal in the visa application process, the team, led by Associate David Z. Moskowitz, prepared a T visa application that presented the client’s victimization, cooperation with federal law enforcement and the drug incident with such skill that, although the outcome of the application was doubtful, the team obtained much deserved immigration status for our client.

9-0 U.S. Supreme Court Win in Kucana v. Holder

Jenner & Block represented the petitioner in the U.S. Supreme Court in Kucana v. Holder, successfully arguing that federal courts have jurisdiction to review appeals involving motions to reopen BIA immigration cases. The case will affect thousands of immigrants who rely on judicial review to reverse erroneous decisions by the immigration courts.

The Firm’s team on this case was supervised by Partner Elaine J. Goldenberg and included Associates Lindsay C. Harrison, Eric R. Haren, Julia K. Martinez, Rochelle P. Lundy and Krishanti Vignarajah. Senior Paralegal Cheryl L. Olson also provided assistance.

L.A. Office Develops Pepperdine Pipeline

Partners Jerold S. Oshinsky, Brent Caslin and Associate Jean Marie Doherty are coordinating a project with Pepperdine University to represent clients who have been denied legal immigrant status and whose cases are on appeal with the 9th Circuit. Pepperdine University will refer such cases to attorneys at the Firm’s Los Angeles office.
Firm Devotes More than 15,000 Hours to Death Penalty Matters in 2008 and 2009

Since January 2008, Jenner & Block attorneys have devoted more than 15,000 hours to the pro bono representation of indigent clients in death penalty matters. Jenner & Block’s recent cases have challenged the use of lethal injections in multiple jurisdictions, spearheaded the defense of mentally disabled clients facing the death sentence, and worked to ensure that defendants facing a death sentence have the best representation possible. Our attorneys are currently handling numerous capital cases for clients on death row in California, Florida, Georgia, Illinois, Louisiana, Missouri, South Carolina and Texas, and on federal death row. In addition, the Firm has worked on several petitions for certiorari and amicus briefs before the U.S. Supreme Court.

Challenging Lethal Injections as Unconstitutional

Building on the Firm’s significant U.S. Supreme Court advocacy in Baze v. Rees concerning the constitutionality of Kentucky’s lethal injection procedure, which left open the question of whether lethal injection procedures in other states would be constitutional, the Jenner & Block team continued to challenge the procedure and contributed to the death penalty debate through several high profile challenges to state lethal injection procedures in California, Missouri and Virginia.

Morales – The Firm argued before the U.S. District Court for the Northern District of California that the systemic flaws in the state’s lethal injection procedures included a lack of procedural safeguards to ensure that condemned inmates are properly sedated before the lethal chemicals are administered.

Taylor – A Jenner & Block team led by Partner Matthew S. Hellman presented oral argument before the U.S. Court of Appeals for the Eighth Circuit in a constitutional challenge to Missouri’s lethal injection. The Firm’s team argued that Missouri’s method of executing the condemned remains “fraught” with systemic problems that could subject them to “unconstitutional pain and suffering.” Although the Eighth Circuit upheld the procedure in November 2009 and the U.S. Supreme Court denied certiorari on June 28, 2010, significant reforms have been made to Missouri’s lethal injection protocol as a result of this suit.

In addition to Mr. Hellman, the Firm’s team working on lethal injection matters includes Partners William M. Hohengarten and Richard P. Steinken and Associates Carrie F. Apfel and Ajay Sutaria.

Constitutional Challenge to Georgia’s Capital Punishment Scheme

Raulerson – Jenner & Block attorneys asserted that Georgia’s exceedingly high burden of proof for proving mental retardation in death penalty cases violates due process rights, in a significant habeas corpus challenge to Georgia’s capital punishment scheme. Georgia is the only state in the country that uses the “beyond a reasonable doubt” standard, as opposed to the “preponderance of the evidence” or “clear and convincing evidence” standards as the burden of proof for establishing mental retardation.

If the death sentence for our client Mr. Raulerson is overturned, the decision could impact more than 25 other defendants on Georgia’s death row who also have filed habeas claims. In May 2009, two Georgia senators proposed legislation to lower the burden of proof to a “preponderance of the evidence” standard, rather than the “beyond a reasonable doubt” standard. The case remains pending.

On the Firm’s team representing Mr. Raulerson are Partners David W. DeBruin and Julie A. Carpenter and Associates Lindsay C. Harrison, Eric R. Haren and Michael W. Kho. The Firm is working with former Jenner & Block Associate Kathleen Hartnett as co-counsel on this matter and has also received substantial guidance from the Georgia Resource Center.

U.S. Supreme Court Advocacy

Montejo – The Firm presented oral argument in the U.S. Supreme Court on behalf of a death row inmate in Louisiana, in a high-profile case involving a Sixth Amendment right to counsel issue. Our attorneys argued that Mr. Montejo was unconstitutionally interrogated by police officers after counsel had been appointed to represent him. The Supreme Court handed down a decision on May 26, 2009 that departed from stare decisis and overturned the 23 year old precedent of Michigan v. Jackson, which prohibits interrogation of defendants who have requested counsel at arraignment. Scholars have argued that the protections of Michigan v. Jackson are especially important for mentally and developmentally disabled persons, as well as drug addicts and the poor. The Jenner & Block team representing Mr. Montejo included

Mathias Chair of the ABA Death Penalty Representation Project

Partner John H. Mathias was re-appointed Chair of the American Bar Association’s Death Penalty Representation Project, a nationally-recognized organization that works to address the crisis of counsel in the death penalty system. He is currently serving a one-year term that commenced in August 2010 with the adjournment of the ABA’s Annual Meeting. He has been active in the ABA Section of Litigation and served on the Section’s Leadership Council.

Mr. Mathias has been a longtime advocate on behalf of death row inmates, most recently providing pro bono legal counsel to Texas death row inmate Jimmie Urbano Lucero, on whose behalf Jenner & Block filed a 250-page habeas corpus petition and brief asserting ineffective assistance of trial counsel and mental retardation, and to Illinois capital defendant Caroline Peoples, who was sentenced to natural life in prison in March 2010, after the lead prosecutor, praising the Firm’s mitigation presentation, dropped the State’s pursuit of the death penalty for her.
Partners Paul M. Smith, Katherine A. Fallow, Matthew S. Hellman and William M. Hohengarten, and Associate Thomas H. Kim. Former Partner Donald B. Verrilli, Jr. argued the case before the U.S. Supreme Court.

Cone – Firm attorneys filed an amicus brief for Veterans for America regarding the implications of post traumatic stress disorder (PTSD) on the culpability of criminal defendants. In the amicus brief filed on the merits, the Jenner & Block team emphasized that jurors must be given a chance to fully consider the extent of evidence related to a defendant’s PTSD before convicting and imposing the death sentence. In this case, prosecution suppressed evidence related to our client’s PTSD. The Supreme Court issued a favorable ruling in April 2009, remanding the case and granting a new hearing. Former Partner Donald B. Verrilli, Jr. led the team.

Mikos – Jenner & Block filed a petition for writ of certiorari in April 2009 to the U.S. Supreme Court after the U.S. Court of Appeals for the Seventh Circuit affirmed the federal conviction and death sentence of Dr. Ronald Mikos in the 2002 murder of one of his former patients. The petition asserted that the Court should grant certiorari to address whether the Fifth Amendment allows the government to use a defendant’s silence to establish the death penalty aggravating factor of lack of remorse.

The Court denied certiorari in October 2009. The Firm is currently engaged in investigating and gathering facts to support claims to be presented in a petition for writ of habeas corpus, with a petition expected to be filed in federal court at the beginning of October 2010.

The Jenner & Block team representing Dr. Mikos both at the Seventh Circuit and before the Supreme Court is led by Partner Barry Levenstam, Associates April A. Otterberg, Anthony B. Borich and Kajia K. Hupila.

Post-Conviction and Trial Proceedings

Harvey – Since 1990, Jenner & Block has represented Florida death row inmate Harold Lee Harvey, Jr., challenging his conviction and sentence on grounds of ineffective assistance of counsel, including the fact that our client’s trial counsel permitted a self-admitted biased juror to sit on the jury even though efforts to rehabilitate her failed. Partner Jeffrey A. Kopyy argued the appeal of the denial of Mr. Harvey’s motion for post-conviction relief before the Florida Supreme Court in 2001 and initially won a new trial based on the concession-of-guilt issue, but the Florida Supreme Court vacated that decision on rehearing in 2006 finding that an intervening U.S. Supreme Court case, Florida v. Nixon, required a different result. In January 2008, the Jenner & Block team filed a petition for habeas corpus in federal district court. The case is now on appeal in the Eleventh Circuit after the denial of the petition. The Jenner & Block team on this matter also included Partners Ross B. Bricker, Michael T. Brody, Sally K. Sears Coder and Chris C. Gair and Associate Anna W. Margasińska.

Basham – The Firm’s client Brandon Basham was convicted in federal court in South Carolina and sentenced to death. The Firm contended on appeal to the U.S. Court of Appeals for the Fourth Circuit in October 2008 that Mr. Basham’s death sentence should be set aside because of extremely improper conduct by the jury foreperson, including numerous telephone calls made to media outlets during trial. Following the Fourth Circuit’s affirmation of the conviction and death sentence and the denial of a petition for rehearing, Jenner & Block filed a petition for certiorari in the case. Certiorari was denied on June 1, 2010 and there will now be a habeas challenge to Mr. Basham’s imprisonment. Working on this matter are Partners David W. DeBruin, Stephen L. Ascher and Kali N. Bracey and Associates Eric R. Haren and Bharat Ramamurti.

Garcia – The Firm continues its representation of a Mexican national on death row in Texas for almost 20 years, due in part to the international implications of his case. Mexico has challenged the outcome of the case because local authorities in Texas, in contravention of the 1963 Vienna Convention on Consular Relations, failed to notify Mr. Garcia that he could contact the Mexican consulate after his arrest. The International Court of Justice ruled in 2004 that Mr. Garcia and 50 other condemned Mexican nationals on death row should receive new hearings in U.S. Courts, although, the U.S. Supreme Court held in 2008 that the Vienna Convention, not ratified by Congress, is not binding on the states. The Jenner & Block team filed two briefs in March 2009 in Texas state court for the supplemental and subsequent habeas petition based on inadequate representation at the trial and appellate stages of his underlying case. The Jenner & Block team working on this case includes Partners Matt D. Basil and Sandi J. Toll and Associates Joshua Rafsky, Casey T. Grabenstein, Som P. Dalal and Kajia K. Hupila.

Lucero – Jenner & Block provided counsel to a Texas death row inmate on post-conviction appeal, arguing that the client should be spared the death penalty due to his state of mental retardation. Specifically, the team argued that the client’s previous attorneys “ignored obvious signs” of his mental illness leading up to his trial, and that if defense counsel had performed even at the most minimal level of effectiveness, the client’s life would have been spared by the jury. The Firm continues to represent Mr. Lucero in post-conviction proceedings. Working on this matter were Partners Jeffrey A. Kopyy, John H. Mathias, Jr., Suzanne J. Prysk and Bradley M. Yusim and Associates Andrew D. Kennedy and Ashley M. Schumacher.

