

Pro Bono Publico

Winter 2003



A New Year!

As Venable continues to grow in size and reach, it has also broadened its commitment to pro bono work in 2002, setting a firm-wide record for pro bono hours and number of volunteer lawyers and paralegals. Showing that profitability and good works can go hand-in-hand, Venable's lawyers and paralegals performed over 16,000 hours of pro bono work in 2002, valued at more than \$4 million in fees. The pro bono program is strong firm-wide. More than 280 lawyers, paralegals and summer associates from all of the firm's offices worked on pro bono projects.

While the amount of work is remarkable, more striking is the quality of the work performed by Venable professionals on behalf of the most needy in our communities. Due to our on-going relationships with a wide variety of pro bono providers, the firm has had the opportunity to obtain interesting and challenging pro bono cases. Descriptions of some of these cases are provided in the accompanying articles. I hope you enjoy learning of the dedication and effectiveness of our colleagues in meeting these challenges.

I urge each of you to look for an opportunity to serve the firm, the profession and the community in 2003.

Gerry Treanor
Pro Bono Coordinator

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Venable Obtains Favorable Settlement for Prison Inmate

On a cold, dark morning in early February 1999, Abdullah Talal, a.k.a. Robert Roberts, an inmate in Cell 418 at the Maryland Transition Center (MTC), was brutally assaulted by several correctional officers. The reason for the unprovoked beating was ridiculous – Mr. Talal refused to take a shower, because he was suffering from the flu. As a result of his reluctance, Mr. Roberts was repeatedly kicked, punched and physically abused in his cell and on the way to the hospital, where he collapsed after suffering a seizure.

While Mr. Talal's physical injuries were undoubtedly painful, he was dealt a second blow when he learned the results of MTC's alleged investigation of the assault, which concluded that Mr. Talal was not assaulted, but rather suffered his injuries when he "accidentally slipped" outside the prison building. Mr. Talal filed a *pro se* lawsuit in the U.S. District Court for the District of Maryland, alleging that the correctional officers violated his civil rights, and shortly thereafter, U.S. District Judge Alexander Williams assigned Venable associate **Andrew Dansicker** to handle Mr. Talal's case as pro bono counsel.

With strategic guidance from partner **Otho "Duffy" Thompson**, Andrew and fellow associate Michele Kendus engaged in an aggressive three-pronged litigation strategy to avoid summary judgment and to prepare the case for trial, including: 1) seeking all internal communications and recordings relating to the

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Venable Handles Sale of National Gardens Baptist Church

Venable represented National Gardens Baptist Church in the sale of the church building and the property to Shining Star Community Church. The church is located at 2937 Strathmeade Street, Falls Church, Virginia. The sale of the church included the establishment of an escrow fund by Shining Star Community Church to be

used for renovations, construction and improvements of the building and the parking lot. It also included a lease-back provision that will enable National Gardens Baptist Church to continue to use a portion of the church rent-free for a period of twenty years.

The church building is currently used by other ministries, such as the Clothes Closet that provides clothing for the less fortunate people in the Falls Church area and Glories Happy Hats, whose goal is to bring joy to the lives of children with cancer.

The Venable team that helped with this project included **Doug McDonald, Ellen Dyke, Nancy Farrell, Scott Dalton and Jeff Quann**. Venable has received many expressions of appreciation from the Falls Church community for assisting with this project.

Members of Venable's Pro Bono Committee:

Gerard Treanor, Lars Anderson, Jennifer Blackwell, Shannon Bloodworth, Jacqueline Bottash, Mary Brown, Rosemary Dailey, Kathleen Dolan, Jana Gibson, Sarah Gudsruk, Julia Kiraly, Mitchell Mirviss, Kali Murray, David Richardson, Otho Thompson, Meg Watkins, Brian Zemil, and Gilda Zimmet.

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Maryland Lawyers: Have You Filled Out Your Pro Bono Report Card?

By now you have received Chief Judge Bell's letter advising every Maryland lawyer "to report your annual 'pro bono' hours" The reporting forms were sent to every Maryland lawyer in January. Reporting is now mandatory and even if you have not rendered any pro bono service or contributed to a pro bono provider, you must return your reporting form. Failure to file your report can lead to decertification from the practice of law in Maryland.

The reporting requirement is a part of the amended ethics Rule 6.1 which is intended to provide guidance and structure for Maryland lawyers to fulfill their responsibility to render pro bono legal service. The requirement that lawyers report pro bono hours to the judiciary each year is aimed at two goals – getting better data about how well Maryland lawyers are satisfying their professional obligation, and encouraging lawyers to perform pro bono work. Revised Rule 6.1 also includes a voluntary standard of 50 pro bono hours each year. The 50-hour rule is aspirational, not mandatory, and allows a lawyer to satisfy the goal by making a \$350 donation to a legal services organization.

