

Skadden

Pro Bono Report

HOLOCAUST REPARATIONS | IN THE SPOTLIGHT: HOUSTON | INTERNATIONAL PRO BONO SERVICE



SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP & AFFILIATES

Pro Bono

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Over the last several years, our attorneys in Europe and Asia have played an increasingly important role in our *pro bono* efforts, with the average number of hours worked each year more than doubling since 2008. As detailed in the following pages of the *Pro Bono Report*, our recent representations have included matters involving the shores of Scotland, the capitals of Western Africa and the tsunami-damaged communities of Japan.

Our U.S. lawyers also continue to take on significant matters. In this edition, we look at the efforts by Skadden attorneys on behalf of Jewish survivors seeking “back pay” reparations for forced labor before and during World War II. Our “Spotlight” feature surveys the diverse range of public interest matters handled by our Houston attorneys, including reuniting a father with his abducted children and supporting state legislation that funds local health care services.

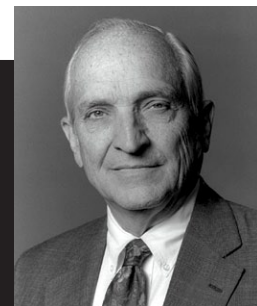
We also have secured important victories on behalf of prisoners. Attorneys from our Chicago office obtained a new sentencing trial for a Mississippi death row inmate whose trial counsel failed to present meaningful mitigating evidence, and our Boston attorneys established a significant precedent for prisoners seeking to challenge unconstitutional interstate transfers.

Contributing to the public interest remains one of the firm’s core values, and we hope you enjoy this update on our recent work. As always, we welcome your feedback.

Regards,

Eric Friedman

In Memory Of **PETER MULLEN** 1928-2011



Peter Mullen, Skadden’s first executive partner, believed that a great law firm must give back to the community and, in particular, maintain a distinguished *pro bono* program. Peter’s recognition of the centrality of public service and his contributions to the development of Skadden’s formal *pro bono* program have shaped the firm’s culture and built upon our historical commitment to public service.

In 1985, Peter asked **Ron Tabak** to become the first experienced attorney to organize and lead a law firm *pro bono* program, a model emulated by many major law firms. From the outset, Peter agreed that *pro bono* hours would count as part of an

attorney’s overall workload — a somewhat radical notion at the time — and offered consistent, visible support for the program. In the days before e-mail, he attended every *pro bono* breakfast and lunch and sent out *pro bono* surveys and mailings under his own name. There could be no doubt of his support or, consequently, the importance of the program to the partners. Once the New York office’s program was well-organized, Peter asked Ron to turn his attention to the firm’s other offices. Those efforts were the genesis of a formal program that now totals nearly 200,000 hours of *pro bono* service each year.

Peter believed that Skadden possessed a rare opportunity to foster public service, and

he worked tirelessly toward that end. When Joe Flom and other partners set out to commemorate Skadden’s 40th anniversary in 1988, Peter proposed the formation of what became and has remained one of the most significant public interest endeavors in the legal field. The Skadden Fellowship Foundation, as the program would be named, has sponsored 648 two-year Fellowships at legal and advocacy organizations and awards at least 25 new Fellowships each year.

Peter also participated in the meetings that led to the promulgation of the Pro Bono Institute’s Law Firm Challenge. He made Skadden one of its charter signatories,

committing to dedicate time equal to at least 3 percent of the firm’s billable hours to *pro bono* work. He was a director of several *pro bono* organizations, including the Legal Aid Society and Volunteers of Legal Service. Peter was active in individual *pro bono* matters himself, working on behalf of such clients as ORBIS, the “flying eye hospital” that brings medical expertise to developing countries around the world.

“The firm’s *pro bono* program is part of Peter’s legacy,” Ron says. “He saw the opportunity to increase the amount and significance of our *pro bono* work and took the key steps to establish a program worthy of a great firm.”



Jacob and Helene Kapel

Securing ‘Back Pay’ Reparations for Forced Labor

In 2002, Germany enacted the Ghetto Pension Law (known by its German acronym, ZRBG), which provides “back pay” awards to people who worked in German-occupied ghettos during the Holocaust. Though Germany has provided other, smaller reparations in the past, the size of these new payments — up to \$30,000 initially, plus monthly pensions — can make an extraordinary difference for aging survivors.

Since 2009, Los Angeles-based nonprofit Bet Tzedek has led a nationwide effort to guide hundreds of Holocaust applicants through the complicated ZRBG paperwork. After the agency developed a backlog of hundreds of cases, it sought the help of law firms from throughout the country, including Skadden. Los Angeles real estate associate **Matt Vandermyde** serves as the primary point person for the more than 60 volunteer attorneys from our L.A. office who have handled approximately 50 ZRBG cases.

“People recognize the need,” Matt says. “For me, it’s an opportunity to spend time with Holocaust survivors, to get a chance to hear their stories. In many cases, our clients have never talked about what happened, not

even to their families, who are sometimes sitting there with us, hearing it all for the first time. It’s a very emotional experience.”

One such client is Helene Kapel, who applied for the award along with her husband, Jacob.

Helene was 6 years old when Warsaw became a German-occupied ghetto and soldiers forced her and her parents to dig ditches and lug construction materials. One morning, when Helene was unable to lift a particularly heavy basket of dirt, a soldier kicked her in the back, which ultimately led to her losing a kidney. After two years of such labor, the family fled to Russia for three years before returning to Poland.



From left: Roshan Sonthalia (former Skadden associate), Matt Vandermyde, George Fatheree and Jason Kupper

After coming home, Helene met Jacob, who also had been forced to work in a ghetto, digging graves and helping transport supplies used to manufacture Nazi uniforms. Jacob escaped to Russia as well, returning to Poland in 1945 and starting a handbag factory.

