

PRO BONO PERSPECTIVE

A Newsletter of the Lowenstein Sandler Pro Bono Committee

A Message From Ken Zimmerman

AS MICHAEL RODBURG reminded me, Lowenstein Sandler's original partnership agreement specified that one of the founding principles of the firm was a commitment to community. In the weeks since I have joined the firm, it is clear that this legacy remains a key part of Lowenstein Sandler's culture, reflected in the breadth and depth of the firm's *pro bono* activities, and the civic and professional leadership roles many of our attorneys play.

This newsletter is intended to cover what the firm is doing as part of this commitment, to better educate those inside the firm and out about the wide range of activities we have undertaken, and to outline some of the projects and plans to enhance our efforts. With the active support of firm management and the leadership of Bob Boneberg, David Harris, Douglas Eakeley and others involved with the *pro bono* committee, the firm's *pro bono* activities have been robust, as reflected in the firm's top-ranked status in New Jersey over the past three years. Building upon this foundation, there is a remarkable opportunity to broaden and refine our efforts to ensure we are maximizing our impact and providing the best quality opportunities for our attorneys and staff. This is especially necessary as the communities in which we live and work experience the fallout of the economic downturn and significant cuts in federal and state resources.

Over the coming months, we will continue the process of outreach and solicitation and, more formally, undertake a strategic planning process to guide our approach to our *pro bono* and civic engagement. Even as we do so, impressive work continues. In recent weeks, we have filed federal litigation challenging the raids by Immigration and Customs Enforcement agents and represented a community-based organization in its acquisition of 46 properties on the verge of foreclosure as part of an effort to create a model for responses to the mortgage lending crisis, among multiple other matters reflected in this newsletter.

Moreover, we have been able to initiate new efforts, including proactively examining the potential for firm involvement in providing legal services to veterans, broadening the range of *pro bono* projects by accepting



Major New Matters

FIRM FILES NATIONALLY IMPORTANT PRO BONO CASE CHALLENGING IMMIGRATION RAIDS

Lowenstein recently filed a federal lawsuit in the District of New Jersey with potential national significance regarding alleged unconstitutional conduct by federal immigration agents. Undertaken in conjunction with Seton Hall Law School's Center for Social Justice, the complaint asserts that officials from the Immigration and Customs Enforcement (ICE) division of the Department of Homeland Security violated privacy and due process rights of ten victims by undertaking pre-dawn raids in which the agents entered private homes without a warrant or consent.

This is the first lawsuit in the country to focus on the consistency of such raids over a sub-

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a request from the New Jersey Public Advocate to assist with the Governor's Blue Ribbon Commission focused on immigrants in New Jersey, and creating a program that enables summer associates to undertake a rotation at Essex-Newark Legal Services with the Lowenstein Fellow who is there.

It has been an interesting and exciting several months for me as I have transitioned from the Governor's office into the Lowenstein community. On a personal level, I have appreciated the support and enthusiasm that exists throughout the firm for this undertaking. Certainly, it has reinforced that the intellectual capital, commitment to public engagement, and willingness to commit resources that exist here offer a remarkable opportunity to make positive change in the greater community.

Thank you.

“Without question, my greatest satisfactions in life, apart from my family, have come from the services I have rendered to individuals and families and, on a larger scale, to my community. They have not come from the financial successes I fortunately have been able to enjoy, but from knowing that my energies and possible creativity have been of benefit to others.”

– Alan V. Lowenstein

stantial period of time and across an entire state, and is expected to raise fundamental questions about ICE's "Operation Return to Sender." As set forth in the complaint, this program has created strong incentives for unconstitutional behavior by creating unrealistic quotas for immigration agents, and has been implemented without adequate guidelines, training, or safeguards.