Peoples – At the trial level, Jenner & Block worked with solo practitioner Steve Richards to represent an Illinois woman charged with the serial killing of four people in Chicago in 2004. Following a plea of guilty, the Firm worked tirelessly to mitigate her death penalty sentence to a sentence of natural life in prison. The Jenner & Block trial team includes Partners John H. Mathias, Jr. and Jeffrey A. Kopyy and Associates J.H. Jennifer Lee, Michaelene R. Martin, John M. Power, Nangah H. Tabah, Anne M. Alexander and Aaron-Michael H. Sapp.
Firm Represents Juan Rivera in Closely-Watched Murder Trial

“Guilty Despite DNA Test” was the front page headline of the Chicago Tribune the day after pro bono client Juan Rivera was found guilty by a jury following a closely watched trial concerning the 1992 murder and sexual assault of 11-year-old Holly Staker.

Twice convicted for the same crime, Mr. Rivera’s first conviction was overturned in light of questions surrounding trial procedure and evidence, and his second conviction was vacated when new DNA testing revealed that he was not the source of fluid found in the victim. Jenner & Block joined Mr. Rivera’s defense team for his third trial addressing issues raised in the prior convictions.

Mr. Rivera’s legal team was able to establish through testimony from both defense experts and an expert from the Illinois State Police Laboratory that DNA evidence from sperm found in the victim’s vagina did not match Mr. Rivera’s DNA. No match for the DNA has ever been made, despite comparisons with the FBI’s DNA database.

There was no physical evidence linking Mr. Rivera to the crime, despite a significant amount of physical evidence available at the scene. For instance, a forensic expert testified that none of the 70 finger and palm prints obtained from the crime scene was Rivera’s.

Despite the lack of evidence connecting Mr. Rivera to the crime, the state continued to press its case in this third trial, including suggesting that the victim had been sexually active in an attempt to explain the lack of a match between DNA found on the victim and Mr. Rivera. Defense experts testified that DNA recovered from the victim was left just before her death.

At the most recent trial, the state’s case focused on two statements that Mr. Rivera signed after lengthy interrogations. Two nurses who treated Mr. Rivera during the course of that interrogation, as well as a defense psychiatric expert, testified that Mr. Rivera’s subsequent confessions were given in a “stress-induced acute psychotic state,” and that Mr. Rivera was not able to understand what he was doing at the time. According to testimony, during the interrogation Mr. Rivera at times sobbed uncontrollably and repeatedly banged his head against the wall, and did not stop when police intervened. Jail officers testified that Mr. Rivera was taken to the jail “rubber room” during the interrogation, where he was cuffed and shackled in a “hog-tied” position, and the jail nurses, whom Mr. Rivera knew before this incident, testified that he did not appear to recognize them and was unresponsive to their attempts to speak with him.

When challenged, detectives conceded at trial that Mr. Rivera got many of the facts wrong about the crime in both of his statements. Mr. Rivera’s defense team maintained that both statements used words and descriptions that were not likely to have been produced by Mr. Rivera, who has an IQ of 79. Mr. Rivera’s interrogations were not recorded.

The pro bono defense team included Northwestern University School of Law’s Center on Wrongful Convictions attorneys Jeffrey Urdangen, Jane Raley, and Judith Royal; Jenner & Block Partners Thomas P. Sullivan, a former U.S. Attorney for the Northern District of Illinois, and Terri L. Mascherin; and Jenner & Block Associates Andrew W. Vail, Daniel T. Fenske, and Sarah F. Terman.

Mr. Rivera was sentenced to life without parole on June 25, 2009 by Judge Christopher C. Starck. The Jenner & Block team and the Center on Wrongful Convictions have announced their intention to appeal Mr. Rivera’s conviction. Lawrence Marshall, renowned Stanford Law School professor and a founder of the Center, has joined the Mr. Rivera’s defense team for the appeal.

The case has received widespread media attention, the Chicago Tribune has called it one of the Chicago area’s “most complex and controversial murder cases.”

Reversal of Conviction by South Carolina Supreme Court Rejects Outdated Causation Theory

In a widely-lauded ruling, a unanimous South Carolina Supreme Court overturned the 2001 conviction of Jenner & Block client Regina McKnight for homicide by child abuse after she suffered a stillbirth and granted her a new trial.

The court’s decision represents the first time a court has addressed the question of whether prenatal exposure to substances causes harm to the fetus, and has significant import for the dozens of pregnant women each year in the United States who, like Ms. McKnight, are criminally charged for continuing their pregnancies to term despite their struggles with drug addiction.

Jenner & Block Partner Julie M. Carpenter took over the case on appeal. Among other things, the Firm presented testimony of a leading forensic pathologist, stating that there is no credible medical basis for concluding that cocaine use had caused the stillbirth. Evidence was also presented regarding the inflammatory conditions Ms. McKnight had that commonly cause stillbirth.

Although the Firm initially lost in the post-conviction relief proceeding, the South Carolina Supreme Court granted certiorari. In reversing the decision, the court found several prejudicial errors, each one amounting to ineffective assistance at trial.

The decision has major implications for similar cases across the country. The ruling recognizes that past convictions in such cases have been based largely on medical misinformation and prejudice.
Firm Successfully Defends Two Clients in Pro Bono Criminal Trial

Partners Reginald J. Hill and Joseph A. Saltiel successfully defended two pro bono clients in a criminal trial in the Circuit Court of Cook County. The Firm’s clients, participants in the Chicago Recovery Alliance (CRA) research program, had been charged with the illegal possession of drug paraphernalia. As part of its “harm reduction” outreach, the CRA runs a syringe exchange program aimed at reducing the spread of HIV/AIDS, hepatitis, and other diseases through the provision of safe injecting equipment, counseling and other services. Despite a Chicago Police Department order that recognizes the law creates an exemption for persons participating in a research program and prohibits the arrest of CRA program participants for possession of hypodermic syringes, the clients were arrested and prosecuted to verdict. Based on the attorneys’ opening statement and cross-examinations, the court found in favor of the Firm’s clients and issued a not guilty verdict. Messrs. Hill and Saltiel worked with Assistant Cook County Public Defender Lisa Dedmond to represent the clients before the court, and Associate Duan Fu provided valuable research in support of the clients’ defenses. Mr. Hill has provided pro bono representation to CRA and its syringe exchange participants for more than a decade.

Federal Court Grants Habeas Corpus for Client

In August 2009, the U.S. District Court for the Northern District of Illinois granted a writ of habeas corpus for the Firm’s pro bono client, opening the door for a new trial. The Firm’s client had been convicted by a jury and sentenced to 40 years in prison for a murder he allegedly committed when he was 15 years old. Associate Kevin Case, who represented the client under the supervision of Partner John J. Hamill, argued that the client’s statements to the police after his arrest, which were largely the basis for his conviction, were obtained in violation of the client’s constitutional rights. The court agreed that the client, “who was of borderline intellectual functioning and could not even spell his own name,” did not voluntarily waive his constitutional rights when he spoke to the police.

Firm Wins Second Reversal of Client’s First-Degree Murder Conviction

Before Jenner & Block took his case, Kenneth Smith was convicted of attempted armed robbery and first-degree murder and sentenced to 67 years in prison. On appeal, the conviction was overturned based on a violation of Mr. Smith’s Sixth Amendment right to confront witnesses against him. The Firm then took over the case and in August 2008, a team led by Partners David Jimenez-Ekman and John R. Storino, and including Associate Jennifer L. Dlugosz, represented Mr. Smith at his second trial, before the same McHenry County, Illinois judge who had presided over the first trial. Several pre-trial rulings and evidentiary rulings during the trial were very unfavorable to the client and did not seem legally sound at the time, but the team put on a vigorous defense, demonstrating a lack of any physical evidence or eyewitness identification, and putting on confessions by unrelated third parties. After a two-week trial and more than 8 hours of deliberations, a jury again found Mr. Smith guilty and the judge imposed the same 67-year sentence. On May 13, 2010, the Second District Appellate Court, finding two prejudicial errors, issued a unanimous opinion reversing and remanding Mr. Smith’s conviction for a second time. The Firm will represent the client in his third trial in March 2011.

New Hearing for Client in Habeas Appeal

In August 2008, the U.S. Court of Appeals for the Seventh Circuit reversed the U.S. District Court and ruled that Jenner & Block’s pro bono client had shown that he had suffered prejudice in his trial in Illinois state court because of his former trial counsel’s decisions. The appeals court, ruling in a habeas corpus proceeding brought by the Firm’s client, ordered the lower court to hold an evidentiary hearing on the client’s claim of inadequate representation of counsel. The client, who was convicted of murder in 1988, contends that trial counsel’s failure to call an eyewitness to the crime who could not place him at the scene prejudiced his chances of acquittal. Partner Chris C. Gair led the Firm’s team on this successful appeal.

Firm Co-Author Brief in Pro Bono Criminal Matter Before U.S. Supreme Court

Jenner & Block co-authored a merits brief for the respondent in Vermont v. Brillon on the issue of whether the Vermont Supreme Court correctly held that the client was denied his right to a speedy trial. The Firm’s team included Partner Duane C. Pozza and Associate Rochelle P. Lundy.
Amicus Briefs in Public Interest Matters

Jenner & Block has a long history of writing amicus briefs on behalf of underprivileged individuals and public interest groups and challenging courts to clarify key aspects of the law. Below are some of the pro bono amicus briefs recently filed by our attorneys:

- **Jose Padilla v. Commonwealth of Kentucky.** Filed in the U.S. Supreme Court on behalf of a host of criminal defense and immigrants’ rights organizations. The brief urged the Court to hold that the criminal defense function includes advising the client of every important consequence of a plea. “Where such advice by counsel was not provided, the guilty plea, and conviction based on that plea, should be set aside,” the brief argued. Of Counsel Iris E. Bennett authored the brief in this matter.

- **Ali Saleh Kahlah Al-Marri v. Commander Daniel Spagone.** Filed in the U.S. Supreme Court on behalf of a group of professors specializing in statutory interpretation in support of petitioner regarding the arrest of al-Marri at his home in Peoria, Illinois. He was held in a naval brig, without charge, as an enemy combatant in the wake of 9/11. The Court granted certiorari, but before it could hear oral arguments, the new administration voluntarily transferred al-Marri to civilian court for a trial in full accordance with the Fifth and Sixth Amendments. The Jenner & Block team on this brief included Partner Paul M. Smith and Associates Luke P. Mcloughlin and Danielle F. Tarantolo.

