

2018 Pro Bono Report

Lowenstein Center
for the Public Interest



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 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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CONNECTING PEOPLE TO JUSTICE



Looking back over the past 10 years, I'm struck by the number of bridges we've built to connect communities in need, legal service organizations, and the private bar. These bridges take time to construct. The pro bono clients we serve have no direct access to law firms. When they can, these clients connect with legal service organizations, which in turn direct some of them to firms like this one. In this sense, the legal service organizations are the center pillars of our bridges: They do the outreach, screening, and intake on which we depend to be connected with pro bono clients; and they conduct the trainings, provide the materials, and offer the mentoring our volunteers need to be equipped to represent these clients.

The Lowenstein Center for the Public Interest has reciprocated, not only with pro bono time and financial support, but also by forging new connections for our legal service partners. For example, we represent several legal service providers for immigrant children in the class actions challenging the family separation policy. As the class actions proceeded, the children's lawyers grew concerned because the particular needs of several groups of children had been overlooked. We stepped in to negotiate with class counsel on behalf of the providers' child-clients, ultimately appearing in the class cases to advocate for solutions. We thus helped ensure that the lawyers with the closest connections to hundreds of separated children could give their clients a voice in the impact litigation.

We've also engaged leading clients of the firm in pro bono practice. We are entering the fourth year of full operation

of a tenancy clinic we run with Prudential and Volunteer Lawyers for Justice, and the Prudential volunteers have gained real expertise in protecting clients from imminent eviction, as evidenced by the extraordinary success rate of clinic clients. In a similar vein, we represented several major corporate clients in filing an amicus brief to preserve DACA (Deferred Action for Childhood Arrivals) so that valued employees would not lose the right to work and face a renewed threat of deportation.

We engineer and maintain these bridges to create meaningful opportunities to serve the people and causes that move us. Given the enormity and range of the issues our pro bono clients encounter, we need as dense a network as we can build. As always, our profound thanks to our volunteers, the clients who trust us with their challenges, and our legal service and corporate partners who join us in serving those who would otherwise lack access to justice.

Warmly,

A handwritten signature of Catherine Weiss in black ink, written in a cursive style.

Catherine Weiss

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

PRO BONO BY THE NUMBERS

2009–2018

2018

216,170

hours dedicated to pro bono work by Lowenstein

19,287

hours dedicated to pro bono work by Lowenstein

2,248

pro bono clients served by Lowenstein lawyers

600

pro bono clients served by Lowenstein lawyers

75

hours on average dedicated to pro bono work by each firm lawyer

59

hours on average dedicated to pro bono work by each firm lawyer



IMMIGRATION

Responding to Family Separation

Building on its now decadelong experience representing dozens of immigrant children, Lowenstein has been involved in responding to the family separation crisis since separated children began to flood the New York shelters in the spring of 2018. Our involvement has gone through several phases as the crisis unfolded, from early efforts to ensure that the children had access to counsel to our ongoing representation of reunified families. All along, the firm has worked with legal service providers to give voice to the children and protect their legal rights.

Phase 1: Ensuring Representation

In April 2018, several weeks before the media turned its focus to the family separation crisis, the firm received a request from the **Vera Institute of Justice**, which holds the federal contract to coordinate legal services for children in federal custody throughout the nation. Vera subcontracts with direct legal service providers to cover the more than 100 shelters in 17 states where immigrant children are detained. Traditionally, these shelters had been used primarily for unaccompanied immigrant children, those who cross the border without a parent or guardian. By April 2018, however, scores of children younger than six had

By April 2018, however, scores of children younger than six had entered the shelter system, including some babies in arms; they had clearly not crossed the border alone.

entered the shelter system, including some babies in arms; they had clearly not crossed the border alone. Hundreds of older children also entered the system

reporting that they had been separated from their parents after arriving together. The government designated them as unaccompanied children and generally

