



**Lowenstein
Sandler**

**Lowenstein Center
for the Public Interest**

2016

PRO BONO REPORT

OUR MISSION

From its founding, Lowenstein Sandler has been committed to advancing the public interest and serving communities in need. The Lowenstein Center for the Public Interest embodies this commitment, directing the firm's strong pro bono program and other forms of civic and philanthropic engagement. Through these efforts, the Center addresses significant social problems and offers meaningful assistance to low-income and other vulnerable persons along with the organizations that advocate for and support them. This work engages the full range of the firm's talents and capacities and reflects the core values that imbue all of the firm's efforts: to perform work of the highest quality in a manner that maximizes results for our clients and causes.

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MESSAGE FROM THE CHAIR



We are going to need ingenuity, resourcefulness, and cross-sector collaboration to meet the challenges ahead. It's lucky we've been practicing.

In 2016, we helped a longtime pro bono client save a preschool that served more than 250 low-income children. Our bankruptcy lawyers fostered collaboration between two nonprofits and then persuaded a bankruptcy court to authorize one of them, our client New Jersey Community Development Corporation (NJCDC), to purchase the school property from a bankruptcy estate. Our environmental lawyers oversaw the testing and clearance of the property as safe for young children. And our real estate team guided NJCDC through the process of leasing most of the building to its partner nonprofit, which runs the school. It took two nonprofits and three teams of lawyers to keep the school open.

In other contexts, too, we've brought multiple strategies and skills to bear in addressing pressing social problems. For example, along with co-counsel at Seton Hall and UCLA Law Schools, we filed a friend-of-the-court brief in the U.S. Supreme Court in *Fisher v. University of Texas*, a white student's challenge to the University's complex system of accounting for race as one among many factors relevant to achieving diversity in college admissions. We represented prominent experimental psychologists whose research demonstrates that scores on standardized tests systematically understate the actual academic promise of students from minority groups: these students perform on par with nonminority students when testing conditions counter their sense that their scores will reflect on all members of their race or ethnicity. Thus, the firm, two law schools, and social scientists around the country joined a chorus of others in persuading the Supreme Court to uphold the University's evidence-based approach to achieving diversity throughout its student body.

On another front in the march toward equality and inclusion, we took a path more focused on individual client service.

The Transgender Legal Defense and Education Fund (TLDEF) approached us last year to see if we would help launch a Name Change Project to assist low-income transgender people in adopting legal names that conform to their gender identity. A mismatch between a person's identity documents and his or her gender causes endless confusion and invasion of privacy as everyone from bank tellers to airport security personnel questions whether the ID is borrowed, stolen, or falsified. Yet a legal name change can be complicated, generally requiring both publication of the switch and a court appearance. We've done the research, created the training materials, and launched the project in our New Jersey office, and our California office has now stepped up to explore a similar launch there.

One of the gifts a national law firm can bring to the struggle for social justice is versatility. We are proud of our varied collaborations with our nonprofit legal services partners and pro bono clients to advance our common goals. All of the accomplishments of this pro bono practice depend on the generosity of every one of the firm's clients. Thank you.

Warmly,

A handwritten signature in black ink that reads "Catherine Weiss". The script is fluid and cursive.

Catherine Weiss

*Chair, Lowenstein Center for the Public Interest
Lowenstein Sandler*

Pro Bono by the Numbers

22,532 HOURS

dedicated to pro bono work by Lowenstein in 2016

421 PRO BONO CLIENTS

served by Lowenstein lawyers in 2016

67 HOURS ON AVERAGE

dedicated to pro bono work by each firm lawyer in 2016

379,553 HOURS

dedicated to pro bono work by the firm over the past 20 years

Rescuing a Preschool

The mission of Lowenstein's longtime pro bono client **New Jersey Community Development Corporation (NJCDC)** is to create opportunities for the people and neighborhoods of Paterson through education, youth development, housing, and community-building initiatives. In 2016, Lowenstein assisted NJCDC in a collaborative effort to rescue a preschool serving more than 250 low-income children.

NJCDC's neighbor, a nonprofit preschool called Michael's Energy Factory (MEF), had run into financial difficulties and filed for bankruptcy. After MEF made several unsuccessful attempts to restructure its debts, the bankruptcy court required it to sell assets in order to repay its creditors.

NJCDC wanted to purchase and renovate the MEF property, while continuing MEF's good work in the community. Another respected nonprofit, Greater Bergen Community Action (GBCA), was also interested in the property. GBCA operates the city's Head Start program, and it planned to bring that program, and the vital federal funding that comes with it, to the preschool. During a court-ordered auction of MEF's assets, the two nonprofits began by bidding against each other but soon realized that collaboration would better serve their common goal of offering first-rate educational opportunities to the children of Paterson.



Photo courtesy of New Jersey Community Development Corporation

Careful to avoid collusion, Lowenstein proposed a meeting between NJCDC and GBCA where the parties discussed their visions for MEF's property. The conversation revealed that GBCA and NJCDC had compatible purposes in mind: GBCA needed additional space for its growing preschool, while NJCDC needed additional space to house its employees and conduct workshops and other programs. Based on the distinct priorities



Photo courtesy of New Jersey Community Development Corporation

of each organization, Lowenstein crafted an arrangement that offered creditors greater value for MEF's assets and permitted the preschool to continue operating. NJCDC would purchase the property, give GBCA a longterm lease for the preschool, and reserve some space for its offices and events.

This agreement, however, was contingent on the results of several environmental tests to be completed on the property. In order to continue to operate a preschool at the site, NJCDC had to verify that the property was free from environmental hazards. Lowenstein assisted NJCDC in securing a testing company to ascertain whether the site met legal standards for this purpose. After a few anxious months, the test results indicated that the property was free from environmental hazards, and MEF, NJCDC, and GBCA were able to complete the transaction. Throughout this process, Lowenstein called upon its diverse practice groups to obtain approval for the arrangement from the bankruptcy court, manage the purchase of the property from the MEF bankruptcy estate, devise a lease agreement between NJCDC and GBCA, secure environmental approval, and manage the simultaneous closings of the bankruptcy sale and the lease.

NJCDC plans to upgrade the 17-classroom building. Robert Guarasci, the CEO of NJCDC, notes, "Two great organizations

"Two great organizations came together to make sure the children of Paterson – our children – are receiving a strong start to their education. We could not have done it without the guidance, skill, perseverance, and generosity of our lawyers at Lowenstein."

– ROBERT GUARASCI, CEO NJCDC

came together to make sure the children of Paterson – our children – are receiving a strong start to their education. We could not have done it without the guidance, skill, perseverance, and generosity of our lawyers at Lowenstein." The preschool has continued to run without interruption.

ADVANCING QUALITY PUBLIC SCHOOLS

The Newark Charter School Fund (the “Fund”) is dedicated to supporting the quality, growth, and sustainability of the charter sector to provide all of Newark’s students access to great schools in collaboration with district efforts to improve the quality of public education. Founded in 2008, the Fund has marshaled the resources of some of the nation’s leading foundations to support the drive to achievement in the city’s public schools.

