

Pro Bono – Law Firms

A Cross-Border Practice With A Dash Of Microfinance

The Editor interviews **Alyssa A. Grikscheit**, Partner, Goodwin Procter LLP.

Editor: Please tell our readers about yourself and your practice.

Grikscheit: The focus of my practice is international transactions and alternative investment funds. Historically most of my cross-border transactions have involved Latin America, but my practice has expanded to other emerging markets in recent years. Currently I am working on a lot of Latin American mergers and acquisitions as well as fund formations for investment in emerging markets. Many of my current fund formation projects take advantage of changes in local law in certain countries where pension funds can now invest in private equity funds. That is causing more local money to flow into these countries and presents interesting legal issues in terms of creating parallel funds that satisfy both these new local requirements and also international norms.

Editor: Do you operate in languages other than English?

Grikscheit: Spanish on a regular basis and French once in a while.

Editor: Please describe your involvement in pro bono work.

Grikscheit: Like many corporate lawyers, I did off and on pro bono work for many years. That changed in 2007 when I started working with ACCION International, a pioneer organization in Latin America in creating microfinance loans to the poor. My relationship with ACCION led to a whole other level of pro bono work both in terms of sophistication and relevance to my main practice. What ACCION needed was both training in legal issues related to international investing and assistance in projects where they were forming, investing in and/or funding microfinance institutions in emerging markets.

I have worked with them in Panama, Peru, Paraguay, Bolivia, El Salvador, Mexico, India and China. It has been exciting, because not only am I helping them with sophisticated cross-border transactions, but I am also doing my small part to help them give low-income people the tools they need to work their way out of poverty in areas of the world with little or no history of financial services for the poor. In addition, other specialists within the firm who don't typically do pro bono work, such as certain tax and regulatory lawyers, have been very excited to join the team and to lend their expertise to such a worthwhile effort.

Editor: Have you worked with ACCION International outside of Latin America?

Grikscheit: Yes. We worked on projects in Bihar, India and Inner Mongolia together – each of us for the first time – so it is fun to see my expertise and experience grow with that of my clients as I help them rise to new challenges.

Editor: India and Inner Mongolia are a far stretch from Peru and Bolivia.

Grikscheit: They are, which has helped me expand my own practice to other emerging markets as well. I have a special expertise with respect to Latin America, based on the number of transactions that I have done in

the region and my language skills, but knowing the right questions to ask, how to identify and solve potential problems and how to choose and work with local counsel are skills that can be applied from country to country.



Alyssa A. Grikscheit

Editor: Have you had time to look at other pro bono activities?

Grikscheit: I have been working with Women's World Banking recently on some very interesting projects.

Editor: Tell our readers about Women's World Banking.

Grikscheit: Women's World Banking has a special focus on the needs of low-income entrepreneurs, especially women and their families. There is a body of research that shows women make up a higher percentage of the informal economic sector and that women borrowers tend to perform very well vis-à-vis male borrowers. WWB has formed a very strong network of 40 microfinance institutions in 28 countries around the world and has been a leader in developing best practices performance standards for its network members and the industry. WWB is based in New York City, although it is technically a Dutch *stichting*, or foundation. My work for WWB is harder to describe because it is mostly in progress. But I am enjoying using my structuring and deal skills in some strategic initiatives that will come into play later this year.

Editor: Has that also permitted you to draw on other resources in the firm?

Grikscheit: It has, and interestingly the team that has been working with WWB has been primarily women, most of whom have a strong interest in the mission of Women's World Banking and some who have worked with me on ACCION projects. Two of our tax lawyers, Janet Andolina and Mande Silverman, have been very supportive of both organizations. On the corporate side of the firm there are more lawyers, and there is a huge demand to be on these projects. I try to spread it around as much as I can to have as many lawyers as possible to be able to work with these clients, given how interesting and high level these projects are.

Editor: How do you see the evolution of pro bono work for entities such as ACCION and Women's World Banking?

Grikscheit: There are many lawyers who have skills that nonprofits need, but those nonprofits sometimes don't know whom to turn to. There is an interesting network in the microfinance area that has been formed by Kimberly Summe, Esq., called Paladinconnect.org. She matches law firms with nonprofits in the microfinance area. I think that law firms are starting to see that there is a lot of very interesting work that nonprofits need to make them more effective and that the trickle-down effect from such pro bono work is tremendous. Some firms, however, still have a very black and white notion of what worthy pro bono representation is. There are areas of advice that nonprofits need and you have to distinguish between what is benefiting the nonprofit

entity versus benefiting its beneficiaries, for example, in the case of microfinance, the borrowers in parts of the world where credit has not been available. I think for law firms to use their resources in this area is really an incredible public service.