“The practice of separating these families was implemented without any effective system or procedure for (1) tracking the children after they were separated from their parents, (2) enabling communication between the parents and their children after separation, and (3) reuniting the parents and children after the parents are returned to immigration custody following completion of their criminal sentence. This is a startling reality. The government readily keeps track of personal property of detainees in criminal and immigration proceedings. Money, important documents, and automobiles, to name a few, are routinely catalogued, stored, tracked and produced upon a detainee’s release Yet, the government has no system in place to keep track of, provide effective communication with, and promptly produce alien children. The unfortunate reality is that under the present system migrant children are not accounted for with the same efficiency and accuracy as property. Certainly, that cannot satisfy the requirements of due process.”

Ms. L v. ICE, 310 F. Supp. 3d 1133, 1144 (S.D. Cal. 2018)

initiated independent removal (i.e., deportation) proceedings against them.

Vera reached out because some of the subcontracted legal service providers were declining to represent children under six on the ground that these children lacked the capacity to direct the representation. Because lawyers are ethically bound to take direction from their clients, some of the legal service providers believed there was an ethical bar to representing very young children. Vera asked for an ethics opinion about how and whether lawyers can engage with children who cannot speak for themselves. In addition, Vera sought advice on the ethical obligations of lawyers representing older children whose wishes differ from their parents’.

Ethicists in the firm, in collaboration with lawyers who have extensive experience representing immigrant children, delved into the rules and opinions on representing minors and drafted the requested memos. Vera circulated them widely to legal service providers around the country, who then relied on the memos to engage with very young children and to work through disagreements between children and parents.

At the core of the advice on representing very young children is the obligation to locate their parents and take direction from them, unless there is evidence of parental unfitness. The children’s lawyers made extraordinary efforts to do so despite the lack of any information from the government about who or where the children’s parents were and the all-but-insurmountable barriers to communication with immigrants in detention.

Phase 2: Mobilizing the Private Bar

By summertime, the scope of the family separation crisis became clear. In response to a class action filed by the ACLU, a federal court in California ordered the government to identify and reunify the separated families. Recent government reports state that at least 2,816 children had been separated from their parents or other caregivers as of July 2018, with more than 100 additional separations since then. While the legal service providers were logging thousands of hours working with these children and their parents, the problem demanded a larger mobilization of resources.

Lowenstein Sandler and Paul Weiss drafted a *New York Times* op-ed explaining the ongoing assault on the rule of law and securing commitments from 34 law firms to help reunify families and ensure representation for them. Those firms have kept their pledges: private lawyers around the country have traveled to the border to assist separated parents, continuing in some cases to represent those parents after their release from detention; located and communicated with deported parents about their wishes for their children who remained in shelters in the United States; and worked to find and represent reunified families all over the country.

The New York Times

The Law Did Not Create This Crisis, but Lawyers Will Help End It

By Brad S. Karp and Gary M. Wingens

Mr. Karp is chairman of Paul, Weiss, Rifkind, Wharton & Garrison. Mr. Wingens is chairman and managing partner of Lowenstein Sandler.

