

PRO BONO MATTERS

Protecting the Right to Learn: NYLPI’s Special Education Practice

Inside:	
Women’s Rights Project	3
Herbert Semmel	3
Kaye Scholer Wins	4
Associate Matters	4
NYLPI’s 27½	5
Clearinghouse Matters	6
Voice of NYLPI	9
Best Practices	10
DRTF	13
In-House Activities	14

Justin is 11 years old. He is an active participant in his sixth-grade class, and is well integrated into the classroom. Because Justin has cerebral palsy, he receives special services, in his general education class.

At the end of his fifth grade year, the Department of Education (DOE) reviewed Justin’s Individualized Education Program (IEP), a document that is the result of a battery of tests and details which special services and programs a student will receive. The DOE decided to make several changes to which Justin’s grandmother, his legal guardian, objected. Justin, his guardian,

to both communicate and complete his schoolwork far more efficiently.

Justin’s grandmother disputed these changes unsuccessfully, and then she called NYLPI for assistance. Since 1981, Special Education has been a thriving and integral part of NYLPI’s Disability Rights practice. NYLPI assists hundreds of parents of children with special needs each year. The combination of a skilled in-house team and strong partnerships with member law firms has helped us to provide a comprehensive, unique service.

After review, Justin’s case was placed with associate Russ Adler at **Stroock & Stroock & Lavan**. After a case is placed at a firm, NYLPI attorneys Kim Sweet, Roberta Mueller, and Jackie Okin provide extensive mentoring to *pro bono* attorneys. Advice ranges from the practical, like where to mail things, to the substantive, like how to prepare for hearings. NYLPI attorneys also attend initial meetings between clients and their *pro bono* attorneys as well as provide background information on special education law and practice.

Kim Sweet, NYLPI’s Associate General Counsel, says, “I’ve been working with our member firms on these cases for seven years, and the success rate is really remarkable. It makes a world of difference to a parent, who feels abused and ignored by the huge education bureaucracy, to have a *pro bono* attorney by her side. The balance of power shifts significantly in a way that ultimately benefits the child.”

Although some special education cases are handled in house, most are placed with one of a number of NYLPI member firms. Over the years, member firms **Stroock, Stroock & Lavan** and **Skadden Arps Slate Meagher & Flom** have developed particularly strong teams of attorneys working on



SPECIAL EDUCATION CLIENT JANIELLE F. AND KEVIN J. CURNIN, SPECIAL COUNSEL AT STROOCK & STROOCK & LAVAN

and his advocates have been struggling to integrate him as completely as possible into mainstream society, and the proposed changes would have eroded several important aspects of his integration.

The DOE wanted to move Justin’s physical and occupational therapy sessions from his home, where he had been receiving them, to school. They also wanted to move Justin from the general education class to a segregated special education classroom, and to remove him from the regular gym class he had been attending. The DOE also rejected requests from Justin’s physical therapist and assistive technology instructor for voice recognition software that would enable him

(CONTINUED ON PAGE 2)

("SPECIAL EDUCATION..." CONTINUED FROM PAGE 1)
 special education and have taken large numbers of cases from NYLPI.

Russ and the rest of the team from Stroock did a spectacular job advocating on Justin's behalf. Through three days of an impartial hearing held during the fall of 2003, Russ secured a major victory for his young client. The DOE conceded that Justin could remain in the general education environment. After the close of the hearing, the impartial hearing officer ordered that Justin continue to receive physical and occupational therapy at home and that he continue to attend general physical education class with his peers. Additionally, the hearing officer ordered that Justin be given an independent assistive technology assessment to determine the propriety of speech recognition hardware and software. The results of the independent assessment are pending but expectations are high that the assessment will conclude speech recognition is warranted in Justin's case.

Pro bono attorneys learn a number of things from taking on special education cases, beginning with how to personally represent a real client in a compelling situation. These cases provide an opportunity for attorneys to gain experience conducting their own hearings and working directly with

a client, as well as navigating an unfamiliar bureaucracy.

Perhaps most importantly, attorneys learn what a significant impact they can make through volunteering their time and skills. Russ noted, "When I took on the case, I had no experience in special education law; however, both Stroock and NYLPI provided plenty of support. Being able to help Justin fight a system that was letting him slip through the cracks was extremely rewarding. In fact, I can't think of any other case I've worked on that gave me a similar level of professional and personal satisfaction."

"Russ's work for Justin was first-rate. He was able to draw on Stroock's in-house experience and NYLPI's expertise to create and execute a very successful strategy and achieve great results. It's a good example of why we so highly value our disability rights work with NYLPI."

— Kevin Curnin,
 Stroock & Stroock & Lavan

About NYLPI

New York Lawyers for the Public Interest (NYLPI) was created in 1976 to address the unmet legal needs of disadvantaged New Yorkers. NYLPI finds unique ways to tackle the problems faced by low-income and underrepresented people throughout New York City using two complementary approaches:

1. NYLPI's in house legal program provides advocacy, organizing, and legal services to low-income and underrepresented communities in three areas: disability rights, environmental justice, and access to health care.
2. Our *Pro Bono* Clearinghouse provides not for profits and community groups with free legal assistance on a wide range of issues by drawing on hundreds of volunteer lawyers from more than 80 of New York's most prestigious law firms and corporate legal departments.

PRO BONO MATTERS WINTER 2004

Editor: Anna Humphreys

NEW YORK LAWYERS FOR THE PUBLIC INTEREST

151 West 30 Street, 11th Floor
 New York, NY 10001-4007
 Tel: (212) 244-4664
 Fax: (212) 244-4570
 TDD: (212) 244-3692
 Website: www.nylpi.org

NYLPI STAFF

Michael A. Rothenberg, Executive Director
 Marianne L. Engelman Lado, General Counsel

David B. Abbott, Office Administrator
 Eddie Bautista, Director of Community Planning
 Marnie Berk, Director of Pro Bono Programs
 Dennis R. Boyd, Senior Staff Attorney
 Rose Cuison-Villazor, Staff Attorney, NAPIL Fellow
 Anthony Feliciano, Community Organizer
 John A. Gresham, Senior Litigation Counsel
 Rafael Gutierrez, IT Administrator
 Yesenia Gutierrez, Staff Attorney,
 Equal Justice Works Fellow
 Liana Harper, Legal Assistant
 Stacey Hiller-Moss, 9/11 Coordinator
 Carin Horowitz, Disability Rights Advocate
 Anna Humphreys, Program Associate
 Chris Johnson, Campaign Coordinator
 Annette Lopez, Receptionist
 Amanda Masters, Staff Attorney
 Benardette McEvoy, Disability Rights Advocate
 Suhali Mendez, Legal Assistant
 Roberta Mueller, Senior Staff Attorney
 Robin Naismith, Development Associate
 Isabel Ochoa, Director of Development
 Jaclyn Okin Barney, Staff Attorney, Skadden Fellow
 Rebecca Price, Staff Attorney, Skadden Fellow
 Lourdes Rivera-Putz, Advocacy Specialist
 Michael Scherz, Senior Staff Attorney
 Michael Silverman, Staff Attorney
 Kimberly B. Sweet, Associate General Counsel
 Larry Tilley, Community Organizer
 Charlene A. Toombs, Executive Assistant
 Elexia P. Urrea, DIC and Health Organizer
 Denise P. White, Executive Assistant
 Pauline H. Yoo, Staff Attorney

NYLPI

Hughes Hubbard & Reed Teams With the ACLU Women's Rights Project to Defend Settlement

The ACLU Women's Rights Project, acting on behalf of 22 women and people of color employed as New York City school custodians, came to NYLPI in May 2003 seeking *pro bono* co-counsel to defend the lawfulness of a settlement agreement remedying the effects of the New York City Board of Education's (BOE) past gender and race discrimination. Partner Derek Adler and Associate Melissa Chernofsky, from member firm **Hughes Hubbard & Reed**, took on the case and have been working closely with the Women's Rights Project. Melissa remarks, "I feel very lucky, personally and

professionally, to have this opportunity to work with the Women's Rights Project, and to litigate a case like this on behalf of such inspiring clients."