- **Tenenbaum v. Ashcroft, et al.** Filed in the U.S. Court of Appeals for the Sixth Circuit on behalf of the Anti-Defamation League, urging the court to allow a Jewish civilian employee of the U.S. Army to sue the government for its egregious discriminatory conduct against him. Among other things, the brief discussed how the “dual loyalty” stereotype may have affected David Tenenbaum’s security clearance and how it may have affected others seeking or hoping to maintain military or security clearances from the U.S. government. The brief was authored by Partner Eric L. Lohrenz and Associates Benjamin P. Wieck and Nicholas A. Kurk. Partners Debbie L. Berman and Eric A. Sacks also contributed to the brief.

- **Giles v. California.** Filed in the U.S. Supreme Court on behalf of the American Professional Society on the Abuse of Children and the National Association of Counsel for Children in a case concerning the scope of the Sixth Amendment Confrontation Clause. A team led by Partner Margaret J. Simpson and former Jenner & Block Partner Barry Sullivan urged the Court in Giles to articulate the constitutional standards in a way that prevents criminal defendants from benefiting from the incapacities of child witnesses.

- **Edward Jerome Harbison v. Ricky Bell.** Filed in the U.S. Supreme Court on behalf of the Constitution Project for Petitioner Harbison on whether federally-funded counsel may assist capital defendants in state clemency proceedings and be compensated for that representation. The brief highlighted the critical role that clemency plays in the American system of justice and the crucial need for counsel at the clemency stage. The Firm’s team on the matter included Partner Duane C. Pozza.

- **Manoj Nijhawan v. Eric H. Holder, Jr.** Filed in the U.S. Supreme Court on behalf of the National Association of Criminal Defense Lawyers regarding whether an immigration judge in removal proceedings can conduct a wide-ranging inquiry to determine whether a lawful permanent resident’s fraud exceeded $10,000—the penalty for which is deportation—if the fraud statute at issue does not contain a minimum amount as an element of the crime. Of Counsel Iris E. Bennett and Associate Michael A. Hoffman authored the brief in this matter.

- **Dupuy v. McEwen.** Filed in the U.S. Supreme Court on behalf of the Illinois State Bar Association urging the Court to review an appeals court’s ruling that upheld the “safety plan” procedure frequently used by the Illinois Department of Children and Family Services to separate children from their parents based upon any unsubstantiated allegation of child abuse. The plan does not permit the parents to receive notice of the factual basis for the allegations against them or any type of hearing before or shortly after the plan is imposed. The brief was filed by Partner Robert R. Stauffer and Associates Elisabeth Genn and Daniel I. Weiner.

- **Pleasant Grove City, Utah v. Summum.** Filed in the U.S. Supreme Court on behalf of the Center for Inquiry in a case involving the erection of a privately-donated religious monument in a municipal park. The brief asked the Court to craft a narrow ruling on the appeals court’s First Amendment decision, expressly stating that the ruling does not address Establishment Clause issues. In February 2009 the Court issued a ruling within this framework, leaving open the possibility of further litigation on Establishment Clause grounds. The Firm’s team on this matter included Partner Barry Levenstam and Associate Matthew W. Alsdorf.

- **Angelos v. United States.** Filed in the U.S. District Court for the District of Utah on behalf of the Center on the Administration of Criminal Law, urging the court to vacate the sentence of a first-time offender.
who had been sentenced to 55 years in federal prison after selling a few hundred dollars’ worth of marijuana to a government informant. The brief, written by Partner Samuel L. Feder and Associate Lindsay C. Harrison, argued that the sentence was an abuse of prosecutorial discretion and a violation of the Eighth Amendment. Mr. Feder filed a second brief for the Center in this case that emphasized the particular importance of policing ineffective assistance of counsel at the plea bargaining stage.

- **Ignacio Flores-Figueroa, v. United States of America.** Filed in the U.S. Supreme Court on behalf of 42 Professors of Criminal Law regarding whether a defendant must know that the false means of identification used by the defendant belongs to a real person in order for the defendant to be convicted of knowingly using the means of identification of another person. The Court found the government must prove knowledge. Partner Iris E. Bennett and Associate Anna M. Baldwin authored the brief in this matter.

- **Herbert Smulls v. Don Roper.** Filed in the U.S. Supreme Court on behalf of the National Association of Criminal Defense Lawyers urging the Court to clarify the level of factual findings required by a trial court deciding a Batson Challenge. Partners Susan J. Kohlmann and Katya Jestin and Associate Kyle A. Palazzolo authored the brief in this matter.

- **Kiyemba et al. v. Obama et al.** Filed in the U.S. Supreme Court on behalf of a group of legal historians and habeas corpus experts. The petitioners in the case are Chinese Muslim (Uighur) prisoners eligible for release but still being held at Guantánamo Bay. The brief asks the Court to define the scope of a federal court’s power to require advance notice of a detainee’s transfer in order to assure that the court has the opportunity to rule on any legal challenges to the transfer before the detainee gets beyond the court’s reach. The brief urges the Court to ensure that the writ’s historical role in facilitating notice and judicial inquiry into the legality of a prisoner’s transfer is maintained going forward. A related case the Supreme Court already agreed to hear will examine the grounds that his prosecution would violate his speedy trial rights. Mr. Ghailani was detained by Pakistani authorities in 2004 and held by the United States in various undisclosed locations before being sent to Guantánamo Bay, Cuba. He was further detained until June 9, 2009, when he was brought to New York to answer the charges in the original 1998 indictment. The brief argued that the pre-trial delay violated both Mr. Ghailani’s statutory and constitutional rights to a speedy trial. Although the Court ultimately ruled in favor of the government, the Court’s opinion specifically thanked CCR for its participation and assistance in analyzing these difficult legal issues. Partners Brian J. Fischer and Andrew Weissmann and Associate Prashant Yerramalli authored the brief.

- **U.S. v. Ahmed Ghailani.** Filed in the U.S. District Court for the Southern District of New York on behalf of the Center for Constitutional Rights (CCR) in support of Mr. Ghailani’s motion to dismiss the indictment charging him with offenses related to the 1998 embassy bombings in Kenya and Tanzania on the grounds that his prosecution would violate his speedy trial rights. Mr. Ghailani was detained by Pakistani authorities in 2004 and held by the United States in various undisclosed locations before being sent to Guantánamo Bay, Cuba. He was further detained until June 9, 2009, when he was brought to New York to answer the charges in the original 1998 indictment. The brief argued that the pre-trial delay violated both Mr. Ghailani’s statutory and constitutional rights to a speedy trial. Although the Court ultimately ruled in favor of the government, the Court’s opinion specifically thanked CCR for its participation and assistance in analyzing these difficult legal issues. Partners Brian J. Fischer and Andrew Weissmann and Associate Prashant Yerramalli authored the brief.

In a victory that reinforced important ethical safeguards in the criminal justice system, Jenner & Block Partners Richard F. Ziegler and Brian J. Fischer helped obtain an appellate court reversal in a criminal contempt conviction of a public defender who had refused to defend his assigned client at a criminal trial on a half-day’s notice. The court’s opinion drew considerably from the arguments presented in the Firm’s amicus brief and oral argument.

The case concerned a public defender in Ohio who was assigned by his office to defend an individual charged with a misdemeanor assault. When the public defender appeared at court the next morning for what he believed would be a routine pre-trial conference, he was told that his client’s trial was about to begin. Despite the public defender’s explanation to the court that he was wholly unprepared to proceed and that his ethical obligations precluded him from continuing and endangering his client’s constitutional rights, the court refused the attorney’s motion for a continuance and ordered him to proceed. Upon his refusal, the court held the attorney in criminal contempt, had him taken into custody, and later sentenced him with a fine.

At the request of Fordham Law School’s Louis Stein Center for Ethics and Law, Jenner & Block prepared an amicus brief asserting that the attorney’s contempt conviction rested on an improperly narrow understanding of counsels’ ethical duties. Among other things, the brief argued that an attorney has a constitutionally-rooted ethical obligation to prepare and investigate adequately for trial that cannot be extinguished by court order or threat of contempt; the contempt conviction was at odds with the court’s obligation to administer and ensure a fair trial; and it is improper to rely on appellate courts to cure foreseen and easily avoidable representation deficiencies. Moreover, it contended that imposing criminal contempt on an attorney in these circumstances risks chilling defense attorneys’ discharge of their ethical duties.

Mr. Fischer presented oral argument before Ohio’s Eleventh District Court of Appeals, which shortly thereafter reversed the attorney’s contempt conviction.
Firm Defends Pro Bono Clients’ First Amendment Rights

Firm Persuades Seventh Circuit to Revive Inmate’s First Amendment Suit

In a victory for the Firm’s pro bono client, a prison inmate, the U.S. Court of Appeals for the Seventh Circuit revived the client’s civil rights lawsuit alleging he was harassed in retaliation for providing an affidavit in a wrongful-death lawsuit against prison officials. The district court had previously dismissed the First Amendment claim brought by the client because the speech that triggered the alleged retaliation did not involve “a matter of public concern.” In concluding that the client’s conduct was protected by the First Amendment, the appeals court held that protecting prisoners from retaliation only for statements made about matters of public concern “would be to remove protection from nearly everything a prisoner says.” Associate Alexander Rozenblat argued the case before the Seventh Circuit on behalf of the inmate. Partner Timothy J. Barron was principal author of the appellate brief.

Charge Dropped in Illinois Pro Bono Free Speech Case

Partner Gabriel A. Fuentes successfully represented a Trustee of Carpentersville, Illinois in her constitutional challenge to a disorderly conduct citation. Carpentersville police had issued a ticket to Trustee Linda Ramirez Sliwinski on April 5, 2008, charging her with disorderly conduct stemming from a verbal altercation with neighbors. Ms. Sliwinski was alleged to have used the word “monkeys” to refer to a group of African-American children who were climbing in a tree near the trustee’s property. The village dismissed the case shortly after Mr. Fuentes filed a motion to dismiss the complaint as a violation of the First Amendment.

Firm Achieves Pro Bono Victory for Tibetan Protestors in Chicago

Associates Andrew W. Vail and Wade A. Thomson successfully represented two pro bono clients who had been arrested during a March 14, 2008 demonstration at the Chinese Consulate in Chicago. The demonstration, which was organized by the Tibetan Alliance of Chicago, was held in support of Tibetans who had been arrested and killed in Tibet for peacefully protesting and demanding their freedom. The State’s witness alleged that the clients, who had been waving a Tibetan flag while yelling “Free Tibet,” acted in an unreasonable manner and created a breach of peace in violation of the State’s disorderly conduct statute. Mr. Vail and Mr. Thomson advocated on behalf of the reasonableness of the clients’ conduct and reached an agreement with the State to dismiss the charges against the clients. Tibetan Alliance of Chicago President Pema Rinzin recognized the Firm’s pro bono advocacy on behalf of the protestors, saying, “Our gratitude flows strong to these lawyers and to other supporters who stood by us in the trenches, so to speak, when we needed them the most.” Messrs. Vail and Thomson were supervised on this matter by Partner R. Douglas Rees.

