

SPOTLIGHT: PRO BONO

MCC INTERVIEW: Daniel L. Brown / Sheppard Mullin Richter & Hampton LLP

The Experience of a Lifetime

With a passion for pro bono, lawyers help themselves and others

Daniel L. Brown is a partner in Sheppard Mullin's business trial practice group, specializing in complex, high-stakes commercial litigation and arbitration. His staunch commitment to serving his clients extends to his pro bono work. Here, he describes the many benefits of pro bono, not only for clients and communities in need of legal advice but also for the pro bono lawyers themselves.

MCC: This summer, the same week as the 25th anniversary of the Americans with Disabilities Act, you were recognized by the ABA with its highest pro bono honor, the Pro Bono Publico Award, for your extensive disability-related work. At the time, you said, "Pro bono has provided me with more than one experience of a lifetime." Tell us about some of your most gratifying or noteworthy disability cases.

Brown: Three disability cases stand out for me, each of which I feel so lucky to have been involved with.

The first was my lawsuit as a first-year lawyer against the New York Road Runners Club on behalf of nine wheelchair athletes, whom we alleged were discriminated against in the organizing and running of the New York City Marathon. My brother was a plaintiff, as was Bob Hall, an iconic wheelchair athlete. There is an incredible history to that case. A decision from New York's highest state court decided under New York's human rights laws in the early



You can't be a great lawyer without fulfilling your professional obligation to do pro bono work.

1980s, before the ADA was passed, held that it was ok to prohibit wheelchairs from participating in the marathon because "historically, the marathon is a foot race," and it equated wheelchairs with bicycle and skateboards. I was appalled to learn that that was the state of the law, and my case was novel because the ADA was in its infancy, and there hadn't been many cases applying it to sports. We settled, which created the first-ever wheelchair division for the marathon. It makes me proud every year to see the marathon with a wheelchair division that, as I expected, the organizers now embrace as an important part of the race. To get that result as a first year attorney, so that my brother and so many others could participate in the New York City Marathon, the largest spectator event in the world, was just an unbelievable experience.

The other two cases are ones that I had the privilege to work on as co-counsel with Disability Rights Advocates. In one, we sought to make New York City's taxicab fleet accessible for wheelchairs. At the time, only 1.8 percent of cabs were accessible, and the hard fought case settled with an agreement with the city to make 50 percent of taxis accessible over the next

several years. The second case was against the city of New York over its failure to have adequate emergency plans for people with disabilities, which was revealed with terrifying examples for persons with disabilities during Hurricanes Irene and Sandy. That case went to trial. There was a 119-page decision, and we won on liability. It's rare to go to trial, which is always an awesome experience for a litigator, but going to trial on a case that's complex and also really important—life and death issues—was quite gratifying. We spent almost a year working with the city on a remedy, which we think is the most extensive emergency plan for people with disabilities in the nation and is being used as a model by other municipalities.

MCC: What advice would you give an in-house lawyer who is eager to get into pro bono but is uncertain about his or her skill set?

Brown: I know there's trepidation, not just for corporate counsel, but for non-litigators in law firms, who think that there are only pro bono opportunities for litigators. But, that's wrong. There's a tremendous need for pro bono work in so many areas, and there are so many things non-litigators can do. For example, there are corporate opportunities advising not-for-profit and legal-service organizations. There are also things that seem like litigation but that someone with a legal background and some advocacy skills could certainly take on. Asylum cases are good examples. You may ultimately be in court, but it's light on procedural requirements. So many asylum applicants have no one helping them at all,

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so an in-house lawyer can really help a lot. It's something that I encourage non-litigators to take on initially with the assistance of a litigator.

There are also many limited-scope pro bono opportunities, where someone comes for guidance about where to go next from a legal perspective, or participating in an intake, or one-day pro bono opportunities where you receive training and then are ready to help. Again, in-house counsel can absolutely help in meaningful ways in many areas.

MCC: *You are an accomplished trial lawyer with a clear passion for advocacy. Your pro bono work has allowed you to stretch your advocacy skills and tackle cutting-edge issues. How has your pro bono work informed the work you do for paying clients?*

Brown: If you want to litigate or practice other types of law, gaining experience is important. Pro bono work, whether you're a corporate lawyer or a litigator, can hone your skills. Pro bono has helped me develop my oral and written advocacy skills, gain experience with procedural rules in a variety of forums, and work with clients. Some pro bono clients are actually more demanding than paying clients, given what's often at stake. Pro bono also helps you associate with prominent colleagues and the judiciary. I don't think it's a bad thing that I've appeared in front of a lot of judges for my paying clients who know me from a pro bono matter.