In 1996, the Civil Rights Division of the U.S. Department of Justice (DOJ) sued the Board of Education, alleging that the Board had long discriminated against women, African-Americans, Hispanics, and Asians in hiring custodians. These are high-paying positions with managerial responsibility, which have traditionally been held almost exclusively by white men. In 1993, when the DOJ began its investigation of the Board of Education, only 13 out of 865 custodians were women and 796 of the custodians were white.

After several years of litigation, the DOJ and the Board of Education entered into a settlement agreement. The agreement provided

that women and people of color who had initially been employed provisionally would all become permanent civil service employees with retroactive seniority. The agreement was challenged by several white male custodians, and the Women's Rights Project took over the case.

The case has proceeded through discovery, including numerous depositions, since then, and the parties are scheduled to go to mediation at the beginning of March. Says Emily Martin, Staff Attorney at the Women's Rights Project, "Partnering with Hughes Hubbard has really given us the opportunity to ensure that this case is litigated the way it should be litigated. Because of Melissa's help and the resources the firm offers, the ACLU is much better able to protect the interests of women and minority custodians in New York City's schools."

Herbert Semmel

Civil Rights Leader (1930-2004)

Herbert Semmel, former NYLPI litigation director and a nationally-recognized civil rights and social justice attorney, died on February 5th, after a yearlong battle with cancer. He was 73.

During his time at NYLPI, Herb's many accomplishments included filing the first complaint under the Americans with Disabilities Act, against the Empire State Building. The suit was settled, allowing people with disabilities access to the observation deck at the top of the building.

Last June, we were delighted to honor Herb with the Felix A. Fishman award, recognizing his 50 years of public interest work and his outstanding leadership. Marianne Engelman Lado, NYLPI's General Counsel, remarked, "Herb's mark is indelible, as a patient mentor with sage advice, as a warm and wonderful person, as an inspirational, tireless fighter for our rights, and an incredibly supportive colleague with no interest in ego or turf."

Another who regarded Herb as a mentor, Michael Rothenberg, NYLPI's Executive Director, said, "Like so many in our community, I will miss him for his wisdom, his sense of humor and his commitment to doing something to change our society for the better."

Herb graduated from NYU and Harvard Law School and worked in private practice for 10 years. He then turned to teaching, serving as a law professor at The University of Illinois College of Law, Antioch Law School, UCLA, The University of Maryland, and Cardozo Law School. Author of numerous scholarly articles and books, Herb pioneered the integration of health, social welfare and poverty law into law school curricula.

In 1974, Herb joined the Center for Law and Social Policy (CLASP) in Washington, DC, where he engaged in complex test case litigation in the areas of health and civil rights, first as a staff attorney and then as CLASP's Director.

After briefly renewing his teaching career, Herb came to NYLPI as our litigation director. His thoughtful leadership and unflagging energy led to tremendous growth and accomplishments. After following his wife,

Louanne Kennedy, to California when she became provost and vice president for academic affairs at California State University at Northridge, Herb joined the National Senior Citizens Law Center in Los Angeles. He served as the



HERBERT SEMMEL

director of their Federal Rights Project. Together with NYLPI, he helped found the National Campaign to Restore Civil Rights.

Highly regarded as a teacher, litigator, and friend, Herb was a joy to be around. He was an extraordinary mentor and role model to generations of public interest lawyers.

"The world is diminished without this tremendous man among us in person, but let's celebrate that we knew him, that he did all he did, that a great deal of him is in us, and as I'm sure he knew, that we will carry it forward," said John Gresham, Senior Litigation Counsel, NYLPI.

Kaye Scholer Wins Summary Judgment for Pro Bono Client

New York Service Program for Older People, Inc. (SPOP), a non-profit mental health organization serving the elderly in Manhattan, approached NYLPI in November 2001. SPOP hoped to find *pro bono* counsel to help it recover its prepaid rent and security deposit.



GREGORY FIDLON

After signing a lease for new office space, SPOP paid the landlord a deposit and the first month's rent, on the condition that the lease would not begin until the landlord substantially completed renovations. After losing significant govern-

ment funding, and before the lease term commenced, SPOP notified the landlord that it would not be able to move into the new space. The landlord subsequently accepted SPOP's surrender of the space and relet it to a new tenant for the same time period but would not return SPOP's money. After being unable to negotiate a settlement, two associates from NYLPI member firm **Kaye Scholer** filed suit.

For a year and a half, Gregory Fidlou (formerly of Kaye Scholer but currently of Dow, Lohnes & Albertson, PLLC in Atlanta) and Allan Kassenoff litigated on behalf of SPOP. This past September, Justice Rosalyn

Richter of the New York Supreme Court granted SPOP's cross-motion for summary judgment, dismissed the defendant's counterclaims



ALLAN KASSENOFF

and awarded SPOP \$49,000—the full amount of the damages sought—plus interest, costs and disbursements. According to Mr. Kassenoff, “although the landlord has filed a notice of appeal, we are fully confident that the trial court's decision will be affirmed and our client will then receive all that it is entitled to.”

Associate Matters

Bingham McCutchen

Kerri Alessi

Kerri Alessi was able to use her skills as a Real Estate Associate at **Bingham McCutchen** to provide urgently needed assistance to two important legal service providers.

Legal Services for New York City (LSNY), the largest provider of civil legal services to low-income people in the United States, consists of a network of neighborhood-based legal services offices throughout New York City. LSNY-Manhattan opened on January 1, 2003, as a result of a citywide legal services restructuring process. In March 2003, LSNY-Manhattan contacted NYLPI for assistance negotiating their lease.

Kerri took on the matter, providing LSNY-Manhattan with much needed expertise in commercial real estate, and successfully guided them through the negotiation. Says Peggy Earisman, Interim Project Director at LSNY-Manhattan, “Her help was invaluable and she handled the negotiations with skill and professionalism. At all times, I felt comfortable with her advice and knew that she was working in our best interests.”

Later in the year, LSNY-Bronx approached NYLPI in search of similar assistance. Clearinghouse staff approached Kerri directly after receiving the request from LSNY-Bronx, knowing that she not only had the specialized knowledge for the matter, but also had already done an exemplary job with a similar negotiation. LSNY-Bronx's lease is currently being negotiated. “Kerri has treated us with the utmost respect and has been responsive to our needs,” says Steven B. Telzak,

Interim Project Director of LSNY-Bronx. “I cannot imagine receiving better or more competent service.”

Thanks to Kerri's willingness to volunteer her skills, LSNY-Manhattan is now in new space, and LSNY-Bronx is nearly there. “It is extremely rewarding to know that my efforts in negotiating the leases will further LSNY's goal to serve the local communities. It has been a pleasure to work with the representatives of LSNY and to see first hand the dedication of these individuals to LSNY's mission,” Kerri comments.



KERRI ALESSI

NYLPI Turns 27½

NYLPI held its gala 27½ anniversary celebration on November 13, 2003 at the Museum of the City of New York.

Over 200 people gathered for a festive evening commemorating NYLPI's long-standing commitment to underrepresented New Yorkers.

NYLPI honored **The Honorable Juanita Bing Newton**, Deputy Chief Administrative Judge for Justice Initiatives for her dedication to improving access to justice for all, and **Joan Vermeulen, Esq.**, former NYLPI Executive Director, and current Director of the Cyrus R. Vance Center for International Justice Initiatives, for her commitment to social justice, and for her invaluable guidance and foresight.



JOAN VERMEULEN, FORMER NYLPI EXECUTIVE DIRECTOR AND CURRENT DIRECTOR OF THE CYRUS R. VANCE CENTER FOR INTERNATIONAL JUSTICE INITIATIVES, MICHAEL A. ROTHENBERG, EXECUTIVE DIRECTOR OF NYLPI, THE HONORABLE JUANITA BING NEWTON, DEPUTY CHIEF ADMINISTRATIVE JUDGE FOR JUSTICE INITIATIVES, AND EVAN A. DAVIS, PARTNER, CLEARY, GOTTlieb, STEEN & HAMILTON.