In 1959, the Kapels and their two children came to the United States. Helene got a job with a Los Angeles insurance company, where she worked for 20 years before retiring. Jacob owned and operated another handbag factory, which employed 12 people.

In 2010, the couple contacted Bet Tzedek regarding potential ZRBG applications, and Bet Tzedek forwarded the matter to Skadden. Matt worked with real estate associate **George Fatheree** on Helene's application, and real estate associates Roshan Sonthalia and **Jason Kupper** assisted Jacob.

Last year, Helene and Jacob learned they would receive a one-time payment of more than €11,000 (\$14,500) and combined monthly payments of €941 (\$1,250) for the rest of their lives.

"We are so grateful for the help and support we received from Matt and George and for their continued concern and interest in us," Helene says. "These payments are not merely symbolic. They will make a big difference in our lives."

More than 30 lawyers from our New York and Washington, D.C. offices also have contributed to the Bet Tzedek program, helping more than 100 Holocaust survivors. Skadden attorneys also have represented dozens

of clients regarding Germany's Ghetto Work Payment Program, a parallel program enacted in October 2007. Under the GWPP, forced laborers are entitled to a one-time payment of €2,000.

For the past five years, counsel **Jerry Lawton** has led the firm's New York efforts, including acting as coordinator for several firms assisting with the program. "Because the application process for this relief is often overwhelming, many survivors declined to file claims or gave up when their claims were denied, even though they were in need of financial assistance and entitled to compensation," Jerry says. The New York office runs a monthly clinic for survivors in a community center in Bay Ridge, Brooklyn, where Skadden and other lawyers meet with potential clients. Legal assistant **Dan Morse** makes home visits for those unable to attend clinic meetings.

In Washington, D.C., *pro bono* counsel **Don Salzman**, partner **Jeremy London** and counsel **Louis Greenstein** have overseen visits to survivors in their homes to prepare ZRBG applications. They also supervise clinics at the Jewish Social Services Agency and have developed reparations project materials and conducted training programs for lawyers at local firms.

George Fatheree says that the ZRBG project resonates in a unique way for each of the attorneys.

"It's a tremendous honor to provide a sense of amelioration," George says. "I feel blessed for being given the opportunity to assist someone who survived this dark time in our history."



Music From the Holocaust Emerges in Documentary

When composer and Stanford University lecturer Dr. Nurit Jugend came across testimonies of Holocaust survivors whose musical talent kept them alive during World War II, her academic research project transformed into something far bigger than she initially considered.

"My heart ached. I realized that music had the power to survive and surpass all evil," Nurit says. "I felt a strong sense of mission to preserve the survivors' legacy."

Nurit's passion to have the survivors tell their stories was matched by the challenge she felt in capturing them. She had no previous experience in film — nor did she anticipate the potential legal issues that accompany a project of this scope. After sharing her research and plans to produce a documentary at a Bay Area lecture, audience member and then-Palo Alto litigation associate Gal Dor introduced herself to Nurit and suggested Skadden could be of assistance.

Nurit, who in addition to directing and producing the film was managing an ambitious fundraising campaign for the project, eagerly accepted the help.

"Directing and producing the film were new experiences for her, as was being the founder and CEO of a nonprofit organization," says Palo Alto intellectual property associate **Ken Kumayama**. "There can be a lot of stress to manage, and part of what we've tried to do is help Nurit understand the business decisions she faces —

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Advising Lawmakers in Developing Nations

In 2009, Skadden developed a *pro bono* partnership with the Public International Law & Policy Group (PILPG), a global *pro bono* law firm that provides legal assistance to states and governments with the negotiation and implementation of peace agreements, the drafting of post-conflict constitutions, and the creation and operation of war crimes tribunals. Over the past three years, Skadden attorneys have authored memorandums for PILPG on issues ranging from the challenges legislators might face in implementing human rights initiatives to international legal trends regarding the prosecution of genocide, war crimes and crimes against humanity.

Skadden's PILPG team is led by New York associate **Bjorn Sorenson** and includes New York associates **James Greifzu** and **Rose Jenkins**, Toronto associates **Matthew Glick** and **Michael Acedo**, and London partner **Chris Mallon** and associate **Alex Rogan**.

The PILPG memoranda present challenges not typically encountered by lawyers accustomed to representing corporate clients. "We use straightforward, nonlegal terms to explain very complex, idiosyncratic issues," Bjorn says. One recent memo, written by Bjorn and edited by James for PILPG, outlines the basis for establishing a formal commercial regimen for controlling exports in an autonomous sovereign state in Africa.

In setting forth the basis for documenting and facilitating trade relationships, the memo looks at the recent histories of Taiwan, Palestine, Kosovo, Western Sahara and Transdniestria, a breakaway territory located between Moldova and Ukraine.

Such subjects rarely have precedent, at least the kind that are found on Lexis or Westlaw. The attorneys analogize the matters to ones encountered by other nascent countries in recent years, relying as much on history books as case law. "We use Lexis as secondary research," Bjorn says. "There are no U.S. cases on these issues."





The Rise in INTERNATIONAL Pro Bono Service

Over the last three years, the number of *pro bono* hours worked by attorneys in Skadden's international offices more than doubled, from 2,778 in 2008 to 6,303 in 2011. The average number of *pro bono* hours worked per attorney nearly tripled.

Skadden's international attorneys ascribe this rise to a variety of factors, including the deepening of our relationships with local communities, the cumulative effect of an increasing number of Skadden attorneys becoming more entrenched in individual projects, and the desire to "give back" during a time of economic and political turmoil.



