



A Story of Pro Bono Partnership Between In-house & Outside Counsel

By Megan Yoshimura and John C. Lemacks II¹

Megan: Like so many people, I was deeply affected by the family separations along the southern US border that were being covered by the media in 2018. At the time, I had two young sons (ages five and two), and I felt certain that if someone took them from me, it was a very real possibility that I would never be able to find them again. Also, I am descended from Japanese-Americans who were wrongfully incarcerated during World War II, so the prospect of having my family's freedom taken away without due process was not something that seemed implausible. I spent the first ten years of my career as a business immigration attorney with a sprinkling of pro bono asylum cases, so my family and I decided that I should go to the family detention center in Dilley, Texas, and see if I could help.

Before committing to the then-named CARA project, which provided pro bono services in Dilley, Texas, I called my friend and former colleague, John Lemacks, a Partner at Tafapolsky & Smith ("T&S"). When I was part of Microsoft's

US Immigration Team, John was an outside counsel attorney I partnered with on many complex business immigration cases. In addition to being an excellent business immigration attorney, I knew him to be active in taking on the most challenging of pro bono cases.

John: I first went to Dilley as a volunteer in September of 2016. Dilley was the largest immigration detention center in the United States at the time. It mostly housed women and children from the Northern Triangle who had fled their home countries and were seeking asylum in the United States.

There were about 2,400 women and children detained at Dilley when I volunteered in September 2016. During the week I volunteered, I was part of a group of amazing volunteers that tried to help more than 150 women a day on average. My notes from my first trip to Dilley include so many stories of rape, murder, gang violence, extortion, and systematic domestic violence – some of the most horrific things I have ever heard. The conditions at the detention

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center were deplorable in 2016. Many of the women I saw were sick or had sick children. When I asked them if they had seen a doctor, many told me they were refused medical attention. When I returned to California, I never thought I would ever volunteer there again.

So, in the summer of 2018, when Megan asked me if I was interested in going back to Dilley with her, I had a very fast and visceral response – hard pass. To her credit, Megan is a very persuasive attorney and not someone to take no without some type of explanation. After speaking with her at length about why she wanted to go, I began to take stock of my own feelings on the subject. I was left feeling a little embarrassed about my unwillingness to heed the call of service. I had a ton of plausible excuses for not going, but when I drilled down my own feelings, it became crystal clear why. It was simple. I hated that place. I felt defeated when I was there and I felt defeated when I returned home. But something inside me drove me to say yes. To be completely blunt, I wanted a rematch with Dilley.

Megan: When I went to Dilley in July 2018, I had been practicing immigration law for almost 13 years and felt like there wasn't much that could shock me about the immigration system and country conditions that caused mothers and young children to flee. I was wrong. I failed to consider how much I would relate to women and children who became my clients.

These mothers were exhausted and traumatized, but they were also incredible parents. I witnessed them tell me about the torture and abuse that they suffered with stoicism and sometimes incredible emotion, but when their children needed them, they wiped away their tears and exhibited far more patience than I can often summon after a routine, stressful day in the office. These mothers gave up everything and risked their most precious family members for the chance of a better life. Working with these women made me a more thoughtful lawyer, mother, and legal professional, and I credit all of them with making me a better person. I went to Dilley to help women and children, and I truly believe that I benefitted the most.

To provide a bit of background, the families that were incarcerated in Dilley were being held because of their attempt to enter the US without permission from the US government, such as a visa issued by the US consulate in their home countries. In the course of their initial conversations with Customs and Border Protection (CBP), someone in the family expressed a fear of returning to their home country. Instead of being immediately returned to their home country, CBP places them in ICE custody at one of many privately run prisons along the southern border of the United States.

The pro bono project set up a legal support program to help families prepare for their credible fear interviews (CFIs) before an asylum officer. Per the law and regulations, in order to demonstrate a credible fear, an asylum seeker

must establish that they have been persecuted or have a well-founded fear of persecution based on their race, religion, nationality, membership in a particular social group, or political opinion. If the asylum seeker can demonstrate their credible fear, then they can be released from prison with an ankle monitor to pursue asylum through the immigration court system. While the law requires a low standard of proof in order to demonstrate a credible fear, as a practical matter, the asylum officers in Dilley required that most asylum seekers needed to demonstrate a preponderance of the evidence (more than 50% likelihood) that they would be harmed if they were to be returned to their home country. We observed that the standard of proof required by the asylum officers reviewing these cases increased markedly over time and fewer and fewer people were passing their CFIs.