When I was a first-year lawyer and did the marathon case, the ADA was about eight years old, and I read every single case and everything written about the ADA. That was when I knew that I was meant to be a litigator. Working on cutting-edge issues, solving problems, all of that experience helped me gain experience and confidence. I knew I was going to be good at this.

MCC: *Do you have a different mind-set or approach when representing a paying client in, for example, the hospitality industry, compared with a client who cannot otherwise afford representation?*

Brown: No. It is 100 percent the same. I am a litigator and advocate first and foremost. My case files are not separated by billable and pro bono. They are my litigation files, and they're one and the same. There's just an additional level of good feeling when you've done a good thing or helped someone.



MCC: *In-house lawyers, encouraged by Corporate Pro Bono (a partnership of ACC and the Pro Bono Institute) are more engaged in pro bono work than ever. Much of that work involves partnering with their outside counsel. Is Sheppard Mullin working with clients on pro bono matters?*

Brown: Yes. We are very proud of our partnerships with clients on pro bono. Some of it is at the request of a client for help with one of their pro bono clients on something that they don't have the expertise on. We invite all of our clients to use us as a resource to find pro bono work for their attorneys. We have the infrastructure, and it's absolutely something that we're trying to do more of. It's great for everyone involved.

MCC: *Is Sheppard Mullin more focused on certain types of pro bono work?*

Brown: No. One of our principles is that we never assign pro bono work. We ask people to find things that are meaningful to them. It makes it a greater experience

2015 ABA PRO BONO PUBLICO AWARDS

Daniel L. Brown, recipient of the
2015 ABA Pro Bono Publico Award

if you're doing something that you already have an interest in.

MCC: *On receiving the Pro Bono Publico award, you pointed out the opportunities that pro bono work has afforded you to work with some legendary lawyers whom you otherwise might not have worked with, including Sid Wolinsky of Disability Rights Advocates. Tell us about some of the pro bono champions you've encountered.*

Brown: Part of my pitch to people to do pro bono is these exceptional opportunities. Here's a person, Sid Wolinsky, who's known as an amazing lawyer, a legendary litigator, and a perennial do-gooder whom

I now am able to consider a mentor. The ability to work closely with and go to trial with him was just unbelievable. Then there are the lawyers I've worked with from Human Rights First. Many of my pro bono partners are most brilliant lawyers I've ever worked with. They could work at the most prestigious of law firms and decided they had a higher calling than just billable work. You really get to work with people you wouldn't otherwise and learn from them.

MCC: The General Counsel of Aetna, which has the oldest in-house pro bono program in America, recently lauded his team for maintaining their commitment to pro bono despite increasingly complex jobs requiring 24-hour attention, more intense personal demands and significant pressure to do more with less. What do you say to lawyers who tell you there just aren't enough hours in the day for pro bono?

Pro bono work is one of the best things about being a lawyer: When you get your bar card you have the opportunity to help so many people in need.

Brown: I'm as busy a lawyer as anyone, but it's a rare instance when you can't find the time to do something that would both be meaningful to you, – that will help you professionally in terms of the experience, and that is part of your professional responsibility. ABA rule 6.1 says, "Every lawyer has a professional responsibility to provide legal services to those unable to pay." Last year, in New York, which always starts these trends, it became a requirement for admission to the bar that you complete 50 hours of pro bono. So all lawyers in New York will already be doing pro bono when they start working.

As you can tell, I do preach pro bono, and I truly believe it. One of the reasons I mention all these benefits, aside just the doing good, is I really want to encourage people. For example, at Sheppard Mullin, you receive full credit for pro bono work. I find it completely

shocking that someone wouldn't take that opportunity for many reasons. There's the mentoring, getting to work with people whom you wouldn't otherwise get to work with, getting to work on matters you wouldn't get to work on, getting known in the firm. I couldn't feel more passionate about it.

MCC: Where does your passion for pro bono come from?

Brown: My passion to do pro bono arises from both the overwhelming need by disadvantaged people and communities for access to justice, and my desire to hone my advocacy skills, and win. Winning for the good guys on a pro bono case is awesome. Doing pro bono is just one of the best things about being a lawyer. You have this bar card, and a lot of us went to law school to change the world, and you kind of have that opportunity, especially young lawyers. Younger attorneys often complain about getting experience and meaningful work. With pro bono you can find it, *and* becoming a better lawyer while doing something that is meaningful to you.