

Pro Bono – Law Firms

Advancing Pro Bono To The Next Level

The Editor interviews Kenneth H. Zimmerman, Partner, and Melissa Toner Lozner, Counsel, Lowenstein Sandler PC.

Editor: Ms. Lozner, would you please describe your public service background?

Lozner: Public service has always been a priority for me, both personally and professionally. I am one of the five founding staff members for the Lowenstein Center for the Public Interest, which the firm launched several months ago. My responsibilities are to develop initiatives that maximize the societal impact of the firm's pro bono work, increase and facilitate attorney participation in pro bono activities within the firm, and continue handling specific pro bono matters. I have been involved in a variety of pro bono activities since I joined the firm as a lateral attorney four years ago. Lowenstein regularly handles pro bono criminal appeals for the New Jersey Public Defender's Office, and I am particularly active in that initiative. In one noteworthy case, I briefed and argued an appeal of a first-degree robbery conviction, which the Appellate Division reversed on prosecutorial misconduct grounds. I also represent a Burmese teacher and political refugee who was awarded asylum and is currently seeking derivative asylum for his wife and young children.

Editor: Mr. Zimmerman, last summer as chair of firm's pro bono committee you were working on a strategic plan. Has that been developed and is the Lowenstein Center part of the outcome of those efforts?

Zimmerman: Very much so. The Lowenstein Center for the Public Interest is the embodiment of that strategic planning process. The firm has a long-standing commitment to pro bono activities, reflected in our #1 ranking in New Jersey over the past four years and significant history of taking on major pro bono cases. Thus, we were building on a solid foundation. Through the strategic planning process, we focused on four priorities to expand and improve our program: (1) maximize the social impact of our work by focusing on several distinct substantive areas, (2) broaden participation throughout the firm, (3) enhance the profile of our program internally and externally, and (4) improve operations, especially through a more effective use of technology.

The first area is particularly significant, as it reinforces the firm's commitment to ensuring we are making as much of a difference as possible in the communities in which we live and work. We have focused, to that end, on issues related to children and education, immigration, criminal justice, and sustainable and economic development. By way of example of our efforts, we are working closely with charter schools, especially in the greater Newark area, to expand their ability to deliver quality education to low income children; spearheading in New Jersey the Kids in Need of Defense (KIND) initiative to provide universal representation to immigrant children in the country without a parent or guardian; continuing our impact litigation against Immigration and Customs Enforcement (ICE) for entering the homes of immigrants without a warrant or consent, and on behalf of special education for children; helping to establish a national model in response to the foreclosure crisis by creating a non-profit that can acquire and rehabilitate foreclosed properties; and serving as counsel to the Governor's Blue Ribbon Task Force on integrating immigrants. Going forward, we are expanding our efforts by developing

a partnership with the Innocence Project. Throughout, we are looking to incorporate more substantial expertise and talents of the non-litigators in the firm, such as the transactional work involved in an award-winning initiative that will result in a supermarket and other healthy food initiatives being brought to Newark.

Editor: Mr. Zimmerman, your public service experience includes advising HUD Secretary Donovan as part of the Obama Administration's transition team. Could you describe that experience for our readers?

Zimmerman: I was very privileged to be asked to serve on the nine-member transition team that led the Obama Administration's initial planning efforts related to the United States Department of Housing and Urban Development, and then to be asked to stay for the first 100 days as a senior advisor to the new HUD Secretary, Shaun Donovan. In these capacities, I was involved first with helping develop what amounted to an initial strategic plan for HUD and then the first stages of implementing it. All told, I was in D.C. on a close to full-time basis from November through April. It was a very exciting process, as the new administration tried both to establish a long term agenda and to deal with the immediate housing and economic crisis. I participated in the development of certain aspects of the President's housing plan, the provisions related to HUD and the Recovery Act and development of the 2010 budget. In the Recovery Act, HUD received an additional \$13 billion which amounts to roughly a third of its annual appropriation of \$40 billion. This involved helping to identify what kind of funds it made sense to ask for and then, just as significantly, how those funds should and could be disseminated as quickly as possible.

Editor: Are you still involved with the New Jersey Institute for Social Justice?

Zimmerman: Yes. The Institute reflects a portfolio illustrating the kind of work that we are doing in conjunction with the foreclosure crisis. We are working with NJISJ to examine programs that may make employment opportunities available in areas hard hit by foreclosures as a means of assisting the rebuilding of these communities. We are exploring whether Newark might be one of the areas in which this kind of pilot program may be developed.

Editor: Also in connection with NJISJ, you were involved in drafting New Jersey's anti-predatory lending statute. Are you satisfied that it is an effective piece of legislation?

Zimmerman: I think the statute is noteworthy because it involved substantive restrictions which, if implemented nationally, could have helped curb the mortgage crisis we now face, and because it was enacted with the agreement of the key stakeholders in the industry and among consumer groups. Unfortunately, the scope of the statute was limited soon after enacted by a federal bank regulator. Nonetheless, research undertaken after its passage with regard to those banking institutions to which it continued to apply showed that the full range of credit remained available to those who needed it, but the types of loans most likely to be abusive decreased markedly. Because of the housing crisis we now face, the issues we dealt with are now very much part of the national dialogue as the current administra-

tion works with interested parties to determine how to address reform of the mortgage markets and undertake the critical task of ensuring that we address what led to this crisis while preserving the availability of mortgage credit.