John: When we arrived in Dilley in July 2018, we were told the government was presenting recently reunified mothers with two simple options. Option 1: Get deported with your child. Option 2: Get deported without your child. During these separations, many women were extremely traumatized by the fact that their children had been taken from them and this led to untold coerced deportations as many women chose to be with their children and never had the opportunity to speak with an attorney or seek reconsideration of their CFIs.

Megan: We learned early our first Monday in Dilley that all of the mothers and children transferred from Karnes (another detention facility in Texas) to Dilley had been scheduled for 8:00 am interviews and none of them had had a chance to meet with legal volunteers to prepare.

John: I vividly recall walking into the main room of the detention center shortly after 8:00 am on our first day of volunteering in 2018. The first thing I saw was a young Dilley staff volunteer and a guard near the back door. The young man spotted me and a few other volunteers and yelled across the room for an attorney. I looked around for a second or two and then ran towards the young man and the guard. The young man instructed me to go through the door, get the women who had just arrived from Karnes and return them to the main room. I walked out of the main unit, asked a guard for direction, and was eventually led into another trailer by an ICE officer. Once inside, I spotted three women who were waiting for their interviews. I quickly introduced myself to these women in Spanish, asked them to trust me, and explained that there was a group of volunteers back in the main room that were able to help them prepare for their interviews. I recall there were several officers and government personnel in the trailer, and I could sense there was more than one set of eyes on us. After a minute or so, I was able to gain the trust of these women and they followed me back.

Megan: During my time volunteering in Dilley, there is one client in particular who I closely bonded with and whose

story has stayed with me. For the purpose of sharing my experience working with her, I'll call this client Susana. Susana was one of the women John had brought back from the interview waiting room that Monday morning.

Susana's story was among the worst I had heard, and included long term domestic violence from her partner, extortion, and gang rape. When the local gangs began to target her teenage daughter, Susana realized that her options were limited, and she took her chances on running away to America. Susana and her daughter took a long bus ride to Mexico and then walked for 30 days across Mexico to the US border.

John initially started consulting with Susana about what brought her to the US. He could tell there were large gaps in her story, and he quickly realized that she might be more comfortable talking to a female attorney. John called me and Nora Lozada, the interpreter that I worked with that week and a paralegal in John's office, into the consultation room, quickly introduced us, and left.

I sat down with Susana and started talking about my kids and my own family, and I could tell right away that she relaxed quite a bit and we settled in to discuss her story. Nora, Susana, and I spent two full days together preparing her to tell her story to an immigration officer. We were matched with a female officer, which Susana had been hoping for, and Susana was able to tell her story at a pace that was comfortable to her. The asylum officer listened, and asked good questions, and even allowed me to give a closing statement.

Susana visited me every day that week to check in and say hello. I worried about her so much that Friday when I knew I would have to say goodbye. A few days after I returned to life in Seattle and at Microsoft, the pro bono project emailed me with the great news that Susana's interview had been cleared and she would be released from Dilley by the end of the week. I cried tears of joy and fear. Susana's case had been so clearly approvable by the legal standard, but it had needlessly been such an uphill battle.

John: One case that I handled at Dilley made me really appreciate the power of teamwork and perception. For the purpose of this article, I will call the client Julie. Julie was Cuban. And she had two beautiful kids – a boy and a girl. The moment I heard the inflection in her Spanish, I immediately thought of my godmother, aunts, and my own mother. I felt a personal connection with this family and a sense that everything would be ok. I explained the framework of the credible fear interview and the asylum process and walked her through the basic elements that she needed to cover.

Right before I was going to wrap up the prep, I asked my client if she had citizenship in any other country. My heart nearly stopped when she said yes. She was also a citizen of Jamaica. My heart immediately sank, and I went blank for a few minutes – maybe more. For those of you who are not

familiar with asylum law, citizenship of another country always triggers additional scrutiny, as the asylum applicant must then show they fear persecution in both countries. As I sat speechless and emotionally drained, Nora sprang into action and began asking our client about her ties to Jamaica. Nora and I spent the next hour trying to analyze our client's chances for asylum given this new information. In all honesty, we were not making much headway. That is when Megan came by to see where we were as most of the volunteers had left for the day. I recall Megan giving me a "wrap it up" look through the window, which is when I signaled for her to come in.

