

Contents

Fighting Capital Cases	1
Letter from Kadish	3
West Bank Hospital	5
Asian University for Women to be Established in Bangladesh	6
Inviting Controversy	8
Making the Case for “Left” Pro Bono	8
Equal Justice for All?	11
“Free Appropriate Public Education”	13
Alleviating Poverty in Chile through Renewable Energy	15
London Pro Bono	17
New York Attorneys Honored for Housing Work	18
“How to Succeed in Law School” Program Hosted by New York Office	19
Launching Charlotte Low- Income Tax Clinic	20
WTC Fall-Out	21
Jersild’s CEELI Work Honored	22
Andrew Gruber Honored by Chicago Lawyers Committee for Civil Rights	22
Feedback	23

Fighting Capital Cases



We recently won a major death penalty case victory in Georgia in which the Superior Court struck down the state’s “unconstitutionally high standard” for defendants to qualify as mentally retarded. We also won a narrow victory at the sentencing phase by securing for our client life in prison rather than the death penalty as requested by prosecutors. Three other capital cases are approaching trial.

Retardation Standard Struck Down

“Ineffective” counsel was blamed in part for the death sentence imposed on Alphonso Stripling in Georgia. Washington office partner Mickey Raup, associates David Gossett and C.J. Summers, and Chicago partner Diane Green-Kelly filed a habeas corpus petition to set aside Mr. Stripling’s death sentence. After a week-long hearing in April, Superior Court Judge Clarence F. Seeliger’s October 17, 2002, ruling voided Mr. Stripling’s death sentence, ordering the case remanded for imposition of a noncapital sentence, and struck down the state standard for retardation, stating that it violated the 14th Amendment.

The judge cited lapses by the defendant’s attorneys, who failed to investigate his deficits in adaptive behavior or obtain his elementary school records, which contained IQ test scores in the mentally retarded range. In addition, Judge Seeliger held that the State violated *Brady v. Maryland* when it failed to disclose to the defense information in Mr. Stripling’s

parole records indicating that Mr. Stripling had been diagnosed as mentally retarded in a Georgia state prison at age 17. The Court also set aside the death sentence on grounds that because Mr. Stripling was mentally retarded it would be a miscarriage of justice to execute him.

The petition also challenged the State of Georgia’s “unconstitutionally high standard” to prove retardation. Georgia is the only state that requires the defendant to prove his mental retardation beyond a reasonable doubt



Raup

in order to establish his ineligibility for the death penalty. While Mr. Stripling would meet the “preponderance of the evidence” standard that Judge Seeliger considers reasonable to establish mental retardation, the “beyond a reasonable doubt” standard the State of Georgia required amounted to a Catch 22. In his opinion, the judge reasoned, “When defendants are required to

prove mental retardation beyond a reasonable doubt, it is a matter of common sense that a certain percentage of people who are actually mentally retarded will be unable to prove their condition. . . . The nature of the evidence required to prove retardation—expert medical testimony and intelligence tests—and the public’s common misperceptions about retardation make this issue particularly ill-suited to such a high standard of proof,” the Judge explained.

This is the third case involving the Georgia mental retardation death penalty standard that Mickey Raup has handled. The first two cases, *Pitts* and *Pruitt*, were settled in our clients’ favor after Georgia habeas courts ordered new trials on the question of whether the client is mentally retarded.

Sense of Snow

Our client, Patrick Carter, was charged with first-degree murder and armed robbery in the shooting death of a cab driver in Dolton, Illinois, in the winter of 1998. The evidence against Mr. Carter, then 18 years old, was strong. Not only had a search of his house produced the victim’s wallet and a pair of boots matching the footprints at the murder site, he had also

made two conflicting statements under police questioning—one admitting involvement in the armed robbery but denying any role in the shooting and a later one admitting to the shooting. Two of Mr. Carter’s friends involved in the incident had agreed to testify against him.

The State argued that Mr. Carter shot the cab driver and then ran through the snow, with three of his co-defendants, back to his house. Two of the co-defendants testified to as much. But the Dolton police officers testified that when they arrived at the scene of the crime they saw only two sets of footprints, not four, leading away from the scene. The State offered pictures showing two sets of footprints in the snow.



Drucker

Throughout the four days of trial, the State could never reconcile the discrepancy. Our lawyers pressed their case aggressively: associate Sheri Drucker made the opening statement and partner Mike Gill shared cross-examination duties with former associate Jim Barz (who joined the local U.S. Attorney’s Office shortly after the case was completed), who also handled the closing. Marc Kadish coached the team and participated in the trial and sentencing hearing with Jim Barz.

As expected, the jury convicted Mr. Carter of first-degree murder and armed robbery. We waived the jury for sentencing, and Judge Rhodes then had to determine whether the State had proven Mr. Carter eligible for the death penalty. Summer Associates Matt Sostrin and Josh Kolar researched and wrote the memoranda on sentencing, which stressed the footprint conflict and Mr. Carter’s unresolved role in the shooting with the aim of invalidating the state’s recommendation for the death penalty. Judge Rhodes sentenced him to 56 years—38 for first-degree murder and 18 for armed robbery—in prison. It was the barest of victories.

Breaking New Ground

Our pro bono client, Samuel Lupo, Jr., is accused of murder in a case stemming from a highly publicized killing in August 2000. He allegedly beat to death his

see “Capital” on page four



Letter from Kadish

The Marketplace of Ideas

Since our first issue in 1999, the *Update* has spoken, as it should, in a neutral voice, reporting our work without regard to the political implications of a given case. With this issue, we hope to take a step forward from that position, not by surrendering our impartiality but by inviting debate. To this end, please note three particular elements of this issue:

1. The first is the debate between Esther Lardent, President of the Pro Bono Institute, and David McIntosh, a D.C.-office partner, former Republican Congressman from Indiana, and co-founder of the Federalist Society, over whether there are and/or ought to be ideological underpinnings to a law firm's pro bono program (page 8).
2. We have also established an electronic bulletin board on our pro bono website for anyone to voice his or her opinion on the debate between Esther and David—or any issue you would like to comment on, including the strengths and weaknesses of our pro bono program. The electronic address of the bulletin board is www.mayerbrownrowe.com/probono/bulletin/index.asp.
3. The story on the West Bank hospital case (page 5) was an actual test of our own claimed principles.

The case was rife with political pitfalls, conflicting moral principles, and divisive emotions.

I, of course, do not believe there is bias in our own pro bono program. The approval process for the acceptance of projects by the Pro Bono Committee contains no ideological litmus test. Membership on the Committee is firmwide and probably demonstrates the same political proportionality that exists throughout our society.

Like Esther, I do not like being pigeonholed. While I like working on criminal trials—death penalty, prisoner rights, Seventh Circuit Project cases, even misdemeanors—no case or project is filtered through my ideological lens. At the same time, there's no forsaking my own shaggy, anti-war youth. The only reliable check on bias is the old fashioned free marketplace of ideas, and to that I defer.

Membership on the committee is measured only by interest in the firm's pro bono program. Litigators, government practice, wealth management, corporate, and finance lawyers serve on the Committee. If a lawyer in the firm is a member of the Federalist Society and wishes to work with the Institute for Justice, the Pacific Legal Foundation, or the Washington Legal Foundation—all "conservative" organizations—their request will be handled like any other request that comes before the Committee. There are a number of lawyers in the firm who have worked on cases promoting prayer in school and school voucher cases—not causes I favor, but so what? If the project fits within our guidelines, it will have my vote of approval as a member of the Committee.

Many might say dissent has taken a beating in the last year or so. Heterodox thinking is to be not only tolerated but encouraged. Please make use of our new electronic bulletin board to register your agreement, disagreement, comments, or opinions.

Marc Kadish

Comments?
Suggestions?
Critiques?
Requests?



Let us know what you think of the **Pro Bono Update** by firing up your browser and visiting our new bulletin board.

www.mayerbrownrowe.com/probono/bulletin/index.asp

“Capital”

continued from page two

live-in girlfriend (a Chicago police officer) with a baseball bat during a heated argument. He fled the scene and



Hutton

was caught only after an extensive police chase that ended in Wisconsin. Police obtained a written confession—which we tried, unsuccessfully, to suppress—in which he claimed his girlfriend pulled a gun on him and threatened to kill him. It is a capital murder case pending in the Circuit Court of Cook County before Judge James Linn, who asked us to replace the public defender previously appointed.

Marc Kadish, partners Javier Rubinstein and Craig Woods, associate Dorressia Hutton, and paralegal Julie O’Keefe (not to mention a host of summer associates) have been working on the case for the last year. Mr. Lupo has been one of the first defendants to obtain discovery by pre-trial depositions under the new Illinois Supreme Court death penalty procedures.

We are also asserting some novel uses of psychiatric testimony. We have engaged a forensic psychiatrist, Dr. Alexander Obolsky, who is willing to testify that he believes our client is guilty of second-degree murder because of his state of mind at the time of the offense. Psychiatric testimony typically is used only for fitness for trial, insanity, or mitigation in the sentencing phase. We are using it for the guilt/innocence phase of the case. The judge has not yet ruled on whether testimony is admissible.