Jenner & Block Recognized for Representation of Clients at Guantánamo Bay

Jenner & Block was honored at the Constitutional Rights Foundation Chicago’s 17th annual “Bill of Rights in Action Awards Benefit,” for the Firm’s representation of clients incarcerated at Guantánamo Bay, Cuba. Several Jenner & Block team members were recognized for their pro bono representation of prisoners at Guantánamo Bay, including Partners Gregory M. Boyle, David J. Bradford, Jeffrey D. Colman, Robert L. Graham, Jason J. Green and Thomas P. Sullivan, and Associates Matthew R. Devine, Kyle A. Palazzolo, Eric J. Schwab, Douglas A. Sondereith, Wade A. Thomson, Andrew W. Vail and Litigation Counsel Shynn R. Varghese.

“Theese individuals understood the importance of the Constitution and the Bill of Rights and have acted on it to represent clients incarcerated at Guantánamo Bay,” said CRFC’s Executive Director Carolyn Pereia, at the event. “They’re role models.”

Over the past several years, 17 of the Firm’s clients at Guantánamo have been released, and Jenner & Block attorneys continue to represent two prisoners being held at Guantánamo Bay who are challenging the legality of their prolonged detention.

Firm Works With CCR to Represent High-Value Guantánamo Detainee

In conjunction with military defense counsel and attorneys from the Center for Constitutional Rights, Partners Katya Jestin and Andrew Weissmann and Associates Paul M. Monteleoni and Prashant Yerramalli are representing Guantánamo detainee Majid Khan. Khan, an asylee and resident of Baltimore in his youth, was arrested in his native Pakistan in 2003 and held for several years in a CIA “black site” before being transferred to Guantánamo Bay. The government has publicly claimed that Khan is an al-Qaeda operative who transferred money to a Southeast Asian organization to support terrorist attacks against Western targets; that he met with and assisted Khalid Sheikh Mohammed in researching various potential terrorist attacks; and that he conspired to fraudulently obtain an immigration document in order to illegally reenter the United States. Khan’s representation raises legal issues relating both to his allegations that he was subject to torture while in CIA custody and to the government’s decision to presumptively classify all statements Khan made as top secret for the stated purpose of preventing him from publicly describing his black site detention and the interrogation methods used on him.
Education

Groundbreaking Civil Rights Lawsuit Challenging School Funding

The Court’s opinion highlights some significant facts from the Firm’s Complaint concerning the State’s school funding system including:

• “Illinois ranks 49th in the nation in the size of per-pupil funding disparity between its lowest and highest poverty districts.”

• The per pupil funding in the top five wealthiest districts ranged from $1.2 to $1.8 million, while the per pupil funding ranged from $7,000 to just over $24,000 in the five districts with the lowest property wealth.

• The “disparity exists despite the fact that low property wealth areas generally pay much higher property tax rates than areas with higher property wealth, and yet they still generate less local funding for their schools.”

“A lawsuit filed by the Chicago Urban League against the State of Illinois and the Illinois State Board of Education challenging the State’s funding system survived a key legal hurdle when a Cook County judge denied in part the Defendants’ motion to dismiss, and ruled that the Plaintiffs stated a valid claim of discriminatory disparate impact under the Illinois Civil Rights Act of 2003. A Jenner & Block team led by Partner Lisa T. Scruggs is serving as pro bono counsel for the Chicago Urban League in this lawsuit.

The lawsuit challenges the state’s method for raising and distributing education funds to local school districts and the Illinois State Board of Education’s implementation of the system. The Urban League asserts that the State’s public school funding scheme disparately impacts racial and ethnic minority students who attend Majority-Minority Districts.

Although two earlier funding suits never made it past a motion to dismiss, Judge Martin S. Agran found the Illinois Civil Rights Act provided the legal footing to proceed. “This is important and historic because we passed a milestone no other lawsuit in Illinois has been able to pass,” Cheryle Jackson, the Urban League’s president and chief executive officer, told the Chicago Tribune.

The Firm’s litigation team was led by Partners David J. Bradford, Robert L. Graham, Gail H. Morse, Sandi J. Toll; Associates Anne M. Alexander, Brian L. Dougherty, Stephanie Jean-Jacques, Douglas F. McMeen and Kyle A. Palazzolo; Litigation Counsel Shyni R. Varghese; Staff Attorneys Kellie R. Bylica and Michael J. Lovernick; Senior Paralegal Jessica Merkouris are part of the Firm’s team working this matter. Of Counsel Justice Benjamin K. Miller has also made valuable contributions to the case.

Challenge to Controversial Public School Bible Course

The Firm won a major pro bono victory featured in The New York Times regarding the agreement of the public school board of Ector County, Texas to settle a complaint that the Firm filed in May 2007 against the teaching of a controversial Bible course. The case had challenged the decision of the board to teach a Bible course created by the National Council on Bible Curriculum in Public Schools (NCBCPS). The school board agreed to abandon the curriculum and it also agreed that if it decides to offer a different Bible course in the future, the course must follow strict legal standards for objectivity. The Firm’s litigation team was led by Partners David A. Handzo, Craig A. Cowie and William R. Stoughton, Associates Matthew W. Alsdorf and Michelle A. Groman, and Project Assistant Lilia V. Rozhkova.

FOIA Victory in DC School Voucher Case

Jenner & Block recently completed the last step of an important Freedom of Information Act victory on behalf of the Firm’s pro bono client, People For the American Way Foundation (PFAWF). After numerous delays triggered by the PFAWF’s publication of information critical to the administration of the controversial school voucher program, the Department of Education agreed to produce disputed documents concerning the Department’s administration of the federally-funded DC school voucher program, and also to pay attorneys’ fees. The Firm’s team was led by Partner Larry P. Ellsworth.

Firm Honored with Presidential Award

Jenner & Block was honored with the “Presidential Award” by the Cook County Bar Association in recognition of its pro bono representation of the Chicago Urban League. The Award is given to individuals and organizations that have made an outstanding contribution to the Cook County Bar Association.
Supporting LGBT Civil Rights

Groundbreaking Victory in Challenge to DOMA

Jenner & Block, as co-counsel with the non-profit Gay & Lesbian Advocates & Defenders (GLAD) and two other law firms, helped secure a landmark victory in the U.S. District Court for the District of Massachusetts, in Gill v. Office of Personnel Management, a case challenging the constitutionality of Section 3 of the federal Defense of Marriage Act (DOMA). Among other things, DOMA defines marriage, for all federal purposes, as a legal union between one man and one woman, preventing the federal government from recognizing legal marriages of same-sex couples and denying them protections and benefits under federal law that are available to opposite sex spouses.

In 2009, GLAD filed suit on behalf of seven same-sex couples and three survivors of same-sex spouses, all of whom had been legally married in Massachusetts. Included was plaintiff Nancy Gill, a 22-year employee of the U.S. Postal Service who was unable to cover her same-sex spouse Marcelle Letourneau on her health care insurance plans or name her as the beneficiary of her federal health benefit or pension should she predecease her. The Firm’s team argued that Section 3 violates the constitutional guarantee of equal protection and on July 8, 2010, Judge Joseph Tauro agreed, ruling that same-sex spouses are entitled to the same federal marriage-based benefits and protections as individuals with spouses of the opposite sex.

The National Law Journal has called Gill “the case with the greatest potential for national impact.” The Firm’s team was led by Partner Paul M. Smith and included Associates Anna M. Baldwin, Lindsay C. Harrison, Luke C. Platzer and Daniel I. Weiner.

Challenges to States’ Bans on Same Sex Marriages

California Supreme Court Cites Firm’s Amicus Brief: In re Marriage Cases

In California’s landmark gay-marriage case, the California Supreme Court quoted extensively and relied on an amicus curiae brief filed by Jenner & Block attorneys on behalf of national organizations that represent mental health professionals. In a 4-3 ruling, the court agreed with the Firm’s amicus brief argument aimed at quashing the notion that children raised by gay or lesbian couples have a higher rate of sexual identity disorders and other difficulties, and found no legally justifiable reason why the state should withhold the institution of marriage because of a couple’s sexual orientation. Partners Paul M. Smith and William M. Hohengarten participated in this case.

“Powerful” Brief in Connecticut Marriage Case: Kerrigan v. Commissioner of Public Health

The Connecticut Supreme Court issued a decision that struck down the state’s civil union law as unconstitutional and granted marriage rights to same-sex couples in that state. The Firm filed an influential amicus brief in this case on behalf of the national organizations that represent mental health professionals, which was hailed in a recent article in The Amlaw Daily as “a stirring defense of gay rights,” and called “the most powerful” of those submitted in the case by major law firms. With this ruling, Connecticut now joins several other states in legally recognizing gay marriage. Partners Paul M. Smith and William M. Hohengarten participated in this case.

Simpson Victory in Interpretation of Illinois Vital Records Act

In a victory for three transgender pro bono clients of the Firm, the state of Illinois recently reversed a longstanding policy and issued new and accurate birth certificates to the Firm’s clients. Jenner & Block’s team, including Partner Margaret J. Simpson and Associate Kyle A. Palazzolo, filed a suit on behalf of two transsexual women and a transsexual man born in Illinois who were denied a birth certificate identifying their correct gender. The Firm served as co-counsel with the Roger Baldwin Foundation/ACLU of Illinois and the ACLU LGBT Project, challenging the state’s interpretation of the Illinois Vital Records Act. The Illinois Department of Vital Records refused to correct the women’s birth certificates because they underwent surgery overseas, and refused to correct the man’s birth certificate because, under their practice, he had not had sufficient surgeries. Since filing the suit, “the State reversed itself and changed policy so that those who have reassignment surgery abroad can secure a new, accurate birth certificate that reflects their gender,” reported the Windy City Times. The Department has also announced it will formulate new standards for determining how much surgery will be required before a transgendered person will be provided a new birth certificate. The ACLU noted, “the lack of an accurate gender marker on a birth certificate creates unnecessary and dangerous challenges to the persons who have undergone sex reassignment surgery.”
In what The Washington Post called “one of the most comprehensive probes on the reliability of electronic voting equipment,” Jenner & Block is providing pro bono assistance to a Special Committee of the Council of the District of Columbia appointed to investigate voting-machine and other irregularities in primary elections held in the District of Columbia in 2008.

As part of this effort, the Firm filed a groundbreaking motion to compel on the Special Committee’s behalf to force Sequoia Voting Systems to produce source code and other materials subpoenaed by the Special Committee. The motion to compel enforcement of a September 18, 2008 DC City Council committee subpoena was filed in the Superior Court of the District of Columbia after Sequoia repeatedly refused to produce the materials needed for the committee to complete its investigation. At one point, Sequoia acknowledged its obligation to comply with the subpoena, but demanded that the District post a $20,000,000 bond.

The filing of the motion was a first-of-its-kind effort, as there was no prior precedent of filing a motion to compel to enforce a local council subpoena when there was no related lawsuit. In addition to ensuring that elections in DC are conducted “reliably and cost effectively” and “foster public confidence,” the Firm’s motion before the court noted that a thorough analysis of the information sought from Sequoia will help identify whether additional “sleeper glitches” may be present in the election results, evaluate whether Sequoia has complied with its contract terms with the District, and make recommendations for minimum technical standards for voting equipment in the District of Columbia.