MARNIE BERK, NYLPI DIRECTOR OF PRO BONO PROGRAMS, SHARON Y. BOWEN, NYLPI BOARD CHAIR-ELECT, JOHN A. GRESHAM, NYLPI SENIOR LITIGATION COUNSEL AND STACEY HILLER-MOSS, NYLPI 9/11 COORDINATOR.



MICHAEL A. ROTHENBERG, JUDGE JUANITA BING NEWTON AND THE HONORABLE JONATHAN LIPPMAN, CHIEF ADMINISTRATIVE JUDGE, NEW YORK UNIFIED COURT SYSTEM.



HONOREES THE HONORABLE JUANITA BING NEWTON AND JOAN VERMEULEN.



EVAN A. DAVIS VISITS WITH TWO OF NYLPI'S GUESTS.

Recently Placed Clearinghouse Matters

9/10/03 to 2/5/04

(The attorneys listed below took initial responsibility for each matter. NYLPI would also like to thank other attorneys and support staff at our member firms who have worked on these matters.)

American Communities in Action

Shearman & Sterling

Saralyn Cohen, Rebecca Landfield

The firm is helping the American Communities in Action, a group that helps with social problems, including unemployment, lack of mentorship for youth, and a shortage of professional opportunities for immigrants, to obtain tax-exempt status.

Art Loisaida

Hughes Hubbard & Reed

Craig Cohen, Keke Kyriakopoulos

The firm is helping Art Loisaida, a group that has been developing arts events to be performed in community gardens and sponsoring arts-related neighborhood events, to incorporate and obtain tax-exempt status.

Bronx AIDS Services Legal Advocacy Program

Skadden, Arps, Slate, Meagher & Flom

Giyoung Song

The firm is helping the Bronx AIDS Services Legal Advocacy Program with a housing law case involving a client who was discriminated against because of her AIDS status.

Center for Employment Opportunities

Winston & Strawn

Natalie Woodruff

The firm helped the Center for Employment Opportunities, a non-profit devoted to meeting the employment needs of former inmates and others under community supervision, by reviewing several contracts in connection with an employment-based initiative for people being released from City jails.

Center for Family Representation

Hughes Hubbard & Reed

Windy Lawrence

The firm is helping the Center for Family Representation, a law and policy organization working with families to enhance family court services and to support and strengthen legal representation for parents, to file their Statement of Intent to Practice Law as a public interest firm.

Clean Energy Clean Environment

Simpson Thacher & Bartlett

Mark Tibberts, Jennifer Reynoso, Ricardo Avila

The firm is helping Clean Energy Clean Environment, an umbrella organization supporting campaigns to make solar energy technology competitive with fossil fuels and nuclear power, with its application for tax-exempt status, as well as providing ongoing corporate general counsel and a review of its proposed corporate structure.

Committee to Preserve Luna Park

Latham & Watkins

Alan Leavitt

The firm is helping Committee to Preserve Luna Park, which will provide youth activities in Brooklyn, to incorporate and obtain tax-exempt status.

Cush Campus Schools

Stroock & Stroock & Lavan

Marty Neidell, David Lowden, Kevin Curnin, Keri Reimer, Josh Lefkowitz

The firm is helping Cush Campus Schools, a school located in a low-income neighborhood in Brooklyn, by reviewing and helping to revise the school's mission statement and bylaws, as well as providing a general corporate review.

Dieu Donn  Papermill

Hogan & Hartson

Jennifer Schecter

The firm is helping Dieu Donn  Papermill, Inc., a nonprofit artist workspace dedicated to the creation, promotion, and preservation of contemporary art in the hand papermaking medium, with a lease negotiation.

Dovetail Foundation

Cleary, Gottlieb, Steen & Hamilton

Adam Schneider

The firm is helping the Dovetail Foundation, a Brooklyn-based group aimed at providing 12-14 year-olds with college-educated mentors through workshops and weekly educational outings, to incorporate and obtain tax-exempt status.

Ethnic Broadcasters Action Committee

Skadden, Arps, Slate, Meagher & Flom

Richard Ross

The firm is helping Ethnic Broadcasters Action Committee, a volunteer organization of ethnic broadcasters whose programs are heard on WNYE-FM (91.5), to incorporate and obtain tax-exempt status.

Fifth Avenue Committee

Kirkpatrick & Lockhart

Michael Gordon, Joanna Diakos

The firm is helping Fifth Avenue Committee, a nonprofit community development organization, in negotiations and possible litigation against a contractor who damaged one of the organization's buildings.

"The Future of Pro Bono in New York"

The New York State Unified Court System released a report on January 15, 2004, recommending the institution of a statewide *pro bono* system to increase the amount of time New York attorneys spend providing free legal services to underserved New Yorkers. The two-volume report, entitled "The Future of *Pro Bono* in New York," was compiled by the Office of the Deputy Chief Administrative Judge for Justice Initiatives, The Honorable Juanita Bing Newton. Copies can be obtained from the court system website, www.nycourts.gov/reports/probono/ or by calling 212-428-2500.

First Quincy Street Green Thumb Garden

Skadden, Arps, Slate, Meagher & Flom

Hope Calder

The firm is helping the First Quincy Street Green Thumb Garden, which provides a variety of activities, including workshops, clinics, forums, and exhibits, as well as garden tours, and serves a diverse and densely-populated inner-city neighborhood, to modify their certificate of incorporation and obtain tax-exempt status.

Fort Greene SNAP

Paul, Weiss, Rifkind, Wharton & Garrison

Katherine McCormick, Nyasha Laing, Chris Jochnick

The firm is helping Fort Greene SNAP, a community development organization, with their lease negotiation.

Fortune Society

Sonnenschein Nath & Rosenthal

Helise Harrington, Jordana Schwartz, Christophe DiFalco

The firm is serving as *pro bono* general counsel to the Fortune Society, a not-for-profit community-based organization dedicated to educating the public about prisons, criminal justice issues, and the root causes of crime.

Fourth Universalist Society

Sonnenschein Nath & Rosenthal

Willard Moore

The firm is reviewing a contract for the Fourth Universalist Society, a Church dedicated to religious tolerance and inclusion.

Friends of the Birth Center

Paul, Weiss, Rifkind, Wharton & Garrison

Rachel Harris

The firm is helping the Friends of the Birth Center, which offers an option for women wanting an alter-

native to hospital birth, to incorporate and obtain tax-exempt status.

Green Worker Cooperatives

Schiff Hardin

Gregory Hess, Guiying Guo

The firm is helping Green Worker Cooperatives, a group dedicated to the development of worker-owned cooperatives in the South Bronx that are engaged in the manufacture of environmentally friendly products using environmentally friendly methods, to incorporate and obtain tax-exempt status.

International School of Brooklyn

Hughes Hubbard & Reed

Keke Kyriakopoulos, Damon Rowe

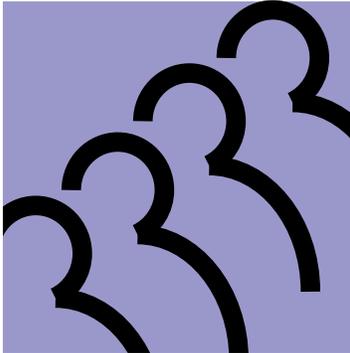
The firm is helping the International School of Brooklyn, a not-for-profit, non-sectarian school, to incorporate and obtain tax-exempt status.

Harlem Reclamation Development Corporation

Chadbourne & Parke

Josh Williams

The firm is helping Harlem Reclamation Development Corporation, an incorporated non-profit working to create affordable housing in East Harlem, to obtain tax-exempt status.



HERE Art Center Eviction

O'Melveny & Myers

Joshua Schwartz, Bingua Guo

The firm is helping HERE, a non-profit arts organization that provides forums and studio space to emerging artists and production companies at subsidized rates, which has recently been threatened with eviction by its long-term landlord.

HERE Art Center Real Estate

Paul, Weiss, Rifkand & Garrison

Annie Jeong, Elizabeth Stein

The firm is helping HERE, a nonprofit arts organization that provides forums and studio space to emerging artists and production companies at subsidized rates, in negotiations to purchase their SoHo space.