LONDON

"We made a really big *pro bono* push in 2011," says **Danny Tricot**, the head of *pro bono* efforts in the London office. The year began with an office-wide presentation that included a video conference with former Executive Partner **Bob Sheehan**, who now oversees the firm's *pro bono* program, and special counsel **Ronald Tabak**, the program's coordinator. "It was very helpful for the trainees and associates to hear our views on *pro bono*, to be reminded of its centrality to Skadden and to really get an understanding of the kinds of things we can do," Danny says. He adds that the partners' ongoing emphasis on leading by example has boosted participation as well. The London office has nearly quadrupled its *pro bono* work over the last three years — from 845 hours in 2008 to 3,206 in 2011.

Recent matters include advising the Peace and Justice Initiative, an organization dedicated to gaining universal implementation of the International Criminal Court Statute, which establishes the ICC's functions, jurisdiction and structure. The project involves developing presentation materials, a guidance manual for legislative drafting and a resource guide for training

governments officials. The ICC investigates such crimes as genocide, war crimes and crimes against humanity when governments are unwilling or unable to investigate or to prosecute. The Skadden team includes partner **Patrick Heneghan**, associates **Genevieve Poirier**, **Katie Sutton** and **Michael Ottolenghi**, and trainee solicitor **Neelu Toor**.

Attorneys from our London office also assisted the International News Safety Institute in the establishment and registration of the International News Safety Institute UK (INSIUK), an English charity dedicated to the safety of news media staff working in dangerous environments across the world. The organization is working to create a global safety network that provides advice and assistance to journalists and other news gatherers, both on international assignments or in their own countries. Partners **Mark Darley** and **James Anderson**, associate **Matthew Ebbs** and trainee solicitor **Gareth Fenney** advised INSIUK on U.K. tax matters and will provide guidance regarding its ongoing compliance obligations.

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BRUSSELS

Partner **Simon Baxter**, with assistance from associate **Soledad Blanco Thomas**, advises the Community of Arran Seabed Trust (COAST, www.arrancoast.com), a 10-year-old charity on a small island off the West Coast of Scotland dedicated to protecting the coastline from over-fishing. Simon and Soledad are counseling COAST on new European Union rules on marine conservation and on an application by COAST to create a 280-square-kilometer marine reserve to help protect, conserve and regenerate the local marine ecosystem.

FRANKFURT

Skadden was among the 16 international law firms that helped found the German association *Pro Bono Deutschland e.V.* in 2011. Based in Frankfurt, the association is one of the first in Germany to seek more widespread participation by German lawyers in the contribution of *pro bono* legal services to nonprofit, charitable and church organizations.

PARIS

The economic downturn has engendered a desire among Skadden attorneys to volunteer, according to Paris partner **Chris Baker**. “The spirit of the times is consistent with greater social engagement,” Chris says. “A growing number of associates have come to me or to [office leader] **Pierre Servan-Schreiber** looking to take on *pro bono* projects.”

In 2011, the office won its first-ever asylum matters, on behalf of refugees from Afghanistan and Eritrea. The team included Pierre and associates **Nadine Kari** and **Daniela Hildwein**. In addition, Chris has played an active role in the establishment of a law clinic at the Institute of Political Sciences (Sciences-Po) in Paris. Inspired by U.S. law school clinics, Sciences-Po seeks to provide practical legal experience for law students and to offer *pro bono* legal services to the community in the context of public interest projects. The clinic focuses on three key areas: access to justice for low-income individuals and underserved communities, human rights and globalization, and corporate social responsibility. Along with associates **Coline Vuillermet** and **Olivier Boulon**, Chris is helping a group of students draft a model code of business ethics and conduct for small- and medium-sized companies.

LONDON *(continued)*

Associate **Belinda Mancktelow**, with guidance from partners **Danny Tricot** and **Allan Murray-Jones**, advised Galop, a London-based charity that provides assistance and support to LGBT individuals who have been the victims of harassment, hate crimes and domestic violence, regarding a proposed merger with two other LGBT-focused charities. Belinda counselled Galop on both the legal risks and the structuring of the merger, preparing a full due diligence report on all three charities. Ultimately, having reviewed the advice provided by Skadden — including that the merger would require two of the charities to be wound up — the organizations opted to retain their independent structures.

A team led by London attorneys assisted the World Toilet Organization (WTO), which improves sanitation conditions for people globally through education and technology, with preparations for its 2011 annual summit in Hainan Province, China. The three-day summit brought together nonprofits, government agencies and others to address “the fundamentals of creating a blueprint for a sustainable sanitation market place.” The firm’s contributions included assisting in the preparation of a contract setting out the responsibilities and obligations of the summit’s host and working to ensure that costs, project milestones and other deliverables would be met. The firm also produced materials for use at future summits. The team included London partner **Mark Darley**, associate **Craig Kelly** and former associate Amy Kennedy, and Hong Kong counsel **Dominic Gregory**.

TOKYO

In Tokyo, the 2011 tsunami and nuclear crisis not only spurred the need for *pro bono* work but also encouraged a sense of community and a duty to contribute, according to Tokyo counsel **Bob Wray**. “In general, those tragic events have led to a greater spirit of volunteerism emerging throughout Japan,” Bob says. For example, the firm has represented the Tokyo English Life Line (TELL) — one of the few institutions providing Western-style counseling in Japan and therefore a critical resource for people affected by the disasters — on a variety of matters related to the 2011 crisis.

Bob and partner **Nobu Ishizuka** also lead a team advising Human Rights Now, the first Japanese NGO dedicated to promoting human rights worldwide, with a special focus on Asian countries. Skadden helps the organization conduct its legal research, fact-finding and advocacy, particularly on matters involving transitional justice, violence against women and children separated from their families. Skadden also assists the organization in its education activities by hosting and supporting seminars and events and helping with the translation of its literature.