The Lowenstein Sandler team handling this matter consists of **Scott Thompson, Scott Walker, Natalie Kraner, Heather Bishop, David Reiner** and **Aurora Parrilla**. They have been effectively supported by paralegals **Damaris Ramos, Carol Bernstein** and **Silvana Cosentini**. ■

LOWENSTEIN SUES NEW JERSEY DEPARTMENT OF EDUCATION ON BEHALF OF CHILDREN WITH DISABILITIES

A team of Lowenstein attorneys headed by **David Harris** is litigating a lawsuit in the United States District Court for the District of New Jersey against the New Jersey Department of Education and the New Jersey State Board of Education and their employees and members, in an action to enjoin the defendants from violating the rights of children with disabilities to receive an appropriate education alongside their non-disabled peers. On a *pro bono* basis, Lowenstein Sandler is representing plaintiffs New Jersey Protection

& Advocacy, Inc., the Education Law Center, the Statewide Parent Advocacy Network of New Jersey and The Arc of New Jersey on behalf of children with disabilities across the state. The lawsuit seeks to enhance the quality of education for children with disabilities in New Jersey, who are often unnecessarily segregated and denied their right to be educated with children who do not have disabilities, by increasing – to the extent appropriate – their inclusion in the general education setting. The Lowenstein team working with **David Harris** on this case include **Steve Plotnick, Todd Wilson, Ann Murphy** and **Laura DeCotiis**. ■

LOWENSTEIN BEGINS WORK ON GOVERNOR'S BLUE RIBBON PANEL ON IMMIGRANTS IN NEW JERSEY

In June, a team of Lowenstein Sandler attorneys began work as part of Governor Corzine's Blue Ribbon Advisory Panel on Immigrant Policy. Established by Executive Order No. 78, the Panel is charged with

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The New York Times

Lawsuit Challenges Immigration Raids in New Jersey

By JULIA PRESTON

Published: April 4, 2008

Immigration agents systematically entered homes and made arrests without proper warrants during raids to round up immigration fugitives in New Jersey, according to a federal lawsuit filed Thursday.

The immigration raids case has received substantial press attention including coverage in The New York Times, Reuters and on National Public Radio.

Pro Bono Spotlight

*Michael Rodburg, Chair of the Firm and former Managing Director, recently shared his insights about **pro bono** work at the firm.*



Why does the firm believe pro bono work is important?

“People go into law because it is one of the learned professions, and professionals have duties that transcend the normal business environment. It is a standard of the legal profession to recognize that representation in a society of laws must extend to everyone who needs it,” Michael explains. He stresses that “although we are in the business of law, money should play no role in the discharge of our professional obligations.” As an interesting analogy, Michael notes that in the 1950’s, medical professionals in Germany — one of the first countries to institute socialized medicine — decried the imposition of patient co-pays on the ground that it was unethical to inject money into matters of health care.

Michael also highlights this firm’s historical and foundational commitment to public service. He explains that “Alan Lowenstein believed in, and founded this firm on, three pillars: high-quality legal work for clients, commitment to family, and giving back to the community. These pillars function as three legs of a stool.” Indeed, Michael notes that the firm’s first partnership agreement explicitly noted that these founding principles were to be followed even at financial sacrifice. “A commitment to *pro bono* work is what we expect at this firm. People support it because it’s the right thing to do.”

Michael has taken the commitment to civic engagement to heart, as reflected in his long-term involvement with the American Conference on Diversity (formerly the NCCJ-NJ), which he now chairs. Michael is active in other areas of public service as well, particularly with respect to health and education.

Is the firm in a position to make a significant impact with its pro bono work?

“We have, over the course of history, made an impact. We make an impact every day. The resources that we have committed are evidence of that impact,” Michael insists.

Michael explains that the firm has been effective by balancing “high-impact efforts” — like the children’s rights case that resulted in

dramatically reforming DYFS in New Jersey — “with the provision of legal services for individual people who need it”—such as in *pro bono* criminal appeals and asylum matters. “The current challenge for the firm is determining how to make the most impact with the resources we have.”

Michael points out that a noteworthy example of the firm’s commitment to *pro bono* efforts is the recruitment of Ken Zimmerman to direct the firm’s *pro bono* and public service initiatives, and to determine how best to utilize the firm’s resources to enhance the communities in which we serve. Ken, who recently joined the firm as a Member in the Litigation Department, had been Chief Counsel to Governor Corzine since 2006 and is the former Executive Director of the New Jersey Institute for Social Justice, the urban advocacy and research organization that Alan Lowenstein founded in 1999.