International Children's Television, Inc.

Debevoise & Plimpton

Chris Smeall, Pierre Mauge, Alex Gajkowski

The firm is assisting the International Children's Television, Inc., which produces educational radio and television programming for children in developing countries, by reviewing their incorporation documents and helping them obtain tax-exempt status.

Independent Press Association-NY

Chadbourne & Parke

Brian Brick

The firm is representing the Independent Press Association-New York, a group that works to promote and support independent publications committed to social justice and a free press, in a dispute over a deposit given to their landlord for office space.

James Earl Chaney Foundation

Torys

Carl Walker

The firm is assisting the James Earl Chaney Foundation, a group that plans to work on issues of non-partisan voter registration and awareness, as well as observing, investigating and documenting allegations of unequal treatment under law by the government, by reviewing their incorporation and tax-exempt documents, as well as providing advice related to more complex corporate governance.

Landmark High School

Stroock & Stroock & Lavan

David Lowden, Michael Shenberg, Kevin Curnin,

Tony Nguyen

The firm is helping Landmark High School, which serves approximately 400 students in grades 9-12, largely from Washington Heights and East Harlem, to incorporate and obtain tax-exempt status.

Inter-American Parliamentary Group on

Population and Development

Skadden, Arps, Slate, Meagher & Flom

Sam Tabar

The firm is helping the Inter-American Parliamentary Group on Population and Development, which provides capacity building and technical assistance to members of parliament from the Americas, with the revision of their bylaws and modifications to their corporate structure.

Legal Action Center

Latham & Watkins

Elizabeth Flanagan

The firm is helping the Legal Action Center with statutory research for a national policy project related to increased federal funding for drug and alcohol treatment.

NYLPI would like to welcome new Board member

David M. Murphy, Esq., of Wachtell, Lipton, Rosen & Katz!

Congratulations to the recently elected Board officers: **Sharon Y. Bowen, Esq.**, Latham & Watkins, Chair-elect **John S. Siffert, Esq.**, Lankler Siffert & Wohl, Secretary

LSNY-Bronx

Bingham McCutchen

Andrew Herz, Kerri Alessi

The firm is helping the Legal Services of New York-Bronx, to negotiate a lease. (See Associate Matters.)

LSNY-Manhattan

Bingham McCutchen

Andrew Herz, Kerri Alessi

The firm is helping the Legal Services of New York-Manhattan, to negotiate a lease. (See Associate Matters.)

LSNY

Bingham McCutchen

Scott Drago

The firm is helping Legal Services of New York to set up a loan forgiveness program for their attorneys.

Luz C. Colón Trust

Shearman & Sterling

Saralyn Cohen, Kendra Archer

The firm is helping the Luz C. Colón Trust, which enables Latinas with interest in working with community development to achieve higher education and develop purpose in the community, to incorporate and obtain tax-exempt status.

Mozdev

Mayer, Brown, Rowe & Maw

Nigel Howard, Alexandre Simon

The firm is helping Mozdev, which provides an online freeware database, to incorporate and obtain tax-exempt status.

NAPAS

Stroock & Stroock & Lavan

Kevin Curnin

The firm is helping the National Association of Protection and Advocacy Systems, which requested assistance in preparing an *amicus* brief written on behalf of the organization and other civil rights organizations, arguing that the state is not immune from suit based on the 11th Amendment immunity.

New York City Clubhouse Coalition

Skadden, Arps, Slate, Meagher & Flom

Anna Giabourani

The firm is helping the New York City Clubhouse Coalition, a group of 14 clubhouse-model psychi-

New Disability Rights Project with Willkie Farr & Gallagher

NYLPI has begun an exciting new partnership project with a group of associates from **Willkie Farr & Gallagher** to work on cases of individuals with disabilities whose benefits have been overpaid. These cases are referred by LSNY, who is also providing training to the lawyers and ongoing mentoring, and taken on by a dedicated team of Willkie Farr & Gallagher attorneys. Stay tuned for more information in the months to come!

atric rehabilitation agencies committed to helping people with mental illness find and maintain employment, housing, education, and support, to incorporate and obtain tax-exempt status.

New York Studio School of Drawing, Painting and Sculpture

Winston & Strawn LLP

Daniel Murdock

The firm is serving as *pro bono* general counsel to the New York Studio School of Drawing, Painting and Sculpture, a not-for-profit art school and also has public lectures, a gallery and other programs.

Nile Day Care

Hogan & Hartson

Jonathan Brooks, Marianna Sarkis, Bert Tzeng

The firm is helping the Nile Day Care, which provides daily educational training including all elementary subjects, arts & crafts and music introduction for its student population, to incorporate and obtain tax-exempt status.

Norfolk Street Tenants Association

Chadbourne & Parke

Tom Hall, Abigail Caplovitz, Garrett Camporine

The firm is helping the Norfolk Street Tenants Association, who represents the mostly low-income tenants, Latino families and artists living at 182-184-186 Norfolk Street, in its fight against the landlord's proposal to install an electronic key card access control system in the buildings.

New York Lawyers for the Public Interest

Kaye Scholer

Alison King

The firm helped New York Lawyers for the Public Interest by reviewing contracts for the organization's 27½ Anniversary.

NYU Public Interest Law Foundation

Shearman & Sterling

Andrew Deal, John Yoon

The firm is representing the NYU Public Interest

Law Foundation, a non-profit organization that provides funding to a diverse range of public interest law projects and services, by providing advice regarding the structure of its Board of Directors and content of its bylaws.

Ohms Media Group

Chadbourne & Parke

Bindia Malhotra

The firm is helping the Ohms Media Group, a New York City-based collective that produces original and thought-provoking media on social, political, and environmental issues, to obtain tax-exempt status.

Positive Health Project

Patterson, Belknap, Webb & Tyler

Erik Haas

The firm is representing Positive Health Project, which provides health and prevention services designed for high-risk communities, by advising them on how to collect an outstanding debt.

Project Harmony

Dechert

James Mirro, Itai Tsur

The firm is helping Project Harmony, a small community based non-profit organization, in negotiations to resolve a conflict with a neighbor and ensure permanency for their garden.

Puerto Rican Legal Defense and Education Fund

Morgan, Lewis & Bockius

Reiner Pierantoni, David Luttinger

The firm is helping the Puerto Rican Legal Defense and Education Fund, a non-profit legal organization dedicated to defending the civil rights of the Latino community, which requested *pro bono* co-counsel to litigate in federal court the imposition of the English Language Arts Regents Exam as a graduation requirement for English Language Learners.

PS 29 PTA

Proskauer Rose

Shane Stroud

The firm is helping the Parent Teacher Association of PS 29, a diverse public school located in Cobble Hill, Brooklyn, by serving as *pro bono* general counsel.

Queens Puerto Rican Heritage Committee

Chadbourne & Parke

Sue Shin

The firm is representing the Queens Puerto Rican Heritage Committee, a committee of dedicated community activists promoting the contribution of Puerto Rican culture to the borough, city, state, and nation, to incorporate and obtain tax-exempt status.

Rockhouse Foundation

Chadbourne & Parke

Anne-Marie Shelley, Sheila Peluso

The firm is helping the Rockhouse Foundation, a

group working to combat the effects of endemic poverty in rural and inner city Jamaica, to incorporate and obtain tax-exempt status.

Staten Island Alliance for the Mentally Ill

Metrocard Suit

Debevoise & Plimpton

Jonathan Richmond, Yosef Rothstein, Eliza Sporn,

Steve Vaccaro

The firm is helping the Staten Island Alliance for the Mentally Ill, working to secure reduced fare metrocards for persons with mental illness.

Sociedad de Musicos Dominicanos en Nueva York, Inc.

Cadwalader, Wickersham & Taft

David Miller, Ofoe Camaco

The firm is helping the Sociedad de Musicos Dominicanos en Nueva York, Inc., a group established to promote and develop Dominican musicians, to obtain tax-exempt status.

South Asian Journalists Association

Torys

Jeffrey Gracer, Bina Galal, Rosena Rasalingam,

Carl Walker

The firm is serving as *pro bono* general counsel to the South Asian Journalists Association, which promotes excellence in journalism relating to South Asia and South Asians.