The results are demonstrable. Newark’s charter sector has grown to serve approximately 17,000 students (about a third of the city’s student population). These students overall significantly outperform other African-American and economically disadvantaged students statewide and are closing the achievement gap with the general population statewide as

North Star students have succeeded in eliminating the achievement gap, routinely outperforming their more affluent, suburban district peers on state assessments and beating statewide averages by a considerable margin.

well. In its Urban Charter School Study, Stanford University’s Center for Research on Education Outcomes ranked Newark’s charter school sector second among sectors in 41 regions across the country for its positive impact on students’ performance in reading and math.

Last year, however, marked a critical juncture for the Fund, which had originally contemplated winding down at the close of the second phase of its philanthropic investment at the end of 2016. After broad engagement of local stakeholders and approval by the board, the Fund decided instead that it must continue indefinitely, grounded by local leadership and support.

Lowenstein provided the legal assistance necessary to inform and then implement the Fund’s decision. This involved dissolving the original legal entity, a private foundation that had been incorporated in Delaware, and reincorporating it in New Jersey to root the Fund permanently in its home state. The firm also advised on restructuring the board to include more local representation and leadership as some original national board members were preparing to conclude their terms. The Fund is now positioned to carry on for the long term under new organizational leadership and governance as it continues to support Newark’s charter schools and the educational advancement of all students in the district.

100% of Uncommon Schools North Star Academy high school graduates enroll in four-year universities after graduation.

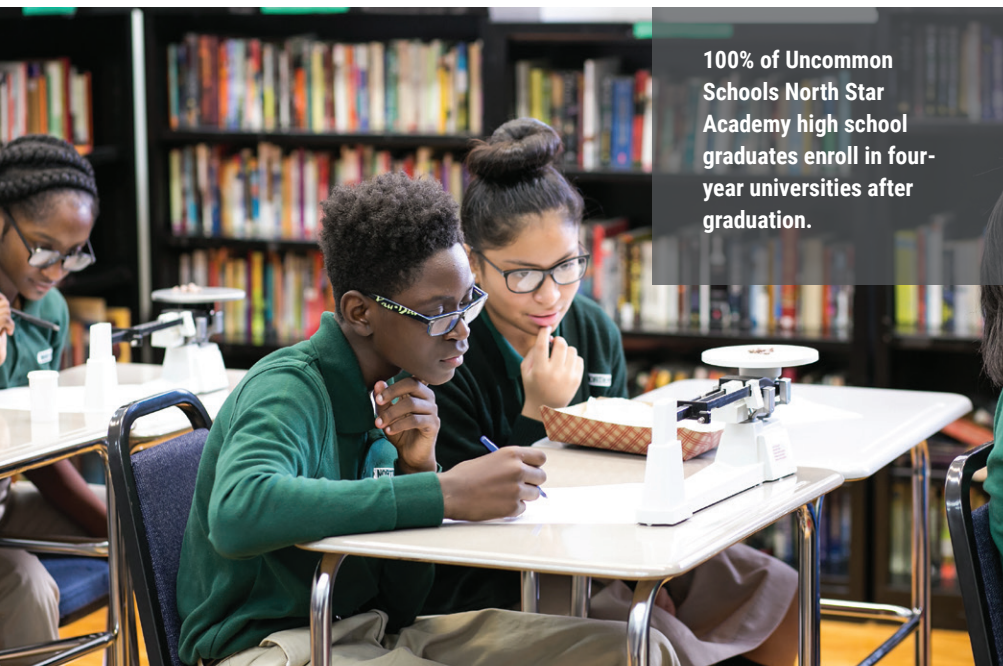


Photo courtesy of Uncommon Schools North Star Academy

One target of the Fund's investments has been **Uncommon Schools North Star Academy**, another pro bono client of the firm and one of the largest charter networks in the state, serving more than 4,600 students in grades K-12 across 13 campuses. North Star participates in Newark Enrolls, a universal enrollment system that allows families to apply to district and charter schools on a single application. Nearly all North Star enrollees are students of color. Eighty-six percent qualify for free or reduced-price lunch, meaning that their families have incomes at or near the federal poverty line. Ninety percent of their parents never graduated from college.

Yet North Star students have succeeded in eliminating the achievement gap, routinely outperforming their more affluent, suburban district peers on state assessments and beating statewide averages by a considerable margin.

Lowenstein has represented North Star for many years. In 2016, our corporate group revised North Star's bylaws, devised a system to document board appointments, advised on governance issues, and reviewed and finalized contracts to continue to ensure that North Star was in compliance with all state and federal laws and regulations related to charter schools.

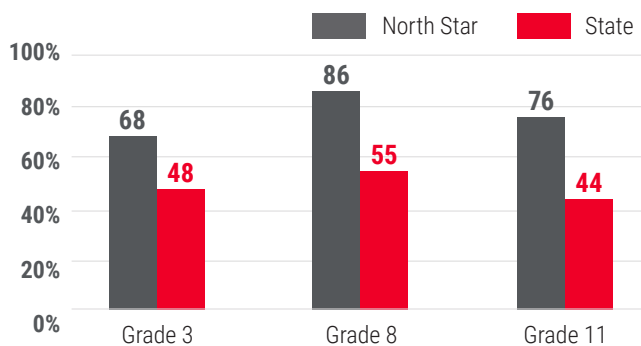
In addition, the firm has long sponsored a moot court competition through which North Star students from four middle schools learn about criminal law and trial process, prepare a role in a simulated case, and present the role during a mock trial competition. Rutgers law students coach the middle-schoolers, and the law school hosts the competition, with the faculty or dean presiding as judges. The students gain experience in oral and written advocacy, and some become intrigued enough with the law to consider joining the profession.



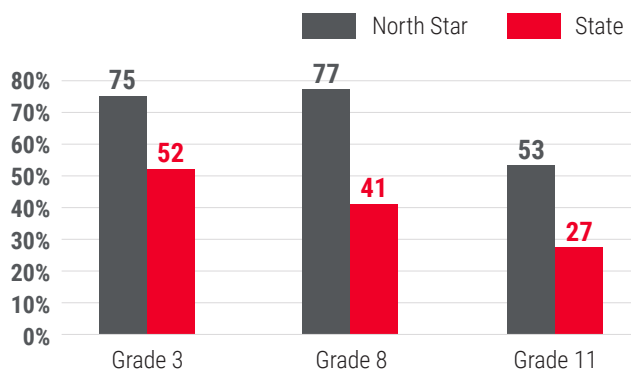
Photo courtesy of Uncommon Schools North Star Academy

2015-2016 PARCC EXAM PASS RATES

English/Language Arts:



Math:



SUPPORTING WRAPAROUND SERVICES FOR AT-RISK CHILDREN

Over many years, Lowenstein has maintained relationships with prominent nonprofits that exist to support children in need.