Mr. Lupo has asserted a defense of self-defense, or, in the alternative, that he is at most guilty of second-degree murder. The case will likely be set for trial in the spring or summer of this year.

Arson Murder Charge

Although the Intellectual Property Group is not new to pro bono work, the case of Norman Derrickson, Jr., is its first death penalty case. Mr. Derrickson is charged with arson, aggravated arson, and two counts of first-

degree murder. The state alleges that Mr. Derrickson started a fire in his apartment building that killed two people. The state has informed the defense that it intends to seek the death penalty.

Judge Linn appointed us to this case also. Marc Kadish is mentoring a trial team that consists entirely of IP lawyers: partner David Melton, counsel Debra Rae Bernard, and associates Doug Sawyer and Aric Jacover. Doug Sawyer explains that their work is just underway. “So far, the team has deposed two Chicago police officers and an assistant state’s attorney in preparing a defense for Mr. Derrickson. We expect to go to trial in 2003.”

New Houston Case

Our Houston office, which already has one federal habeas death case, recently accepted an appointment in another case. Associate Rebecca Stewart has volunteered to work on the case under the supervision of partner Jim Tancula. As with the pending Deryl Madison case, it is expected that a large number of lawyers in the Houston office will contribute to the representation.

Fighting Wrongful Convictions

The Northwestern Center on Wrongful Convictions held a fundraising dinner, co-chaired by senior partner Robert Helman. The Center is heavily supported by Mayer, Brown, Rowe & Maw. We contributed \$10,000 to support Mr. Helman’s efforts and to honor the role our paralegals have played in support of the Center’s work. Former MBR&M paralegal J.P. Beitler originally spearheaded the involvement of other firm paralegals. When he left for law school, his role was assumed by Stan Matthews. More than 60 Chicago office lawyers signed a letter written by the Center calling for



Matthews

clemency in the Illinois death penalty. We have worked in partnership with our client, Sears, whose legal department paralegals are also participating in the Center’s work. Our Washington, D.C., office has just agreed to work with the Center on a wrongful conviction claim in an old West Virginia murder case.

West Bank Hospital

The Controversy

Mayer, Brown, Rowe & Maw's Pro Bono Committee was divided in its support of an effort by Philip Lacovara to represent a West Bank hospital in a claim against the Government of Israel for damage inflicted on it last year. The political implications of such a representation—Was the claim chiefly a political ploy to embarrass Israel? Did U.S. loyalty to Israel blind us to the greater needs of international law?—was cause for much soul-searching. The Committee finally approved the effort.

Philip Lacovara recently sent an update on the project, which included thanks from Kathryn Abell, a board member of the hospital itself, and put a human face on what is sometimes a faceless conflict to many Americans.



The Project

From Philip Lacovara: About a year ago the Pro Bono Committee authorized me to undertake to represent the Holy Family (maternity) Hospital of Bethlehem as well as its sponsoring international organization, the Knights of Malta, in pursuing a claim against the government of Israel arising from damage inflicted on the hospital during Israeli army activities in Bethlehem.

Although the claim was nominally to recover reimbursement for the damage done, the ultimate objective was to try to assure that the Hospital, its patients, and its staff would receive the protection due under international law, even in the midst of hostilities.

After receiving the committee's approval, I submitted a formal claim to the Israeli government relying on the Geneva Convention's protection of clearly marked hospitals. Copies of the submission were provided to the U.S. State Department and other interested governments and international agencies.

As expected, the formal response was that this was simply "collateral damage" arising from IDF (Israeli Defense Force) operations against Palestinian militants in the region, and the Israeli Justice Ministry rejected the claim. From my discussions with the Israeli embassy and the State Department, however, it was clear that the political authorities in Israel established new "rules of engagement" for the Israeli army to avoid repetition of the incidents that we had made the focus of our submission. Apparently in the midst of continuing violence in the region (including a long stand-off several months ago in the Church of the Nativity, which is near the Hospital), no further damage to the Hospital or its patients or staff has occurred.

Attached are excerpts from an appreciative message from a member of the Hospital's board of directors, which describes the solicitude subsequently shown by the IDF (according to the Hospital's director, Dr. Tabash), at least in substantial part in response to our efforts.

see "Hospital" on the back page

Asian University for Women to be Established in Bangladesh

The Asian University for Women (AUW) will begin in 2005 in Bangladesh as a residential university for liberal learning, attracting intelligent and talented young women from diverse backgrounds around Asia, with a special emphasis on poor and rural women and refugee women from within Asia.

Catalytic

“AUW has been designed to be catalytic, changing societies—and the situation of women—through the innovation and entrepreneurship of its graduates,” said Kamal Ahmad, until recently a London-based associate with Mayer, Brown, Rowe & Maw who is now with the Asian Development Bank.

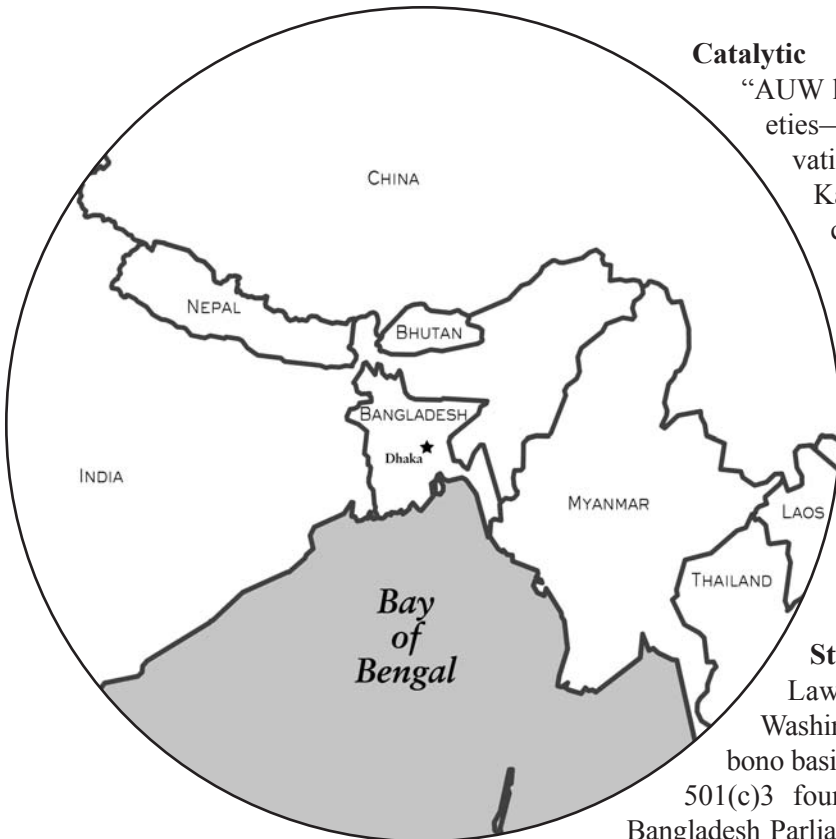
“Throughout much of Asia, and South, Southeast and West Asia in particular, girls and women are caught in a cycle of disadvantage that values them less, invests less in them, limits the realization of their potential, offers them less control, and restricts them to a life path that is reinforced by the distorted experience of prior cycles,” said Kamal.

Strong Support

Lawyers in the firm’s Chicago, London, and Washington, DC offices have been involved on a pro bono basis in a whole range of activities from establishing a 501(c)3 foundation to negotiating the ratification by the Bangladesh Parliament of the Charter of the University which provides the university with an unprecedented level of academic freedom and institutional autonomy to coordinating the development of academic, financial, and organizational plans for this new university.

Our work adds to the ongoing efforts of Debevoise & Plimpton, whose partner, Stephen Friedman, and associate, Mark Shulman, have been heavily involved in this project. Marc Kadish met with them and Judith Plows, the executive director of the American Support Foundation this past November in New York. Sullivan & Cromwell has contributed tax advice.

The university has already attracted international support ranging from the former President of Ireland, Mary Robinson, to the financier George Soros—both of whom have joined the University’s International Support Committee. The University has received financial backing from a number of private foundations including Soros’ Open Society Institute, Hewlett Foundation, Andrew W. Mellon Foundation, and Citigroup



Foundation. The United States Government has also pledged \$1 million toward this effort.

Earlier this year, partner Richard Shepro and Kamal met in Paris with Jacques Attali, long-time National Security Advisor to the late President Francois Mitterand of France and the first president of the European Bank for Reconstruction & Development, to discuss the plans for the Asian University for Women. Mr. Attali has since also joined the International Support Committee for the university and has committed to help mobilize G-8 support for the university.

“It was heart-warming and impressive to see the degree of commitment Mr. Attali was willing to extend to this project,” said Richard.

Innovative Curriculum

The university will offer an innovative joint BA/MA program that combines three years of undergraduate study with two years of professional training in management, public policy, education, environmental engineering, and information technology.

While the study of Asian languages and literature will be strongly cultivated, the medium of instruction will be English. All students will be required to develop a solid foundation in the sciences. Extensive programs, both on-campus and off-campus, will be offered in English, mathematics, and the use of computers.

Up to 25% of the students will come from the host country, Bangladesh. South, Southeast, and Southwest Asia will be specifically targeted for recruitment of students; however, the University will welcome students from all across Asia.