At a hearing in DC Superior Court on June 5, 2009, the court entered an Order that resulted in the production of source code and the other materials sought in the motion to compel. The team also is working with the Special Committee on its report and recommendations about ways to improve election systems in the District that will be presented to the DC Council at the conclusion of the Special Committee’s investigation.

John Bonifaz, legal director for Voter Action, a national voting rights organization, told The Washington Post that this case “is certainly going to serve as a precedent not just for further investigations in the District of Columbia, but around the country.”

At issue in the council’s investigation is determining what went wrong on September 9, 2008, when the District of Columbia held its primary election using voting machines, software, and ballots provided by Sequoia. On election night, the City Council’s Board of Elections and Ethics released an unofficial elections summary report generated using Sequoia’s voting system showed that Precinct 141 in the District had nearly 4,759 voters even though the precinct has only 2,388 registered voters. In addition, the report showed that 1,554 write-in votes had been cast for the Ward 2 Council seat, representing 17.2% of the total number of votes in that race, despite the absence of a write-in candidate.

Though the Board re-tabulated the results, and the final results were accurate, the cause of the errors in the unofficial report were unexplained. After the anomalies in the September 2008 primary election results were discovered, Council member Mary M. Cheh, who chairs the Council’s Board of Elections and Ethics Investigation Special Committee, sought out Jenner & Block to serve as pro bono counsel to the committee.

The team included Partner Lorelie S. Masters and Associates Damien C. Specht and Kristina Filipovich.

Jenner & Block’s Novel Court Action Helps Address DC ‘08 Election Problems

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Jenner & Block’s Commitment to Pro Bono Honored by DC Judges

Jenner & Block’s Washington, DC office was honored at the sixth annual “Forty at Fifty Judicial Pro Bono Recognition” breakfast hosted by the U.S. District Court for the District of Columbia, which recognizes firms that had 40% of their lawyers contribute 50 or more hours of pro bono work in 2008. Approximately 68% of the attorneys in Jenner & Block’s Washington, DC office devoted at least 50 hours of pro bono work in 2008. The Firm also received a special recognition for having 40% of its partners meet the 50-hour benchmark.
Jenner & Block Legal Services Aid Nonprofit Efforts

- **Chicago Legal Clinic** – Associate Julie A. Greiner is preparing a Qualified Domestic Relations Order for the Clinic, which provides quality community-based legal services to the underserved and disadvantaged in the Chicago area.

- **Concerned Christian Men** – Partner John J. Buttita represented this not-for-profit that mentors Chicago inner-city young men in various matters.

- **The Cowen Institute** – Partner Farhad K. Patel and Associate Peter H. Rosenbaum worked with the Institute in connection with its effort to assist the New Orleans Parish School Board in addressing complex financial and budgetary issues facing the School Board in the wake of Hurricane Katrina. With the assistance of the Institute, the School Board implemented certain cost saving initiatives and new legislation was passed allowing the School Board to allocate its funding in a manner that resolved some of the School Board’s major financial and funding issues.

- **Justinian Society** – Partners Gail H. Morse and John W. Newlin restructured the trust fund for the Justinian Society for Lawyer’s Endowment Fund, a not-for-profit corporation which provides scholarships to deserving students to better ensure that the society is administered and operated consistent with its tax-exempt purpose.

- **Med25** – Partner Peter M. Gaines and Associate Derek A. Higginbotham are providing legal counseling to Med25, an organization that coordinates medical missions in Africa, including analyzing ways to limit potential D&O liability for the organization.

- **The Menomonee Club** – Partner Edward G. Quinlisk is updating the Club’s organizational documents including its articles of incorporation and bylaws. The Menomonee Club offers a variety of recreational and social programs for youth ages 3 through 18.

  In addition, Of Counsel Ronald B. Grais represented the Menomonee Club in a transaction with The Day School regarding their donation of a building and certain personal property to The Menomonee Club. Partner Charlotte L. Wager serves on the Board of Directors.

  Associate Kristen M. Boike assists the Club on real estate-related issues including zoning and leasing matters.

- **PADS (Providing Advocacy, Dignity, and Shelter)** – Partner Michelle M. McAtee serves as lead attorney for the organization that works to combat chronic poverty, welfare dependency, and homelessness among individuals and families by providing emergency shelter and crisis services throughout northeast Illinois.

  Butitta Helps Support Hospitals and Medical Research

- **Respiratory Health Association of Metropolitan Chicago** – Partner John J. Buttita and Associate Stephanie M. Ailor are working for the organization, which fights against life-crippling lung diseases, on a potential bequest made to the Association under a trust.

- **Children’s Memorial Hospital Foundation** – Partner John J. Buttita chairs the Professional Advisory Council for the Foundation, providing legal advice concerning gifts and bequests. The Foundation cultivates and secures contributions that advance the mission of Children’s Memorial Hospital.

- **Mark Staehely Pediatric Cancer Foundation** – Partners John J. Buttita and Debra M. Doyle and Associates Stephanie A. Ailor and Tracy E. Lyerly represent the Foundation on routine legal matters as well as the potential misuse of its name by unauthorized parties.

Firm Aids Not-for-Profits in Real Estate Matters

- **Associate Joshua Rafsky** represented Vital Bridges in a pro bono housing dispute before the Illinois Department of Human Rights.

- Jenner & Block’s Chicago offices’ pro bono efforts helped preserve Blodgett House in Downers Grove, IL. The house was an active stopover point on the Underground Railroad. Partner Michelle M. McAtee and Of Counsel Ronald B. Grais assisted with these efforts.

- Partner Michelle M. McAtee provides ongoing assistance to Catholic Charities of the Archdiocese of Chicago on real estate matters as part of its Legal Advisory Committee. In addition, she provides pro bono legal assistance on real estate matters for the Lyric Opera of Chicago.

- Partner Farhad K. Patel and Associate Derek A. Higginbotham negotiated and closed a secured loan agreement for the Boys & Girls Clubs of Chicago.
Community Programs Obtain Tax-Free 501(c)(3) Status

Jenner & Block regularly helps community organizations obtain 501(c)(3) status, which is vital to their fundraising efforts. Among the groups the Firm has assisted are:

- **Partners** Steven R. Meier and Brian R. Boch are forming and seeking tax exempt status for Pratikara, a not-for-profit organization that provides assistance relating to health care for indigent persons in developing countries, including but not limited to India.

- **Partner** Gail H. Morse is obtaining tax-exempt 501(c)(3) status for the Chicago Gay and Lesbian Hall of Fame.

- **Associate** Brian L. Mikulencak is obtaining 501(c)(3) tax-exempt status and providing general structuring advice for the Ruby Bridges Foundation that seeks to establish charter schools with a focus on social justice. Additionally, Mr. Mikulencak is obtaining 501(c)(3) tax-exempt status and providing structuring advice for Advocates for Urban Agriculture, which focuses on educating the public and affecting public policy on the promotion and regulation of urban gardening and sustainable food practices.

- **Associate** David K. Anna is working on the 501(c)(3) application for The Chicago Debate Commission.

Appellate Victory for The Jim Mullen Foundation

Partners Russell J. Hoover and Paul D. Margolis recently secured an appellate victory before the Appellate Court of Illinois for pro bono client The Jim Mullen Foundation, a non-profit organization formed to provide free technology to people with special needs. The Firm’s client had filed a lawsuit against the World Ability Federation alleging trademark infringement among several other claims. Based on the Firm’s arguments, the appellate court reversed the circuit court’s grant of summary judgment to the defendant on all claims and remanded the case for further proceedings. Closely tracking the Firm’s argument, the appellate court’s opinion established new Illinois law, finding that a *jus tertii* defense—in which the defendant claims a third party has rights in a trademark superior to the plaintiff and therefore the plaintiff cannot have rights—is improper in a trademark action. As a result of the appeal, the client received a very favorable settlement.

Jenner & Block Represents Environmental Groups

Jenner & Block is representing three groups who oppose the construction of a proposed $10 billion oil refinery and power plant by Hyperion Refining LLC in Union County, South Dakota. The groups, Sierra Club, Save Union County and Citizens Opposed to Oil Pollution, assert that the Hyperion Energy Center (“HEC”), which is one of the largest petroleum refinery facilities ever proposed in the United States, would be a major source of air pollution, annually emitting more tons of global warming carbon dioxide than any other refinery in the U.S. In August 2009, the South Dakota Board of Minerals and Environment granted Hyperion a preconstruction permit and denied a requested Environmental Impact Statement for the HEC. On behalf of its clients, the Firm filed an appeal in South Dakota state court, arguing that the project should not be allowed to go forward without proper air pollution controls, air quality analyses, public participation and environmental impact review as mandated by the federal Clean Air Act and South Dakota law. Shortly before the hearing on the matter was scheduled to take place, Hyperion moved to reopen the permitting process to take “new evidence” on several issues. In response, the Firm moved that the permit be vacated because Hyperion’s motion, on its face, acknowledged that the permit was deficient. In the alternative, the Firm asked that the scope of the “new evidence” be taken be much broader than the scope proposed by Hyperion.

After a hearing on June 15, 2010, the judge essentially granted the Firm’s alternative request that the permit be remanded, but that the scope of additional evidence to be considered be broader than Hyperion had requested, and that full procedural requirements be met for this new evidence. Currently, Hyperion is submitting its new evidence to the South Dakota Department of Environment and Natural Resources. The Firm’s team is led by Partner Robert L. Graham and includes Partner Gabrielle Sigel and Associates Jennifer L. Cassel and Allison A. Torrence.

Pro Bono Tax Assistance to Low Income Taxpayers and Community Organizations

The Firm assisted low income taxpayers and non-profit community organizations to favorably resolve tax issues:

- **Partner** Steven R. Meier and **Associate** Erik R. Daly represented a low-income taxpayer in a tax refund proceeding.

- **Associate** Alexandra E. Dowling is working to obtain a property tax exemption for Lyric Opera of Chicago’s new space.

- **Associate** Gregory M. Wu obtained an Illinois sales tax exemption for Open Heart Magic, a not-for-profit organization that provides bedside magic programs for children’s hospitals.

- A Jenner & Block team of Associates including Stephanie M. Ailor and Tracy E. Lyerly volunteered for Saturday Morning Ladder Up’s Tax Assistance Program to help prepare tax returns for low-income families.
Providing Essential Legal Services to Nation’s First Responders

Jenner & Block partnered with Exelon, the American Bar Association, the Chicago Bar Association and the Wills for Heroes Foundation to host a one-day program providing essential estate planning documents free of charge to our nation’s first responders, including police officers, firefighters, paramedics, EMTs and their spouses.

Jenner & Block attorneys from the Firm’s Private Client and Tax Practices provided training to the Exelon volunteers prior to the event and estate planning advice on the day of the event. The program, which was held at the Exelon Midwest Fire Training Academy in Morris, Illinois, was organized by Exelon’s LaShonda Hunt.