Editor: Please describe the work that you do in the asylum and immigration cases that have been a focus of the firm's pro bono work?

Lozner: The firm has a long history of representing immigrants who seek asylum in the United States. Many of these cases are referred to us by our pro bono partner, Human Rights First, a leading human rights organization. Lowenstein attorneys have had a great deal of success in obtaining asylum for individual clients. In one recent case, the firm and HRF's work led to a change in federal immigration law that resulted in a favorable outcome not just for our client, but for an entire population of deserving refugees as well.

More recently, Lowenstein Sandler became a founding member of KIND, whose goal is to provide universal legal representation for all unaccompanied children who are in U.S. immigration court proceedings. As the initiative's lead law firm in New Jersey, Lowenstein handles cases and provides financial support and office space for KIND's New Jersey Pro Bono coordinator, who trains, mentors, and supervises volunteers. In addition to handling a number of our own KIND cases, Lowenstein attorneys look forward to forming co-counsel relationships with attorneys at leading corporations in New Jersey in some future cases.

Editor: You also have a pro bono focus on disadvantaged children. Describe the kind of work that you do for them.

Zimmerman: Let me just emphasize that the KIND project that Melissa mentioned deals with children under the age of 13 who are here without a parent or guardian and are facing potential immigration problems. It is a very important and compelling piece of our broader focus on children and it reflects another premise of the Center: that we undertake individual representation but also look for opportunities to maximize the consequences of such individual representation.

We have a number of pieces of litigation, including a lawsuit that was brought before my time against the state of New Jersey having to do with special education. Our work with charter schools utilizes some of the firm's real estate and corporate attorneys, who help innovators in public education expand and improve the way in which public education is being offered to low income children. We are particularly excited about it because Newark is at this important moment expanding and improving its public education.

Editor: Last year, you expressed a desire to engage attorneys from a variety of practice areas, including providing projects for corporate and transactional attorneys. Have you succeeded in doing this?

Zimmerman: Although the Center is in its early stages, I am encouraged and excited by the ways in which the non-litigation pro bono docket is expanding. In great measure this reflects the commitment of the leadership of the corporate and other non-litigation departments in the firm. To cite just one example, a partner who heads our tech group just put out a call for everyone in his group

to undertake pro bono activities in the upcoming six months. It is that kind of leadership that ultimately represents how we can succeed. The other key is to develop the types of quality projects such as our work regarding charter schools or supermarkets. Some of the KIND work is actually being done by corporate attorneys as well. Having the Center operational with dedicated staff means that we are able to build the array of work that will enable corporate attorneys to take advantage of their skills in the pro bono space.

Editor: Is there anything else that you would like to add?

Zimmerman: One interesting dynamic of the Center is that we identify non-traditional types of pro bono activities and seek quality partnerships that will allow us to develop transactional work. We also identify other ways in which lawyers can contribute, particularly at a time when both the public sector and the non-profit sector are struggling so much. For example, we served as counsel for the Governor's Blue Ribbon Task Force relating to the integration of immigrants. That may not be a traditional pro bono activity, but it is another way we can employ the myriad skill sets of our lawyers without putting limits on the type of work we are doing. We are also finding that members of the firm are becoming board members of organizations that we partner with, demonstrating that we give the greatest benefit when our involvement is not exclusively in "one-off" assignments, but represents a broader investment in quality organizations.

The litigation we are doing also remains very cutting edge. The lawsuit we are bringing with Seton Hall Center for Social Justice against ICE for raiding the homes of undocumented individuals and entering without consent or a warrant represents the first of these cases around the country that has led to a decision of a district court judge to allow plaintiffs to take discovery of former high level senior governmental officials. This is now on hold in light of a recent Supreme Court decision, but it reflects the national significance of the work that we are undertaking.

The framework that we have created with the Center – the idea that in addition to myself there are five associates and counsel who are committing at least 25 percent of their time to staff the Center – is a particularly interesting and innovative way to expand the quality, depth and impact of the pro bono work that the firm is taking on. It is not only a further commitment on the firm's part, but a way in which our intent to have a real institutional home for pro bono activities is firmly embedded in the firm and can come to fruition.

Lozner: The establishment of the Center has really inspired attorneys within the firm to broaden their participation in pro bono activities. A number of attorneys have already come to me seeking to become involved in a particular initiative or matter, as well as to discuss the best way to find a matter that is appropriate in light of their interests and skill sets. Moreover, the community at large has exhibited a remarkably positive response to the Center's creation. In talking to attorneys in the non-profit and governmental sectors, as well as prospective clients and laypeople, I have seen a real appreciation for the firm's reinforced commitment to pro bono and public service – particularly in these challenging economic times. I feel fortunate to be involved in such an innovative and important effort.