A Firmwide Endeavor

“As our firm becomes more global, we expect that we will increasingly have the opportunity to be involved in pro bono projects that engage lawyers in our different offices,” said Richard. “The Asian University for Women project is a compelling example and offers a huge potential for our lawyers to assist with a very needed and highly complex initiative.”

The U.K. pro bono partner, Julie Dickins, welcomed the opportunity for the firm’s London office to be involved in the pro bono work for the AUW. “It is one of the most worthwhile projects, if not *the* most worthwhile, I have encountered, and clearly meets a huge need,” she said.

Associate Tiloma Jayasinghe in the New York office also is looking forward to working on the project soon. “My true inclination is towards human rights issues,” she said. “I am glad I have a chance to work here and also do something that I passionately believe in. It is the best of both



Lone Dybkjaer, former First Lady of Denmark and Member of the European Parliament, with Pat Cox, President of the European Parliament, at the signing of the Memorandum of Understanding between the Government of Bangladesh and the Asian University for Women held at the European Parliament on January 30, 2002. MBR&M lawyers negotiated the Memorandum of Understanding that was signed.

INVITING CONTROVERSY

Pro Bono Director Marc Kadish wants the Update to be more than a recitation of the firm's accomplishments. "I'd like it to excite discussion and address controversial subjects," he said. The following is the first in what we hope will be a series of opposing discussions on matters of honest disagreement in the law and its practice.

This first discussion was developed in response to a survey conducted by the Federalist Society last year, examining whether there is, as is sometimes claimed, an ideological bias at work among pro bono legal practitioners—specifically, did the majority of pro bono cases seem to represent "liberal" interests and agendas?

We invited both contributors to respond to the survey. We gave them few ground rules aside from insisting that they address the subject squarely, which both have done here.

Space limitations prevent us from reproducing the original report, but those interested can access it at www.fed-soc.org/Publications/Pro%20Bono/probonosurvey.htm.

We also invite reader response to this discussion as well as suggestions for future topics. We have established a bulletin board for both, which can be accessed at www.mayerbrownrowe.com/probono/bulletin/index.asp.

Making the Case for "Left" Pro Bono

by Esther F. Lardent

President and CEO, Pro Bono Institute at Georgetown University Law Center

elardent@probonoinst.org

Copyright, Pro Bono Institute, 2002. All rights reserved.

Introduction

This article was prepared, at the request of Marc Kadish, as one half of a point/counterpoint debate on whether pro bono service at the nation's largest law firms is—or should be—disproportionately "left" with respect both to the types of organizations that serve as conduits for pro bono to these firms and the substantive nature of the work undertaken. Undoubtedly, Marc asked me to author this piece because, while I strongly resist being pigeonholed, my legal career has focused on a range of progressive causes and issues including civil rights, the death penalty, and legal services for the poor.

Despite these leanings, I firmly believe that pro bono at large law firms flourishes when all lawyers at these firms, regardless of ideology and politics, are encouraged and supported in taking on pro bono matters that engage their interest, skills, and passion. As a result, I encourage firms to develop a broad menu of pro bono opportunities, including legal volunteer work that piques the interest of conservative or libertarian lawyers. While supporting a "big tent" approach to pro bono, however, I firmly believe that fairness and justice

dictate that most pro bono work undertaken by large firms should focus on the poor and the disadvantaged.

Some may view providing desperately needed pro bono legal assistance to those who would otherwise be unable to gain access to our justice system as supporting the agenda of the left; I view it as strengthening and legitimizing our entire legal system.

The Federalist Society Report

More than a year ago, the Federalist Society, a group of conservative and libertarian lawyers, published the results of their study of "Pro Bono Activity at the AmLaw 100." While the report coyly—and unpersuasively—disavows any normative judgments, it clearly leaves the impression that much of the work undertaken by major law firms is "left" in nature and, despite its disclaimers, assumes by inference that legal advocacy for people with AIDS, immigrants, the arts, welfare recipients, and children are "left" pro bono activities.

The report notes that, of the 697 organizations the Federalist Society identifies as cited by law firms as

sources of pro bono work (the report indicates that this list is not inclusive), 157 can be found in “The Left Guide” while only 3 can be found in “The Right Guide.” A supplemental survey of conservative and libertarian organizations revealed that an additional 19 large firms (out of 70) assisted “right” organizations.

Ideologically Neutral

Having closely examined the pro bono practices and policies of many of the nation’s large law firms, I have concluded that virtually none of these firms uses a political or ideological litmus test when selecting pro bono matters, cases, or projects. If firms do not, either in policy or practice, accept or reject pro bono opportunities on the basis of ideology, how does that jibe with the Federalist Society study results which strongly suggest a liberal bias?

The answer lies, in part, in some of the limitations and methodological shortcomings of the study.

First, it should be noted that the study itself indicates that the vast majority of pro bono work undertaken by large law firms is ideologically neutral. Even accepting for a moment, the validity of “left” and “right” categorizations, 77 percent of the groups that referred pro bono matters to large law firms were not found in either “The Right Book” or “The Left Book.” This notable statistic is not highlighted in the Federalist Society report.

In addition, the report fails to distinguish between sources of pro bono and allocation of pro bono time. Information and statistics gathered by the Pro Bono Institute indicate that the majority of pro bono work undertaken by large law firms involves the representation of low-income individuals and families in routine legal matters—defending against an eviction, seeking to adopt a child, securing a protective order against a violent spouse, appealing a denial of health insurance coverage, etc. Surely, everyone would agree that pro bono representation in such matters is clearly non-ideological by anyone’s standards. Given the fact that most of the groups referring matters to large law firms are not ideologically oriented and the additional information that most of the legal work undertaken by firms is also free of any ideological slant, the notion that large

law firms are “captives of the radical left” is clearly without merit.

The Real Clients

Another fundamental flaw in the Federalist Society report is that it confuses the organizations that refer pro bono work with the clients whom the firms are actually representing. The report repeatedly refers to law firms “assisting” or “representing” groups. In fact, in almost every instance, the law firms are representing not the organization, but rather a client referred by the group. These groups—even those listed in “The Left Book”—often refer matters and clients that are clearly non-ideological.

The report, for example, notes that a number of major law firms report working with the Lawyers Committee for Human Rights. However, many of the matters referred by the Lawyers Committee involve assistance to low-income persons seeking asylum in the United States because of well-founded fears of persecution in their native lands. Regardless of the source of the pro bono request, is such representation ideological in nature?

Supply and Demand

Finally, the Federalist Society study is misleading and incomplete because it fails to address the issue of supply and demand. The report’s own statistics, as noted above, clearly demonstrate that most organizations recruiting pro bono attorneys are not, in any sense, ideological. But what about the approximately 23% of referring groups that are listed in the “left” and “right” books? Why are so many more “left” groups cited by law firms? We don’t know the answer to that question because of the methodological limitations of the study.

Do “right” groups have many pro bono matters that they have attempted, but failed, to place with large law firms? The report notes that five firms reported pro bono work in the area of reproductive rights—clearly an ideologically divisive issue. However, there is no indication of whether or how often right to life groups sought or obtained pro bono representation. How many potential matters do “right” organizations send out—i.e., what is the universe of possible “right” pro bono placements—as opposed to the number of pro bono matters available from the “left”?



Lardent

Because the report looked at only one measure—the number of organizations cited—rather than the number of matters placed, the totality of requests, and the response rate of firms to requests, it is impossible to draw any conclusions from the report. Common sense, however, suggests that there are likely to be far fewer potential pro bono clients from the “right.” Business groups, corporations, and the like typically have the resources to retain counsel to represent their interests—often the large firms surveyed in the report—and are less likely to need or seek pro bono counsel.

The Right’s Silencing Strategies

To the extent that any conclusions can be drawn from The Federalist Society study, it appears that only a small percentage of the pro bono work undertaken by large law firms could, by any standard, be characterized as supporting “left” causes. Some, of course, would question the legitimacy of any representation of left-leaning controversial issues. The irony is that the need for pro bono assistance has been created, to a great degree, by the actions of conservatives in restricting and eliminating other sources of legal help—what my Georgetown colleague David Luban refers to as “silencing strategies.”

What are these silencing strategies? Concerted efforts by conservative legal groups, state legislators, and members of Congress to deny access to legal help to certain populations in our society—the poor, prisoners, immigrants, those raising claims of discrimination, and so on and so on. Examples of the many efforts to gag advocates for these already powerless people and populations include the following:

- The Washington Legal Foundation has initiated a series of law suits challenging the legitimacy of the IOLTA (Interest on Lawyers’ Trust Fund Accounts) programs adopted, often at the urging of the courts and the organized bar, in all 50 states. These funds, which aggregate interest on small sums of money otherwise unavailable to clients or their lawyers, represent the second largest source of funding for legal services to the poor. If the Washington Legal Foundation succeeds, the impact on the nation’s 34 million poor would be devastating.
- Conservative members of Congress have succeeded in restricting the ability of Legal Services Corporation grantees—often the only source of

free legal assistance for the poor in many communities—to provide a full range of appropriate legal advocacy to all of the poor. LSC grantees are prohibited, by statute, from initiating class actions, engaging in policy advocacy, and representing, in any matter, prisoners and many immigrants. Non-profits that receive even one penny of LSC funding are prohibited from using any funds—even grants from private foundations and lawyers who support and encourage the efficacy of class action suits or who target their funds to serve immigrants—to take on “restricted” work.