Editor: Other than Paladinconnect.org, is there an informal network of lawyers who do pro bono work that stay in touch at the professional level in terms of problems of common concern?

Grikscheit: Most of the bar associations have pro bono committees, and those committees are useful for the exchange of ideas, especially as to what work counts as pro bono and what new projects and entities are deserving of help. But I think a lot of the initiatives are very ad hoc and are based on personal or historic relationships.

Editor: Who makes that determination of what counts as pro bono work?

Grikscheit: At Goodwin we have a pro bono committee so we look at each project on its merits. In the case of ACCION, I have actually done some billable work for projects where we or ACCION believed the work was more for the benefit of the institution than those benefiting from its mission, or where we initially represented ACCION and ended up representing an entire investment consortium that included for-profit investors. In those cases we actually created a billable relationship. It takes some sophisticated analysis of which projects are pro bono and which aren't to allow lawyers to do pro bono that might otherwise be prohibited by a very restrictive black and white system.

Editor: Is that sort of analysis keeping up with the evolution of pro bono activities?

Grikscheit: Firms have different ways of handling the intake on pro bono, but my hope is to see more firms looking at this in a more complex way and taking on some harder work that might otherwise not get done on a billable basis. The litigation folks have always done this very well. Several years ago, our partner Jeff Simes represented homeless children in New York in a case involving access to education. A number of institutions and organizations wanted a certain law challenged on behalf of all homeless children, but they did not have the resources to do it. We were able as a firm to take that cause up, and Jeff won the case and received an ABA award for it. On the corporate side it has been a lot harder to decide whether to take something large and run with it. Sometimes it is much easier to decide to help a poor individual than a nonprofit, but hopefully firms will be more sophisticated about analyzing which projects should be worthy of support that might not otherwise have the resources devoted to them.

Editor: Talk about the constraints, particularly in the microfinance area, where the trend is towards creating banks rather than eleemosynary organizations for microloans. What is the status of IRS rules on unrelated business income and whether some of these organizations would no longer qualify for a 501 (C)3 characterization under the IRC?

Grikscheit: Law firms need to take into

account when representing nonprofits and structuring projects for them as to how everything can be aligned for their mission but also on the tax side nonprofits need to consider how to structure projects efficiently so that as much money as possible flows back to serve their mission, in maintaining their nonprofit status.

Editor: Is there an example you can cite without breaching client confidentiality?

Grikscheit: I think that it is not so much an issue of breaching confidentiality as that the analysis tends to be very fact specific for each project. The key is to always have those tax and structure issues in the foreground in terms of defining what entity to create, how to capitalize it and sometimes which jurisdiction the investment should come through. For example, in India you can have a lot of tax leakage as a foreigner and most investments are made through Mauritius. That type of specific information and analysis that lawyers have from structuring transactions for billable clients is extremely useful to nonprofits, and they don't always get as much of this advice as they should.

Editor: From your personal history and that of your firm, this is something that really excites you.

Grikscheit: I have gone from somebody with very intermittent pro bono work to someone who does pro bono nearly every day, and that is as a result of having these exciting transactions on my desk. The need is so great to provide good advice about how to structure these investments and how to help these institutions grow over time. To give you an example, some of my most exciting negotiating experiences recently have come from working on shareholders agreements, which seems very mundane to some people. If you are trying to make a difference in a microfinance institution, you have certain rights that you want as an investor to protect your investment, but you also want to do what is right for that institution. You want to help it grow and thrive. In some cases you may start out as a majority investor and end up as a minority investor, or vice versa, and you know your ownership, the kinds of other investors and even the law can change over time. So unlike the win-lose negotiations of some kinds of deals and agreements, working on shareholder agreements has really epitomized for me the way in which you have to be mindful of how to let this institution in a far away country achieve its mission, while also providing it with good governance and while also making a return, on the theory that financial returns go hand in hand with social returns. I believe that delicate balance is something worth fighting for and very interesting to try to achieve.

Editor: Any final thoughts that would be helpful to microfinance and other types of organizations that look for, or should look for, professional help from lawyers?

Grikscheit: I would encourage them to seek as much outside help as possible. There definitely are lawyers who are interested and willing. The entities may have to do some proselytizing in the short term, but I think in the long term they will forge relationships and their lawyers will understand the difference that they are making by working for them.

Please email the interviewee at agrikscheit@goodwinprocter.com with questions about this interview.