Tael Charitable Fund

Arnold & Porter

Richard Anderson, Aaron Kaalberg, Mayrav Teller

The firm is helping the Tael Charitable Fund, which provides low-income families with financial literacy through counseling, training, to obtain tax-exempt status.

The Empowered Mentee Family, Inc.

Willkie Farr & Gallagher

T.J. Duane

The firm is representing the Empowered Mentee Family, Inc., a group of professionals, college students, and high school students who serve as a personal and professional development network by mentoring younger students, to obtain tax-exempt status.

ThinkSource

Bingham McCutchen

Anthony Carbone, Ann Chamberlain, Scott Drago, Benjamin Stern

The firm is representing ThinkSource, a not-for-profit organization that focuses on providing knowledge to help creative design professionals to understand and apply socially and ecologically responsible design principles, to obtain tax-exempt status.

Wildcat Service Corporation

Torys

Lauren Krasnow

The firm is helping Wildcat Service Corporation, a

not-for-profit human services, training, and employment organization, which helps over 8,500 chronically unemployed individuals find jobs each year, by providing sexual harassment training for its staff.

Special Education Matters

Matter of Benjamin M.
Davis Polk & Wardwell
Kathryn Kinkade

The firm is representing Benjamin, an 11-year-old boy with Asperger’s Syndrome, working to obtain a 12-month academic program for him. The firm is close to reaching a settlement.

Matter of Daquan W.
Weil, Gotshal & Manges
Chrystal Dyer-LaRoche

The firm successfully negotiated a settlement for Daquan, an 11-year-old boy who has multiple disabilities, allowing him to use his assistive technology in school.

Matter of Dovid-Moishe D.
Mayer, Brown, Rowe & Maw
Kim Graham

The firm is representing Dovid-Moishe, a 15-year-

old boy with mental retardation and significant behavioral difficulties, in an impartial hearing to secure payment for his private school tuition.

Matter of Jared G.
Piper Rudnick
Caryn Mazin

The firm is representing Jared, an 11-year-old boy who is having great difficulty in school due to his learning disability, speech impairment and attention deficit disorder, in an attempt to get reimbursement for his private school tuition.

Matter of Juwan A.
Paul, Weiss, Rifkind, Wharton & Garrison
Linda Phillips

The firm successfully negotiated a resolution on the eve of the hearing, to keep Juwan in a general education class, rather than a segregated setting.

Matter of Michael D.
Heller Ehrman

Marny Zimmer, Joseph McLaughlin
 The firm is representing Michael, a 13-year-old boy with a high IQ and significant learning disabilities, in an impartial hearing in order to obtain payment from the New York City Department of Education for Michael’s private school education.

Matter of Rasely V.
Stroock & Stroock & Lavan

Cammy Chaudery, Jessamy Thomison, Kevin Curnin
 The firm is representing Rasely V., a 16-year-old girl with severe language-processing deficits, in an impartial hearing to obtain funding for a private school that can meet her needs.

Matter of Timothy V.
Stroock & Stroock & Lavan

Michael Fox, Mary Gorman, Penny Tehrani, Kevin Curnin
 The firm is representing Timothy V., a nine-year-old boy in his third year of first grade, in a case to secure the special education services he desperately needs.

Matter of William C.
Skadden, Arps, Slate, Meagher & Flom

Daniel Oppenheim
 The firm is representing William, a 10-year-old boy with significant language-based learning disabilities, at an administrative hearing, in an effort to obtain a specialized private school education at public expense, along with private tutoring to compensate for the years that his needs were ignored.

The Voice of NYLPI

The front line of NYLPI’s in-house disability rights practice is the Intake and Advocacy Department. When individuals call looking for legal help, they are usually directed to leave a voicemail for the advocates, who then return the calls. The department receives approximately 4,000 calls each year, raising issues ranging from special education, to physical accessibility, to housing.

For most people who interact with NYLPI, the advocates are their primary contacts, frequently relaying attorney advice or providing referrals to other agencies in the City. “Although we’re an impact organization, we want to get assistance to callers and make sure that they don’t go away empty-handed,” says Kim Sweet, NYLPI’s Associate General Counsel.

The department is made up of Benardette McEvoy, Intake Coordinator, Carin Horowitz, a certified social worker, Nella Hahn, a social work graduate student who handles some of the most challenging calls, and Doug Gordon,

a volunteer. Advocate Lourdes Rivera-Putz is experienced in mediations and works closely with the team.

Recently, NYLPI assumed additional responsibility for non-legal advocacy on behalf of people with disabilities. With the assistance of a new government contract, NYLPI has been able to expand its non-

legal advocacy including the assistance in mediations for parents of children in special education. Intake Coordinator Benardette McEvoy notes that special education cases are some of the most gratifying she handles: “It gives me great satisfaction when I hear or see the parent of a child with a disability happy.”



DISABILITY RIGHTS ADVOCATE CARIN HOROWITZ, DOUG GORDON, AND INTAKE COORDINATOR BERNARDETTE MCEVOY

Best Practices

“Best Practices,” a column in *Pro Bono Matters*, highlights innovative systems or methods which allow NYLPI’s member firms to expand their *pro bono* programs, be more effective or improve *pro bono* client relations.

Letters of Engagement

As of April 2002, lawyers in New York State are required to provide many clients with a “letter of engagement” or a retainer. According to the New York State Office of Court Administration, the purpose of the rule is “to ensure that there is a memorialized meeting of the minds with regard to the basic terms of the engagement.”

The rule does not make clear whether it pertains to *pro bono* matters, and there is an exception: the rule does not apply when the legal fee to be charged is expected to be less than \$3,000. While a fee is not charged to clients in *pro bono* matters (although they may sometimes pay certain expenses), law firms are in effect donating a service, the value of which in many instances far exceeds \$3,000. The purpose of this exception was most likely to exclude matters which may be less significant because less time would be spent and, in turn, the value of the service was minimal. A *pro bono* matter, on the other hand, may require many hours and extensive resources. Indeed, firms occasionally recoup a portion or all of the costs of a case when they prevail. These attorneys’ fees are frequently well over \$3,000.

There are a number of benefits to the use of engagement letters in *pro bono* matters. Many firms currently use engagement letters in *pro bono* matters, finding, among other things, that they can be helpful in clarifying the relationship between the client and the firm.

The right side bar reproduces part 1215 of the new Joint Rules of the Appellate Division, setting forth the requirements for the letters of engagement. We have also included some of the key concepts included in an engagement letter below.

We hope that this information will be helpful as your firm considers the application of Rule 1215 to the *pro bono* context. Please be in touch with us about thoughts you have concerning this practice or other best practices you have instituted at your firm.

Accessible Language

In the *pro bono* context, it is particularly important to consider the accessibility of the text of the engagement letter. Brevity is key, though paring down the language so that it retains the necessary elements but does not overwhelm the client may be a challenge. In addition, we recommend that lawyers spend ample time in the initial meeting reviewing the letter, its underlying purpose, and its various elements. As with any client, it is important not to assume that non-lawyers understand legal concepts such as conflicts of interest.

Scope of Engagement

This is an opportunity to provide a clear and concise description of the scope of representation the firm will be providing. The written statement, along with the discussion with the client, also allows the firm to make certain that lawyer and client are of one mind. This provision should be drafted on a case-by-case basis and should typically not use general or boiler plate language. The more specific the better. For example: “Our firm will represent you to assist with the incorporation of a new organization and its obtaining federal exemption under 501(c)(3) of the Internal Revenue Code.” In addition, the description and the scope are an opportunity to consider and state what services you

will not be providing, such as whether appeals will be undertaken. Firms can state the mechanism for addressing work that falls outside of the scope of engagement, by using language such as: “To the extent you need legal assistance with matters other than X, we would be happy to discuss those with you, with the understanding that we may not be able to represent you in those matters. If we agree to represent you in any other matter, our representation in that matter will be addressed in a separate letter.”