How does pro bono work relate to other aspects of the firm’s activities?

“Whether a matter is *pro bono* is irrelevant to the quality of our work and our commitment to the client,” Michael explains. The firm is somewhat unique in that, for associates, *pro bono* work is treated the same as billable work. That said, Michael cautions that “associates should recognize that *pro bono* work is not the end of their commitment as professionals. A lawyer has civic and social responsibilities that must be fulfilled as well.”

Michael’s closing remarks echo Alan Lowenstein’s founding vision of the firm: “In one’s life as a professional, one must balance work, family and giving back to the community. We are privileged people. Unless we are giving back to our community, we are not fulfilling the vision of Alan Lowenstein and this firm. We cannot forget that third pillar of the stool.” ■

“A commitment to pro bono work is what we expect at this firm. People support it because it’s the right thing to do.”

—Michael Rodburg

Case Highlights

FIRM HELPS WIN ASYLUM FOR PERSECUTED BURMESE TEACHER AND BROAD-SCALE CHANGE IN FEDERAL IMMIGRATION LAW

Lowenstein attorneys recently prevailed in a challenging *pro bono* asylum case that presented cutting-edge legal issues and sensitive political concerns. The firm's client was a teacher in Burma (now called "Myanmar") who allowed members of a group called the Chin National Front to speak about democracy at his school. The CNF is one of many activist groups working to restore democracy in Myanmar, which is currently under the illegitimate rule of an oppressive military junta. In retaliation for his actions, the teacher was captured, imprisoned without trial and tortured by members of the military junta. Eventually, he was able to escape and make his way to the United States, where he applied for asylum.

The client's asylum application was initially barred by a far-reaching statute declaring inadmissible any individual who provides "material support" to one who engages in "terrorist activity." The statute defines those terms so broadly that the CNF members who spoke at our client's school were deemed to have engaged in "terrorist activity" by virtue of their ongoing conflict with the military junta, and the client's actions were deemed "material support." As a result of

Lowenstein's advocacy and Human Rights First's lobbying efforts, Congress held hearings featuring the teacher's case, and ultimately passed new legislation that explicitly carved out of the material support bar the CNF and other "groups that do not pose a threat to the United States." This new legislation paved the way for hundreds if not thousands of refugees, including the firm's client, to obtain asylum in the United States. Equally important, Lowenstein is currently working to bring the client's wife and two young children – who remain in cyclone-ravaged Myanmar – to the United States as well.

Human Rights First has congratulated the Lowenstein Sandler team on the "fabulous job" it did handling a case that it describes as "a real challenge" requiring "innovative, creative and persistent" advocacy. The organization also highlighted the firm's achievements in this case during its presentation of the Marvin E. Frankel *Pro Bono* Award to the firm in February.

The Lowenstein team handling this case consisted of **Michael Rodburg, Douglas Eakeley, Alice Stock, Melissa Lozner, Francine Vlantes, Sally Kim Christie, Natalie Kraner** and **Julia Otis**, along with paralegals **Adam Isaacson** and **Thennisha Kelly**. ■

LOWENSTEIN TURNS A DEFAULT JUDGMENT AGAINST FACTORY WORKERS INTO A SUBSTANTIAL SETTLEMENT IN THEIR FAVOR

The Lowenstein team of **David Field, Stephen Buckingham, Carolyn Rendell**, and **Mitchell Decter**, assisted by many others, successfully turned a default judgment against our clients, a group of laid-off factory workers, into a substantial payment to them. The workers, who had asserted workers' compensation claims against their company, became defendants (along with their prior law firm) in a RICO case brought by their employer. Lowenstein became involved in the case only after a \$2.2 million default judgment was entered against them. As a result of the Lowenstein team's efforts, the default judgment was vacated and the company agreed to pay the workers more than \$400,000 in settlement of their claims. ■

The Star-Ledger

Saved From An Injustice

Fortunately for the workers, their plight attracted the attention of some top New Jersey legal talent. The Roseland firm of Lowenstein Sandler took up the workers' cause at no cost.