The changes to Rule 6.1 – setting target hours and requiring lawyers to report their compliance with the Rule's aspirational goals are specifically intended to reverse the downward trend in the number of lawyers taking pro bono cases in Maryland.

Venable has a long history of dedication to providing pro bono services to the community. If you are interested in increasing your pro bono activities, Gerry Treanor and the other members of Venable's Pro Bono Committee can help you identify pro bono opportunities.

If you have any questions regarding pro bono service, the new rules, or wish to sample a reporting form, visit www.courts.state.md.us.

Venable Volunteers Had A Busy Year!

Supporting our community has always been a primary focus for Venable, and 2002 was no exception! Taking part in six different projects throughout the year kept us busy and in touch with our surrounding neighborhoods. Here's a synopsis of what we did (with apologies to all English majors):

- March** We spent St. Patrick's weekend not wearing the green
But renovating Josephine Butler Parks Center, now it's open and clean!
- April** We were called on for cooking and serving yummy food
At the Bethany House where it's hot and it's good!
- May** Servathon—we planted along the H Street Corridor
This planting was fun, it wasn't a chore!
- July** The temperature was high, the sun it was burnin'
As we toiled at GreenHome, now that was some learnin'!
- November** We walked up to S.O.M.E., no cooking, just serving
To diners who were hungry and really deserving
- December** Through the NOVAM program we delivered gifts
And gave families living HIV/AIDS a holiday lift

We had volunteers a plenty, but we always need more
There's so much to do, you can add to Venable lore
As the law firm who cares about those all around
Good deeds and heartfelt giving truly abound

As 2003 is upon us, make a resolution with me
Get involved in a project and help your community!

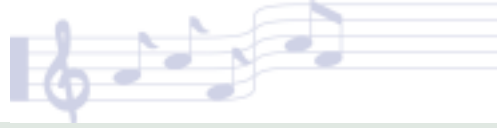
Favorable Settlement.... continued from pg 1

investigation of the assault; 2) deposing any correctional officers involved in the beating; and 3) interviewing and, when necessary, deposing the medical personnel who treated Mr. Talal, including the defendant's medical expert witness.

The Venable team's "scorched earth" litigation strategy paid numerous dividends – the internal communications proved MTC's investigation of the assault was incompetent, the depositions of the correctional officers taken by Andrew proved that the correctional officers were lying to cover up the beating, and the medical interviews conducted by Michele revealed that Mr. Talal's injuries were consistent with the assault. Most important, while deposing the defendants' expert, the Director of Medical Services for the Department of Correctional Services, Michele used her own medical background to force the expert witness to admit that Mr. Talal's injuries were consistent with being beaten in his cell, not with "accidentally slipping" outside the prison building, and to concede that Mr. Talal had not been properly treated by MTC's medical personnel. At that point, with the facts stacking up against them, the defendants attempted to escape liability by filing a motion for summary judgment on two grounds: 1) Mr. Talal's injuries were not significant enough to constitute a constitutional violation; and 2) Mr. Talal failed to exhaust administrative remedies by filing an internal appeal of the findings of MTC's investigation. After extensive briefing, however, U.S. Magistrate Judge Charles Day issued a ten-page decision categorically rejecting defendants' arguments, and Judge Williams affirmed Magistrate Judge Day's decision and set the case for trial.

Shortly thereafter, the parties engaged in serious settlement negotiations and worked out a favorable settlement involving a significant payment from the defendants to Mr. Talal. Mr. Talal, who has since been released from prison, was extremely pleased with the results and is using the settlement funds to support his family, and Judge Williams expressed his appreciation to Venable for successfully handling the case.

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Spotlight on the Baltimore School for the Arts

Venable has been involved for over twenty years in the founding and support of the Baltimore School for the Arts, a public school located in the historic Mt. Vernon Place area of Baltimore City. The school offers intensive pre-professional training at the high school level in dance, music, theatre and the visual arts combined with a rigorous academic program, an arts preparatory program called "TWIGS" for students in the second through the eighth grades, a music satellite program with five elementary schools and a community center, and provides free music, dance and theatre performances to over 5,000 elementary and middle school children each year.



Students are selected for the high school and TWIGS based solely on an audition to determine artistic potential and motivation—no weight is given to prior academic performance. There are usually over a thousand applicants for approximately 80 ninth-grade slots in the high school—total enrollment now is just over 300. Only one of six applicants is accepted for the TWIGS program, which consists of approximately 550 students. The high school students have an eight-hour day divided equally between academics and artistic training. The TWIGS program is conducted between 4:00 and 7:00 p.m. each weekday and all day Saturday.