CROSS-BORDER

While many *pro bono* assignments reflect the needs of our offices’ local communities, others entail issues of international concern and involve contributions by lawyers throughout the firm. Skadden’s work in support of the Africa Freedom of Information Centre, advising Niger and Guinea-Bissau regarding their development of freedom of information laws, demonstrates the degree to which our “one firm” ethos extends to *pro bono* work — the team includes Los Angeles associate **Erin Hyun**, Palo Alto associate **Christine Hung**, London associate **Richard Ho**, Sydney associates **Shoshanna Harrow** and **Cecile Baume**, and Hong Kong associates **Olivia Odell** and **Richard Hawkins**. “It’s hard to schedule calls with attorneys in a half-dozen time zones, but we find a way to avoid having anyone set an alarm for 4:00 a.m.,” says **Ron Tabak**.

HONG KONG

Because the concept of *pro bono* legal service remains relatively nascent in Asia, Skadden’s *pro bono* contributions include encouraging the legal profession to increase its commitment. For example, Skadden is a founding member of the Hong Kong Legal Community *Pro Bono* Roundtable, which promotes *pro bono* service, provides a forum for dialogue about *pro bono* issues and acts as a referral service for organizations in need of assistance. Partner **Alan Schiffman** and associate **Vincent Sze** are active participants in the roundtable.

The Hong Kong office continues to advise a broad range of *pro bono* clients. Partner **Alec Tracy**, associates **Vincent Sze** and **Cindy Shammall**, and former associate Balaji Narain advised Hong Kong alum Judy Shen and her husband in their establishment of the Promise Foundation, a charity that offers arts and sports programs to schools for underprivileged children. Vincent, associate **James McCurley** and trainee

solicitor **Nancie Nishigai-Zhu** advised and registered the Tongzhi Community Joint Meeting, an alliance of individuals and organizations that promotes human rights for people of different sexual orientations and gender identities through policy research and activism. The Hong Kong office also continues to be actively involved with the Hong Kong Refugee Advice Center, which provides *pro bono* representation to asylum-seekers claiming refugee status before the United Nations High Commissioner for Refugees.

Skadden received the Law Society of Hong Kong’s *Pro Bono* Law Firm Award in December. Seven of the firm’s Hong Kong attorneys also received awards for their individual commitments to *pro bono* and community work, including two — former partner Frances Kao and associate **Kam Nijar** — who were presented with “gold awards” for accumulating more than 100 hours of *pro bono* work in the past year. The Hong Kong Refugee Advice Center nominated Skadden for the award, which recognizes “firms that have made an outstanding contribution in the provision of *pro bono* services.”

In each issue, the *Pro Bono* Spotlight takes a look at the recent work of attorneys at a different Skadden office. In this edition, we review the efforts of our Houston attorneys.

In the 20 years since its founding, Skadden's Houston office has been deeply committed to *pro bono* service. In 2011, the office's 25 lawyers each devoted an average of 129 hours to *pro bono* matters. According to counsel **Christian Callens**, who has coordinated Houston's *pro bono* activities since 2006. "Many of our assignments involve nonprofit organizations, including startups," Christian notes. "These clients and their missions have great appeal to our lawyers, so it's a terrific way to get them interested in *pro bono* work, gain valuable experience and help build community."

The following are just a few examples of the recent work performed by our Houston attorneys.

GENESYS WORKS

Founded in 2002, Genesys Works provides corporate internships and professional training opportunities to underserved and economically disadvantaged high school students. After several years of successful operations, Genesys, which originally was set up as a Texas nonprofit organization, wanted to expand into other states. Corporate associate **Nick Slavin**, who has advised Genesys *pro bono* on a wide range of corporate issues, had to identify the right kind of corporate structure. "They were trying to find the right balance between franchise and organic growth models," Nick says. He suggested a subsidiary structure, which would give Genesys and its founder and CEO, Rafael Alvarez, better quality control as well as the ability to manage issues such as liability and local fundraising.

With its new structure, the organization continues to grow and thrive. Genesys recently expanded to Chicago and Minneapolis-St. Paul; nationwide, 98 percent of its 2010 participants entered college.

CHILDREN AT RISK

When corporate associate **Eric Otness** was approached last year by the advocacy group Children at Risk regarding a legislation initiative, he knew the project would be an uphill battle. Eric had worked with Children at Risk on proposed legislation in 2009, which the Texas state legislature declined to pass. "The process is extremely time intensive, particularly considering that political hurdles can make the chances of passing a law remote," Eric says. This time, the subject of the proposed law — improving access for underserved families to community health workers (CHWs) — hit close to home. "My wife is a pediatrician, and we have friends and colleagues in the health care profession," Eric says. "The chance to help people in an area I was familiar with, coupled with presenting the issue as a cost-savings measure, not only was a meaningful goal, but also a realistic one for the 2011 legislative session."

Eric partnered with Children at Risk's legal team to write a white paper on the subject. Their research revealed that CHWs play



a key role in community health care and that hospitals that utilize CHWs experience substantial cost reductions. “CHWs often are the first and last points of contact for patients and their families,” Eric says. “They refer people to more appropriate resources, such as primary care physicians or clinics.” After an aggressive outreach program, Eric and Children at Risk found a sponsor for the proposal and then drafted and submitted the bill. The proposed legislation became a reality: HB 2610, signed by Gov. Rick Perry in June 2011, requires the Texas Health and Human Services Commission and the Department of State Health Services to ensure sustainable utilization and funding for CHWs in Texas.