PRO BONO FACTS AND FIGURES

16,879: The number of **HOURS** Lowenstein Sandler attorneys dedicated to *pro bono* work in 2007.

187: The number of *pro bono* **MATTERS** firm attorneys handled in 2007

55: Lowenstein Sandler's **RANKING** in the 2008 American Lawyer *Pro Bono* Report

3: The number of consecutive **YEARS** the firm has ranked first in New Jersey Law Journal's *Pro Bono* Ranking

How We Help

IMMIGRATION AND EMPLOYMENT ATTORNEYS PROVIDE PRO BONO SERVICE TO ACTION AGAINST HUNGER-USA

A team of Lowenstein immigration and employment attorneys led by **Alice Stock** have found a way to use their specialized legal expertise to provide critical *pro bono* support to Action Against Hunger-USA, a non-profit international organization dedicated to combating hunger throughout the world.

For nearly 30 years, the Action Against Hunger network has delivered food, water and sanitation, food security and public health programs to more than five million people in 40 countries. For more than a decade, Alice and her team, including **Elise Berman, Deborah Carter, Roberta Resnick, Erica Wise** and **Marina Yurchenko**, have provided *pro bono* employment and immigration advice and representation to the Action Against Hunger-USA (“AAH-USA”) office in New York City. The team has, for example, handled personnel issues, provided employment contracts and policies for AAH-USA employees, and obtained visas and approvals that have enabled AAH-USA to bring to and employ in the United States the experts who run its missions abroad.

Since the firm began its *pro bono* work for Action Against Hunger two years ago, Lowenstein Sandler attorneys have handled more than 10 matters and donated more than 300 hours in support of AAH-USA’s humanitarian services to those in need. ■

MEMBERS OF WHITE COLLAR GROUP PARTNER WITH PUBLIC DEFENDER’S OFFICE TO PROVIDE PRO BONO APPELLATE REPRESENTATION

Through a partnership with the Public Defender’s Office, Lowenstein Sandler attorneys, led by **Robert Kipnees** and **Maureen Ruane**, handle several cases a year that present novel and challenging

issues. One noteworthy case, *State v. Miller*, involved the prosecutor’s improper comments on the defendant’s presence throughout the trial as affording him an opportunity to craft his own testimony by listening to the testimony of others. Another involved the prosecutor’s improper use of a belated alibi notice and the trial court’s improper jury instruction about that belated notice.

Working with the Public Defender’s office has afforded Lowenstein associates opportunities to draft appellate briefs and often argue them before the Appellate Division. One published opinion, and one unpublished opinion favorable to our client, have resulted from the four appeals decided to date. ■

FIRM SUPPORTS ORGANIZATION’S EFFORTS TO IMPROVE NEIGHBORHOODS

Since 2001, Lowenstein Sandler has supported the New Jersey Community Development Corporation’s efforts to strengthen neighborhoods and encourage individual excellence. The NJCDC is a private, non-profit community development and social service agency that performs a wide variety of community development, youth development, and social service functions. Last fall, **Bill Munday** and the firm were honored for their extensive and broad-based work on behalf of this organization.

One aspect of the firm’s *pro bono* work for the NJCDC is in the area of construction law. **Jason Hadley** of the firm’s Construction Law and Litigation practice has taken a lead role in assisting the NJCDC with one of its largest project to date – creating a charter school for elementary school students in Paterson, New Jersey. The NJCDC purchased a 33,000 square foot building to house the school and engaged contractors to perform extensive renovations to the facility. Four hundred elementary students are scheduled to attend classes at the renovated facility in August of this year.

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A rendering of the charter school NJCDC is working to build.