Fees and Charges

While *pro bono* matters are, by definition, free of charge, there are often significant expenses incurred during the course of representation. The letter should clearly state whether the client is expected to pay any of the expenses (e.g.: copying, mailing, filing fees) and whether the client will first need to authorize any such expenses before they are incurred. Often in *pro bono* matters, firms agree to assume certain costs or ask for the client’s authorization for expenses that exceed an agreed upon amount. It is important that lawyers not assume that *pro bono* clients, like nonprofits running on a shoe string budget, know how quickly expenses can add up. Statements such as, “we will not incur any significant amount of out-of-pocket expenses without first seeking your approval” are not clear because what is insignificant to a firm may not be insignificant to a small nonprofit.

The letter should also include information regarding statutory fee-shifting potential — i.e. whether the firm may apply for attorneys fees if the client prevails, and who would receive any awards of fees and costs. In addition, if your firm plans to send the client a report in the form of a bill showing the amount of time and effort the firm has expended on an engagement, please state so in the letter. It can be quite a surprise to a *pro bono* client who receives a statement of services rendered by a firm without notice.

Conflicts of Interest

This is by far the most controversial aspect of the letter, much has been written on this subject. As every firm knows, they have an ethical obligation to avoid taking matters for clients whose interests conflict with those of any existing clients — whether *pro bono* or paying. Firms should apply the same standard when developing and applying policy to conflicts for *pro bono* clients as they do for paying clients. Representation of any client or matter in the future is barred if the matter has a substantial relationship to the existing matter in which services were provided and such representation will have a material adverse effect on the existing client's interests. Many firms use the letter as an opportunity to ask clients to waive potential future conflicts in matters not substantially related to the work done on behalf of the existing client. This could be stated as: "We ask for your agreement in advance that we may accept other, unrelated matters from potential adversaries provided that the new matter for such potential adversaries is not substantially related to the work that we have done for you." Firms could further state the internal steps they will take in protecting the interests of both clients. For example: "If necessary to protect the confidences of both sides, we will establish an ethical wall. In other words, if necessary, no individual attorneys who have worked for you would also work for an adversary, or discuss or otherwise provide access to any confidential information related to this matter."

Other Terms

The letter is not only an opportunity to outline the legal work that will be performed, but also can establish the course of communication and important deadlines, if a timeline is crucial to the representation.

The letter can reinforce the confidential nature of communications, and identify the terms for disclosure. Document retention and storage should also be addressed. While work product is most commonly the

property of the firm, the client should be given ample opportunity to gain access to their documents.

The engagement letter is a good place to put important information such as the name and

contact information of the individual partner and associate assigned to the matter, and to ask the client to give notice if their contact information has changed. For many *pro bono* clients this letter will be the one document they take away from the initial meeting.

Rule

Order Adopted by the Appellate Divisions

December 20, 2001

Amended April 3, 2002

The Appellate Divisions of the Supreme Court, pursuant to the authority invested in them, do hereby add, effective March 4, 2002, Part 1215 to Title 22 of the Official Compilations of Codes, Rules and Regulations of the State of New York, entitled "Written Letter of Engagement," as follows:

Part 1215 Written Letter of Engagement

§1215.1 Requirements

(a) Effective March 4, 2002, an attorney who undertakes to represent a client and enters into an arrangement for, charges or collects any fee from a client shall provide to the client a written letter of engagement before commencing the representation, or within a reasonable time thereafter (i) if otherwise impracticable or (ii) if the scope of services to be provided cannot be determined at the time of the commencement of representation. ["Client" shall include any person or entity that is responsible for the payment of the attorney's fees.] For purposes of this rule, where an entity (such as an insurance carrier) engages an attorney to represent a third party, the term "client" shall mean the entity that engages the attorney. Where there is a significant change in the scope of services or the fee to be charged, an updated letter of engagement shall be provided to the client.

(b) The letter of engagement shall address the following matters: (1) Explanation of the scope of the legal services to be provided; (2) Explanation of attorney's fees to be charged, expenses and billing practices; and (3) Where applicable, [notice of the client's right to arbitration of] shall provide that the client may have a right to arbitrate fee disputes under Part 137 of the Rules of the Chief Administrator.

(c) Instead of providing the client with a written letter of engagement, an attorney may comply with the provisions of subdivision (a) by entering into a signed written retainer agreement with the client, before or within a reasonable time after commencing the representation, provided that the agreement addresses the matters set forth in subdivision (b).

§1215.2 Exceptions

This section shall not apply to (1) representation of a client where the fee to be charged is expected to be less than \$3000, (2) representation where the attorney's services are of the same general kind as previously rendered to and paid for by the client, or (3) representation in domestic relations matters subject to Part 1400 of the Joint Rules of the Appellate Division (22 NYCRR).] or (4) representation where the attorney is admitted to practice in another jurisdiction and maintains no office in the State of New York, or where no material portion of the services are to be rendered in New York.

Additions indicated by underlining; deletions indicated by [brackets].

Ethical and Practical Considerations of *Pro Bono* Engagement Letters

An Interview with Jeff Gracer, Chair of the Pro Bono Committee, Torys

Q. Does Torys require engagement letters in all *pro bono* matters?

A. Yes. We require engagement letters for *pro bono* matters just as we do for other matters.

Q. How do you define the scope of the engagement?

A. We define it based on consultation with the client as to what the scope of the matter is, and we try to work collaboratively with the client to come up with a scope that meets their needs. This process helps to focus the lawyers and the client on what it is they want to accomplish. The scope could be broad or narrow, depending on the nature of the engagement.

Q. What, in your view, are the key components of the letter?

A. For not-for-profit clients, we address the extent to which we expect the client to pay for significant out of pocket costs associated with legal work. Other provisions are the kinds you typically see in retainer letters. For instance, if the client proceeds along a course that would require us to violate a rule of ethics, we can withdraw. They have an obligation to cooperate with respect to providing necessary factual and other support for us to effectively represent them. Likewise, we have the obligation to meet our professional duties to them as we would with any client.

Q. When does the engagement letter get signed?

A. At intake. The sequence we follow is: a conflict check is run; the *pro bono* committee approves the matter; the file is opened; and generally, at the first meeting we discuss and execute the retainer letter as part of initial intake.

Q. What if a *pro bono* matter begins as one type of representation and turns into another? For example: what if you are engaged by a not-for-profit to incorporate them and they later have questions about a potential litigation?

A. We treat that as a new matter, and the initial engagement letter says that if they need assistance with other matters, we'll consult about whether that's something we have the ability to take on. Typically we do [take on additional work], and typically we open it as a separate matter. It might be staffed by the same lawyers, but we try to keep each matter defined by the particular task. If, as in the example, it has gone from transactional to litigation, it might be staffed by different lawyers. However, it could be that there is an incorporation and then later they have trademark issues, and we would represent them on that, but typically open a new matter.

Q. How have you found the engagement letter helpful to clients and to the firm in meeting everyone's expectations?

A. I think it helps to focus the lawyers and the clients on what it is they want to accomplish. Having a discussion about the scope of the representation is often a natural way to reflect that. It helps groups that might have multiple issues to identify the ones that are most significant and to sequence what it is they want to do. Many not-for-profits have a lot of legal issues, some of which need immediate attention, some of which do not. And that can be a discussion in the initial intake. Also, the process helps to identify the appropriate lawyers to handle the file. If it turns out the number one issue is employment, for instance, we have to rethink whether a corporate lawyer will handle the matter alone or add an employment lawyer to the team (or have an employment lawyer take the lead). For instance, if there are significant tax issues involved in the initial incorporation, we might want to have a tax lawyer added to the team.

NYLPI relies on the support of members of the bar to achieve our mission of providing superior legal services to New York's most vulnerable citizens. To make a contribution, please call Robin Naismith at 212-244-4664 or visit our web site at www.nylpi.org.

Disability Rights Task Force Update

The NYLPI Disability Rights Task Force met on February 12 at the offices of **Patterson, Belknap, Webb & Tyler**. Marianne Engelman Lado (General Counsel of NYLPI) discussed *Tennessee v. Lane*. The U.S. Supreme Court recently heard oral argument in this case, which concerns the constitutionality of the public services provisions of the Americans with Disabilities Act (Title II of the ADA). At issue is the constitutional validity of Title II of the ADA.

