

Mayer Brown Evens Playing Field For Girls' Softball Team

By Lisa Ryan



Law360, New York (May 01, 2015, 5:29 PM ET) -- A girls' softball league in California got equal access to fields owned by the federal government that had previously been designated for boys' baseball teams, thanks to the efforts of the pro bono team at Mayer Brown LLP.

Elizabeth Mann and Andrew T. Kugler, partners at the firm, scored a victory for more than 200 girls, aged 6-14, and their parents on behalf of the Encino-Sherman Oaks softball league in a fight for equal access to softball fields. They represented the league in a suit against the government, the fields' leaseholder and the local boys' league, claiming the fields had been disproportionately divided up into three softball fields for girls and nine baseball fields for boys.

"It ended up a civics lesson for kids on both sides of the case," Mann said. "They learned that kids can make a difference and their parents can stand up for them and make a difference."

Kugler learned of the issue while serving as a coach for his daughter's softball team in the league. Another father in the league, co-counsel Larry Slade of Slade Law, informed Kugler that he had been negotiating with the boys' league for a more equitable division of the fields.

The U.S. Army Corps of Engineers, which owns the property where the softball fields are located, leased the lands to EFF years ago, with a provision that the land be leased out for youth sports without discrimination, according to the firm. But EFF leased most of the lands to the boys' league, and Slade's attempts to negotiate a fair compromise fell through.

The division of the fields was problematic not only because of the equal access issue, but also because softball fields differ from baseball fields in their dimensions and lack of grass on the infield, Kugler said. As a result, the girls were forced to warm up in the parking lot, with their teams having overlapping practices, while several of the baseball fields would often go unused because the boys' teams had an abundance of fields to choose from.

"A case like this needed the resources of a big firm," Mann said. "Andrew called me up, and I said absolutely; I couldn't think of anything better to do than to make sure that little girls have equal access to playing fields, especially when it's government-owned lands."

And so, 18 months ago, the firm brought the suit in the Central District of California, at first hoping to argue Title IX violations. But because the government cannot be listed as a defendant for such

violations, the Mayer Brown team had to think outside the box, and ultimately filed claims for violations of the equal protection clauses of the Sixth and 14th amendments.

“We weren’t trying to kick boys off; we were just trying to find a more fair allocation of field space,” Kugler said.

The government appointed U.S. Attorney Jason Axe to help the parties reach a settlement, and Kugler said Axe was instrumental in the negotiation process.

“He was really pushing for both sides to come to a resolution, and it ended up taking three or four months, but eventually we came to an agreement where we would get access to two more fields but also allow the boys to have some access as well when we weren’t using it,” Kugler said.

The settlement was reached in February, just in time for softball season to start up, and the federal judge formally dismissed the suit with prejudice on April 17th. Since then, the girls have had the chance to enjoy their additional fields, while the boys’ have taken over unused fields on Sundays, Kugler said.

The suit benefited from Mayer Brown’s resources because of the complicated legal theories involved, Mann said. She added that the suit fits in with the firm’s overall pro bono work.

“What is tremendous about Mayer Brown’s pro bono team is that we trust our partners to make good decisions about what kind of cases we should put our pro bono resources behind,” Mann said. “There’s no difference between our representation of 6-year-olds in Little League and the largest corporation in America.”

The suit is Katherine Ann Swander et al v. Department of the Army of the United States of America et al, case number 2:14-cv-01388, in the U.S. District Court for the Central District of California.

Pro Bono Spotlight is a recurring Law360 series profiling law firm pro bono efforts.

--Editing by Kat Laskowski.