I don't think I will ever forget when Megan joined our prep of Julie. First, Julie, Nora and I were all speaking Spanish. I began trying to translate the conversation between Nora and Julie as Megan doesn't speak Spanish. Nora and Julie were speaking impeccable and fast Spanish and I was doing my best trying to try keep up with them. However, Megan had already zoned in on Nora's and Julie's conversation – namely the word Jamaica. For any non-Spanish speakers, the country Jamaica is pronounced Ha-MY-Cuh in Spanish– just like the Mexican hibiscus iced tea drink. Megan then began a set of rapid-fire questions including, but not limited to: Who the heck is Maica? Did Maica hurt you? How long have you known Maica? Is Maica the father of your children? At this point, Nora and I began to laugh hysterically. Our client, Julie, on the other hand, was looking at the three of us as if we had gone mad. True to form, once Megan figured out the difference between Jamaica the country, Jamaica the Mexican drink, and realized there was nobody named Maica – at least no one affiliated with our client - she homed in on the situation, asked a wide array of questions and before long, had elicited enough information from Julie to put together a strong asylum claim. With a strategy set, the three of us began to rigorously prep our client for her credible fear interview scheduled for the following day.

The credible fear interview was indeed grueling. It lasted more than three hours. There were several times during the interview where I couldn't tell where the officer was leaning. In the end, the officer conducted an extremely thorough interview, and she was professional and kind to my client throughout the entire process. My client passed her credible fear interview, and she was eventually released and was able to take her claim to an immigration judge who granted her relief.

Although I was the attorney who accompanied Julie to her credible fear interview, I know she would not have been able to express herself the way she did had it not been for Nora and Megan. Without them, things could have easily played out differently. As attorneys, I think we often find ourselves working best when we are alone. When we have an issue, we develop the solution. Although there are many times where we may seek the advice of our peers or mentors, lawyers tend to have the final say on their cases when it comes to strategy. The Dilley experience was a bit counterintuitive as

it worked better if you took a team approach – a collective voice to one problem. This approach also allows lawyers and legal professionals to bounce ideas off each other and lean on each other when things get too hot. Volunteering at Dilley might not have been for everybody, but my second trip was so much more productive – both professional and emotionally.

In many ways, my second trip to Dilley was just as disturbing as the first. I did a lot of listening and prepped women for their credible fear interviews. Their stories were just as horrific as the stories I heard in 2016. However, during my second trip, I felt more like part of a team. In 2018, I approached things very differently. This time, when I felt there was some trepidation on the part of a client – say because of an uncomfortable or sensitive topic – I politely bowed out and turned to my group. Asylum law requires one to satisfy several elements including establishing a nexus – specifically, why any persecution was specifically directed at an individual. There were times where I felt the prep wasn't going so well and I'd call on Megan and Nora, who always brought a fresh perspective to the situation.

Megan: I also know with certainty that I could not have gone to Dilley that first time without John and Nora. I needed John's reassurance to help me initially commit to the pro bono experience. While present in the detention center, I depended regularly on his expertise and his calm manner. I needed Nora to serve as my voice all week. Nora's sweet and empathetic nature helped us quickly develop a rapport with every client we worked with. Nora and I worked so closely together that we began to anticipate each other's needs. In addition to being legal sounding boards, John and Nora helped me process all the corresponding emotions that accompany secondary trauma. John, Nora, and I had the benefit of a strong professional relationship before we went to Dilley, which was only strengthened as a result of our pro bono work together. We continue to rely on each other professionally, and even though we do not see each other very often, this experience has strengthened our relationship into a true friendship.

When I returned to Microsoft, I could not stop talking about my volunteer experience. I shared the experience with my broader team, as part of a pro bono community event and was invited to speak and share the experience with other teams within the legal department. It was an honor to share the good work that our team had accomplished during that week in Dilley. I didn't expect that so many of my Microsoft colleagues would ask me how they could get more involved in helping, by donating both money and time to the cause.

The enthusiasm from my colleagues motivated Microsoft to create an opportunity for a group of Microsoft employees, to consist of attorneys, legal professionals, and Spanish interpreters, to volunteer at the Dilley detention center

together. Interest in the program was immense and we had so many volunteers that we created a waitlist. I accompanied our first group and it was incredible to see the impact that so many people had on the lives of the incarcerated families. The [volunteers](#) in the group were also changed by the experience, and we have since become a very tight-knit group of colleagues. We continued to see each other regularly, often having family meals together and volunteering at the local food pantry.