- Conservative groups are seeking to eliminate or discourage the awarding of attorneys’ fees to the prevailing party in matters in which that party’s victory advances public rights or interests. LSC grantees are prohibited from seeking or receiving such fees, but attorneys’ fees are critical to the work of many civil rights, civil liberties, and environmental advocacy groups, serving as a deterrent to unlawful behavior and providing the resources that enable these small groups to take on major issues.

Because of these silencing strategies by the right, advocates for the poor, the disadvantaged, and, yes, progressive issues and causes, are denied the ability and the resources to serve their clients.

The Legitimacy of the System Itself

Our legal system is premised on the notion of fairness and equality, the concept that the courts provide a level playing field in which opposing parties, through their zealous advocates, have an equal opportunity to present their positions in a fair fight. As a result of the actions taken by a number of conservative groups, our promise of justice for all in our courts and our justice system has become a sham. The most powerless in our nation are often unable to secure assistance, to take advantage of all available legal tools, and to make their voices heard. That inability is not only a tragedy for them, it weakens and calls into question the legitimacy of our legal system.

While the pro bono assistance of law firms cannot fully address the lack of legal assistance, these firms can and—thankfully—do help to restore some fairness and balance to the process. When Congress eliminated all funding for death penalty resource centers while at the same time dramatically limiting appeal rights for death row inmates, large law firms—including, often, supporters of the death penalty—provided representation

for those inmates to insure that our system worked. When dramatic changes in welfare law were accompanied by restrictions on the ability of lawyers for the poor to challenge and clarify those changes, law firm lawyers stepped up to take on those challenges.

If large law firms are taking on the causes of the “left,” it is because of the actions of conservatives in suppressing and eliminating other sources of advocacy and support. If The Federalist Society is concerned about

ideological biases, I suggest that the Federalists appeal to their supporters to go back to first principles—equal justice under law—and support adequate funding and the elimination of restrictions so that all voices can be fully heard. It is my understanding that the late Justice Powell was the key architect of both the creation of the Legal Services Corporation and the development of conservative public interest groups. Justice Powell’s commitment to access to justice for all and for all points of view should be a model for all of us.

Equal Justice For All?

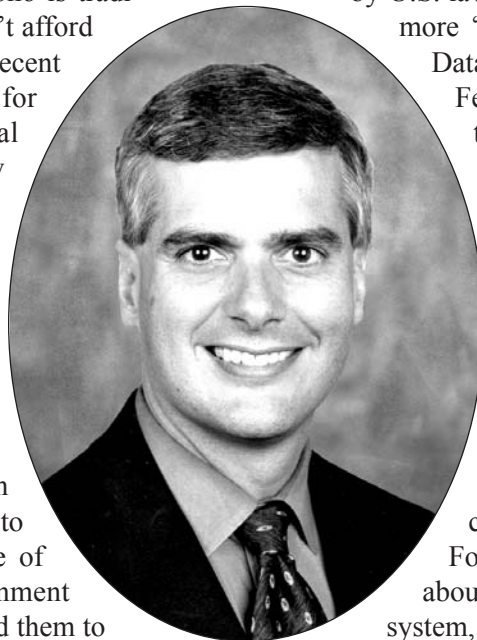
by David McIntosh

Partner, Mayer, Brown, Rowe & Maw (Washington, D.C.)

Co-founder of the Federalist Society

Some people think there’s no such thing as “conservative” pro bono work. After all, “conservative” policies are supposed to benefit big, rich, corporate types who can pay for legal work, and pro bono is traditionally on behalf of those who can’t afford pricey law firms. However, in recent years, groups like the Institute for Justice and the Pacific Legal Foundation have demonstrated how pro bono legal work that is oriented toward free markets and smaller government can have a dramatic impact for the good on the lives of people in need.

For instance, the Institute of Justice has helped low-income African-American hairbraiders in Washington, D.C. assert their right to practice their centuries-old art free of intrusive and unnecessary government regulations that would have required them to pay between \$3,500-\$5,000 for over 1,500 hours of cosmetology training. The Institute has successfully fought against unreasonable barriers to entry and other types of anti-competitive measures in a variety of areas from casket-selling to taxicab and limousine chauffeuring, making it easier for indigents to enter these fields and provide for their families.



McIntosh

Economic Liberty

This type of pro bono work—the defense of economic liberty and the right to earn a living—are not supported by U.S. law firms in the same way they support more “politically correct” pro bono cases.

Data collected in a recent study by the Federalist Society reveals a disturbing trend—the pro bono services provided by 70 of the largest law firms in America tend to focus on “liberal” causes, to the virtual exclusion of cases that would traditionally be characterized as “conservative.”

This is not to imply, of course, that pro bono work is a “vast left wing conspiracy.” There are many worthy pro bono projects that cannot be characterized using ideological terms.

For example, regardless of your opinion about our nation’s ailing social security system, no one would seriously contend that helping an elderly widow obtain the benefits to which she is legally entitled is either a liberal or conservative “cause.” Similarly, criminal defense work performed on behalf of indigent defendants defies easy characterization since no one supports the incarceration of the innocent.

continued on the next page

A Dramatic Imbalance

Instead, the Federalist Society report reveals that when firms do take on cases with a political angle, it is usually to assist organizations or causes widely associated with “the left.” It is when law firms represent non-profit groups, rather than individuals, that a political bias most frequently emerges. While there is nothing wrong with pro bono issue advocacy, it is disturbing that firms almost exclusively lend their support to only one side of the political spectrum.

This dramatic imbalance is most starkly demonstrated by cases involving abortion. Of the 70 major firms involved in the Federalist Society’s survey, 19 have represented “abortion rights” groups such as the Center for Reproductive Law and Policy, Planned Parenthood, and the National Abortion Foundation. Notwithstanding the wide array of legal talent from our nation’s top firms aiding these advocates of abortion, not a single firm is listed as representing any pro-life clients. Especially in light of the numerous non-profit pro-life organizations with shoe-string budgets in desperate need of any help they can get, this dramatic difference cannot be seen as an accident.

This asymmetry is evident with other politically divisive issues, as well. While major firms line up to represent homosexual-rights organizations such as the Lambda Legal Defense and Education Fund and National Gay Rights Advocates, such support is not forthcoming for defenders of more traditional familial arrangements and lifestyles. Firms have donated hundreds of hours to represent gun-control groups, but have assiduously ignored the legal needs of organizations dedicated to protecting the constitutionally enshrined right to bear arms. Nearly two dozen of this nation’s leading firms have represented environmental groups such as the National Resources Defense Counsel and Sierra Club, but none have apparently stepped forward to represent the needs of those working-class men and women who lose their jobs because of policies that place the interests of a three-toed slug or spotted owl ahead of the needs of human beings.

What’s the Explanation?

The fact that these topics are so politically charged indicates that both sides have important arguments to make. While we may ultimately disagree over the merits of various reproductive, environmental, or gun-control issues, many of us at least recognize them as matters about which rational, intelligent people can reasonably disagree. Thus, the fact that firms consistently lend

their support to the “liberal” side of controversies such as these demands an explanation; the Federalist Society report invited readers to draw their own conclusions from this raw data.

The most obvious explanation would be that the partners and associates in the firms doing this work are predominantly left-leaning. This hypothesis is consistent with the general perception that the nation’s largest organization of lawyers, the American Bar Association, frequently succumbs to liberal tendencies. While superficially plausible, this conclusion is ultimately unsatisfying.

If we look to our own professional experiences, most of us have met and worked with attorneys—both at our own firm and others—whose beliefs range from Karl Marx to Ronald Reagan. Especially here in Washington, D.C., most major firms have so many lawyers who have the proper ideological profile for joining a Presidential administration of almost any ideological stripe. For these reasons, I do not believe that the tremendous gulf between large-firm pro bono work for liberal and conservative organizations can be explained by a postulated numerical disparity between liberals and conservatives at these firms.