Teachers from the Baltimore City public school system staff the academic programs, whereas the artistic programs employ full time arts professionals, supplemented by over 30 part-time teachers from local art institutions such as the Peabody Conservatory and the Maryland Institute for the Arts. Students in the high school with academic deficiencies are provided tutoring and summer classes, and those who do not meet academic or artistic standards can be transferred.

The school is managed by a Board of Overseers under a special charter from the Baltimore City School Board, which also directed that a tax-exempt non-profit supporting foundation be established to raise private money to supplement public funding. Presently the foundation raises almost a million dollars a year to support the school's programs, about a third of its annual budget. In addition, an ambitious capital campaign is underway to raise funds to match public monies for an expansion of the physical facilities to increase student enrollment to approximately 375 in the high school and 800 in TWIGS.

The Baltimore School for the Arts has been recognized as one of the top five public arts high schools in the country by the Doris Duke and Surdna Foundations. This year, in the first round of statewide school assessment exams, its students ranked 7th in English and were in the top 15 in Biology and Government. Over 96% of its graduating classes go on to the nation's leading colleges, conservatories and universities. TWIGS has been called the "city's most important outreach effort for youngsters with an interest in the arts" by the *Baltimore Sun*. 25 to 27% of the students admitted each year to the ninth grade in the high school are TWIGS trained.

A number of Venable lawyers have been involved with the school over the years. **Tony Carey**, original chairman of the Board of Overseers, is still a member of the Board, and is President of the School for the Arts Foundation. Harry Shapiro, a former partner in the tax practice, obtained the tax-exempt ruling for the Foundation. **Brigid Kenney** represented the foundation and the school for a number of years, as did former partner, Lark Schultz, whose daughter attended the school.

Venable Helps Chinese-Born Asylum Seeker

Venable is appealing before the U.S. Court of Appeals for the First Circuit the deportation of a Chinese-born man who has applied for asylum. A principal function of the U.S. asylum system is to provide a safe haven for emigrants who suffer under the evil hand of oppressive non-democratic governments as a direct result of their actions to achieve and promote freedom and democracy for themselves, their families and their countrymen. Thus it would seem that the asylum system, properly run, is an ideal tool to use in “a world where freedom itself is under attack,” as President Bush described the terror war. Unfortunately, while the INS has proved itself inept in keeping out those who abuse the immigration system, it has rigorously attempted to deport Zhang Shengli, a model representative of those who should be protected with asylum.

Zhang Shengli is an ordinary man who has taken extraordinary steps for freedom. In the 1980s, he dodged Chinese guards to leap over the wall of the U.S. Embassy in China. The U.S. State Department, however, returned him to the Chinese and he was interrogated (tortured) and imprisoned for years in a Chinese hard labor camp. After being released, he was denied education and jobs by the government. A few years ago, he made his way to the U.S. and, later, became involved in the movement to promote democracy in China.

The INS Immigration Judge, in a lengthy opinion, arguably abused her discretion by making errors of fact and law. Among other things, she ignored the evidence and inappropriately made credibility determinations based on such factors as an inability to obtain a regular job and a lack of knowledge about U.S. immigration procedures. Although the Chinese government newspapers have extensively reported on Shengli, the Judge stated that the government is not interested in him. She stated that the incarceration and torture, which happened years ago, could not, without more, establish past persecution or a well founded fear of further persecution. She also misinterpreted case law to hold that joining protest groups, making public statements, and demonstrating for freedom, could not create a well founded fear of future persecution.

The U.S. Court of Appeals for the First Circuit granted a motion for stay of deportation and soon will issue a scheduling order.

Scott Conwell, from Venable’s Washington office, is handling this matter along with private lawyer Kevin Michael Reilly. Scott has been assisted by **Fei-Fei Chao**, also from Venable’s Washington office. Mr. Shengli’s case was the subject of a *Wall Street Journal* article last year. For a copy of the article, please contact Scott Conwell.



Left to right: Rosemary Dailey, Aginche Mengstu (witness), Mary Brown, Jania Otey, Venable client Yematawork Techane, and Jana Gibson.

Venable Team Poses with Asylum Client Yematawork Techane

In October of 2002, our client Yematawork Techane, a political activist in Ethiopia, was granted political asylum in the United States by the U.S. Immigration Court. Ms. Techane was a leader and member of various political and civic organizations and because of her public opposition to various government policies, she was imprisoned twice, tortured and harassed by the Ethiopian government. In 2000, she was forced to flee after receiving threats to her life. She left behind her six children and her husband. After she left the country, her family’s farm was seized and one of her children was arrested by the Ethiopian police. As a result of the court’s ruling, Ms. Techane will be able to remain in the United States, and her family will soon be allowed to join her here. The outstanding work by this team of Venable lawyers has not only reunited a family, but has likely saved their client’s life.