

Our 2018 Pro Bono Hot list Celebrating law firms that do well by doing good.



COVINGTON & BURLING

Backing Institutional Support for DACA

IT DIDN'T TAKE LONG FOR COVINGTON & BURLING to respond to the Department of Homeland Security's announcement that it would phase out the Deferred Action for Childhood Arrivals program.

The firm filed a pro bono lawsuit three days later on behalf of the University of California regents and Janet Napolitano, President of the UC system, to fight to preserve the program that protects 700,000 undocumented immigrants who came to the United States as children and permits them to work.

Napolitano herself established DACA in 2012 as DHS Secretary.

"These young people were caught in a broken immigration system through no fault of their own," she said, noting that only Congress can legislate a path to citizenship. "Without DACA they would be living in fear of deportation and lose their ability to work. When you're a student, that's important."

California and three other states sued next, then San Jose; six DACA recipients; Santa Clara County and Service Employees International Union Local 521—all consolidated before U.S. District Judge William Alsup of the Northern District of California.

More than 100 cities, counties, schools, community groups and 108 companies signed on as amicus curiae.

Alsup granted a nationwide injunction Jan. 9, ruling the plaintiffs' claim that DHS's decision was "arbitrary, capricious" and "not otherwise in accordance with law" likely to succeed.

When "an agency abruptly changes course and terminates a program on which so many people rely, the [Administrative Procedure Act] requires 'a more detailed justification,'" he ruled.

"This is one of those rare cases ... in a generation that are immensely significant not only to large institutions but to marginalized individuals," UC's general counsel Charles Robinson said. "These DACA recipients are huge contributors to our community."

The hard-fought case has already been to the Supreme Court twice, with oral arguments on DHS's injunction appeal scheduled May 15 before



the Ninth Circuit.

"Covington's commitment has been exceptional," Robinson said.

Covington's lead partner, Jeff Davidson, estimated he's spent 1,000 hours on the matter, working with 20 lawyers, including Mark Lynch, Alex Berengaut, Megan Crowley and Mónica Ramírez Almadani.

To document the "horrific consequences" to DACA recipients and communities, Davidson said, Covington associates compiled 200 declarations. The time frame was tight as Alsup wanted to rule before DHS's March 5 rescission commencement. But the government balked at his order to provide the full administrative record for the decision, instead going to the Ninth Circuit, then the Supreme Court. Davidson has handled business disputes worth millions, but he said the stakes were higher at the four-hour motions hearing he argued Dec. 20.

"To be in court standing up for 700,000 immigrants, I don't know that there's anything quite like that," he said. "For them, it's not a legal case. It's about whether they get to be Americans."

—MEREDITH HOBBS

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