THE HAGUE ABDUCTION CONVENTION

Prior to joining Skadden, litigation counsel **Celso Gonzalez-Falla** successfully represented two mothers in child abduction cases under The Hague Convention. At Skadden, Celso has taken on two more cases — both times, representing the father. “Unfortunately, in child abduction cases, the fathers often face additional challenges,” Celso says.

In the most recent matter, the father, Mr. H., was a German national and the mother, Ms. M., a native of Gabon. In their German divorce proceedings, Ms. M. alleged that Mr. H. abused her and the children; Mr. H.’s lawyers noted

Ms. M.’s history of erratic behavior. After a court-ordered investigation, the judge rejected the allegations and awarded joint custody. A month later, Mr. H. allowed Ms. M. to take the children, ages 4, 7 and 8, on a two-week trip to France. When they didn’t return, Mr. H. contacted the local police. After months of searching, he learned that Ms. M. and the kids were living in a Houston-area women’s shelter. After obtaining sole custody through a modification of the German divorce decree, Mr. H. needed help returning the children to Germany.

The State Department contacted Celso, who handled the matter with assistance from Frankfurt staff attorney **Rebecca Kiesow-Hill**. When Celso and Mr. H. appeared for a hearing in the U.S. District Court for the Southern District of Texas, the courtroom was filled with more than a dozen supporters of Ms. M. “The tension was obvious,” Celso recalls. The tenor quickly changed, when the court learned of the German judge’s finding that Ms. M. had fabricated the abuse. The key to the ruling, however, was The Hague Abduction Convention: The German court that ruled in favor of Mr. H. retained jurisdiction. “The Convention is designed to ensure the safe and immediate return of a child who was illegally removed by respecting the rights of custody under the law of the country that has jurisdiction,” Celso says.

The Houston office’s commitment to public service is demonstrated by its work with several organizations.

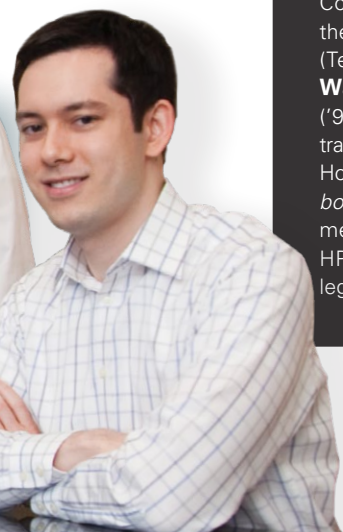
Counsel and *pro bono* coordinator **Christian Callens** serves on the board of Texas Community Building with Attorney Resources (Texas C-BAR), which was founded by Skadden Fellow **Heather Way** (’97) and is directed by Fellow **Frances Leos Martinez** (’92). Texas C-BAR has provided Skadden with a range of transactional *pro bono* matters. Christian also helped establish the Houston *Pro Bono* Joint Initiative (HPBJI), which comprises *pro bono* coordinators from law firms and corporate law departments, and seeks to increase public interest work in the region. HPBJI sponsors several networking events and will staff two legal clinics later this year.

Left to right: Eric Otness, Christian Callens, Celso Gonzalez-Falla, David Passarelli and Nick Slavin.



East Texas Roller Derby

Houston energy and infrastructure projects associate **David Passarelli** advises the East Texas Bombers, a women’s flat-track roller derby team. Flat-track roller derby has experienced a strong revival over the past decade, with more than 300 amateur leagues in the United States. As the Bombers grew in recent years, its members realized they needed to formalize their operations to expand and have a platform for fundraising and engaging the community. David worked with the Bombers to draft bylaws, incorporate as a nonprofit and apply for 501(c)3 tax-exempt status. “Working on the project had multiple benefits,” David says. “Formalizing the Bombers has really helped them move forward as an organization, and developing bylaws and related documents provides me with experience I can apply to the deals I work on for traditional clients.” Once obtained, the nonprofit status will enable the Bombers to devote more time to promoting community activities for women in the region, including skating- and derby-related workshops — all while continuing to inflict bumps and bruises on their opponents.



Personal Jurisdiction for Prisoners: First Circuit Case Establishes New Precedent

Following a nearly decade-long battle over a prisoner's right to challenge his transfer from Pennsylvania to Massachusetts, a team of lawyers from Skadden's Boston office has established a groundbreaking precedent broadening prisoners' rights to oppose interstate transfers.

"It wasn't sexy, but it's an extremely important constitutional issue," says litigation partner **Matt Matule**, who led the Skadden team. "Cases challenging conditions of confinement face steep uphill negative odds, but this ruling helped remove an obstacle that often prevents prisoner-litigants from advancing their claims and commencing discovery."

The team's client, Francis Hannon, was a renowned "jailhouse lawyer" who had filed countless cases challenging prison conditions in Pennsylvania. Despite his unblemished disciplinary record, Hannon was subjected to a series of transfers — to Virginia, then Washington, D.C., then to two different prisons in Maryland, then back to Pennsylvania and finally to Massachusetts. In 2003, he filed a *pro se* lawsuit in the U.S. District Court for the District of Massachusetts against the Pennsylvania Department of Corrections (DOC), claiming he had been transferred in retaliation for exercising his constitutional right to access the courts. In 2005, Skadden agreed to take on the case.

Although the Interstate Corrections Compact permits states to transfer prisoners across state lines, they cannot do so for unconstitutional purposes, says litigation associate **Chris Clark**, who worked on the case. "Hannon had a clean disciplinary record, and the evidence

Skadden uncovered strongly suggested that the DOC was attempting to silence a problem prisoner for petitioning the courts," Chris says.