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As a state-financed project, the content and bidding of the construction contracts had to meet stringent statutory requirements. Jason Hadley assisted the client in compliance with these requirements. This included counseling the client, drafting numerous contracts, attending and overseeing the public bid opening conference, inspecting the bids for responsiveness and addressing disputes. Since bid opening, Jason has also manned a “construction law hotline” to provide timely legal advice to the NJCDC to address and mitigate the many issues and disagreements that often impact a construction project. ■

LOWENSTEIN OFFERS ANNUAL SUMMER ASSOCIATE ROTATION TO ESSEX NEWARK LEGAL SERVICES

This summer, the firm is proud to offer its summer associates the opportunity to participate in a rotation at Essex-Newark Legal Services. Participating summer associates have worked alongside Jacques Pierre, the current Lowenstein Sandler Fellow, providing legal services to indigent residents of Essex County in the areas of Consumer Protection, Housing, Income Maintenance, Family Law, and Elder Law. ■

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developing recommendations to the Governor for a comprehensive and strategic approach to assist immigrants in becoming productive and self-sufficient members of the state through an examination of state practice and policy in a broad array of areas, including employment, education, law enforcement, and social services. In establishing the Panel, the Governor’s Executive Order notes that the state ranks third in immigrant population, and that almost one-fifth of New Jersey residents are foreign-born. The Governor designated Public Advocate Ron Chen to serve as chair of the committee, and Mr. Chen asked Lowenstein Sandler for its assistance. The final report is due in mid-December. The Lowenstein team includes **Ken Zimmerman, Michael Hahn, Elise Berman, Khizar Sheik, Mona Kim, and Frank Lefebvre**, as well as summer associates **Jewel Watson and Samarra Penn**. ■

LOWENSTEIN INVOLVED IN MODEL PROGRAM TO ADDRESS MORTGAGE LENDING CRISIS

Emerging out of an internal task force to determine how the firm might play a role in responding to the mortgage lending crisis, Lowenstein Sandler has become involved

in potentially groundbreaking efforts to respond to the anticipated 6,000 foreclosures in the greater Newark area, which is threatening decades of community development efforts. In its first stage, a team led by **Gary Wogens, Steve Fuerst, and John Wishnia** are representing HANDS, an Orange-based community development corporation that is seeking to purchase 47 properties on the verge of foreclosure from a single lender. Building upon that experience, **Ken Zimmerman, Allen Levithan, John and Gary** have been engaged with a collaboration of non-profits, local governments, and private foundations to create an organization that helps individuals stay in their home when feasible and otherwise acquire, manage, and re-convey properties that are delinquent or in foreclosure to be put back into productive use. While still in the early stages of development, this undertaking is viewed by the Ford Foundation, private industry, and others as very promising and a potential model that can inform the national response. ■

Message from Jacques Pierre

I currently work with Essex-Newark Legal Services (ENLS) as the Lowenstein Sandler Fellow. ENLS provides free legal services to indigent residents of Essex County in the areas of Consumer Protection, Housing, Income Maintenance, Family Law and Elder Law. Since 1990, Lowenstein Sandler has sent a second or third year associate to work alongside ENLS staff in the housing unit for six month periods.

My experience here at ENLS is an extremely rewarding one. I serve a diverse group of people, all in desperate need of legal representation. My clients range from people seeking advice on how to get their landlords to make repairs in their homes to thirty-year residents of rent-controlled apartments fighting evictions. I work with a team of talented and dedicated attorneys who literally save families from homelessness every day.

As a litigator, my talents have grown exponentially. The work is demanding and fast-paced. I appear in court several times a week, and on a daily basis I meet with clients, prepare court documents, and correspond with opposing counsel.

We are lucky to be affiliated with such a quality program as ENLS. I encourage any second or third year associate to apply for the Lowenstein Sandler Fellowship with ENLS. You will grow from it.

Pro Bono Highlights

CHRIS KAROUNOS, **NICOLE CRIFO** and **MONA KIM** secured asylum for a *pro bono* client who was persecuted and tortured by government officials in The Gambia and Guinea for his human rights work in those nations.

DAVID LEIT, **SUZANNE IAZZETTA**, **NATALIE KRANER**, **ERIC WEINER** and **FRANCINE VLANTES**, along with paralegal **KELLY CHARLES**, secured a favorable settlement for a *pro bono* client who alleged that he was racially profiled, illegally stopped and wrongfully jailed in connection with a traffic stop by police officers on Rt. 78 in Clinton Township.