Kids Corp started as a summer school, founded in 1971 by retired Lowenstein partner Michael Nolan and his wife, Kathleen Murray-Nolan. Nearly 50 years later, Kids Corp offers a wide range of programs, including summer school and after-school classes, that improve math and literacy rates for 3,000+ Newark children. In addition, Kids Corp provides related services, including medical care, a leadership camp, field trips, and school supplies.

The firm has been a partner to Kids Corp since its founding, providing pro bono representation in real estate transactions that have expanded its programs, as well

as advice on employment matters, nonprofit governance, and collaborations with other nonprofits. Lowenstein attorneys have served on the board of directors. Through the community service program, staff have volunteered at Kids Corp and delivered hundreds of holiday gifts every December for the children the organization serves.

Another longterm pro bono client, **Big Brothers Big Sisters (BBBS)**, offers mentoring services to at-risk and low-income children. This organization has become a national leader in positive youth development. For four years in a row, over 90% of "little" brothers and sisters have graduated from high school and gone to college.

A nationwide study found that children matched with mentors through BBBS are:

- 46% less likely to begin using illegal drugs
- 27% less likely to begin using alcohol
- 52% less likely to skip school
- 37% less likely to skip a class
- 33% less likely to hit someone

Lowenstein has advised BBBS on employment matters, nonprofit governance, and mergers with other chapters of the organization. Recently, a litigation team settled a breach of contract suit against a local school district that had failed to fully compensate BBBS for in-school mentoring the organization had provided.

On November 7, 2016, the firm received this eloquent letter of thanks for our work with these valued pro bono clients:

Dear Gary [Wingens, CEO and Managing Partner],

As often happens in the little nonprofit corner of downtown Newark, I ran into a friend on the street the other day, Carlos Lejnieks of Big Brothers Big Sisters, and we ended up having an impromptu lunch to discuss our partnership; at least, that was the intention. Instead we spent most of our time sharing our terrific experiences with Lowenstein Sandler and discussing, somewhat with awe, how lucky we are to be the recipients of such a largess of support from one firm. We know that both of our organizations are well over the million-dollar mark of pro bono assistance, which in and of itself is extraordinary...

For Kids Corp, the additional generosity of funding, toys, coats, bookbags, school supplies, and the many LS partners who have served as Trustees over the years is really amazing.

Carlos and I also marveled at exactly how Lowenstein does all this — that is, how to foster a culture where giving back is not only encouraged but expected of every employee. Even as nonprofit leaders, we sometimes struggle to really incorporate social justice as the means AND the end at every level of our companies. I explained what I know of Mr. Lowenstein's guiding principles, and we wondered how other NJ corporations could be motivated to follow LS's example.

We didn't come up with solid answers (yet) but I wondered afterwards if you, and the many employees of Lowenstein Sandler whom Kids Corp and BBBS have been lucky to be served by, truly know how critical your generosity is, and how deeply it is appreciated. I cc'ed some of those great people we discussed; there are many more, at every level of LS, and I hope they are as proud of LS as we are grateful for it. We could not be doing what we do without you.

I just thought you should know!

*Peace,
Micháela Murray-Nolan*

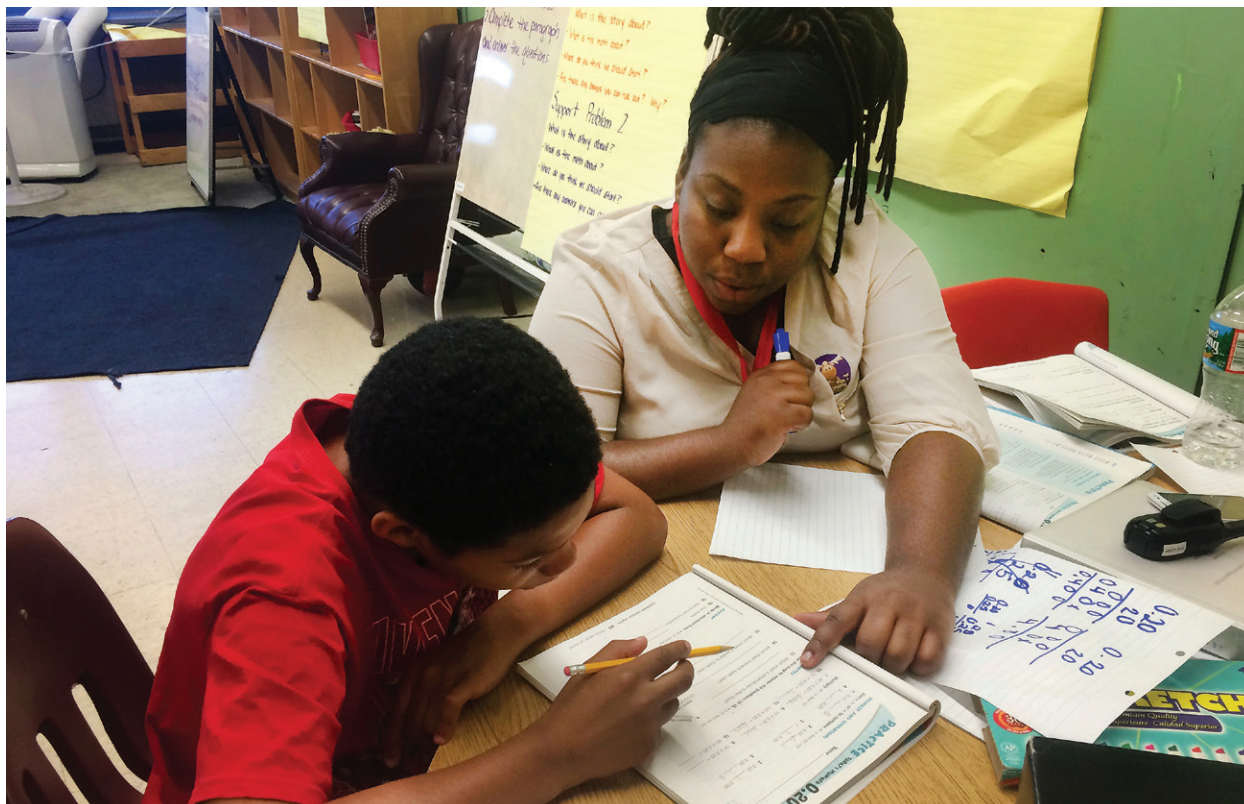


Photo courtesy of Kids Corp

Kids Corp's after-school classes help improve math and literacy skills for at-risk youth.

STABILIZING FAMILIES

Through an ongoing partnership with the **Legal Aid Society of San Mateo County**, Lowenstein represents adults applying for legal guardianship of children in their care. The Legal Aid Society estimates that as many as 10,000 children in San Mateo County are raised by someone other than their parents. These caregivers often lack the legal standing to make important decisions for the children in their care.