The district court initially dismissed the case against the DOC officials, summarily holding that it lacked personal jurisdiction over Jeffrey Beard, the DOC secretary who made the decision to transfer Hannon. The Skadden team appealed, arguing that Beard's purposeful decision — Beard conceded that Hannon was the only inmate he ever personally asked to have moved — created mutual, ongoing obligations between Pennsylvania and Massachusetts that justified the exercise of jurisdiction over Beard. The First Circuit agreed, ruling that prison officials who transfer inmates to other states are subject to the jurisdiction of the out-of-state court for claims relating to the transfer itself. Beard filed a petition for further appellate review in the U.S. Supreme Court, which was supported by 23 states as *amici curiae*. The Supreme Court denied Beard's request.

On remand, the district court dismissed Hannon's case, ruling against him on the merits when discovery could not produce a "smoking gun" establishing Beard's discriminatory intent. But the First Circuit precedent regarding personal jurisdiction stands. "If a prison official purposefully establishes contacts with Massachusetts, which Beard did, then the official is on the hook for legal proceedings brought in the state," Chris says. "Under *Hannon*, a prisoner now has the right to seek judicial review of interstate transfers in the state where the prisoner is currently incarcerated."

| NEWS & AWARDS |

Shauna Prewitt Receives Distinguished Service Award

Chicago Volunteer Legal Services presented Chicago associate **Shauna Prewitt** with its Distinguished Service Award in April 2012 for her outstanding work in its guardian *ad litem* program. In early 2011, Shauna was appointed to serve as guardian *ad litem* for a 14-year-old girl in what appeared to be a routine guardianship case. The petitioner then sought to withdraw his petition for guardianship and, fearing that the girl would return to an abusive home or end up homeless, Shauna requested the appointment of the Illinois Department of Children and Family Services as temporary guardian. In August 2011, the court made the appointment, and the minor since has lived in a stable, happy home.

U.S. Supreme Court Lets Stand First Amendment Ruling

In January 2012, the Supreme Court allowed a First Amendment precedent secured by Skadden attorneys to stand by denying *certiorari*. The Court left in place the Third Circuit decision in *Dobrich v. Walls*, which enjoins a Delaware school district from composing and delivering uniformly sectarian prayers to audiences that include schoolchildren. The seven-year litigation arose from several incidents in the district in 2004, including the school board's practice of delivering sectarian and uniformly Christian prayers before its meetings and a high school graduation prayer that included a plea that "these graduates will come to learn the truth that can only be known through knowledge of our Lord and savior Jesus Christ." The Skadden team was led by Wilmington partner **Tom Allingham** and included Palo Alto associate **Rick Horvath**, New York associate **Yosef Ibrahim** and former Washington, D.C. associate Timothy Kearns.

Skadden Secures Dismissal of Action Against Planned Parenthood

In June 2012, Skadden secured the complete dismissal with prejudice of a False Claims Act case against Planned Parenthood in which potential damages exceeded \$600 million. After a whistleblower lawsuit filed in 2005 alleged that nine Planned

Parenthood California affiliates had overbilled the state and federal government by more than \$180 million, the civil division of the U.S. attorney's office began an investigation. Representing the Planned Parenthood affiliates on a *pro bono* basis, Skadden persuaded prosecutors not to intervene in the whistleblower lawsuit and, in October 2011, to close its investigation. On June 25, Judge A. Howard Matz of the U.S. District Court for the Central District of California dismissed the case. Litigation counsel **Matt Umhofer** led the Skadden team, which also included partners **Rich Marmaro** and **Greg Craig**, counsel **Kristin Tahler** and **Ronda McKaig**, associates **Jennifer LaGrange**, **Rob Cummings** and **Christina Lincoln**, and former associates Vanessa Yorke and Nicole Rodriguez.



First Lady Michelle Obama

Skadden Lawyers Join First Lady to Build a Playground

A team of Skadden lawyers joined First Lady Michelle Obama, Secretary of Education Arne Duncan, members of Congress and hundreds of volunteers as part of the 2011 Congressional Day of Service Event in building a new, 4,000-square-foot playground in less than eight hours to celebrate the 2,000th playground-build by nonprofit KaBOOM!. The volunteers included the First Lady's Chief of Staff (and former Skadden partner) Tina Tchen. The project is one of more than 150 playground-builds led by KaBOOM! in 2011. A team of New York-based Skadden lawyers, including counsel **Tim Fesenmyer** (who

also serves on the organization's board of directors), associates **Carolyn Check** and **Sheena Paul**, and former associates Cam Fuller and Becky Ostendorff, has been advising KaBOOM! since 2008.

Reforming Financial Reporting in Delaware Schools

The Delaware state legislature is considering amendments drafted by Wilmington litigation associate **Sarah Runnells Martin** that would overhaul the state school districts' financial reporting requirements. In 2011, Delaware Lt. Gov. Matthew Denn, a former Skadden Fellow ('91), asked Sarah to head a task force charged with examining the possibility of overhauling financial reporting for school districts. After meeting for several months with education experts, members of the public and representatives of state government, Sarah presented the task force's recommendation to Denn, who then asked her to draft proposed legislation embodying the recommendations. While the legislation remains pending, state officials are presenting the model reporting system to school districts as an option to consider on a trial basis. The lieutenant governor has said that the bill is likely to pass, at least on a pilot basis, and that Sarah will have helped parents and taxpayers become much better educated about how their school districts spend money.