The Firm also sponsored a Wills for Heroes Foundation event for U.S. Park Police officers on August 9 in New York at the Statue of Liberty. Jenner & Block attorneys served as trust and estate advisors for the program.

Wills for Heroes programs provide essential legal documents, including wills, living wills, and powers of attorney, free of charge to our nation’s first responders.

The Jenner & Block team that worked with Wills for Heroes included Partners Debra M. Doyle, John W. Newlin, John J. Buttita and Geoffrey M. Davis. Associates Stephanie M. Ailor and Tracy E. Lyerly also participated.

Jenner & Block, Exelon and RHAMC Participated in Neighborhood Service Project

Jenner & Block attorneys participated in a unique neighborhood service event organized by Exelon Corp. and the Respiratory Health Association of Metropolitan Chicago (RHAMC). Exelon’s Douglas Graham, who is an RHAMC board member, headed up the project, which transformed a vacant lot in Chicago’s South Side neighborhood of Englewood into a small park.

Volunteers included Jenner & Block Partners Philip L. Harris and Gabriel A. Fuentes and Associate Erinn L. Wehrman, along with numerous Exelon and Commonwealth Edison Co. employees and volunteers from the RHAMC, cleared the lot of debris, planted trees and shrubs, and created a mulch-covered pathway across the lot. Exelon sponsored the transformation of the vacant lot in support of an RHAMC initiative called “Addressing Asthma in Englewood,” a project aimed at addressing high rates of asthma in Englewood.

Jenner & Block has assisted the RHAMC on numerous pro bono matters and over the years has been actively involved in the organization’s service work, events and fundraising activities.

Institute for Inclusion in the Legal Profession

Jenner & Block Partner Steven R. Meier and Associate Jeffrey R. Shuman are seeking tax exempt status for the newly-formed Institute for Inclusion in the Legal Profession. The Institute is sponsored by Firm client Kraft and was established to address the lack of diversity and improve inclusion within the legal profession by providing holistic, common sense programming and practical strategies.

The Institute will work with law schools to devote time and resources to developing professionalism and diversity programs tailored to law students, law firms, corporations, government agencies and bar associations that provide real world guidance to identify and eliminate barriers to diversity, while promoting inclusion in all aspects of the legal profession. Partner John H. Mathias, Jr. will serve on the organization’s board of directors.

The Chicago Bar Association will serve as a home for the Institute by providing office space, a computer and printer, a telephone, Internet service and staff support.

Firm, General Electric Team Up with Street Law

Jenner & Block and its long-time client the General Electric Company teamed up with the Street Law organization to host an educational event for over 60 high school students from Chicago Public School’s Whitney M. Young Magnet High School. The day-long conference featured three in-depth substantive workshops for the students on intellectual property, harassment, and alternative energy legal issues, led by Jenner & Block and GE attorneys. The event also provided an up-close opportunity for students to learn about the career paths and work of in-house and outside counsel.

Partners E. Lynn Grayson, Steven M. Siros, Barbara S. Steiner, James L. Thompson, Associates Gregory A. Lewis, Olivia T. Luk, David P. Saunders, and Litigation Counsel Suzanne M. Courtheoux and Megan B. Poetzel participated in the Street Law program.

Pictured: Ms. Grayson (top) and Ms. Luk (bottom) interact with students at the Street Law event
Valukas named *Chicago Lawyer’s* 2009 Person of the Year

In its cover story profile on Firm Chairman Anton R. Valukas, *Chicago Lawyer* recognizes his decades-long record of being a tireless advocate for his clients, both corporate and pro bono, and for his unwavering devotion to the highest ideals of the legal profession. The magazine hailed him as a “powerhouse in the legal community” and someone who is a “born leader who leads by way of example.”

The article chronicles Mr. Valukas’ career, from serving as assistant director of the National Defender Project which established legal aid programs across the country, to serving as U.S. Attorney for the Northern District of Illinois, to his career in private practice at Jenner & Block handling complex commercial litigation and white collar defense matters.

Referencing his active legal practice, the magazine notes that in early 2009, Mr. Valukas was appointed as the Examiner in the Lehman Brothers Holdings bankruptcy, reputed to be the largest such case in U.S. history. The magazine also notes his recent work serving as lead trial counsel for American Airlines in litigation surrounding the November 2001 crash of Flight #587. It also references Mr. Valukas’ white collar defense and investigations work, including serving as lead counsel for General Motors in a recent SEC investigation and settlement.

*Chicago Lawyer* details Mr. Valukas’ special commitment to pro bono and public service, including his leadership of the Firm’s volunteer efforts and support of Fairfield Academy, a public school in Chicago where a majority of the students are at or below the poverty line, and his work over several decades mentoring three individuals from Chicago’s Cabrini-Green public housing projects.

Mr. Valukas “does things for the sake of doing good,” Fairfield Principal Else Rubio told *Chicago Lawyer*. “He will never draw attention to himself or any of the things he does.”

The feature also references his role as the inaugural chair of the Chicago Bar Foundation’s successful “Investing in Justice” Campaign to support the work and supplement the salaries of Chicago’s 250 legal aid attorneys. In discussing Mr. Valukas’ leadership of the campaign, Chicago Bar Foundation Executive Director Bob Glaves told the magazine that, “we needed someone with a lot of stature and credibility on all fronts, as a leader in a firm, a lawyer, someone who walks the walk on these issues.”

In profiling Mr. Valukas, *Chicago Lawyer* received comments from his peers at other large law firms, judges and leaders in community organizations. Illinois Supreme Court Justice Anne Burke told the magazine that “Tony is a living hero whom we should all emulate. Tony has always lived by a strong code of ethics, and he has spent his career advancing the values of honesty, integrity, and justice for the good of all.”

Mr. Valukas is a Fellow of the American College of Trial Lawyers and is a member of Jenner & Block’s seven-member governing Policy Committee. He graduated from Lawrence University in 1965, and Northwestern University School of Law in 1968.

Mr. Valukas is the third Jenner & Block partner to be recognized by *Chicago Lawyer* as a “Person of the Year.” In 2007, Chairman Emeritus Jerold S. Solovy was recognized by the magazine. In 2004, Partner Thomas P. Sullivan was recognized by *Chicago Lawyer*. 

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**Solovy Celebrated by Friends of Hebrew University with Scopus Award**

Chairman Emeritus Jerold S. Solovy was honored with the Scopus Award from the American Friends of The Hebrew University (AFHU) at a gala dinner at the Ritz-Carlton Chicago. According to the AFHU, the Scopus Award is the highest honor conferred by the organization, recognizing “outstanding community leaders who have maintained an active involvement in humanitarian causes of local, national and international scope.” Past awardees include Steven Spielberg, Barbara Streisand, Nancy Reagan, Frank Sinatra, Quincy Jones, Elie Wiesel, Zubin Mehta, Gregory Peck, and Kirk Douglas, among many others. American Friends of The Hebrew University is a national, not-for-profit organization based in the United States.

“Jerry Solovy has long been recognized as one of the nation’s premier litigators and for his overwhelming commitment to public service and to bettering the judicial process in Chicago and nationally. Countless members of the bar have benefited from Jerry’s unseen tutelage and I am proud to count myself among them,” Daniel Schlessinger, President of AFHU’s Midwest Region, said in a statement.

Among his public service accomplishments, Mr. Solovy served as Chairperson of the Special Commission on the Administration of Justice in Cook County. The recommendations of the Commission resulted in sweeping changes in the offices of Public Defender, Adult Probation and the Circuit Court’s Psychiatric Institute.

Mr. Solovy was recognized with the Scopus Award for his unswerving devotion to the highest ideals of the legal profession. The magazine hailed him as a “powerhouse in the legal community” and someone who is a “born leader who leads by way of example.”

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Among his public service accomplishments, Mr. Solovy served as Chairperson of the Special Commission on the Administration of Justice in Cook County. The recommendations of the Commission resulted in sweeping changes in the offices of Public Defender, Adult Probation and the Circuit Court’s Psychiatric Institute.
DeBruin Honored as DC Pro Bono Lawyer of the Year

Partner David W. DeBruin was honored as the District of Columbia Bar’s Pro Bono Lawyer of the Year on June 25 at its 2009 Annual Business Meeting & Awards Dinner. The award recognizes “exemplary individual service providing direct legal representation to low-income individuals in the DC community,” according to the DC Bar.

“Mr. DeBruin’s commitment to protecting the rights of individuals accused of felony crimes demonstrates the highest ideals of the legal profession,” said Katherine Mazzaferri, Executive Director of the DC Bar.

In addition to handling complex litigation matters before the Supreme Court as well as federal trial and appellate courts, Mr. DeBruin “is an equally dedicated and passionate advocate for low-income and indigent clients facing civil and criminal matters in the Superior Court of the District of Columbia,” the DC Bar said in a statement.

Mr. DeBruin regularly helps protect the constitutional rights of indigent clients accused of felony crimes in the District. Most recently, Mr. DeBruin worked on the representation of Ronald Cheadle, an indigent client who was charged with three separate first-degree homicides in DC Superior Court. In the past year, Mr. DeBruin dedicated considerable time representing a pro bono client in a death penalty appeal in the U.S. Court of Appeals for the Fourth Circuit.

Mr. DeBruin has been actively involved with the DC Bar Pro Bono Program for more than a decade, including his work as the Firm’s longtime coordinator for the DC Bar Advocacy & Justice Clinic (“DC Bar Clinic”). Through his involvement with the clinic, Mr. DeBruin “has represented clients in civil matters such as denied Social Security disability benefits, family law matters, and landlord-tenant disputes,” noted the DC Bar.

Simon Receives Prestigious John Paul Stevens Award

Partner John B. Simon was honored with the 2008 John Paul Stevens Award for his contributions to public service by the Chicago Bar Association. The CBA bestows the award annually to lawyers who “exemplify the highest personal integrity and devotion to public service.” Mr. Simon’s memorable pro bono cases include prosecuting a class action suit in the U.S. District Court to improve conditions for state prison inmates; representing at trial and on appeal an adoption agency accused of permitting the adoption of an impaired child; and participating in numerous foundation initiatives to assist the pro bono delivery of legal services to those who can least afford to pay for them.

Sullivan Honored by Loyola University

Partner Thomas P. Sullivan was honored in 2009 by Loyola University Chicago School of Law for his achievements in public service and pro bono work at its annual Public Interest Convocation for first-year students. The program is part of the law school’s goal of acquainting students with the obligation of all lawyers to address the unmet legal needs of the poor.

Firm Attorneys Receive Back-to-Back U.S. District Court Awards for Excellence in Pro Bono Service

Partner Michael A. Doornweerd and Associates Sean P. Tarantino, Marisa K. Perry and Katherine Neff Welsh were honored at the United States District Court for the Northern District of Illinois’ Eleventh Annual Awards Ceremony for Excellence in Pro Bono and Public Service on May 26, 2010 at the Dirksen Courthouse in Chicago. The award, presented by the Judges of the District Court and the Chicago Chapter of the Federal Bar Association, recognized the team’s representation of a pro bono client in a recent successful criminal proceeding before the court, and noted the team’s “outstanding commitment to pro bono representation before the United States District Court for the Northern District of Illinois.”