A family referred to the firm in 2016 provides an example of these common scenarios. "Lisa" was caring for two sisters, "Yanet" and "Maritza," both U.S. citizens. Their parents, who live in Mexico, could not meet the girls' educational and medical needs and so sent them to live with Lisa. In the States, the girls were starting school and receiving medical care, but

Yanet's health was not good. She had significant hearing loss, speech delays, and severe sleep apnea. Concerned that her condition was deteriorating, Yanet's doctors recommended immediate surgery. Lisa lacked the legal authority to consent to surgery, even though the girls' parents had entrusted her with their care.

Within 10 days, Lowenstein secured an emergency temporary guardianship order allowing Lisa to consent to the surgery. Yanet's doctor operated on her throat, easing her breathing and improving her hearing, which in turn enabled her to sleep and speak more clearly. A month later, the family was made whole through a full guardianship order. Lisa can now ensure appropriate ongoing care for the girls without worrying about legal obstacles.

The family was made whole through a full guardianship order. Lisa can now ensure appropriate ongoing care for the girls without worrying about legal obstacles.

HOUSING

Preventing Eviction

Eviction is epidemic in our cities. In collaboration with **Prudential, Volunteer Lawyers for Justice**, and **Essex County Legal Aid Association**, Lowenstein runs a monthly legal clinic to help low-income tenants defend themselves from imminent eviction. When a clinic client has a strong defense and limited ability to assert it, firm volunteers often keep the case and continue to negotiate or appear in court on behalf of the tenant.

The “calendar call” in the Essex County Landlord-Tenant Court is a study in rough justice for the poor. On the Tuesday morning after Thanksgiving, when one of the clinic volunteers met her client in court, the clerks “called” nearly 400 cases, meaning that they shouted out the names of the parties to a room where hundreds of people sat on wooden benches, windowsills, and wheelchairs and stood along every wall. The throng had been instructed to shout “tenant” or “landlord” when they heard their names, and the clerks had warned that a failure to respond would lead to a default (when a tenant did not respond) or a dismissal (if a landlord did not respond) that the clerks could not undo.

While nearly everyone in the room was a tenant, the landlords’ bar had colonized the front benches and the jury box to respond on behalf of their mostly absent clients. As the call went along, hundreds of cases were defaulted, resulting in eviction orders against the tenants who did not show up or respond on time. Meanwhile, the Lowenstein lawyer was the only one there for any of the hundreds of tenants in the room.

Except in the criminal context and in a limited number of other kinds of cases, low-income people are not entitled to appointed counsel when they cannot afford a lawyer. So they nearly always face eviction proceedings alone. There are 40,000 eviction actions filed each year in Essex County and 32,500 in D.C., both locations where firm lawyers represent tenants. In *Evicted*, a recent book on eviction and its effects, Harvard professor Matthew Desmond recounts that in the first half of the 20th century, evictions led to rent strikes and mass protests, while now evictions are so commonplace that low-income people have just stopped expecting stability in their homes.

The October clinic was especially challenging: temperatures were dropping, three-quarters of the tenants we saw had no heat, and some also lacked hot water. Two tenants, both single mothers, lived in conditions so deplorable that the volunteer lawyers and the clients worried that reporting the situation to code enforcement could result in immediate removal of the tenants. Bad as the apartments were, these women did not want to end up in shelters with their children.

Witnessing the suffering caused by eviction has motivated us to try to expand the legal services available to low-income tenants.

Both were proud and hardworking. One sewed uniforms for police officers and firefighters; the other worked in the public school system. Both seemed ashamed to be living in leaking, crumbling, infested apartments and anxious about the health risks their children faced as a result. In both cases, clinic volunteers asserted a defense based on the uninhabitability of the premises, and the landlords settled by forgiving unpaid rent, promising repairs, or both. One of the women remains a client of the firm. Her landlord failed to make the promised repairs, and she is now paying rent into the firm's trust account until he lives up to his side of the bargain.

These women are representative of the population facing eviction. According to Professor Desmond, women of color have far higher rates of eviction than other groups, and the presence of children in the household almost triples a tenant's odds of having an eviction judgment entered against her, even though discrimination against families with children violates the federal Fair Housing Act.

Witnessing the suffering caused by eviction has motivated us to try to expand the legal services available to low-income tenants. Every tenant benefits from representation her- or himself, but there is also a multiplier effect. When one tenant shows up with a lawyer, the landlord's counsel may become more cautious about repeating the abuses flagged in that tenant's case, and the court gets educated by hearing from both sides. We are



Photo by Bernard DeLierre

Lowenstein Pro Bono Counsel Natalie Kraner counsels a tenancy client outside the courthouse.

working with the leading nonprofit legal services organizations serving tenants in New Jersey to disrupt the process that displaces thousands of our neighbors from their homes. We also continue to meet with key personnel in the landlord-tenant court to address systemic problems we have observed. In this effort, we are learning from our experience in D.C., where the eviction machine is a little less crushing.

79

tenants were represented in 2016

19

fought for decent living conditions, prompting restoration of heat and hot water and remediation of lead paint, mold, infestations, and other hazards

20

won the right to remain in their homes, either through immediate dismissal of the eviction action or after a hearing

17

settled on terms that allowed them to remain in their homes

16

settled on terms that allowed them to vacate with additional time and/or money



Photo by Bernard DeLierre

“Derek” and his family have settled on terms that allow them to move to a better apartment.

AN EVICTION CASE STUDY FROM NY

Along with co-counsel at **Legal Services NYC**, Lowenstein represented a disabled veteran, “Derek,” and his family in an eviction proceeding. Derek’s wife and young daughter moved into his mother-in-law’s rent-stabilized apartment when Derek was deployed, eventually serving in Afghanistan. More than a year later, Derek returned to the U.S. with service-related injuries that left him disabled.

Derek’s mother-in-law moved out shortly after Derek’s return to make room for the reunited family. The landlord responded by trying to evict Derek and his family, arguing that they were not entitled to renew the lease that had been in the mother-in-law’s name. To make matters worse, Derek’s wife fell ill and became

disabled shortly after Derek returned from Afghanistan.

Lowenstein defended the clients from eviction by arguing that the apartment remains subject to the Rent Stabilization Code in New York City, which provides automatic succession rights to close family members who co-reside with the tenant-of-record in a rent-stabilized apartment for a set period. If the family member is disabled, as Derek and his wife are, the co-residency period is one year.

After months of litigation, the parties have agreed to a settlement that will provide the clients enough money to relocate to an apartment they prefer.

PROMOTING AFFORDABLE HOUSING

Part of what drives the gears of the eviction mill is the lack of affordable housing. At least a quarter of low-income renters nationally spend more than 70% of their income on housing. When they fall behind on the rent, as is almost inevitable, an eviction summons is pasted on their front door.