Firm Earns NYNY's First Game Changer Award

In January 2012, Skadden received the first Game Changer Award presented by New York Needs You. The award recognized our support of the organization's benefit dinners and a summer 2011 internship for a NYNY fellow, as well as our *pro bono* legal services on NYNY's behalf. The organization also recognized Skadden volunteers, including New York M&A associates **Kimberly Harris**, who is a member of NYNY's governing board, and **Tiffany Meriweather**, who co-chaired its young leadership board. NYNY aims to level the playing field for first-generation and low-income college students in New York City through its career development and leadership training fellowships.

| NEWS & AWARDS *continued* |**Brenna DeVaney Honored for Domestic Violence Efforts**

Brenna DeVaney, who was named *pro bono* counsel in January, was honored in November with New York-based Sanctuary for Families' Award for Excellence in Pro Bono Advocacy. In presenting the award, Sanctuary for Families Bronx Legal Director Hannah Pennington singled Brenna out for her leading role in the organization's Associates Committee as well as in the domestic violence prevention community. In November, the Legal Aid Society also honored Brenna at its *Pro Bono* Publico Awards for her leadership in bringing together public interest law firms, the private bar and corporations from throughout New York to develop best *pro bono* practices and expand access to justice for low-income New Yorkers. Brenna also has been appointed by the president of the Association of the Bar of the City of New York to serve as the chair of its Pro Bono and Legal Services Committee beginning in September.



Eric Friedman (right) accepting award

NAACP LDF Names Skadden Law Firm of the Year

We were honored by the NAACP Legal Defense and Educational Fund (LDF) with the organization's first-ever Law Firm of the Year Award on Nov. 3, 2011. The award was presented to Skadden in recognition of the firm's long-standing commitments to public service and diversity, and in celebration of Joe Flom's legacy. We have teamed with LDF lawyers on a number of *pro bono* matters over the years, including death penalty and wrongful conviction cases. LDF has hosted 21 Skadden Fellows since the program's inception. Two cur-



Joe Flom at Pop-Up Piano created by Volunteer Artist Sophie Matisse

rent LDF attorneys are former Fellows — **Damon Hewitt** ('01), who serves as Director of LDF's Education Practice, and **Ryan Downer** ('09), an attorney in LDF's Economic Justice Practice. LDF alumni who joined the organization through Skadden Fellowships include **Derek Douglas** ('99), now serving on the White House Domestic Policy Council as special assistant to President Barack Obama, and **Matthew Colangelo** ('03), a senior official in the Civil Rights Division of the U.S. Department of Justice. Volunteers from our Houston, Los Angeles, New York and Washington, D.C. offices recently agreed to partner with LDF on two death penalty cases.

NYSBA Again Gives Top Honors to Skadden

For the second year in a row, Skadden was the only law firm to receive the Platinum Award, the highest award given for participation in the New York State Bar Association's Empire State Counsel Program. The award, presented to New York special counsel **Ron Tabak** at the Justice for All Luncheon on Jan. 26, recognized the approximately 28,000 hours of *pro bono* work undertaken in 2011 by Skadden lawyers who are members of the New York State Bar Association.

Sing for Hope Celebrates Life of Joe Flom

In December 2011, New York City nonprofit Sing for Hope posted a video online recognizing Joe Flom's guidance and support of its Pop-Up Pianos, which were installed in parks and public spaces throughout the five boroughs in the summers of 2010 and 2011. At the conclusion of their two-week public residencies, the pianos were donated to under-resourced schools, hospitals and community organizations. The video is available at <http://tinyurl.com/FlomPianos>.

Legal Aid Society Honors Firm, Lawyers

At the Legal Aid Society's 2011 *Pro Bono* Publico Awards on Nov. 9, the firm and many of our attorneys were honored for providing exceptional legal services to low-income New Yorkers. The awards, presented by New York Chief Judge Jonathan Lippman, recognized our attorneys for numerous contributions. The firm was honored for providing *pro bono* services that increased the Society's capacity to represent individuals in danger of losing affordable housing or of being denied subsistence benefits by the New York City Housing Authority or Social Security Administration. Last year, 33 Skadden

attorneys and numerous summer associates handled such cases. The attorneys honored were partner **Karen Hoffman Lent**, special counsel **Jeremy Berman**, associates **Shari Graham**, **Ashley Lott**, **Anna Salek**, **Erin Simmons**, **Michael Welhouse**, **Kamali Willett** and **Delroy Wright**, *pro bono* extern **Manoj Viswanathan**, and former associates Katy Donlan and Richard Rothblatt. Awards also were presented to New York associates **Emily Liu** and **Aaron Krawitz**, both of whom served as Legal Aid externs, for their representation of Harlem Community Law Office clients in a variety of matters.

Luke Meisner Named *Pro Bono* Attorney of the Year

Washington, D.C. international trade associate **Luke Meisner** was named *Pro Bono* Attorney of the Year at the Tahirih Justice Center's 15th Anniversary Gala on April 25, 2012. The organization, which helps immigrant women and girls in the U.S. obtain justice and protection from gender-based violence, honored Luke for his efforts on behalf of one of its most traumatized clients and her children.

Team Aids African Down Syndrome Support Efforts

Washington, D.C. associates **Kai Kramer**, **Anjali Patel** and **Anne Six** recently represented Uwezo Foundation in various corporate matters and in obtaining tax-exempt status from the Internal Revenue Service. Uwezo Foundation is a U.S. nonprofit that provides support for individuals with Down syndrome and their families in a number of African nations, with a current focus on Kenya. An estimated 40,000 Kenyans suffer from the chromosomal condition and, despite the enactment of a progressive Persons With Disabilities Act in Kenya, the majority of these individuals and their families had never received adequate support or information about Down syndrome.

Mississippi Death Row Inmate Wins Right to Resentencing

On Feb. 22, a Mississippi court vacated and set aside the death sentence of Fred Spicer, a Mississippi inmate represented by a team of attorneys from Skadden's Chicago office.