ROBERT KIPNEES and **MELISSA LOZNER**, acting as *pro bono* designated counsel for the New Jersey Public Defender's Office, successfully appealed their client's conviction for first-degree robbery. The Appellate Division reversed the conviction on prosecutorial misconduct grounds, holding that the prosecutor made improper comments concerning the client's presence in the courtroom during trial and ability to tailor his trial testimony to that of the other witnesses.

VINCENT ANTONIELLO conducted a *pro bono* workshop presentation on preventing workplace harassment, fostering equal employment opportunity and promoting workplace diversity for the Child Care Connection in Trenton. Approximately 50 people attended the training, which received praise from the organization's Executive Director.

Working in connection with the New Jersey Volunteer Lawyers for the Arts, **MATT SAVARE** provided legal counsel to two screenwriters. His work, which included drafting a literary purchase agreement and negotiating a settlement for a dispute over the rights to a theatrical screenplay, earned him praise.

ADRIENNE ISACOFF successfully represented a *pro bono* client in an appeal before the Office of Administrative Law, in which the Belleville Board of Education sought to recover tuition for the client's children's education. The judge held that the family had been a homeless family last domiciled in Belleville, and that the Belleville School District was responsible for the children's education.

JOHN BASIAK gained an acquittal in a court-assigned appeal to the Law Division from a conviction by the West Orange Municipal Court, in a case involving First Amendment issues as well as the interpretation of New Jersey's disorderly conduct statute.

JENNIFER McGRUTHER and **DAVID TOMEO** were honored with Volunteer Lawyers for Justice *Pro Bono* Attorney of the Year awards at last fall's 25th Anniversary Gala for the Legal Services Foundation of Essex County.

Pro Bono Highlights *(continued)*

PETER SKOLNIK, **MICHAEL NORWICK** and **THOMAS DOLAN** are defending Rick Ross, an individual who operates a public resource website, concerning cults in a copyright infringement suit. The Lowenstein team has filed a counterclaim for invasion of privacy, alleging that Mr. Ross was the victim of a scheme in which the plaintiff, plaintiff's counsel and a private investigator inappropriately obtained personal information about him for use in the copyright infringement suit.

MICHAEL HAHN successfully represented a *pro bono* client on appeal from a conviction for loitering with the intent to purchase narcotics. The case presented a constitutional challenge to the statute, although the Appellate Division ultimately reversed the conviction on non-constitutional grounds.

HEATHER BISHOP appeared in a guardianship proceeding instituted by Hudson County Protective Services through a referral from the Jersey City Medical Center. Heather was successful in having a guardian appointed for our client, an allegedly incapacitated person.

MATTHEW OLIVER, **MATT ATLAS** and **RAMSEY ONG** represented Michael Kounelis, a prisoner who alleged he was beaten while in custody, in a multi-year proceeding that resulted in a favorable decision for their client. Their work on the *pro bono* case earned praise from the Honorable Dickinson R. Debevoise of the District of New Jersey.

The Honorable Susan D. Wigenton of the District of New Jersey commended **JEFFREY SCHULMAN** for his *pro bono* representation of an individual convicted of conspiracy to defraud the United States by preparing false tax returns and making false declarations in a court proceeding. His work in the court-appointed case involved the client's habeas corpus petition to set aside his sentence on constitutional grounds and allegation of ineffective trial counsel.

CINDY TZVI SONENBLICK earned high praise for her teleconference presentation on Risk Management and Insurance for nonprofit clients and contacts of the *Pro Bono* Partnership. Her presentation was so popular that she will be doing an encore presentation later in the year.

The firm recently received high praise for the diligent *pro bono* efforts of **MARY KNODEL**, Litigation Case Manager; **LARA CALABRESE**, Senior Litigation Paralegal; **LYNNE MOZELIAK**, Litigation Paralegal; and **DAVID PAGE**, Litigation Research Assistant, in cite checking a voluminous publication for the Education Law Center.

Please contact Ken Zimmerman or Melissa Toner Lozner with comments or questions, including any matters you would like to see featured in this newsletter.

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