

Pro Bono Firm of 2014: Dechert

By **Matt Chiappardi**

Law360, Wilmington (October 06, 2014, 4:50 PM ET) -- Dechert LLP's commitment to free advocacy has prompted it to tackle issues from a Wisconsin voter ID law opponents say threatens fundamental rights to cast a ballot to prosecutors' use of rap lyrics in criminal trials, meriting the firm a spot among Law 360's Pro Bono Firms of 2014.

But those notable cases barely scratch the surface for a firm that has a pro bono portfolio of more than 1,200 matters spanning from cases that make headlines and could potentially affect millions, to protecting the rights of a small organization or even a single individual.

Each of Dechert's more than 900 attorneys have been required to bill at least 25 pro bono hours every year, and recently the firm said it believes it is the first to expand that mandate to also include its lawyers beyond the United States.

All told, Dechert said that over the past year it billed 82,645 pro bono hours globally, 69,342 in the United States with an average of 115 hours per attorney, and a good deal of that work has been focused on areas that include civil and human rights, nonprofit work, veterans affairs and appealing the denial of public benefits.

"We do a lot of that basic poverty law work," said Suzanne E. Turner, who chairs Dechert's pro bono practice. "We look at the needs of the community, the legal aid provided in a community, and where the gaps are."

Turner also points out that Dechert relies on partner organizations within a particular community to help reckon where to focus its efforts, being a private law firm better known for its securities and corporate work without as many attorneys "sitting in the trenches" in the areas where help is most needed.

In a recent high-profile victory that caught the attention of court watchers nationwide, Dechert made a crucial contribution to the case where the New Jersey Supreme Court reversed aspiring rapper Vonte Skinner's attempted murder conviction on the grounds prosecutors should not have read his violent lyrics to the jury during his trial.

Writing an amicus brief for the American Civil Liberties Union of New Jersey, a team of Dechert attorneys led by Ezra Rosenberg argued that including the lyrics, some of which had been written years

before Skinner allegedly shot and paralyzed a man in Willingboro, New Jersey, was not only unfairly prejudicial, but could have a chilling effect on artistic expression protected by the First Amendment.

The case is one of a growing trend where prosecutors include rap lyrics in their strategy to prove motive or intent, and Rosenberg says the New Jersey appellate review is one of the most comprehensive looks a court has given to the issue thus far, and likely marks the seminal opinion on how artistic and fictional works can be used in criminal cases.

“You have to take a really close look at this, even if it meets the rules of evidentiary procedure,” Rosenberg said, describing his argument to the New Jersey high court. “This guy is accused of a criminal offense, and you want to make sure no one is subject to be convicted with something that has nothing to do with the crime and is unduly prejudicial.”

What’s more, Rosenberg said the use of so-called gansta rap lyrics in criminal prosecutions is “cruelly ironic” because the genre evolved in part as a reaction to the mass incarceration of black men in the inner cities.

“There’s something special about rap lyrics,” Rosenberg said. “This one form of artistic expression is singled out to contribute to this vicious cycle of arrest and incarceration.”

In what Rosenberg called a strong victory for free expression, the New Jersey high court upheld a lower court’s reversal of Skinner’s conviction, siding with the NJ-ACLU’s argument to adopt a more stringent set of guidelines before allowing artistic works into evidence. Skinner, who has remained incarcerated since his 2005 arrest, is expected to face trial again under those new guidelines.

Dechert also played a major role in the fight against Wisconsin’s strict voter ID law, garnering a victory at the District Court level in April when the court ruled the controversial measure was unconstitutional as applied.

That battle continues, as the Seventh Circuit just recently reversed the federal injunction against enforcement of the law in the upcoming November elections, but the firm is seeking swift intervention from the U.S. Supreme Court, said Neil Steiner, one of the attorneys who worked on the case.

In the trial last year in Wisconsin federal court, Dechert built up a fact-intensive case that cobbled together the accounts of thousands of people the firm argued would be disenfranchised by the 2011 law allowing access to the polls only with certain forms of photo ID.

The Wisconsin law is one of the strictest in the nation, not even allowing voters to sign affidavits or vote by absentee without the required documentation, and the firm argued it disqualifies a swath of people mostly from poor or minority backgrounds, Steiner said.

“The key to the case was putting together a factually compelling story,” Steiner said. “There was a lot of legwork, both identifying and working with people who didn’t have ID and were trying to get it, and we found a lot of common threads.”

Those threads including, thousands of people who’d relocated from Louisiana after Hurricane Katrina and had their records destroyed by the storm. Students, especially those whose primary residence was in another state, had a hard time coming up with acceptable documentation, and even veterans would sometimes find their ID didn’t qualify.

There were also older African-Americans who migrated from the South and were born during a time when their access to hospitals in the area was either limited or outright restricted.

Born at home instead, there was often no official record of their births to be relied upon to get the acceptable form of ID, Steiner said.

“There is a pretty stark racial disparity,” Steiner said. “Latinos were 2.6 times as white voters not to have the ID or the documents needed to get an ID, and Blacks were 1.7 as likely to lack the ID or the underlying documents. There were a lot of things in the Wisconsin law that were really troubling.”

Steiner and the rest of his team presented the court with a litany of individual cases that numbered in the thousands, and taken together formed a mountain of evidence they contended showed just how inequitable the law was.

“It was important to show this wasn’t just an academic exercise,” Steiner said. “Here are all these people who are actually affected. All these people aren’t the unique or extreme.”

Dechert also played roles in several other cases this year, including a challenge to the use of solitary confinement for two teenaged boys held in New Jersey's juvenile justice system. The firm, along with the Juvenile Law Center was able to secure a \$400,000 settlement in the case for both boys in November.

In addition, the firm, co-counseling with the Public Interest Law Center of Philadelphia, won a major victory for parents of children with autism who challenged a city school district policy they say shuffled the students from school to school without adequate notice or input.

In June, a Pennsylvania federal court approved a settlement in the matter, roughly a year after it found the school district's policy violated the U.S. Individuals with Disabilities Education Act, with provisions that included mandated notice of any potential transfer decision and allowing parents to retain the right to object to any transfer decision.

These cases and others have garnered Dechert widespread recognition for its free legal advocacy efforts, including the American Bar Association’s 2014 Pro Bono Publico Award and the New York State Bar Association’s President’s Pro Bono Service Award.

“All we're doing is our small part in trying to bridge the justice gap in our country, and recognizing that large law firms like ourselves have a role to play,” Turner said.

--Editing by Richard McVay.