PR and PC

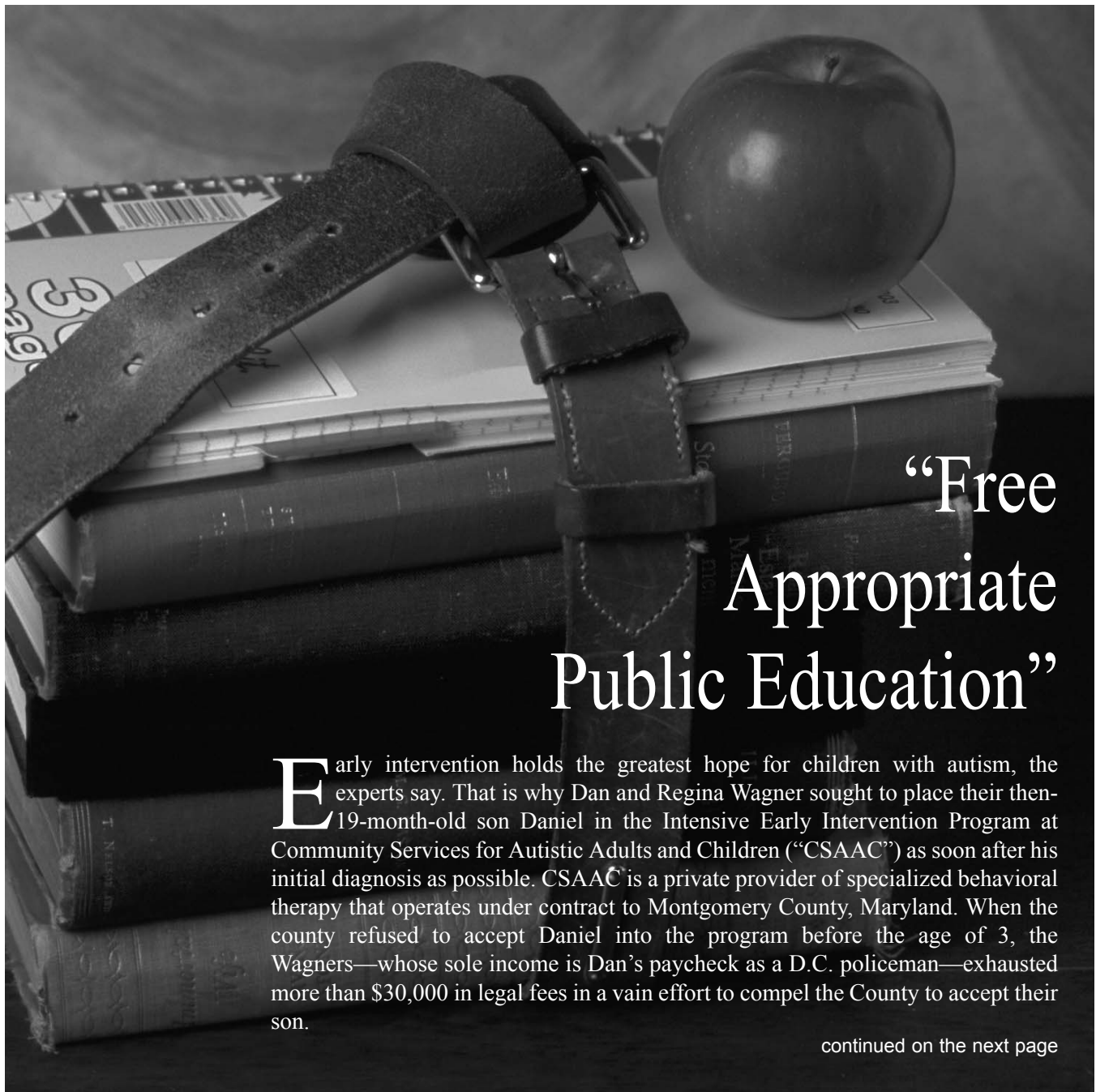
A far more compelling reason behind this chasm is public relations. A major firm must make itself attractive to two different constituencies. Primarily, it must sell itself to clients; to a lesser degree, but in the long run just as importantly, it must make itself attractive to students at top-tier law schools. When a firm issues a press release discussing how one of its associates is representing a minority for racial discrimination in employment, no one is likely to bat an eye.

Were the same firm to publicly state that it was representing a discharged Caucasian challenging a company’s racial quota system or a governmental affirmative action program, the firm would suddenly find itself mired in potentially deleterious controversy. The clients in these hypotheticals may be equally indignant, but one case clearly has a far greater potential for evoking a negative reaction than the other. By taking “politically correct” positions, firms are able to minimize the possibility of alienating clients and future applicants. While this desire to avoid adverse publicity may not entirely explain the discrepancy, it is likely to be a major factor.

Am I saying firms should not do politically oriented pro bono work? No, my point is firms should be willing to support such work regardless of whether it is politically correct. Preparing hot, nutritious meals in a soup kitchen and collecting warm blankets in preparation for the upcoming winter are important things almost anyone can do to help the less fortunate. There are certain problems, however, that can be resolved only with the help of an attorney. As members of the Bar, we are not only able to help indigents ensure they are treated fairly by our nation's justice system, we are ethically obligated to do so. When America's largest firms turn their collective

backs on "politically incorrect" cases, or clients whose causes of action do not accord with liberal principles, we abdicate at least part of this responsibility.

While these firms are to be commended for their dedication to pro bono work, it is incumbent upon us to ensure that this generosity is not tainted by ideological considerations. We would not dream of distributing hot food or warm blankets to the poor based on their political affiliations. We should not condition the availability of legal assistance to them on the political hue of their needs.



“Free Appropriate Public Education”

Early intervention holds the greatest hope for children with autism, the experts say. That is why Dan and Regina Wagner sought to place their then-19-month-old son Daniel in the Intensive Early Intervention Program at Community Services for Autistic Adults and Children (“CSAAC”) as soon after his initial diagnosis as possible. CSAAC is a private provider of specialized behavioral therapy that operates under contract to Montgomery County, Maryland. When the county refused to accept Daniel into the program before the age of 3, the Wagners—whose sole income is Dan’s paycheck as a D.C. policeman—exhausted more than \$30,000 in legal fees in a vain effort to compel the County to accept their son.

continued on the next page

Tuitioning-Out Daniel

As nearly every parent of a handicapped child knows, the Individuals with Disabilities Education Act (“IDEA”), 20 U.S.C. § 1400 et seq., entitles their child to a “free appropriate public education.” In other words, if the school district cannot provide an “appropriate” program for the child, it must “tuition out” the child—



Kerry Edwards

i.e., pay for the child’s placement in an appropriate school or program. Many parents of handicapped children also know the experience of trying to persuade a school district to add such an expense—typically, tuition to a private school—to their beleaguered budgets.

After Daniel turned 3, the County reversed course, and the Wagners were able to get Daniel into the CSAAC program, with funding from the Montgomery County Public Schools (“MCPS”). Through the program, Daniel was treated by at-home therapists hired and trained by the Wagners and supervised by CSAAC.

The Lovaas Method

CSACC relies on an approach known as the Lovaas Method, a drug-averse, labor-intensive therapy based on the ground-breaking work of Dr. Ivar Lovaas of UCLA 40 years ago—an approach to which Daniel has responded well. He was reported at one time by CSAAC to be in its “best outcome” group.

In November 2001, CSAAC abruptly removed Daniel, then five years old, from its clinical program. The Wagners suspect it was retaliation for complaints they had registered about the program’s administration. In an individualized education program (IEP) meeting later that same month, MCPS recommended that Daniel be placed in the county-run Maryvale School for autistic children. Not only did this new placement relieve the district of the financial burden of Daniel’s tuition, it placed him in a school that did not offer the Lovaas-type treatment that had worked so well for him.

At an Impasse

The Wagners—whose three-year-old daughter, Grace, has also been diagnosed with autism—asked Mayer, Brown, Rowe & Maw to help them win funding from

MCPS for another Lovaas program for Daniel. Former Washington partner Kerry Edwards and associate Nick Williams took on the case. The Wagners identified a number of appropriate alternative placements. One was CSAAC’s workshop model, another was a Lovaas workshop operated by another private entity, and both served students with full funding from MCPS. But the county refused to reverse its IEP recommendation from last year.

At that impasse, we assisted the Wagners in exercising their right under IDEA to seek reversal of the IEP placement recommendation, through mediation with MCPS or, failing that, in a due process hearing before an administrative law judge.

“Stay-Put” Services

By filing an administrative complaint, we automatically obliged the County to provide Daniel with “stay-put” services and keep Daniel in his “then-current” placement during the pendency of proceedings challenging the change in placement. The County failed for over a month to honor its “stay-put” obligations, and we were forced to move in federal court for an injunction requiring the County to provide an alternate provider of Lovaas therapy. The Order granting the injunction is now being appealed to the Fourth Circuit by MCPS. Associate Lisa Levine is assisting in the appeal.



Nick Williams

Recently, the County refused to permit Daniel to attend public kindergarten as part of the “mainstreaming” component of Daniel’s education. The County took the position that it wasn’t required to allow Daniel access to public kindergarten because at the time of the “stay-put” Order, Daniel was attending private nursery school (there are no public nursery schools). When we moved for clarification of the Order, the district judge found that the County’s position was “untenable,” and ordered the County to permit Daniel to go to kindergarten. “The County’s refusal to allow Daniel to attend kindergarten really shows bad faith,” opined associate Nick Williams. The County is also appealing that Order to the Fourth Circuit. In addition, the proceedings challenging the original change in placement are ongoing.



Alleviating Poverty in Chile through Renewable Energy

Chile was one of the first Latin American countries to transform itself from a socialist structure in the 1970s to a free-market economy. That transformation has made it a kind of laboratory for different programs, some effective, some not.

Its program to electrify the country's hinterlands drew associate Maria Bries to Chile through last year's Northwestern University School of Law's International Team Project. Maria, a fifth-year associate, specializes in international power project financing. She believes that the choices the country is making in this area—in particular, its commitment to renewable energy—could establish a benchmark for the region for years to come.