In 2009, the U.S. District Court for the Northern District’s Tenth Annual Award for Excellence in Pro Bono and Public Interest Service was presented to Partner Jeffrey D. Colman and his Firm team for their dedicated representation of a pro bono client in a successful post-conviction proceeding in the Northern District. District Court Judge Elaine E. Bucklo, who granted the client’s habeas petition in November 2008, praised the Jenner & Block team not only for their work in pursuing the petition for the writ of habeas corpus in the Northern District of Illinois Court, but also for their substantial efforts in taking on two additional pro bono cases for the client in the Central District of Illinois and the Illinois state courts. The team on the matter included Associates Anne P. Ray, Justin A. Houppert, Michael H. Margolis and Ashley M. Schumacher.

Colman Recognized for Lifetime Dedication to Public Service

Partner Jeffrey D. Colman was honored with numerous distinctions in the last two years for his outstanding lifetime commitment to public service, including the U.S. District Court for the Northern District of Illinois’ Award for Excellence in Pro Bono and Public Interest Service, the John Howard Association of Illinois’ 2008 Leadership Award; an official commendation from Mayor Richard M. Daley and the Chicago City Council; and the Chicago Inn of Court’s 2008 Donald Hubert Public Service Award.

In addition to his representation of prisoners at Guantánamo, Mr. Colman has litigated death penalty cases in Georgia and Illinois, has represented minorities in voting rights litigation and housing discrimination cases, and has represented a significant number of indigent defendants in criminal trials and pro bono appeals.

Mr. Colman recently served as President of the Board of Directors of the Chicago Bar Foundation and President of the Board of Directors of the Constitutional Rights Foundation Chicago. In the past, he has served as a member of the board of directors of numerous organizations, including the Mexican American Legal Defense and Educational Fund, the John Howard Association, and the Leadership Council for Metropolitan Open Communities.
Albert E. Jenner, Jr. Awards Honor Attorneys’ Exceptional Pro Bono Efforts

Each year, Jenner & Block honors attorneys in the Firm who have provided exceptional legal services to the needy with the Albert E. Jenner, Jr. Pro Bono Award. Partner Terrence J. Truax, Of Counsel Iris E. Bennett and Associate Matthew S. Hellman were nominated by their peers in 2008, and Partner Brian J. Fischer and Associates Lindsay C. Harrison and Andrew W. Vail were nominated by their peers in 2009 to receive the award:

• Ms. Bennett was honored for her pro bono advocacy in support of immigrant rights and human trafficking issues, including representation of a pro bono client in an immigration detention case before the Seventh Circuit. Ms. Bennett co-authored an influential amicus brief on behalf of the ABA in *Lopez v. Gonzales*, which was decided by the U.S. Supreme Court in favor of the petitioner immigrant.

• Mr. Truax was honored for his dedicated representation of poor and underserved individuals in several criminal trial proceedings in 2007 and his supervision of numerous attorneys on their pro bono criminal matters. Mr. Truax serves on the Board of Directors of the Chicago Bar Foundation, the Advisory Board of Directors of Breakthrough Urban Ministries, and the Advisory Board for the Cabrini Green Legal Aid Clinic.

• Mr. Hellman was honored for his pro bono work on behalf of several clients on death row challenging the constitutionality of lethal injection procedures in states throughout the country. He was a key member of the Firm’s team working on the U.S. Supreme Court case, *Baze v. Rees*, which set forth standards for the constitutionality of lethal injection.

• Mr. Fischer was honored for his amicus brief and oral argument in support of a public defender. He also obtained political asylum for a West African immigrant before a federal immigration court; represented an Alabama death row inmate, whose death sentence was subsequently vacated; and defended a client convicted of drug charges at sentencing proceedings in federal court.

• Ms. Harrison was honored for her argument before the U.S. Supreme Court in *Nken v. Holder* (see pg. 2). She also wrote an amicus brief in *Kimbrough v. United States* on behalf of the NAACP Legal Defense Fund, influencing the U.S. Supreme Court to provide more latitude to federal judges as part of the federal sentencing guidelines. She co-authored an amicus brief in *United States v. Denedo*, and co-authored an amicus brief in *Town of Castle Rock v. Gonzales* regarding the effectiveness of police protection in a domestic violence case.

• Mr. Vail was honored for serving as one of the Firm’s lead trial lawyers representing client Juan Rivera (see pg. 6), and his substantial criminal justice reform efforts to bring transparency to police interrogation procedures by testifying before numerous governmental bodies. He secured the dismissal of all charges and obtained the release of a wrongfully arrested and charged client in *People v. Laza*, and represented an Australian national detained at Guantánamo Bay, Cuba.

Human Rights Campaign Honors Jenner & Block

Jenner & Block earned a perfect rating for the fifth year in a row in the Human Rights Campaign’s (HRC) 2010 “Corporate Equality Index” survey. The survey is a tool used to rate American businesses on how they are treating LGBT employees. The 2010 equality index ratings were based on six bellwether categories that assess such things as health insurance offerings to same-sex couples, diversity training that includes sexual orientation and/or gender identity, a firm-supported LGBT employee resource group or firmwide diversity council that includes LGBT issues and marketing and support to the LGBT community. The HRC is America’s largest civil rights organization working to achieve LGBT equality.
Valukas Receives Arthur Goldberg Social Justice Award

Chairman Anton R. Valukas was honored in June 2009 by the Jewish Council on Urban Affairs with the organization’s Arthur Goldberg Social Justice Award for his “unwavering commitment to social justice” and “lasting and significant contributions to the fight for equality and justice in Chicago and our nation.” Mr. Valukas’ many public-service efforts have included work on health care, prison reform and public education. He chaired the Governor’s Task Force on Crime and Corrections, as well as the Chicago Bar Foundation’s Investing in Justice Campaign to support Chicago’s legal aid attorneys.

Berman Honored by the Shalva Community Organization’s Rodef Shalom Award

The Shalva community organization recognized Partner Debbie L. Berman’s many years of “dedication and visionary leadership throughout Chicago’s local community” by honoring her with the Rodef Shalom Award in December 2009. Ms. Berman has been a long-standing leader in several important community organizations, including service as Vice Chair of the Jewish United Fund/Jewish Federation of Metropolitan Chicago and a member of its Executive Committee and Board of Directors. Ms. Berman also chairs the JUF’s Kyiv Kehillah Project, which provides educational and social welfare assistance to the needy in the Ukraine, and chaired the JUF’s committee for the EZRA multi-service community center in Chicago. Shalva is the oldest independent Jewish domestic abuse agency in the United States.

Levenstam Receives Seventh Circuit Bar Association’s First Pro Bono Award

Partner Barry Levenstam received the Seventh Circuit Bar Association’s First Annual Justice John Paul Stevens Pro Bono Award, in recognition of his career-long commitment to pro bono service in the United States Court of Appeals for the Seventh Circuit. The Association presented the Stevens Award to Mr. Levenstam on Monday, May 3, as part of the 59th Annual Meeting of the Seventh Circuit Bar Association and Judicial Conference of the Seventh Circuit.

The award is given based on significant pro bono or public service work in the federal courts within the Seventh Circuit and practice “at the highest degree of excellence and ethics,” according to the Association.

Mr. Levenstam was recognized by the Association for the body of his pro bono service before the Seventh Circuit. He has written briefs or argued orally on behalf of more than 75 pro bono clients in the Seventh Circuit alone. As the Firm’s Pro Bono Committee co-chair from 2000 to 2009, and frequently as appointed counsel in the Seventh Circuit, he has worked with countless young Jenner & Block attorneys seeking to gain pro bono and Seventh Circuit experience.

Pro Bono Representation for Professional Society on the Abuse of Children

Jenner & Block was honored by the American Professional Society on the Abuse of Children (APSAC) along with Partners Bill S. Forcade and Margaret J. Simpson with “Special Recognition” awards for many years of pro bono assistance to the national organization. The Firm team, led by Ms. Simpson, filed an amicus brief on behalf of APSAC in Giles v. California, a U.S. Supreme Court case concerning the scope of the Constitution’s Sixth Amendment Confrontation Clause.

Thomson Named Pro Bono Attorney of the Month

Associate Wade A. Thomson was recognized as the “Pro Bono Attorney of the Month” by Illinois Legal Aid Online, a groundbreaking statewide nonprofit that uses technology to increase access to justice for Illinois residents. The ILAO produced a video about Mr. Thomson’s pro bono work, which notes that as a former journalist, Mr. Thomson has always had a particular interest in upholding First Amendment rights and the rights of the press. The video discusses one of Wade’s notable cases, in which he worked with the National Immigrant Justice Center to obtain asylum for pro bono client Kisuule Magala Katende, a prominent broadcast journalist from Uganda who had suffered repeated harassment and beatings by persons acting on behalf of the Ugandan government. Mr. Thomson later successfully obtained asylum for Mr. Katende’s family. Mr. Thomson was also profiled in the May 2009 issue of Chicago Lawyer in a Q&A column, discussing his work in First Amendment and media law cases as well as his pro bono practice.

Advancing Democracy Award

On October 29, 2009, the Firm was honored for its advocacy on behalf of the victims of Hurricane Katrina by the Advancement Project.

Jenner & Block’s work with Advancement Project has included class action litigation filed against the Housing Authority of New Orleans and HUD in federal district court, appellate proceedings in the 5th Circuit, and other forms of advocacy. Jenner & Block first began working with Advancement Project in the summer of 2006. Since that time, lawyers at the firm have devoted more than 10,500 hours to the public housing residents’ cause, representing an economic investment by Jenner & Block of over $4.5 million dollars. The Firm’s work continues, including pending motions for certification of a new class of public housing residents who have received inadequate economic assistance in the form of vouchers while new mixed-use public housing is being constructed in New Orleans.

Exceptional Public Interest Contributions

Jenner & Block Associate Andrew W. Vail was recently honored by the Chicago Bar Foundation (CBF) with its 2009 Maurice Weigle Exceptional Young Lawyer Award, which is given annually to a Chicago lawyer who has contributed exceptionally to the profession, the bar and the community.

“Andrew is a true champion for pro bono service,” the CBF said in recognizing Mr. Vail. “Andrew’s devotion to justice, and the amount he has accomplished so early in his career, is truly remarkable.”

Mr. Vail was one of the first American lawyers to represent an individual detained at Guantánamo Bay, Cuba after the U.S. Supreme Court’s 2004 decision in Rasul v. Bush. The client, an Australian national, has since been repatriated to his home country. For his work on this matter, Mr. Vail was recognized in 2007 by the Australian Bar Association.