Lowering housing costs is part of the solution. The firm directly contributes to this effort through its ongoing representation of community development organizations that leverage grants and low-cost loans to invest in the creation of affordable housing. This work has yielded hundreds of new units and led to the rehabilitation of hundreds of others. The firm's mortgage finance team has also assisted its nonprofit clients with the bulk purchase and restructuring of nonperforming mortgages to keep families at risk of foreclosure in their homes.

Meanwhile, our litigators continue to push New Jersey's municipalities to meet their state constitutional obligation to zone for affordable housing. Since 2010, Lowenstein has represented the local chapter of the **American Planning Association, New Jersey Future**, and the **Housing and Community Development Network** in a series of appeals aimed at realizing the promise of economically and racially integrated communities.

In 2015, the courts at long last resumed the duty to enforce state constitutional and statutory affordable housing guarantees after the agency in charge of implementation had failed to issue valid regulations and then stopped functioning altogether. Many municipalities began to move toward compliance, but some resisted. In particular, they argued that



AP Photo/Mel Evans

Justices of the New Jersey Supreme Court hear oral arguments.

they should not be required to meet the affordable housing needs that arose during the 16-year period when the agency failed to promulgate or enforce valid rules.

In response, we filed friend-of-the-court briefs in 2016 urging the Appellate Division and the state Supreme Court to ensure that our towns and cities provide for those low- and moderate-income households that were formed during the prolonged "gap period" when implementation stalled. These are families still trying to emerge from the recession, the foreclosure crisis, and the mass displacements caused by Hurricane Sandy. Our briefs outlined the challenges they face, including spending most of their income on rent, forcing them to sacrifice other

essentials; doubling up with other households; being excluded from high-opportunity communities with good schools, jobs, and transportation networks; and, in the most extreme cases, joining the growing ranks of the homeless.

On January 18, 2017, the New Jersey Supreme Court stated unequivocally that "there c[an] be no hiatus in the constitutional obligation." As a result, "the need of presently existing low- and moderate-income households formed during the gap period must be captured and included in setting affordable housing obligations." The Court thus ensured that the ongoing struggle to achieve fair housing would not come at the price of erasing the obligations that arise during the effort to realize the right.

CIVIL & HUMAN RIGHTS

Protecting the Right to Vote



Photos by Bernard DeLierre

Lowenstein attorneys volunteer at the firm's Election Protection hotline center.

Dozens of voters told the firm's Election Protection hotline volunteers that poll workers were demanding ID in a state where the law does not require ID at the polls.

The Lowenstein leadership team got state and county election officials to stop this practice and take down signs that falsely stated ID was required.

A poll worker in a state where ID is in fact required refused to accept tribal ID from a Native-American voter, although the applicable statute explicitly authorizes the use of tribal ID to vote.

County officials acted immediately upon hearing from us to correct the poll worker and allow the voter to cast a regular ballot.

One poll worker picked a fight with a Muslim woman wearing a hijab who stood in line waiting to vote, questioning her citizenship although she was born and raised in the U.S.

County officials dismissed the poll worker after investigating our report.

Scores of voters called to say machines were down, and lines were snaking around the block.

Our leadership team got officials to send technicians or replacement machines.

Applications for early mail-in ballots were way up, but many voters did not receive the ballots they requested.

Several callers drove home from college, business trips, and other faraway places to vote. Our volunteers referred others to litigators, who won at least one court order allowing a traveling voter to cast an online absentee ballot by email.

In a few counties, bands of men in military or camouflage garb intimidated and shouted at voters in line. Some recorded voters' license plate numbers and threatened to "find them" if they voted the wrong way.

Our team alerted election officials, who either dispersed those who threatened or intimidated voters or enlisted the police to make arrests.

71 Lowenstein lawyers, paralegals, and staff volunteered

1,000+ pro bono hours dedicated

1,400+ calls received on the Lowenstein Election Protection Hotline on Nov. 7-8, 2016

107 external volunteers trained and hosted

On November 7 and 8, 2016, Lowenstein again ran one of the national hotline centers for Election Protection. Election Protection is a nonpartisan coalition that was formed in response to myriad problems that surfaced in the 2000 presidential election. Made up of more than 100 local, state, and national partners, Election Protection now works year-round to ensure that all eligible voters have a fair and equal opportunity to participate in the political process.

The **Lawyers' Committee for Civil Rights Under Law** coordinates leading law firms throughout the country to run hotlines that serve two key functions:

- assisting eligible voters in exercising their right to cast ballots that count, and
- collecting and recording real-time information that allows advocates to help solve trending problems during and following elections.

Lowenstein has participated in Election Protection during several election cycles, including in the immediate aftermath of Hurricane Sandy in 2012, when heroic efforts were required just to help stranded people get to the polls, or to bring voting

machines or paper ballots to them. Inspired by the determination of both voters and election officials to make democracy work in the midst of an overwhelming natural disaster, the firm has continued to dedicate hundreds of pro bono hours to protecting voting rights, not only through Election Protection but also in litigation aimed at ensuring access to the franchise for college students in New York and naturalized citizens in Arizona.

In the 2016 presidential election, the Lowenstein hotline received calls from voters in Kansas, New Jersey, and Oklahoma. A team of lawyers at the firm researched the election law in each of these states, created materials for hotline volunteers, and trained volunteers to use

these online tools to provide accurate assistance to voters while simultaneously recording information about calls in a nationwide database, Our Vote Live.

This database fed information to the firm's "command center," where a specially trained leadership team reviewed entries that had been escalated for further action. Volunteers in the command center spent the day on the phone with state and county election officials, solving problems that had been flagged by hotline volunteers. This real-time collaboration lowered barriers for hundreds of voters on Election Day, and the data we collected will inform nationwide election reform efforts going forward.

Voting rights remain under attack, and Lowenstein stands with the public interest organizations dedicated to protecting our democracy and restoring fair and equal access to the polls.



Scan this code with your smartphone or tablet to view Lowenstein's Election Protection video.

DEFENDING DIVERSITY IN HIGHER EDUCATION

In June 2016, the U.S. Supreme Court issued an opinion in *Fisher v. University of Texas*, upholding the University's multipronged plan to attain "the educational benefits that flow from student body diversity." The University had included race as a factor in admissions (though still a minor and subsidiary factor) only after a yearlong study showed that race-neutral policies had not been successful in fostering cross-racial understanding or preparing students to function in an increasingly diverse workforce and society. The Court concluded that the University had narrowly tailored its complex admissions system to achieve its compelling interest in diversity.

As co-counsel with professors at UCLA and Seton Hall Law Schools, Lowenstein

The Court's opinion acknowledges the importance of this research in noting that "privileging one characteristic [class rank] above all others does not lead to a diverse student body."

filed a friend-of-the-court brief on behalf of 15 experimental psychologists. The brief reviewed the extensive body of research showing that standardized test scores and grades systematically underestimate the actual academic capacity of members of certain minority groups.