Spicer was convicted of murder on April 30, 2001, and sentenced to death the following day. In 2006, the Mississippi Supreme Court granted Skadden's motion and remanded the case for an evidentiary hearing limited to a single issue: Did Spicer's trial counsel fail to investigate and present mitigating evidence of his childhood history during the penalty phase of the trial?

“He’s very excited about the possibility that his death sentence might be gone for good, but he has learned to be skeptical.”

During the evidentiary hearing, which was held in March 2011, Skadden proffered more than 100 exhibits and nine witnesses, including Spicer's two trial attorneys, members of his family, a private investigator, a clinical social worker and a psychiatrist. The trial counsel admitted that they did not conduct a mitigation investigation or prepare, in a meaningful way, for the trial's sentencing phase. The other witnesses testified to the substantial amount of mitigation evidence that had been available, including evidence of an abusive father, who consumed drugs and alcohol; a family so poor that “they shopped at the dump”; the early childhood use of drugs and alcohol by Spicer

and his siblings; Spicer's sexual abuse at the age of 9 by two aunts; a family history of mental illness, mental retardation and addiction; and Spicer's intellectual limitations and mental illness.

Mississippi Circuit Court Judge Dale Harkey ruled that the trial counsel's failure to conduct a mitigation investigation was inexplicable and did not reflect reasonable professional judgment. The mitigation evidence submitted to the jury was woefully inadequate, the judge wrote, and did not enable the jury to give individualized consideration to Spicer's case and to properly weigh the merits of imposing a sentence less than death. Spicer had presented sufficient evidence at the 2011 evidentiary hearing to undermine confidence in his death sentence, the judge concluded. He vacated and set aside the death sentence and reinstated the case to the active trial calendar for a new jury trial on the sole issue of sentencing.

Associates **Amy Van Gelder** and **David Pehlke** led the team, which included associates **Jason Manning**, **Carl Tullson** and **Julian Wierenga**, and legal assistant **Mirjana Mirkovic**, with oversight, at various times, from partner **Greg Bailey** and former partners Frances Kao and Tina Tohen.

Spicer, who has been on death row at Mississippi's notorious Parchman State Penitentiary for more than decade, responded to the decision with “restrained excitement,” Amy says. “He’s very excited about the possibility that his death sentence might be gone for good, but he has learned to be skeptical” she adds.

Skadden will continue to represent Spicer at the new trial, which Amy expects to be held later this year. Depending on the outcome of that trial, Amy and David intend to continue to challenge the finding of guilt, potentially in federal habeas proceedings.

and to learn when to stress and when to let your lawyers do the stressing.”

Nurit’s film, *They Played for Their Lives*, is a documentary about how the Nazis selected musicians for camp bands and forced them to entertain soldiers. The prisoners also played to entertain each other, and themselves.

The movie’s subjects include a piano prodigy who played more than 800 recitals in the Terezin ghetto; an Auschwitz prisoner who taught an SS officer to play harmonica, then turned to the officer to stop a beating of his father; and a virtuoso child whistler who performed for his life in front of Heinrich Himmler, Adolf Eichmann, Josef Mengele and other Nazi officers.

Ken, Palo Alto intellectual property associate counsel **Carrie LeRoy** and summer

associate **Bill Casey** continue to work with Nurit on a range of copyright and contractual agreements and related matters. Los Angeles corporate associates **Gregory Kay** and **Nicolai Schwarz-Gondek**

Nurit’s passion to have the survivors tell their stories was matched by the challenge she felt in capturing them.

handled incorporation and are in the process of seeking 501(c) tax-exempt status. Lawyers in other offices, including New York tax associate **Rotem Bar-Kokhva** and Frankfurt partner and *pro bono* coordinator **Matthias Horbach**, also advise the project

on a variety of matters related to law in foreign jurisdictions.

“I can’t stress enough how much the attorney’s sincere dedication to my project has helped me through the many challenges I’ve faced,” Nurit says. “I feel very fortunate for everyone’s support.”

With continued fundraising efforts through the San Francisco Film Society, as well as the need to edit hours of footage from shoots in Israel, Europe and the United States, Nurit continues to work with Skadden as she finishes *They Played for Their Lives*. She also continues to screen clips of the film and plans to make it available for educational purposes once it is completed.

For more information about the documentary, visit www.theyplayedfortheirlives.com.

The *Skadden Fellowship Foundation* is as integral to the firm culture as our *pro bono* work. In each issue of the *Pro Bono Report*, we highlight a current or former Skadden Fellow.

SKADDEN FELLOW:
Robbie Silverman

FELLOWSHIP:
**Business and Professional People
for the Public Interest (BPI) (2010–present)**

Since joining BPI two years ago, Robbie has been working to correct many of the housing problems that have plagued Chicago in recent years, particularly in Cook County. In addition to aiding homeowners facing foreclosure, BPI focuses on the foreclosures of multifamily housing units, which affect not only thousands of renters throughout Chicago but also local communities as well. According to Robbie, over the last few years foreclosures have impacted 97,000 rental units in the county, and last year alone the city spent \$15 million on vacant property upkeep and demolition. “Many of these tenants have religiously paid their rent on time every month,” Robbie says. However, they are forced out of their homes due to the landlords’ defaults.

“Our first step is to keep families in their homes right now by reducing the number of foreclosures,” Robbie says. “But Chicago remains at the epicenter of the vacant property crisis, so we’re also focusing on the future of the community by ensuring vacant properties are well-maintained and eventually converted from neighborhood liabilities to community assets.”

Working with local coalitions, Robbie and BPI currently are creating Cook County’s first “land bank.” Funded by grants and donations from banks that want to eliminate foreclosed properties from their books, the land bank will help manage the vacant space so it can be resold and converted into gardens, retail space and affordable housing.