Mr. Vail has represented many pro bono clients at the Cook County Criminal Courthouse, and has secured the release of several clients based on grounds of actual innocence, including a matter where he secured the release of a client held by the Cook County Department of Corrections since 2006 on charges of criminal sexual assault stemming from an incident when the client was 17. He has also represented a number of pro bono clients in Section 1983 cases, as well as other civil matters.

In addition to defending the rights of individual clients, Mr. Vail has worked extensively to reform the criminal justice system—both in Illinois and nationwide—to help ensure that all people have access to due process under law.

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Mr. Vail has assisted the Northwestern University School of Law Center on Wrongful Convictions on several significant pro bono matters. In amicus briefs filed on behalf of the Center in the U.S. Supreme Court and the U.S. Court of Appeals for the Seventh Circuit, Mr. Vail notably argued that eyewitness identification is often deeply flawed evidence in criminal cases and that erroneous identifications are a major source of miscarriages of justice nationwide.

Mr. Vail has worked with the National Conference of Commissioners on Uniform State Laws to prepare a uniform law on the electronic recording of custodial interviews in felony investigations.

Solovy Honored at 2009 7th Annual Unity Award Dinner

Chairman Emeritus Jerold S. Solovy was recently honored with the 2009 Unity Award at the Seventh Annual Unity Dinner event titled, “Embracing Diversity and Leading by Example.”

Mr. Solovy was honored for having “demonstrated an exemplary commitment to diversity, justice and civil rights.” The award was presented to Mr. Solovy by Chicago Alderman Edward M. Burke.

He has been repeatedly recognized for his career-long advocacy of equal rights for all and for his efforts to ensure the effective administration of justice in society. Among his many honors and awards, he was a 2007 recipient of The American Lawyer magazine’s Lifetime Achievement Award and, in that same year, he was honored as Chicago Lawyer’s Person of the Year. In 2005, he received the American Bar Association Section of Litigation’s prestigious John Minor Wisdom Public Service and Professionalism Award. Mr. Solovy also has been praised for his career-long commitment to pro bono representation and public service, in particular for his groundbreaking efforts as a leader in the movement for court reform in Chicago and Illinois.

Miller Receives The Honorable George N. Leighton Justice Award

Jenner & Block Of Counsel Benjamin K. Miller, former Chief Justice of the Illinois Supreme Court, was recently awarded “The Honorable George N. Leighton Justice Award” by the Illinois Supreme Court Historic Preservation Commission, in recognition of his dedication to the highest standards of the legal profession and commitment to public service. Justice Miller is the second recipient of the honor; in 2009, the inaugural award was presented to its namesake, Judge George N. Leighton.

Justice Miller served as a Justice of the Illinois Supreme Court from 1984 to 2001 and as Chief Justice from 1991 to 1994. During his time on the Court, he participated in more than 2,000 cases and wrote nearly 500 opinions, including numerous landmark decisions. He brought a pro-active, forward-looking perspective to the Court, working for an aggressive evaluation process for Illinois judges and an improved system of judicial education that became a model around the country, and preparing the judicial system for changing demographic, economic and technological forces in Illinois. As part of these initiatives, in 1992, he established the Special Commission on the Administration of Justice, headed by Chairman Emeritus Jerold S. Solovy, to study the State’s judicial system and make recommendations as to how it could be improved.
Educating Students on Constitutional Rights

As part of the Constitutional Rights Foundation Chicago’s (CRFC) Edward J. Lewis II Lawyers in the Classroom program, more than 25 Jenner & Block attorneys visited Chicago-area classrooms in the 2008-09 school year to lead interactive lessons on the U.S. Constitution, teaching second through eighth grade students about constitutional liberties and the nation’s legal system. Partner Christine L. Childers conducted a lesson in November called “No Hats Allowed” to educate fifth and sixth graders at Mozart Elementary School about their rights under the Constitution.


The Lawyers in the Classroom program is named for former Jenner & Block Partner and CRFC Board Member Edward J. Lewis II, who passed away in 1997 at just 37 years of age.

Mr. Markowski and Partners Jeffrey D. Colman and Thomas P. Sullivan serve as members of CRFC’s Board of Directors.

Supporting Vital Bridges

Several Jenner & Block attorneys and staff have donated their time over the last year to support Vital Bridges, a non-profit that helps people throughout metropolitan Chicago impacted by HIV and AIDS by providing food, nutrition, housing, case management and prevention services. The organization serves nearly 2,000 people impacted by the epidemic annually.

Partner Gail H. Morse, Associates Joshua Rafsky, John R. Schleppenbach, Sumner Associate Daniel Johnson, as well as Conflicts Systems Administrator & Project Coordinator Patrick J. Barnum and Legal Secretary James T. Gainey, participated in Vital Bridges’ Volunteer Days in its north and west side grocery stores in Chicago. Volunteers spent the day filling Vital Bridges’ clients’ weekly grocery orders. Associate Joshua Rafsky serves on the Vital Bridges Board of Directors and successfully represented Vital Bridges in a pro bono housing dispute before the Illinois Department of Human Rights.

Feldman Chairs Family Institute at Northwestern University

Partner James H. Feldman was elected a Chair of The Family Institute Board of Directors at Northwestern University. He has served on the Board of Directors since 2003, previously serving as Vice Chair and Nominating Chair.

The Family Institute is a leading center for marital and family therapy, education and research, giving clients from all walks of life access to some of the most experienced psychotherapists and experts in the field. Headquartered in Evanston, The Family Institute offers close to 50,000 therapy sessions a year.

Tutoring Students at Thurgood Marshall Academy

Partners, associates and staff in Jenner & Block’s Washington, DC office continue to tutor students from the Thurgood Marshall Academy in the 2009-10 school year. The Thurgood Marshall Academy is a law-and justice-themed public charter high school located in Washington, DC’s Anacostia neighborhood that serves 375 students in grades 9 through 12. Jenner & Block is a longtime supporter of the school, which integrates issues of justice, equality, law and government into its curriculum.

The majority of the students who attend the school come from low-income families. This year, 100% of the school’s graduating class was accepted to college. This past school year, Thurgood Marshall Academy’s standardized test scores were more than three times higher than the scores for other schools in the same community.

As part of the tutoring program, every Tuesday students are brought to the Firm for tutoring sessions and dinner with Jenner & Block’s volunteer personnel.

Jenner & Block Partner Jerome L. Epstein serves on the Board of Thurgood Marshall Academy and the Firm’s tutoring program is coordinated by Partner Eric S. Jackson and Associate Carrie F. Apfel.

Attorneys Participate in “Women Everywhere”

Associate Stephanie Jean-Jacques participated in “A Day at the Courthouse,” hosted by the Women Everywhere: Partners in Service Project, a non-profit organization comprised of lawyers and judges dedicated to projects benefiting women’s and children’s needs, with a particular focus on education and community service. The annual “A Day at the Courthouse” was coordinated with the Chicago Public
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Schools, “with the goal of exposing high school women to the importance of education and the many potential career paths they can choose.” Ms. Jean-Jacques also participated in the successful Women Everywhere Service Day along with several of the Firm’s women attorneys, summer associates and other volunteers who spent the day at dozens of agencies that make a difference in the lives of women and children.


Jenner & Block Partners E. Lynn Grayson and Terri Mascherin, Associates Jennifer Gregory, April Otterberg, Stephanie Jean-Jacques and Litigation Counsel Shyni R. Varghese participated in last year’s events.

3,000 Pounds of Food to Greater Chicago Food Depository

In July 2009, Jenner & Block participated in the Greater Chicago Food Depository’s “One City, One Food Drive” campaign. The program helps to ensure that the 50,000 hungry men, women and children in the community who turn to pantries, soup kitchens, and shelters for emergency and supplemental food each year, will not go hungry. The campaign raised more than 3000 pounds of food which is equal to 2,256 quality meals or 1.5 tons of food for the hungry.

American Cancer Society’s Daffodil Days

Jenner & Block was once again the top law firm contributor to the American Cancer Society’s perennial Daffodil Days fundraising event in May, 2008. Through this program, Jenner & Block employees purchased and displayed daffodils in bunches, in the hope that cancer will some day be eliminated and to support the American Cancer Society’s research, education, advocacy and service programs.

The Firm contributed $10,865 to the American Cancer Society. According to Emily Phillips, Income Development Representative for the Chicago Region American Cancer Society, many firms look to Jenner & Block as a benchmark in fundraising for Daffodil Days.

Jenner & Block Summer Associates help prepare food for the Greater Chicago Depository

Jenner & Block Helps Fight Lung Disease

For many years Jenner & Block attorneys and staff members from the Firm’s Chicago office have ascended the 94 floor of the John Hancock Center as part of the Respiratory Health Association of Metropolitan Chicago’s (RHAMC) annual “Hustle Up the Hancock” event. In February 2010, the Firm’s team raised more than $11,000 for the organization. The 2010 event marked the 13th anniversary of the popular fundraising event, which helps the (RHAMC) raise funds for lung research, advocacy and education.

The Firm’s team was lead by Partner Barry Levenstam, who serves on the Board of Directors of the RHAMC.
Jenner & Block’s Volunteer Tutoring Program at Fairfield Academy Continues

For the past seven years, Jenner & Block has assisted Fairfield Academy, a Chicago Public School, to meet the many needs of its approximately 700+ students, the overwhelming majority of whom reside below the poverty line. What started out as a campaign to provide every student with a holiday gift has turned into an incredible commitment to provide Fairfield’s students with the opportunity to “level the playing field” and actively compete with other Chicago public and private school students. This partnership between Jenner & Block and Fairfield Academy is a part of the Chicago Public School’s business partnership program.

When Jenner & Block first started supporting Fairfield Academy, the school was on an academic “Watch List.” However based on improved scores on the Illinois State Assessment Test (ISAT), Fairfield Academy is no longer on probation. In the past 4 years, the percentage of Fairfield students meeting or exceeding the standards on the ISAT has increased from 29% to 48%.

Throughout the year, Jenner & Block personnel volunteer their time to tutor Fairfield Academy students. Starting in October 2009, the Firm will expand the tutoring program to provide assistance for the entire school year with a goal to recruit 50 volunteers to read “one on one” with students.

Since the program’s inception, Jenner & Block has purchased over 2,000 individual gifts and 70 computers, as well as donating almost $70,000 to purchase additional computers and fund Fairfield’s math and language arts supplies, parental education and literacy programs, educational field trips, and music and performing arts programs.

“We’re proud to have an active role in leveling the playing field for these students by helping to provide the tools they need to prosper and grow in an educational environment,” said Chairman Anton R. Valukas, who has served as the school’s “Principal for a Day” since 2002.

In December 2009 the Firm raised $23,145 for Urban Gateways’ Arts-Wired program at Fairfield, which will allow over 700 Fairfield students to have the opportunity to be exposed to an extensive arts and theater program and to develop create outlets for their own artistic expression. When combined with the Firm’s $15,000 matching contribution, our total contribution to Urban Gateways will be $38,145.

The Heart of the Matter is produced by Jenner & Block. For additional information or copies, please contact HeartoftheMatter@jenner.com.