June 25, 2018

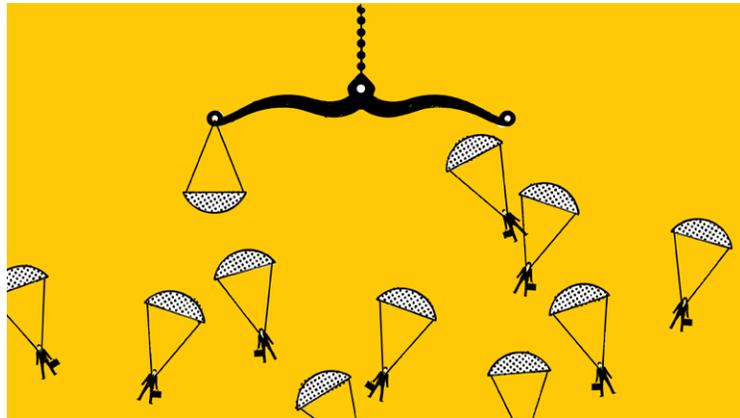


Illustration courtesy of Chris Gash

Phase 3: Building a Bridge Between Legal Service Providers and Class Counsel

The reunification process proceeded in an information void, just as the separations had beforehand. Children disappeared from shelters with no prior notice to the lawyers who were representing them. Often, shelter caseworkers and the government lawyers who were prosecuting the children's immigration cases had little or no information about where they had gone. Moreover, court orders in the class action cases had unintended consequences for individual children, such as preventing their removal even when the children had agreed to return to their home countries for the purpose of reunifying with parents who had already been deported.

Alongside Catholic Charities, we negotiated with class counsel to enable children to reunify with their parents in their home countries.

Catholic Charities Community Services of the Archdiocese of New York, the legal service provider covering the New York City shelters, reached out to the firm for assistance in advocating with

class counsel on behalf of its child clients. Alongside Catholic Charities, we negotiated with class counsel to enable children to reunify with their parents in their home countries; in compelling circumstances, we helped children reunify with family members other than the parent from whom they had been separated; and we advocated on behalf of children who remained separated long beyond the time they should have been reunified.

Phase 4: Objecting to a Proposed Settlement

As some of the class cases moved toward settlement, the interests of certain groups of children were overlooked. In particular, some children had agreed to court orders for voluntary departure in the belief that they would reunify with their parents in their home countries (which hundreds were). Because court orders in the class cases prevented certain deportations, however, some children were reunified with parents in the United States while their voluntary departure orders remained in effect.

Immigrants (including children) who overstay voluntary departure orders are subject to severe penalties, including removal orders, reentry bars, 10-year ineligibility for lawful permanent residency, and fines. Yet the proposed settlement did not address how to protect children from these consequences. Likewise, the proposed settlement did not specify what immigration proceedings would apply to children who re-separated

The court approved the settlement but instructed the parties to negotiate with us and propose solutions to each of the issues we raised.

from their parents after initial reunification, although some children have compelling reasons to do so. Moreover, certain provisions in the proposal were too unclear for children and others who would be bound by the settlement to decipher.

On behalf of Catholic Charities, **Safe Passage Project**, and **The Door**, which together represented more than 170 separated children, the firm filed objections to the proposed settlement and appeared at a fairness hearing in federal court in the Southern District of California. The court approved the settlement but instructed the parties to negotiate with

us and propose solutions to each of the issues we raised. These negotiations have led to a court order clarifying the settlement. In addition, the government has agreed not to oppose motions to reopen filed on behalf of children for the purpose of vacating their removal orders and the other penalties associated with lapsed voluntary departure deadlines. As to children who may have pressing reasons to re-separate from their parents, they will gain the benefits of designation as "unaccompanied" if they meet the legal definition by virtue of having no parent available to provide care and custody in the United States.



Photo by Bernard DeLierre

One of the formerly separated families the firm represents, standing in front of our New York office

Phase 5: Finding and Representing Reunified Families

Throughout the chaotic reunification process, a group of firms and legal service providers worked together to try to locate and contact released families, offer intake and screening, and place them with legal services or pro bono lawyers. The resources required for this effort have been significant, as the government had released at least 2,100 reunified families into communities throughout the United States by mid-December. No single organization had information on their whereabouts, except perhaps the government, which would not share this information other than with lawyers who presented proof of their representation of members of the family. Such proof was of course unavailable for those families who

Lowenstein worked closely with Kids in Need of Defense (KIND) to identify and collect contact information from an array of sources for approximately 50 of the reunified families who appeared to have resettled in New Jersey.

had not yet been matched with lawyers in their new communities.

Lowenstein worked closely with **Kids in Need of Defense (KIND)** to identify and collect contact information from an array of sources for approximately 50 of the reunified families who appeared to have resettled in New Jersey. After persistent

outreach efforts, KIND has now screened and placed many of these families, including three who are currently being represented by the firm in their ongoing removal proceedings. The children in these families, who endured forced separation and months of detention, range in age from three to 12 years old.