In *Tennessee v. Lane*, plaintiffs challenged inaccessibility of courtrooms. George Lane was a defendant in a criminal case and was arrested for failure to appear when he refused either to crawl or be carried up the courthouse steps. The result in *Tennessee v. Lane* could have a major impact on the rights of people with disabilities. Just two years ago, the Supreme Court found that individuals cannot sue states for money damages under the employment provisions of the ADA [*University of Alabama v. Garrett*, 531 U.S. 356 (2001)].

Also, there was a discussion of other current issues in disability law and of possible Disability Rights Task Force projects, including a project to train *pro bono* attorneys to represent children who need durable medical equipment (DME). This project would focus on Medicaid eligible children who need DME such as wheelchairs and hearing aids.

For more information or to join, please contact Mike Scherz at mscherz@nylpi.org or 212-244-4664.

Board of Directors New York Lawyers For The Public Interest

Kent T. Stauffer, Esq. – Chair American International Group, Inc.	Mitchell A. Lowenthal, Esq. Cleary, Gottlieb, Steen & Hamilton
Sharon Y. Bowen, Esq. – Chair-elect Latham & Watkins	Patricia A. Martone, Esq. Fish & Neave
Thomas E. Bezanson, Esq. Chadbourne & Parke	Robert C. Mason, Esq. Arnold & Porter
David H. Braff, Esq. Sullivan & Cromwell	Joseph F. McDonald, Esq. Morgan, Lewis & Bockius
David M. Brodsky, Esq. Latham & Watkins	Elizabeth W. Millard, Esq. Credit Suisse First Boston
Rachel B. Coan, Esq. LeBoeuf, Lamb, Greene & MacRae	David M. Murphy, Esq. Wachtell, Lipton, Rosen & Katz
Marg G. Cunha, Esq. Simpson Thacher & Bartlett	Barbara Berger Opatowsky, Esq. Association of the Bar of the City of New York
Karen B. Dine, Esq. Pillsbury Winthrop	Bettina B. Plevan, Esq. Proskauer Rose
Marc E. Elovitz, Esq. Schulte Roth & Zabel	James W. Rayhill, Esq. Carter, Ledyard & Milburn
Martin Flumenbaum, Esq. Paul, Weiss, Rifkind, Wharton & Garrison	Sarah L. Reid, Esq. Kelley Drye & Warren
William V. Fogg, Esq. Cravath, Swaine & Moore	Timothy G. Rogers, Esq. Schering-Plough Corporation
Cliff H. Fonstein, Esq. O'Melveny & Myers	Gerald A. Rosenberg, Esq. Katten Muchin Zavis Rosenman
Joseph S. Genova, Esq. Milbank, Tweed, Hadley & McCloy	Michael E. Salzman, Esq. Hughes Hubbard & Reed
Hector Gonzalez, Esq. Mayer, Brown, Rowe & Maw	Amy W. Schulman, Esq. Piper Rudnick
Gina M. Higgins, Esq. MARSH	John S. Siffert, Esq. Lankler Siffert & Wohl
Christopher K. Hu, Esq. Morgan & Finnegan	Arthur M. Siskind, Esq. The News Corporation, Ltd.
Robert I. Kleinberg, Esq. National Financial Partners	Mindy J. Spector, Esq. Weil, Gotshal & Manges
Gilbert L. Klemann, Esq. Avon Products, Inc.	Alexander R. Sussman, Esq. Fried, Frank, Harris, Shriver & Jacobson
Kenneth M. Kramer, Esq. Shearman & Sterling	Christopher K. Tahbaz, Esq. Debevoise & Plimpton
Douglas M. Kraus, Esq. Skadden, Arps, Slate, Meagher & Flom	Director Ex-Officio E. Leo Milonas, Esq. Association of the Bar of the City of New York
William F. Kuntz, II, Esq. Torys	Director Emeritus Adrian W. DeWind, Esq. Paul, Weiss, Rifkind, Wharton & Garrison
Jane Lee, Esq. Pfizer Inc.	Director Emeritus Robert M. Kaufman, Esq. Proskauer Rose
Jamie A. Levitt, Esq. Morrison & Foerster	
Robert Lewin, Esq. Stroock & Stroock & Lavan	
Ogden N. Lewis, Esq. Davis Polk & Wardwell	

In-House Update

Staffing Changes

Over the past five years NYLPI's Environmental Justice (EJ) and Community Development Project has been working with partners across New York City to fight for environmental justice in policies related to the siting of solid waste and power plants and to promote community-based and brownfields development. Against the odds, our efforts have charted an astonishingly successful record, including the Mayor's adoption of the waste export proposal developed by the Organization of Waterfront Neighborhoods (OWN), the defeat of AMR in the Bronx and other waste transfer stations, the first-ever New York State ruling forcing the study of the effects of particulate matter 2.5, negotiations with the New York Power Authority about pollution offset programs, and the success of the siting regulations case in state court, which has pushed the City to develop more meaningful regulations, among other things. All of these efforts have benefited tremendously from the skilled and committed advocacy of our extraordinarily talented lawyers, Gail Suchman and Gail Miller.

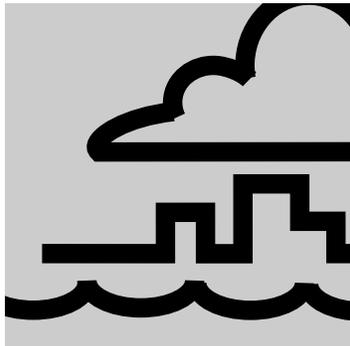
By coincidence and in response to wonderful changes in their lives, both Gails have recently decided to move on to the next steps in their careers. We are excited for them but will also miss them, and wanted to thank both Gails publicly for their achievements and their contributions. In order to maintain and build on their successes, NYLPI launched a job search for two attorneys for the EJ project.

We are also saying goodbye to Jyothi Desai, Senior Paralegal. Jyothi's work in the Disability Law Center was invaluable, and her wordsmithing top notch, as she named this newsletter. She will also be missed!

Environmental Justice

This December, NYLPI's Environmental Justice staff welcomed Elisabeth K. (Lis) Fiekowsky, who took a leave of absence from the Housing Law Unit at South Brooklyn Legal Services to join NYLPI and work on Environmental Justice issues. NYLPI has also benefited from the contributions of three other individuals – Kendra Fershee, an associate at **Milbank, Tweed, Hadley & McCloy**, and volunteer attorneys Chris Saporita and Gavin Kearney, who have helped to carry on the legal work of the project during Gail Suchman's leave of absence to work in South Africa and Gail Miller's parental leave.

Own v. Carpinello / Regal Recycling: On learning that New York City planned to grant a variance to a truck-to-truck solid waste transfer station located across the street from a residential neighborhood and park, allowing the facility to quadruple its capacity for processing putrescible waste, NYLPI



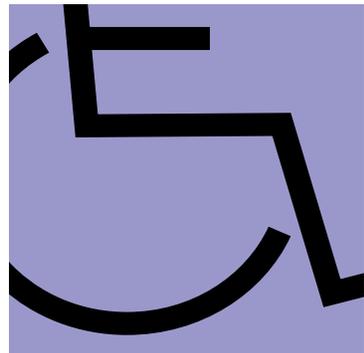
requested a status conference with the state court judge who had heard NYLPI's challenge to the City's siting regulations. NYLPI completed negotiation with Regal Recycling and New York City over measures to reduce the impact of the expansion on nearby neighborhoods.

Disability Law Center

The docket of the Disability Law Center continues to run the gamut, from impact litigation addressing the re-institutionalization of

people with mental illness in adult homes with deplorable conditions and in nursing homes, to representation of children denied appropriate education, to organizing efforts to improve the conditions of residential facilities for people with developmental disabilities. The DLC's activities include the following:

Posner: Together with *pro bono* co-counsel **White & Case**, NYLPI brought this suit against Parkway Hospital for failing to pro-



vide effective communication to Norman Posner, who is deaf, during the time that his wife was in the hospital. The case is in federal district court in the Eastern District of New York. The Department of Justice filed a related case earlier this year, and the two lawsuits have been proceeding in tandem. The parties currently are engaged in discovery, with a trial date tentatively set for the summer of 2004.