This distortion is attributable to "stereotype threat," the fear that performance on a test could confirm a negative stereotype

about a group to which the test-taker belongs. When this fear is triggered – as when very few members of a minority group are present in the test-taking population and the test is characterized as a measure of intelligence – minority test-takers perform consistently and measurably worse than when threat conditions are mitigated – as when the test-takers are diverse and the test, while actually identical, is described as problem-solving.



From *The Atlantic*, Jose Luis Magaua/Reuters

Demonstrators outside the U.S. Supreme Court support the winning side in *Fisher v. University of Texas*.

In low-threat circumstances, both racial and gender-based achievement gaps narrow significantly or disappear. These results have been replicated in hundreds of studies.

The implications for college admissions, the brief argued, are profound. An admissions policy that takes proper account of how test scores and grades are artificially depressed by stereotype threat is not a departure from a merit-based system but

a more accurate merit-based system. Moreover, one critical counter to stereotype threat is to enroll enough minority students to ensure that, at the classroom level, students do not experience themselves merely as representatives of their race.

The Court's opinion acknowledges the importance of this research in noting that "privileging one characteristic [class rank] above all others does not lead to a diverse

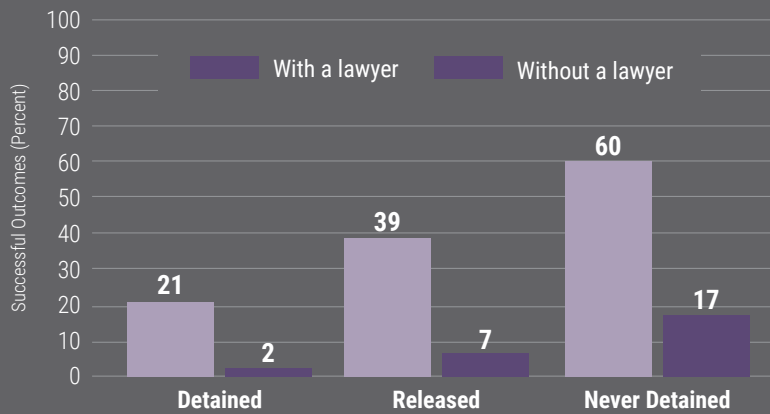
student body." And the dissent expressly cited our brief in questioning whether the University is justified in relying on the SATs to the extent that it does. The case demonstrates the importance of bringing social science to bear on the Court's continuing struggle with the role of race in college admissions.

IMMIGRATION

One of Lowenstein's asylum clients with her young daughter, named for the client's pro bono lawyer at the firm.



SUCCESSFUL OUTCOMES* BY DETENTION AND REPRESENTATION STATUS



Ingrid V. Eagly & Steven Shafer, *A National Study of Access to Counsel in Immigration Court*, 164 U. Penn. L. Rev. 1, 50 (2015).

* A successful outcome is one that allows an immigrant in deportation proceedings to remain in the U.S.

Working closely with **Kids In Need of Defense (KIND)** and **Human Rights First**, Lowenstein continues to represent children and asylum seekers in immigration matters. Although deportation proceedings are complex, adversarial (the government is represented by lawyers for the Department of Homeland Security), and conducted in English, immigrants are not entitled to appointed counsel. Those who manage to find lawyers are 3 to 10 times more likely to be allowed to remain in this country than those who don't.



Photo by Bernard Delierre

Seeking Clemency

The United States has the largest prison population in the world, with more than 2.3 million people behind bars.

Accounting for just 5% of the world's population, the U.S. incarcerates roughly a quarter of the world's prison population.

Many are locked up for nonviolent offenses.

The U.S. prison population has more than quadrupled since 1980. This increase is largely driven by a spate of draconian antidrug and sentencing laws enacted in the 1980s and '90s that required judges to impose mandatory minimum sentences on those convicted of low-level, nonviolent crimes, such as drug possession. The sentencing laws have significantly changed in the past few decades: among other things, the Fair Sentencing Act of 2010 has reduced the disparity between federal penalties for crack cocaine and powder cocaine offenses, and judges are now afforded more discretion when meting out sentences. Yet tens of thousands of federal prisoners continue to serve lengthy sentences that would be illegal if imposed today.

In an effort to bring the sentences of federal inmates more in line with current sentencing laws and practices, President Obama and the U.S. Department of Justice undertook a historic initiative to grant executive clemency to certain prisoners. To qualify, a prisoner must:

- have been sentenced to a longer term than would be legal under current sentencing law and policy;
- have no history of violence;
- have been a low-level offender without significant ties to any large-scale criminal organization;



Official White House Photo by Pete Souza

President Obama was the first sitting President in history to visit a federal prison.

- have been incarcerated for at least 10 years, and
- have demonstrated good conduct in prison.

President Obama commuted 1,715 federal sentences while in office – more than any president in history. He described his use of the clemency power as “another step forward in upholding our ideals of justice and fairness” and explained that “if we can show at the federal level that we can be smart on crime, more cost-effective, more just, more proportionate, then we can set a trend for other states to follow as well. And that’s our hope.”

Of the commuted sentences, 894 were supported by the Clemency Project, a consortium of national organizations that came together to screen applicants and mobilize volunteer lawyers throughout the country. Lowenstein attorneys participated in the Clemency Project and prepared and filed petitions to the Office of the Pardon Attorney to commute the sentences of several of our clients.

One such client is “David,” who at 28 years old was taken away from his four sons when he was convicted of a nonviolent drug offense and sentenced to serve 27 years in federal prison. He has already served more than 15 years of this sentence, receiving treatment for his drug addiction and preparing himself to rejoin

his family and reintegrate into society. His dream is to go to culinary school and become a cook in a restaurant so that he can provide for his elderly parents, children, and granddaughter.

David’s family sent several letters to President Obama in support of his petition for clemency. His father told the President:

Since he has been incarcerated . . . I have seen a humble family man with improved attitude. I believe his years there ha[ve] taught him discipline and values life has to offer.

David’s son agreed:

My dad is my hero. We love him and need him back . . . Yes, he made a bad decision and has given over a decade of his life regretting the mistakes he made. He deserves a chance to set his life back on track. He has a tribe of hardworking sons, a granddaughter, parents, three siblings, and a lot of nieces and nephews who need him. He will complete our close-knit family and he will work toward a successful, prosperous, and enriched life.

Thanks to the Clemency Project, David will be able to go home and take the second chance his family is offering.

PROTECTING AN INCARCERATED JUVENILE FROM ABUSE

As a founding member of Youth Justice New Jersey, a coalition dedicated to reforming the state's juvenile justice system, Lowenstein has long been committed to improving the conditions of confinement for incarcerated youth. Through this work, the firm came to represent "Michael," a teenager incarcerated in a juvenile prison who suffered injuries when he was assaulted by the corrections officers who were supposed to ensure his safety.