Economic Catalyst

In 1992, almost half of Chile's rural population had no access to electricity (many still used oil lamps). To address poverty and income disparity concerns, the Chilean government instituted an ambitious Rural Electrification Program. Since the implementation of the program in 1994, access to electricity has increased to nearly 80%. The Rural Electrification Program also works in conjunction with other social programs, such as education and telecommunication programs, to bring computers into rural schools. As a result of the Rural Electrification Program, rural areas are seeing signs of economic development and an increase in the standard of living.

Within the context of the Rural Electrification Program, Maria focused on the use of renewable energy to meet

the electricity needs of Chileans in remote rural areas where extending the grid was cost-prohibitive. Even though Chile has a climate suitable to renewable energy, with a concentration of sun in the north and wind and rivers in the south, she found that renewable energy projects are difficult to implement without a government subsidy.

Barriers to Renewable Energy

The competitive electricity model used in Chile focuses on short-term costs of electricity which are lower for conventional fossil fuel-based power plants than for renewable projects. "While the model may achieve an economic objective of supplying electricity at competitive prices in the short-term," Maria explains, "it fails to give adequate incentives for long-term planning and decision-making necessary for sustainable energy development. The very real costs of pollution and other environmental consequences are not reflected in energy prices of conventional fossil fuels."

Without some type of subsidy, the costs of a renewable energy project can exceed the price of electricity, making it difficult to compete against traditional power projects. In the case of remote areas in Chile, however, the National Energy Commission (CNE) found that renewable energy was actually more feasible economically than traditional grid-extension. For example, it would cost far more to extend the grid through the mountains in order to reach certain areas than it would

continued on the next page

to build and operate a stand-alone renewable energy project. As a result, CNE allocated funds from the Rural Electrification Program to finance pilot renewable energy projects that serve small communities. These pilot projects are helping CNE and Chileans to understand the benefits of renewable energy. It is possible that such projects might eventually serve as a



“It’s an opportune time for the Chilean government to commit to a policy of renewable energy...”

Maria Bries

means to implement renewable energy projects on a wider scale throughout Chile to meet increasing energy demands in a sustainable manner.

Interviews

Maria and her colleague, Colleen Ryan, a student at Northwestern University School of Law, had access to key government officials, non-government officials, universities, law firms and energy companies during their two-week visit. They met with Carlos Piña, Director of International Affairs for CNE, Sergio Espejo,

Superintendent of Energy, Alejandro Jadresic, former Minister of Energy, Sergio Montenegro, Director for the Center for Environmental Law at the University of Chile, Luis Costa of the UNDP, Jose Luis Dominguez, Director of Institutional Relations for Enersis (a major energy company in Chile), and many Chilean lawyers specializing in energy, environmental and natural resource law, covering both sides of the political debate.

Opportune Time

“Chile’s natural gas supply from Argentina has been threatened recently by the Argentine financial crisis,” Maria learned. “Over-reliance on hydropower can also be problematic. There’s the threat of drought, not to mention public relations problems such as lawsuits over the relocation of indigenous populations for purposes of flooding large areas for dams.” Maria concluded from her research: “It’s an opportune time for the Chilean government to commit to a policy of renewable energy in order to achieve energy independence without compromising environmental concerns.”

This is the third year a Mayer, Brown, Rowe & Maw lawyer has participated in the program. Two years ago, then-associate Magali Matarazzi traveled to Vietnam to study that country’s rural microfinance program, and the year before that, associate Jennifer Rakstad went to Tanzania to research the state of women’s legal issues there. Like her predecessors, Maria has prepared a paper on her trip as part of the research project.



Mayer, Brown, Rowe & Maw’s Chicago office participated again in Race Judicata 2002, a 5K road race benefiting Chicago Volunteer Legal Services. The event took place on August 15, 2002 and MBR&M was once again the largest sponsor. Fifty-six MBR&M walkers and runners participated and Jeff Sarles placed second overall in his age category.

London Pro Bono Practice

Transaid

The London office assists various charities on a pro bono basis, and of these, Transaid has one of the closest links with the firm. An offshoot of Save the Children, Transaid is a relatively small but fast-growing charity which helps Third World countries to set up and manage transport systems to enable the poorest people in the world to access basic facilities and aid. For example, one of their current projects is helping the Bill Gates Foundation with its immunization project by organizing transport to the vaccination centers.

Pro bono advice has been provided in the following areas:

- **Employment:** Julian Roskill and Sara Ellis Owen have undertaken a review of Transaid's employment contracts, and given further employment advice;
- **Corporate:** Kirsty Payne has reviewed Transaid's Memorandum and Articles of Association;
- **Intellectual Property:** Stephen Gare and Catherine Bristow have advised as to how Transaid can protect its name (following the use of the name by an unauthorized person overseas);
- **Litigation and Dispute Resolution:** Stephen Brown has advised on a potential libel claim against a third party.

Transaid has expressed its appreciation both for the work, which has been of great benefit to the charity, and for the free basis on which it was provided, enabling funds that otherwise

would have been spent on legal fees to be used for the charity's work instead. For more information: www.transaid.org.

Charities most recently assisted by the London office include the Reuters Foundation (Melville Rodrigues advising on charity law), the Institute of Business Ethics (Julian Roskill and Kate Hammond advising on their employment and sponsorship contracts), and the UK Brain Tumour Society (Alasdair Taylor drafting a website development and hosting agreement). Kamal Ahmad has joined with lawyers from the Chicago and Washington, DC, offices in advising the Asian University for Women in what is a truly international pro bono initiative (see the article on page 6).

The Prince's Youth Business Trust

Among a number of pro bono programs run by the London office is The Prince's Youth Business Trust which helps disadvantaged young people to set up their own business through a program that includes

continued on the next page



Clare Gardiner, pictured here with Marc Kadish, came to Chicago to meet Marc and attended a talk he gave at Kent Law School. Together with another Board member of the Chicago Bar Foundation, Clare and Marc went on a number of site visits to legal public interest groups.

volunteer business mentors from the professional community. The Trust is a foundation set up by the Prince of Wales in 1976 to give disadvantaged young men and women a chance to fulfill their potential. Among its several initiatives, its Business Programme is credited with helping more than 50,000 people to set up their own businesses. The program offers low interest loans and grants as well as mentors for the first three years of start-up to give advice and support. The Trust reports that the “top 50 businesses we’ve helped start now have a combined turnover [annual revenue] of £150 million and employ over 1,800 people.”

Over the years, a number of our London office lawyers have trained as mentors in the program, and most recently, Michelle Corneby and David Bates have been mentoring businesses in the East End of London: one, a young man who specializes in composing music for television advertisements, computer games and short films, and the other, two struggling internet developers. For more information: www.princes-trust.org.uk.

The Solicitors Pro Bono Group

The SPBG is a charity set up five years ago to support UK lawyers in giving pro bono advice. It is funded largely by its member firms and has gone from strength to strength since it was founded. It has set up schemes to encourage lawyers to help at London law centers and to assist not-for-profit organizations with non-contentious work such as obtaining charitable status. It is currently developing a scheme whereby lawyers can advise on cases referred by law centers and other recognized bodies via the web.

The firm is a committed and active member of the SPBG, and has supported its work in a number of ways. This next year, it will be a sponsor of the SPBG’s Annual Conference on March 29, 2003, when Marc Kadish will be one of the speakers. Anglo-American links between the firm and the SPBG have also been strengthened following a visit to Chicago by one of the SPBG’s project managers, Clare Gardiner. (See photo on page 17.)

For further information about the pro bono schemes run by the London office, please contact Julie Dickins.

New York Attorneys Honored For Housing Work

New York office partner Douglas Wisner and associates Judy Han and Suzy Kim were honored by the Lawyers Alliance for New York on September 25th at an awards ceremony for their work with the Neighborhood Housing Services (NHS) of New York City.

NHS is a citywide not-for-profit organization working to increase investment in declining neighborhoods, to encourage and promote neighborhood self-reliance, and to create, preserve, and promote affordable housing in New York City neighborhoods. NHS is a developer in the second round of the HomeWorks Program. In HomeWorks, the NYC Department of Housing Preservation and Development (HPD) selects developers to rehabilitate 1- to 4-family buildings owned by New York City. NHS acquires the buildings for \$1 apiece and renovates them with construction loans of close to \$6 million from New York City and Fleet National Bank.

After the completion of rehabilitation, the homes are sold to qualified moderate-income homeowners. Doug, Judy, and Suzy are assisting NHS with the sale of eight buildings in the Bronx to individual homeowners.

The award reflects the increased amount of pro bono work being done by the New York office. In fact, New York Pro Bono Committee members Philip Lacovara and Andrew Schapiro have been so successful that the office now has formed its own pro bono committee, consisting of Philip, Andrew, Doug Wisner, and associate Andrea Schwartzman. Staff work for the committee is shared by Director of Attorney Development and Recruitment Linda Bushlow, Associate Development Manager Marla Feinman, and Associate Recruiting & Development Coordinator Erin Rosenberg.



Wisner



Han



Kim

“How to Succeed in Law School” Program Hosted by New York Office

Early Saturday morning, August 10, more than 85 incoming first year Latino law students made their way to 52nd Street and Broadway to hear advice intended to take some of the guesswork out of succeeding in law school.