Yvonne W.: NYLPI has been working to protect the rights of Yvonne W., a mother diagnosed with mental retardation who is at risk of losing parental rights to her children. Like many other parents with mild to moderate mental retardation, Yvonne W. has faced termination proceedings based largely on an assessment of her IQ, without a thorough evaluation of her fitness as a parent, much less any referral for services that might support her ability to parent. NYLPI, **Covington & Burling**, and assigned counsel Helene Chowes filed a brief in the Second Department supporting a Family Court order that would have required that

Ms. W. be evaluated for services prior to a termination of parental rights proceeding. The Second Department reversed the Family Court order, and rejected NYLPI's request for reargument. The case now returns to the Family Court and NYLPI is exploring alternative approaches for advocacy on this issue.

Special Education: The Matter of Felix V.: Felix V. is an 18-year-old boy with learning disabilities who came to NYLPI reading at a second-grade level. His mother had complained to school authorities for years about his lack of progress in special education classes, but had not been able to get him additional help. NYLPI staff took the case to an impartial hearing and secured over \$24,000 worth of private tutoring for Felix, in addition to transition services to help him prepare for life after high school.

Williamsburg Transition Task Force: A NYLPI attorney linked up with United We Stand of NY, a community based organization that helps parents of children with disabilities, to reach out to people in the Williamsburg, Brooklyn, area to provide them with information on transition services for high school students with disabilities. NYLPI and United We Stand of New York brought together representatives from other community based organizations in the Williamsburg area as well as representatives from schools to inform people about transition services, brainstorm about ways to reach out to additional parents and students, and to collaborate with administrators of the Department of Education to improve transition services within the schools.

Quality of Care: NYLPI is organizing a group of parents and relatives of adults with developmental disabilities who live in residential facilities to improve the quality of life in the facilities and empower family members to advocate for their relatives. The city-wide group is now meeting monthly. The group is developing strategies for improving the quality of care and provides a forum for family members to share problems

and concerns in a supportive environment.

NYLPI has also made a series of site visits to facilities throughout the city pursuant to our Protection & Advocacy authority to meet with the residents of these facilities and to gain a better understanding of current conditions.

Children's Access to Mental Health Care: In the first three months of Staff Attorney and **Skadden** Fellow Rebecca Price's project, she has done extensive outreach to parents, providers, community and advocacy groups, legal service organizations, and applicable government agencies. Her outreach efforts have helped to narrow the scope of her project, which is focusing on three problem areas in an effort to improve the quality of care for children who have mental illness: (1) access to treatment for children from birth to six years of age; (2) increased outpatient services and; (3) improved discharge planning for children hospitalized on inpatient psychiatric wards.

Lawyering in the Digital Age Clinic: In September, NYLPI began working with the Lawyering in the Digital Age Clinic at Columbia Law School. NYLPI staff have worked with two clinic students to develop our use of technology to improve the services we provide. In particular, the students have focused on developing the disability rights page on probono.net and orientation materials for *pro bono* attorneys who take on special education cases.

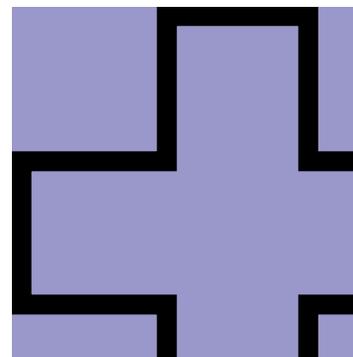
Access to Health Care

Brooklyn Hospital: Earlier this year, NYLPI's organizers and lawyers met with community groups in the areas served by Brooklyn Hospital and collected accounts of people whose lives were endangered by inadequate or unavailable translation services. We then wrote to the hospital, detailing the areas where the hospital's operations failed to meet the legal requirements for people with limited English proficient. A coalition of affected community groups then met with the hospital administration, and, as a result, the hospital has begun to imple-

ment changes that will improve access to services for people who need interpretation and translation services.

NYLPI's advocacy to improve language access at Brooklyn Hospital builds on our earlier effort in partnership with Make the Road by Walking to effect change at Woodhull and Wyckoff Hospitals. Indeed, the administration at Brooklyn Hospital made clear that they were familiar with the Resolution Agreements reached with Woodhull and Wyckoff.

Legislative Efforts to Ensure Language Access: NYLPI has been working with coalitions of advocates and community groups seeking legislative changes to ensure access to health care and other services for people who need translation and interpretation services. One such measure, Intro 38,



passed the City Council and was signed into law. On the state level, the legislature held hearings recently on additional legislation that would require translation and interpretation services.

Bronx Health REACH: NYLPI has been working with a coalition in the Bronx that was formed to eliminate health care disparities with support from federal grants received to study racial disparities in the incidence of heart disease and diabetes in the South Bronx. Together with the Health Law unit at the Legal Aid Society, we are now providing technical assistance on both the law and community organizing to support Bronx Health REACH's agenda.

Member Firms

Allen & Overy
 Arnold & Porter
 Avon Products, Inc.
 Bingham McCutchen
 Blank Rome Tenzer Greenblatt
 Bryan Cave
 Cadwalader, Wickersham & Taft
 Cahill Gordon & Reindel
 Carter, Ledyard & Milburn
 Chadbourne & Parke
 Cleary, Gottlieb, Steen & Hamilton
 Clifford Chance US
 Colgate-Palmolive Company
 Covington & Burling
 Cravath, Swaine & Moore
 Credit Suisse First Boston
 Davis Polk & Wardwell
 Davis Wright Tremaine
 Debevoise & Plimpton
 Dechert
 Deutsche Bank
 Dewey Ballantine
 Dorsey & Whitney

Esanu Katsky Korins & Siger
 Fish & Neave
 Fragomen, Del Rey, Bernsen & Loewy
 Fried, Frank, Harris, Shriver & Jacobson
 Gibson, Dunn & Crutcher
 Goodkind Labaton Rudoff & Sucharow
 Greenfield Stein & Senior
 Heller Ehrman White & McAuliffe
 Hughes Hubbard & Reed
 J.P. Morgan Chase & Co.
 Kaye Scholer
 Kelley Drye & Warren
 KMZ Rosenman
 Kornstein Veisz Wexler & Pollard
 Kramer Levin Naftalis & Frankel
 Lankler Siffert & Wohl
 Lansner & Kubitscheck
 Latham & Watkins
 LeBoeuf, Lamb, Greene & MacRae
 MARSH
 Mayer, Brown, Rowe & Maw
 Milbank, Tweed, Hadley & McCloy
 Morgan & Finnegan

Morgan, Lewis & Bockius
 Morgan Stanley
 Morrison & Foerster
 Morvillo, Abramowitz, Grand, Iason
 & Silberberg
 Moses & Singer
 National Financial Partners
 News Corporation
 O'Melveny & Myers
 Orans, Elsen & Lupert
 Patterson, Belknap, Webb & Tyler
 Paul, Weiss, Rifkind, Wharton
 & Garrison
 Pfizer Inc.
 Phillips Nizer
 Pillsbury Winthrop
 Piper Rudnick
 Proskauer Rose
 Schering-Plough Corporation
 Schiff Hardin
 Schulte Roth & Zabel
 Shearman & Sterling
 Sidley Austin Brown & Wood

Simpson Thacher & Bartlett
 Sive, Paget & Riesel
 Skadden, Arps, Slate, Meagher
 & Flom
 Sonnenschein Nath & Rosenthal
 Strock & Strock & Lavan
 Sullivan & Cromwell
 Swidler Berlin Shereff Friedman
 Torsys
 Wachtell, Lipton, Rosen & Katz
 Weil, Gotshal & Manges
 White & Case
 Willkie Farr & Gallagher
 Wilmer, Cutler & Pickering
 Winston & Strawn

NEW YORK LAWYERS FOR THE PUBLIC INTEREST

151 West 30 Street, 11th Floor
 New York, NY 10001-4007