One day while in custody, Michael went through the cafeteria line, got baked beans for lunch, and headed for a seat. As he put his tray down, the beans splashed on him and a corrections officer, Officer "Gilbert," who was sitting at the table. Michael immediately apologized. Officer Gilbert said nothing, but then dumped the tray of food onto Michael. Michael did not respond; instead, he sat on the floor, covered with food, and waited to return to his housing unit. When he returned to his unit, Michael began to clean the food off himself. As he was doing so, another inmate, who was standing near Michael, told Officer Gilbert what he thought of the officer's treatment of Michael during lunch. This conversation quickly escalated, and an officer witnessing the interaction called for assistance. Additional corrections officers arrived.

Michael observed what was happening but did not take part in the exchange. He then heard a corrections officer say that he was refusing orders, but Michael had not heard any orders directed to him. Corrections officers began punching and kicking Michael. Although he tried

to tell them that he was not resisting, the officers knocked him to the floor and placed him in leg irons and handcuffs behind his back. The officers proceeded to get him on his feet and then slam him to the ground face-first, while he was handcuffed and shackled. Unsatisfied, the officers continued to hit him while they were inside a vehicle headed to an on-site medical center.

Michael suffered many injuries, the most serious of which were to his eye. He had a fractured eye socket and a damaged retina that caused him daily pain. Michael also suffered significant psychological harm; he was anxious and scared of further abuse from the officers. After having been placed in another facility, Michael refused to return to the one where the assault occurred, and he repeatedly received disciplinary charges for this refusal. These charges impeded his progress toward placement in a community home where he would have more freedom and interfered with his chances for early parole.

After Lowenstein became involved, we were able to ensure that Michael

received the medical attention he required. A year after the assault, his vision remained blurry and he was in pain after having had an apparently unsuccessful surgery to repair his torn retina. Recognizing that the first surgery was ineffective, we made sure that the Juvenile Justice Commission sent Michael to a third-party specialist, who performed the surgery successfully and directed proper aftercare.

We also ensured that: (1) Michael would no longer receive disciplinary charges for refusing to transfer back to the facility where he was assaulted, and (2) he was permitted to transfer to a community home. Through his hard work and good behavior while at the residential facility, Michael was able to demonstrate to the parole board that he was ready to go home. Michael was granted parole and is currently thriving at home.

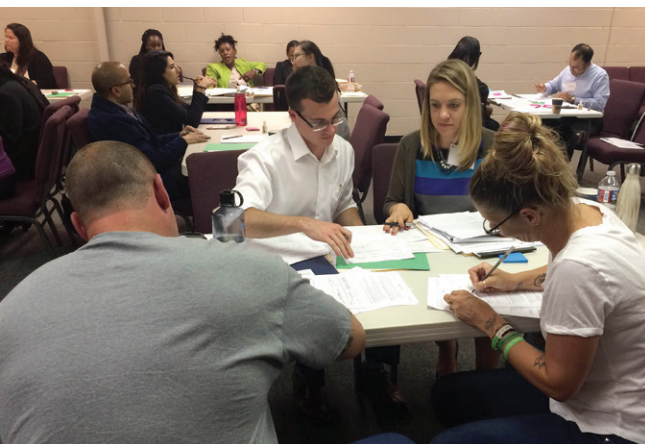
We continue to pursue damages on his behalf for the injuries he suffered as a result of the corrections officers' use of excessive force against him.

Statement: Yesterday I witnessed **Michael** get restrained in a unecessary way. **Michael** was taken down by 3-5 co's in a harsh matter. Then **Michael** was hand cuffed And Shackled And Brought to his feet. After **Michael** was Brought to his feet he, Again got took down. he was slammed directly on his face. he was saying stop while Blood poured out of his mouth while the co's knee was on his Jail Bone.

Nine fellow inmates wrote eyewitness accounts like this one.



Photos courtesy of OneJustice



On a Justice Bus trip, Lowenstein lawyers and summer associates helped Vallejo residents clear their criminal records.

CLEARING CRIMINAL RECORDS

In collaboration with the Solano Public Defender's Office, the Revival Center, and Legal Services of Northern California, Lowenstein attorneys provided 30 California residents with legal advice on how to clear their criminal records (more commonly known as expungement). **OneJustice**, a California nonprofit dedicated to ensuring broad access to

civil legal services, organized the clinic through the Justice Bus, which transports volunteers to areas where low-income individuals would otherwise have no access to lawyers.

A criminal record clearance helps open the door to many opportunities. As one client explained: "I have struggled with

misdemeanors on my record for the past three years and, because of them, have not received clearance for state jobs. It has been frustrating trying to do this alone. Today, my volunteer attorneys assessed my situation and filed paperwork for me. I appreciate the help I received today."

Protecting Survivors of Domestic Violence

The National Domestic Violence Hotline reports that, on average, 24 people per minute are victims of physical violence, rape, or stalking by an intimate partner in the U.S. Approximately 80% of the 12 million victims a year are women. Most suffer multiple acts of violence by a single offender, and the abuse does not always end when the survivor leaves the relationship.

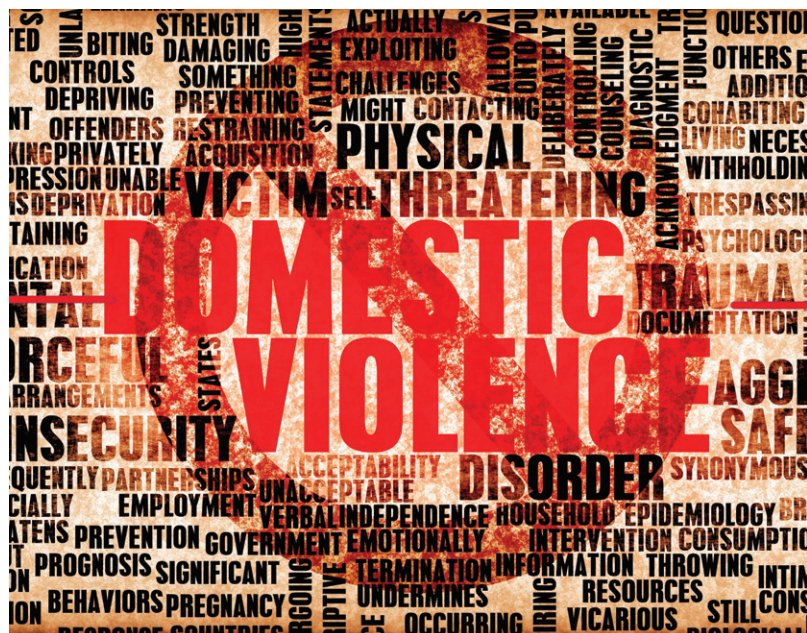
For decades, Lowenstein has been working with **Partners for Women & Justice, HerJustice, Jersey Battered Women's Services**, and a number of other organizations to protect survivors of domestic violence from their abusers. In 2016, the firm provided more than 1,500 hours of pro bono service to survivors of domestic violence and the nonprofit organizations that serve them.