The Fourth Annual “How to Succeed in Law School” program was sponsored by the Puerto Rican Legal Defense and Education Fund (“PRLDEF”) and Mayer, Brown, Rowe & Maw, with the support of local bar associations including the Puerto Rican Bar Association (“PRBA”) and the Dominican Bar Association (“DBA”).

Community of Lawyers

This year’s day-long program featured opening remarks by New York City Deputy Mayor for Legal Affairs Carol Robles-Román, a lawyer herself who attended PRLDEF’s pre-law programs while in college and is today the highest ranking Hispanic in New York City government.

“This orientation connects incoming law students to a community of lawyers who are committed to helping them succeed in this new and challenging environment,” said Ms. Robles-Román, who focused her remarks on key strategies for success in law school and at the bar.

The orientation consists of a series of workshops presented by current law students and law professors on topics including case-briefing, outlining, and exam-taking, all designed to ease the transition to law school.

Providing Greater Opportunities

The workshop grew out of an idea of a MBR&M Summer Associate. “As a law student working at Mayer Brown, I recognized the unique opportunity I was given for success in the law,” said William

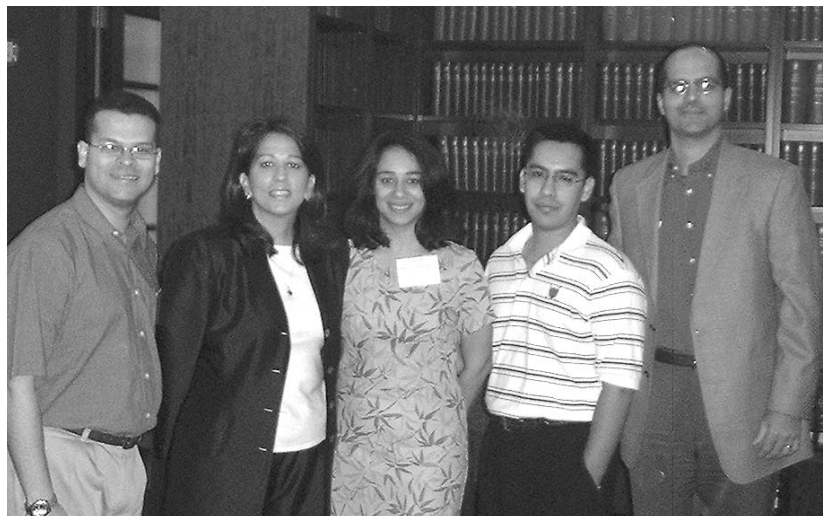
Malpica, who is now an associate with the firm. “I also recognized that we could provide greater opportunities for others to make it through law school and find their own place in the law.” Mauricio España, a summer associate, and associate Don Delaney also assisted on this year’s program.

Mayer, Brown, Rowe & Maw partner Hector Gonzalez, who sits on the firm’s Diversity Committee and is a member of PRLDEF’s Board of Directors, notes that although Latinos represent a full 12 percent of the American population, they represent barely over 2.5

continued on the next page



More than 85 incoming law students attended the Fourth Annual “How to Succeed in Law School” program at the New York office.



Deputy Mayor Carol Robles-Román (second from left) meets with members of the Orientation planning committee (from left: Will Malpica, NYO Associate; the Deputy Mayor; Ileana Infante of PRLDEF; Mauricio España, NYO Summer Associate; and Hector Gonzalez, NYO Partner).

percent of the nation's lawyers. "By helping to increase retention among recently admitted Latino law students, we hope to increase the number of Latino attorneys," said Hector.

Combatting Isolation

Ileana Infante, Director of the PRLDEF Education Division, said the orientation program serves the dual purpose of introducing students to law school and providing networking opportunities. "Hispanics feel isolated at law schools because there are so few of them in the student body, and even fewer among faculty and administration," said Ms. Infante. Following the program, PRLDEF pairs participating students with men-

tors from the PRBA and the DBA. The program also features a closing reception attended by practicing lawyers and current law students.

Now in its thirtieth year, PRLDEF has become a leading civil rights organization and one of the premier national Latino organizations in the country. The group has been involved in landmark litigation and advocacy in the areas of voting rights, language rights, housing rights, and employment discrimination. Its Institute for Puerto Rican Policy conducts a variety of research and public policy advocacy. PRLDEF also helps Latinos enter professional fields, primarily law, through its unique Education Division.

Launching Charlotte Low-Income Tax Clinic

Since the federal welfare reform changes in 1996, an overwhelming proportion of low-income persons in North Carolina are working, earning taxable income, and paying taxes, and many have tax problems.

With this in mind, Legal Services of Southern Piedmont (LSSP) has launched a new tax clinic for low-income taxpayers that is funded through an IRS \$40,000 grant matched by a \$20,000 Mayer, Brown, Rowe & Maw contribution and in-kind match of volunteer lawyers' time from our firm and other Charlotte firms.

Help in a "Tough Year"

The funding of the tax clinic is part of an overall contribution of \$70,280 to LSSP by our individual United Way contributions and matches by the firm. The balance of the contribution goes into the general operating budget to help LSSP represent victims of domestic violence, handle child custody matters, landlord-tenant disputes, public benefits cases, and consumer and bankruptcy cases.

"This has been a tough year, and the support we have gotten from Mayer, Brown, Rowe and Maw has been very helpful," said Kenneth Schorr, executive director of

Legal Services of Southern Piedmont. "The tax work we do is key to the lives of poor people."

The Earned Income Tax Credit (EITC) is now the nation's largest income transfer program for low-income working people with children. Over 18 percent of North Carolina tax filers received the EITC in 1998.

IRS Target

Schorr notes that the IRS initially rejects claims of many taxpayers eligible for the EITC and audits a larger proportion of returns claiming the credit than any other category. He said many low-income taxpayers who do not speak English also do not know their rights and obligations under tax laws. The goal of the clinic is to provide assistance in the upcoming year in 75 tax controversies through legal services staff support and more than 30 pro bono volunteer attorneys.

Mayer, Brown, Rowe & Maw associate Amy Murphy recently was appointed to the advisory board of the tax clinic. She says many separated or divorced spouses, especially victims of domestic vio-

lence, are charged with their former spouses' tax debts for which they might be eligible for protection under innocent spouse relief rules. Another common problem is that single parents are denied exemptions or credits for children because the non-custodial parent claims the exemption or credit. The clinic assists these clients in settling tax debts. It also helps clients who failed to file a back tax return.

Public Service Opportunity

Amy says the clinic also provides various opportunities for transactional attorneys to do pro bono work. "This is a very good program for attorneys to do public service work without having to appear in district court, something many transactional attorneys are reluctant to do," said Amy. She was recently assigned the case file of a Hispanic woman who has left an abusive marriage and is seeking innocent spouse relief. The woman, who only speaks Spanish, came to the low-income taxpayer clinic after seeking assistance in obtaining residency from LSSP.

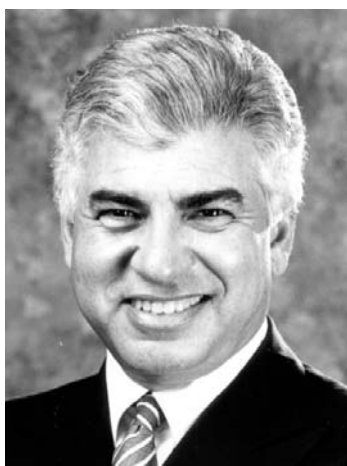


Murphy

WTC Fall-Out

At 345 Chambers Street in lower Manhattan, Stuyvesant High School was a scant four blocks north of the World Trade Center and stood along the route of Ground Zero clean-up trucks hauling debris to river barges. Not surprisingly, tests following the collapse and clean-up of the WTC showed that the school was contaminated with nearly 30 times the federally accepted level of lead.

In re-opening the school less than a month after the attack, the Board of Education assured parents and students that the building, including the ventilation system, had been thoroughly cleaned. Almost immediately, however, large numbers of students came down with respiratory complaints. Only when the Board ignored their concerns about air quality did the Parents' Association seek legal backing: D.C. partner Richard Ben-Veniste—best known for his work as a Watergate



Ben-Veniste

prosecutor but, more important, an alumnus of Stuyvesant—and a team that included New York office lawyers Jonathan Shiffman, Donna Mulvihill, and Matthew Morningstar. They conducted an immediate investigation that showed that, contrary to the Board's assurances, not only had the interiors of the central air ducts and classroom ventilators not been cleaned, they had not even been tested for contamination.

Even when confronted with his falsehoods the Deputy Chancellor refused testing until threatened with an injunction. The testing went ahead, monitored by a PA-selected environmental expert, but the Deputy Chancellor delayed releasing the results (which proved contamination) until we again threatened injunctive relief. We threatened injunction yet again when he delayed remediation itself. We also made strategic use of the media as well as contacts with Congress, FEMA and the EPA in pressing for compliance.