This immersive volunteer experience continued to be in-demand by our colleagues, and Microsoft ended up sending four different groups of volunteers to Dilley until the program was placed on hold as a result of COVID.

For me, the most impressive part of the groups that volunteered to go to Dilley was that most of them had little to no immigration experience. Microsoft coordinated some high-level training in asylum law and secondary trauma to prepare the volunteers, but these legal professionals really took a chance and had confidence in their lawyering skills. It was also heartwarming to see the closeness of the volunteer groups as they returned to Seattle. As I noted above, the initial group I joined in Dilley became a family, but I also witnessed this happen with each subsequent group of volunteers.

The Microsoft volunteers who traveled to Dilley have stayed connected to the needs of immigrants and refugees entering the US through the southern border. In late 2020/early 2021, I provided legal counsel for Microsoft's first Day One Initiative case that helped MPP-impacted individuals who were stuck in Mexico and seeking entry into the US to pursue asylum. I shared my experience with Microsoft's legal department more broadly, which motivated several other former Dilley volunteers to take cases. We have had 100% success in the cases Microsoft has supported. Further, the Microsoft Pro Bono Program recruited former Dilley volunteers in 2021 to provide legal screening and Know Your Rights training to the unaccompanied children at the Emergency Intake Site in Fort Bliss, Texas.

John: I feel extremely lucky to have gone to Dilley in 2018 with Nora and Megan. It was so much easier to talk about the daily issues I encountered when prepping the women at Dilley with people I knew and trusted. I also felt lucky to be part of a law firm that supports and encourages all employees to engage in pro bono and/or community service work. I work with folks who regularly engage in pro bono and community service on their own time simply because it's in their DNA. And you wouldn't even know it unless you asked them because they are indeed humble. Tafapolsky & Smith ("T&S") has always engaged in meaningful legal work. But it's our partners, lawyers, paralegals, employees, finance team, global team, clients, colleagues, and friends that always seem to remind me of my dual nationality, nature,

and purpose. As they say in the old country – Pro Mundi Beneficio ². And when those reminders come from in-house corporate attorneys like Megan, it reinforces my belief that hope truly springs eternal in this world.

Like Megan, I regularly take on cases from KIND – Kids in Need of Defense. KIND is an amazing organization with a singular purpose – that no child should go through removal proceedings without proper counsel. I was part of a team at T&S that recently won an affirmative asylum case for a UAC (unaccompanied minor) and we're all now anxiously awaiting a decision on her adjustment of status application. I am also leading a team that is handling a Special Immigrant Juvenile (SIJS) case for KIND. I am also working on a T-visa and have several U-visas at various stages and with various organizations. We also have several teams in our San Francisco office led by my partner, Alan Tafapolsky, and my colleague, Mailine Wong, handling complex asylum, VAWA, and U-visas – all at various stages and all with the support and expert guidance of awesome local and national organizations. I am also currently working with my partners Tony Smith and Robin Paulino to roll out an internal pro bono framework where all employees at T&S can have easy access to a variety of pro bono and community service opportunities.

It's organizations like AILA that really shine in this respect as they provide meaningful pro bono opportunities, in-depth trainings, local and nationwide support, and so much

more. I was extremely honored when AILA asked me to serve on their Pro Bono National Committee for 2021. In my humble opinion, it's the folks that do pro bono full-time at organizations like AILA, KIND, Catholic Charities, ILRC, etc., to name just a few, that are the real champions of our profession. The rest of us would be wise to take a page out of their book at some point in our career.

Megan: Microsoft supports its attorneys and legal professionals in striving to complete 30 hours of pro bono work per year. As a department, we can fulfill this requirement with cases and projects that interest us professionally or personally. Microsoft also does a great job of bringing opportunities to us, which span practice areas, length of time necessary, and populations served.

Currently, I have three Special Immigrant Juvenile (SIJS) cases that I am working on with KIND, I recently helped a family apply for humanitarian parole who were part of the Remain in Mexico Program, I helped a local family obtain a harassment protective order against a neighbor who was engaging in racially motivated harassment, and I regularly volunteer at a legal clinic sponsored by the at the local Chinese Information and Service Center. All these experiences have been virtual since 2020 – it has been more than possible to remain engaged with pro bono work when so many of us are limited in our ability to travel or interact in-person.

² Latin Motto on the Panamanian Coat of Arms: English Translation: "For the Benefit of the World."