Phase 6: Fighting Ongoing Separations

After the initial spate of separations and the public outcry that ensued, after the President issued an executive order purporting to stop the routine practice of separating families, and after a federal court had enjoined family separation absent a showing of parental unfitness, children continued to enter the shelter system claiming to have been taken away from their parents. The Office of the Inspector General at the federal Department of Health and Human Services reports that at least 118 such

children were placed in the shelters between July 1 and November 7, 2018.

Working with Catholic Charities, the **Center for Constitutional Rights**, and the **ACLU**, we successfully advocated for the release of a four-year-old boy and a six-year-old girl, each of whom had been detained for more than 10 weeks without apparent justification. The girl was taken into custody because her mother needed emergency surgery immediately after they arrived in the United States. Although the mother was soon released from the

hospital, the daughter was held for several more weeks despite a psychological evaluation that showed she was suffering extreme trauma. We continue to work with our clients and partners toward establishing due process protections for families facing separation going forward.

The boy's story is told in detail in the [November 27](#) and [December 12](#) editions of *ProPublica*



FAMILY SEPARATION BY THE NUMBERS

The government has so far identified:

2,816

children who were separated from a parent or other caregiver before the June 26, 2018, court order enjoining family separation, of whom

2,657

have so far been reunified with a parent or other family member

and

118

children who were separated after the court order (from July 1 to November 7, 2018), of whom

82

are under age 13, including

27

under age 5

Preserving Deferred Action for Childhood Arrivals (DACA)

Established in 2012, DACA permits undocumented individuals who came to the United States as children, and who meet certain criteria, to get work authorization and protection from deportation for renewable two-year periods. In 2018, several states filed a case, *State of Texas v. United States*, seeking to invalidate DACA. They asked for a preliminary injunction to put an immediate stop to the program, claiming that it violates the Federal Administrative Procedure Act. The State of New Jersey intervened in defense of DACA.

Lowenstein filed an amicus brief on behalf of **Audible, Bristol-Myers Squibb, Montclair State University, the New Jersey Business & Industry Association,**

The court denied a preliminary injunction, meaning that DACA was at least temporarily saved, and eligible young people can continue to apply for protection under the program.

the **New Jersey Chamber of Commerce, Prudential Financial, Sanofi US, and Verizon Communications.** The brief highlighted the significant harms that would result if DACA were enjoined and thousands of immigrants suddenly became unable to contribute to the state's economy by working, attending school, and paying taxes.

The court denied a preliminary injunction, meaning that DACA was at least temporarily saved, and eligible young people can continue to apply for protection under the program. The challengers chose not to appeal but instead to prepare for trial. Meanwhile, appeals are proceeding in other DACA cases.

Protecting Indonesian Immigrants from Religious Persecution

For decades, a group of Indonesian Christians lived as neighbors and worshipped as co-congregants at churches in central New Jersey. Many had fled anti-Christian, anti-Chinese violence in Indonesia in the late 1990s, seeking

refuge and the freedom to practice their religion. Very few gained lawful immigration status in the United States, in part because conditions for Christians improved in Indonesia in the early 2000s. By the 2010s, however, the tide had turned

again as Islamist hardliners gained sway in Indonesia. The Indonesian government was either complicit in or failed to control the resulting rash of church burnings and bombings, assaults on Christians, and prosecutions of Christians and members of other minority religions under the blasphemy and *shari'a* laws.

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A minister at the Reformed Church of Highland Park turned to the firm for assistance on behalf of his large Indonesian congregation. We helped secure the agreement of the Department of Homeland Security not to pursue the deportation of Indonesian Christians in the region and to grant them work



Harry Pangemanan, Mariyana Sunarto, and their daughters

Photo by Bernard DeLierre

authorization in return for their agreement to come out of the shadows and keep regular monitoring appointments.