On June 26, 2002, the Board of Education at last agreed to perform the cleaning, and the job was completed by opening day. Richard remarked on our lawyers' superb handling of the case: "I was very pleased that we achieved our objectives and was impressed with the enthusiasm and professionalism of Jonathan and his New York colleagues, who did a first-rate job for a worthy client."



Supporting MALDEF

Firm Chairman Tyrone Fahner presents a check for \$5,000 to Patricia Mendoza, Chicago Office Regional Counsel for the Mexican American Legal Defense and Education Fund, as Marc Kadish, Pro Bono Director, looks on. Ty is a former MALDEF board member and remains devoted to the organization.

Jersild's CEELI Work Honored

At this year's pro bono luncheon, senior counsel Tom Jersild (center) is honored by (L) David Tolbert, Executive Director ABA - Central & East European Law Initiative, and Marc Kadish, director of pro bono and litigation training at the firm. Tom spent nearly three years in Macedonia working for CEELI.

Our involvement with CEELI continues to deepen. As noted in the last issue, partner David Curry went to Macedonia last Spring to assist Tom Jersild and local lawyers in developing bankruptcy law in that country. Tom also went to Bosnia to evangelize about his work in Macedonia, and Finance Training Director Richard Newman joined him in his work there. Partner Jim Gladden has applied to work with CEELI upon his retirement later this year, and partner Larry Snider has also expressed interest in getting involved.



Andrew Gruber Honored by Chicago Lawyers Committee for Civil Rights

Mayer, Brown, Rowe & Maw associate Andrew Gruber was one of the lawyers honored by the Chicago Lawyers Committee for Civil Rights Under Law, Inc., at its July 30th annual luncheon. Andrew received special recognition for his pro bono work with the Saving Soles Foundation (SSF), an organization that provides thousands of pairs of shoes to needy individuals.

SSF collects gently used shoes from individuals, retail stores, and shoe manufac-

turers and distributes them to needy individuals and to organizations that serve those individuals. For example, SSF gives winter boots to children in Chicago, dress shoes to welfare recipients making the transition from welfare to work, and has sent shoes to an orphanage in Romania and to churches in South Africa.

In 1999, Andrew prepared corporate organizational documents for SSF and applied to the IRS and obtained 501(c)(3) tax-exempt status for the organization. In the

past three years, Andrew and other firm lawyers have assisted SSF in applying for trademark and copyright protection, in negotiating a lease for warehouse and office space, applying for a grant from the State of Illinois, and providing ongoing corporate and tax advice. Earlier this year, Andrew helped organize a campaign at Mayer, Brown, Rowe & Maw to gather 2,000 pairs of shoes to send to Afghanistan.



Partner Mike Warnecke addresses members from the Joint LLM Degree Program between Chicago-Kent College of Law and the Beijing Lawyers Association and Peking University on the subject of the Three Gorges Dam patent case he had worked on in China. The Chinese lawyers were spending the semester at Kent and wanted to meet representatives from a major U.S. law firm. Partner Ron Given also addressed the luncheon meeting, sponsored by the Pro Bono practice, which took place at our offices on November 8, 2002.





Feedback

Northside Prep Program

Message to Pat Sharkey from program head Tim Devine prior to initial meeting of Northside Prep's 2002-03 Constitutional Law program, which we are mentoring for the second year:

Seventh Circuit Case

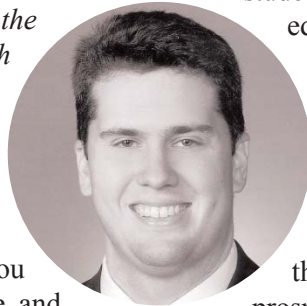
Associate John Schomberg recently represented Bonnie Oestreich in a criminal case before the U.S. Seventh Circuit, successfully obtaining the vacating of her sentence from the Seventh Circuit and a sentencing reduction from the U.S. District Court.

Dear Mr. Schomberg,

I wanted to drop you a note.... to thank you again for your help on behalf of George and myself. You are a great attorney and have compassion for others which makes you a great person—I wish you the best always.

God Bless You!

Sincerely,
Bonnie Oestreich



Schomberg

Reflection. We had (40) students in last year's Program (by contrast, we have 46 this year). I regularly see these students or receive e-mails from those who graduated, and the overwhelming opinion is that this Program is the single most significant and exciting opportunity they have had in their high school career. More than a handful of these individuals have said the Program was life-changing in that it helped them decide that they want to go to law school. Many of them had never seriously considered that prospect before. Others said it was the most challenging academic work they have done in their life—and they have been through a range of academic challenges. Finally, some have said their proudest moment as a student came during oral arguments when they stood behind the podium in the courtroom and argued their case. These are awesome testaments. You're about to engage in some significant work.

Tim Devine



Tim Devine, who developed Northside Prep's Constitutional Law program, addresses students at a kick-off meeting held at Mayer, Brown, Rowe & Maw's Chicago offices on October 30, 2002.

“Hospital”

Continued from page five

The Result

From Katherine Abell to Philip Lacovara: I thought you might like to know some concrete results of your efforts to protect the hospital—for which everyone is very grateful to you and to your firm.

Dr. Robert Tabash told me he gets two phone calls every three days—one from a high official in the Israeli military and another from a representative of the military



Lacovara

governor of the Bethlehem region—both asking how the hospital is faring and what they can do to help. Robert and Sister Sophie actually visited with the governor’s rep and found him most committed to helping to safeguard the hospital.

Robert has not asked them for anything specific, but, when he needed to get a permit to travel to Washington

to accept [a] special award to the hospital, he needed to expedite the permit. Usually, he said, it takes two weeks before such a permit arrives and it always arrives just hours before the flight is taking off. This time, he asked those officials, and he had the permit 10 days before his scheduled trip. He—and the Holy Family Hospital Foundation—were most grateful.

As you know, the hospital also received a surprise visit one day just before the Israelis ended their occupation of Bethlehem last spring from three Israeli military liai-

son officers in charge of religious and civilian affairs. They asked to tour the hospital and did so with Robert. They were most impressed with what they saw, and they gave Robert their cell and private home phone numbers in case he needs to reach them in a hurry.

The hospital has been safe and secure, and all is well there. Deliveries of babies, though down in number due to military restrictions, are proceeding normally, and the hospital has been able to replenish necessary medical supplies without incident.

Everyone at the hospital is grateful for the international outpouring of concern to them and to the Israeli government. Robert said he believes this (and our financial assistance from the U.S.) is the only reason the hospital has been able to remain open to deliver medical care to the poor. There is no question the hospital is saving innocent lives.

I hope you can impart to your law partners that their generosity in allowing your expenditure of time on the legal claim was most effective in assuring the physical security of the hospital—and also the future well-being of all in Bethlehem who hold Holy Family Hospital most dear. Thanks to you, your firm, and all in the U.S. and Europe who protested the shelling of the hospital, this refuge which is so important to the Bethlehem region will continue to be the most important healthcare part of the Palestinian infrastructure. Most importantly, it will continue to dispense the best medical care to all the poor who come, without regard for religion, national origin or ability to pay.

All the best,
Kathryn

Copyright © 2003 Mayer, Brown, Rowe & Maw. This Mayer, Brown, Rowe & Maw publication provides information and comments on legal issues and developments of interest to our clients and friends. The foregoing is not a comprehensive treatment of the subject matter covered and is not intended to provide legal advice. Readers should seek specific legal advice before taking any action with respect to the matters discussed herein.

BRUSSELS • Square de Meeus 35 • B1000 Brussels, Belgium • +322.502.5517 ❖ CHARLOTTE • 214 North Tryon Street • Suite 3800 • Charlotte, North Carolina 28202 • +1.704.444.3500 ❖ CHICAGO • 190 South LaSalle Street • Chicago, Illinois 60603-3441 • +1.312.782.0600 ❖ COLOGNE • Kaiser-Wilhelm-Ring 27-29 • 50672 Cologne, Germany • +49.221.577.1100 ❖ FRANKFURT • Bockenheimer Landstrasse 98-100 • D-60323 Frankfurt am Main, Germany • +49.69.79.41.0 ❖ HOUSTON • 700 Louisiana Street • Suite 3600 • Houston, Texas 77002-2730 • +1.713.221.1651 ❖ LONDON • Principal Office • 11 Pilgrim Street • London EC4V 6RW • +44 (0)20.7248.4282 ❖ LOS ANGELES • 350 South Grand Avenue • 25th Floor • Los Angeles, California 90071-1503 • +1.213.229.9500 ❖ MANCHESTER • Canada House • Chepstow Street • Manchester M1 5FW • +44.161.236.1612 ❖ NEW YORK • 1675 Broadway • New York, New York 10019-5820 • +1.212.506.2500 ❖ PALO ALTO • 555 College Avenue • Palo Alto, California • +1.650.331.2000 ❖ PARIS • 13 Avenue Hoche • 75008 Paris, France • +33.1.53.53.43.43 ❖ WASHINGTON • 1909 K Street, N.W. • Washington, D.C. 20006-1101 • +1.202.263.3000 ❖ INDEPENDENT MEXICO CITY CORRESPONDENT • Jáuregui, Navarrete, Nader y Rojas, S.C. • Paseo de los Tamarindos No. 400-B • 05120 Mexico, D.F. • +525.267.45.00