- We represented "Carla" in obtaining a final restraining order against her ex-boyfriend, "Juan." Carla had been dating him for nearly three years when he showed up at her job intoxicated and yelling at her, after messaging her 50 times. Juan waited for Carla to finish her shift. He approached her in the parking lot and began punching her; he then grabbed her by the neck and hair and dragged her toward his car. Carla's supervisor saw the assault and called 911, but Juan was able to flee the scene before the police arrived. This wasn't the first time that Carla's boyfriend had assaulted her, but she decided that it would be the last. She obtained a temporary restraining order and sought assistance from Lowenstein. At the end of a contentious hearing that lasted five days, we succeeded in obtaining a permanent restraining order.

In 2016, the firm provided more than 1,500 hours of pro bono service to survivors of domestic violence and the nonprofit organizations that serve them.

- Becky's ex-boyfriend attacked her when she went to pick up their seven-year-old daughter from a weekend visit. He spit on her, choked her, and threatened her. Becky was 8½ months pregnant at the time. Afraid for herself and her family, she turned to Lowenstein for help. We were able to obtain a final restraining order by establishing during the hearing that Becky had been the victim of assault, harassment, and threats.

Lowenstein's work to protect and advocate for survivors of domestic violence extends beyond direct representation. Our



corporate and litigation teams have also represented nonprofits dedicated to assisting survivors: we have advised on compliance with the terms of government grants, reviewed and revised nonprofit bylaws, and offered guidance on employment and intellectual property issues.

PETITIONING FOR NAME CHANGES

In 2016, the firm launched the Name Change Project with the **Transgender Legal Defense & Education Fund (TLDEF)** through which we represent low-income transgender people in their legal name change proceedings.

Transgender individuals whose appearance does not match the name or gender designation on their identity documents routinely face obstacles when presenting their ID. An encounter with a police officer during a traffic stop, an interview with a potential employer, going through security at the airport, buying a home or car, and countless other daily interactions lead to personal questions and require prolonged explanations and sometimes additional proof of identity. Fear of such encounters deters transgender people from applying for jobs, school, and public benefits. A lack of appropriate identity documents can also lead to discrimination.

Many transgender individuals want to change their name so that their legal identities match their lived experience, but it can be a daunting legal process. Applicants have to appear for a hearing before a judge, publish notice of their name change in local newspapers, notify the right parties, and file the right forms with a number of governmental agencies. In addition to the difficulties they encounter in navigating the legal system and the bureaucracy, they may experience prejudice from the judicial and governmental employees they encounter along the way.

Our lawyers represent clients referred by TLDEF through all phases of the legal name change process. Choosing a name that matches their identity and experience is a life-changing event for many of our clients.

COMMUNITY SERVICE

Lowenstein in the Community

350+

volunteer hours



Lowenstein professionals volunteer to serve the community.



- Participated in the **Memorial Sloan Kettering Cancer Center's** Cycle for Survival, cycling relay-style for four hours to raise money for cancer research. The NY, NJ, and Palo Alto teams raised over \$15,000.
- Painted and revitalized the recreation room of **Valley Settlement House** in partnership with **Jersey Cares**.
- Through **Together We Rise**, created "Sweet Cases," duffel bags filled with blankets, toys, coloring books and crayons, stuffed animals, and hygiene kits for foster children in the D.C. area.
- Prepared and served meals for more than 100 people at the **Community Soup Kitchen and Outreach Center** in Morristown, NJ.
- In partnership with the **Newark Day Center's Fresh Air Fund**, coordinated and participated in the annual Battle of the Barristers softball tournament to raise money to send inner-city kids to summer camp.
- Collected, sorted, and prepared school supplies for distribution by **Volunteers of America – Greater New York, Jersey Cares, Boys & Girls Club of Greater Salt Lake, Unity Care of Palo Alto**, and **Mary's Center** in D.C.
- Collected more than 1,000 holiday gifts for **Kids Corp** to give to Newark children in need; acted as Santa's helpers to two inner-city classrooms in NYC, delivering toys for the holidays to 60 children; sponsored three children for the holidays at **D.C. Bright Beginnings** and six children through **D.C. Child and Family Services Agency**.
- Collected and donated more than 700 books to students in under-resourced schools through **Project Cicero Northern New Jersey**.

1,200+

toys donated

1,000+

pounds of school supplies donated

700+

books donated

ACKNOWLEDGMENTS

LOWENSTEIN WORKS WITH AND CONTRIBUTES TO A WIDE ARRAY OF NONPROFITS, INCLUDING:

ACLU	Jersey Battered Women's Services	New York Lawyers for the Public Interest	Seton Hall Law School
Advocates for Children of New Jersey	Jersey Cares	Newark Charter School Fund	The Bronx Defenders
American Conference on Diversity	Kids Corp	NYU School of Law	Together We Rise
American Friends Service Committee	Kids in Need of Defense (KIND)	OneJustice	Transgender Legal Defense and Education Fund
American Planning Association	Law Foundation of Silicon Valley	Partners for Women and Justice	Uncommon Schools North Star Academy
Big Brothers Big Sisters	Lawyers Alliance	Pro Bono Institute	Unity Care
California Lawyers for the Arts	Lawyers' Committee for Civil Rights Under Law	Pro Bono Partnership	Volunteer Lawyers for Justice
Children's Law Center	Legal Aid Society of D.C.	Project Cicero Northern New Jersey	Young Center for Immigrant Children's Rights
City Bar Justice Center	Legal Aid Society of San Mateo County	Rachel Coalition	Youth First!
Community FoodBank of New Jersey	Legal Outreach, Inc.	Rising Tide Capital	YWCA of Union County
Community Hope	Legal Services Corporation	Rutgers University School of Law	
Cycle for Survival	Legal Services NYC		
Education Law Center	Legal Services of New Jersey		
Essex County CASA	Legal Services of Northwest Jersey		
Essex County Family Justice Center	Minding Our Business		
Essex County Legal Aid Association	National Center for Lesbian Rights		
Essex-Newark Legal Services	National Legal Aid & Defender Association		
Free the Slaves	New Jersey Community Capital		
Fresh Air Fund	New Jersey Community Development Corporation		
Habitat for Humanity	New Jersey Future		
Her Justice	New Jersey Institute for Social Justice		
Housing and Community Development Network	New Jersey Office of the Public Defender		
Human Rights First			
Isaiah House			

THE FIRM ALSO PARTNERS WITH CORPORATE LEGAL DEPARTMENTS AND VENDORS IN ITS PRO BONO PROGRAM, INCLUDING:

Corporate Partners:

Bristol-Myers Squibb
Hewlett-Packard
Intel
Merck
Prudential
Sanofi
Wyndham

Vendors:

Images by Bernard DeLierre
Thomson Reuters WestLaw
Tranzlations, Inc.
Veritext

Lowenstein accepts requests for individual pro bono assistance through referrals from approved legal services organizations. Individuals in need of pro bono legal help should contact their local legal services organization or bar association or visit www.lawhelp.org.

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