This fragile truce lasted until 2017, when the Department of Homeland Security began to detain and deport Indonesian Christians when they showed up for their monitoring appointments. After an especially alarming enforcement action in which Immigration and Customs Enforcement [arrested two fathers just after they dropped their daughters at school](#), the ACLU sued in federal court and won an injunction against further deportations until members of the community had had a chance to file

motions to reopen their immigration proceedings and seek asylum.

The ACLU then turned to Lowenstein to draft model papers for the motions to reopen for members of this community. We did so, and agreed in addition to represent Harry Pangemanan and his wife, Mariyana Sunarto, lead plaintiffs in the federal lawsuit and longtime advocates for their community. Mr. Pangemanan and Ms. Sunarto would face extra risk if they were deported to Indonesia because of their outspoken support of the rights of Indonesian Christian asylum-seekers in the United States. The Indonesian government knows of our clients and views them,

and others who advocate for asylum for Indonesian expatriates, as traitors.

In addition to their work for asylum seekers, both Mr. Pangemanan and Ms. Sunarto have volunteered extensively through the church to coordinate and participate in relief efforts for victims of natural disasters in the United States and around the world. We have moved to reopen their immigration cases so that they can apply for asylum and win the right to remain here with their two U.S. citizen daughters, ages 16 and 11. The motions are pending before the Board of Immigration Appeals.

Obtaining Asylum for a Political Dissident

Working with **Human Rights First**, we won asylum for “Ahmed Abakar,” a young man who was repeatedly targeted because of his family’s pro-democracy views and their involvement in a political party that opposed the President of the Republic of Chad.

Throughout Mr. Abakar’s childhood, President Déby’s regime suppressed dissent through terror, inflicting serious human rights abuses on actual and suspected political opponents and their families. These abuses included arbitrary detention, torture, extrajudicial killings, and other forms of persecution.

In February 2008, the Chadian government arrested Mr. Abakar’s brother, father, and uncle (who was the

On the day of the arrests, the military ransacked Ahmed’s family home, and the remaining members of his immediate family fled Chad in fear for their lives.

founder of an opposing political party). Mr. Abakar’s father and uncle were never released from prison and are presumed dead. His brother managed to escape, but was tortured while imprisoned and died a year later in a refugee camp in Cameroon, probably as a result of the injuries he sustained in prison. On the day of the arrests, the military ransacked Mr. Abakar’s family home, and the remaining members of the family fled Chad in fear for their lives.

Mr. Abakar joined his family in Cameroon and then moved to Algeria, where he was able to go to school and study economics. The political party his family had founded remained active in Chad and gained supporters in France, who were calling for an investigation into the disappearance of Mr. Abakar’s father and uncle.

Mr. Abakar continued voicing his political views and organizing Chadian students and others who opposed President Déby. He spoke publicly about the arrest and presumed murder of his family members, and this once again made him a target of the Chadian government, whose reach does not end at its borders. Chadian agents and their paid henchmen attacked Mr. Abakar twice while he was a student in Algeria; the second time they tried to kill him, but bystanders intervened in what they presumed was a robbery. Mr. Abakar knew he was no longer safe in Algeria and had to flee the continent.

Mr. Abakar’s grandfather helped him obtain a student visa to travel to the United States. With assistance from Human Rights First and the firm, he petitioned for and was granted asylum, successfully arguing that he was persecuted by the Chadian government because of his political opinions and familial connections to the leaders of an opposing political party. Mr. Abakar looks forward one day to becoming a citizen of the United States, where he can safely participate in the democratic process.



“Mr. Abakar”

Photo by Bernard DeLierre

CIVIL AND HUMAN RIGHTS

Fighting for a Reasonable Accommodation

In the early 2000s, “Viola Kent,” a healthy, 25-year-old woman with a bright future, moved into public housing when she became physically disabled as a result of a knee injury she sustained at work. Her plan was to stay there temporarily and go to school while she recuperated.

Ms. Kent’s apartment was in such disrepair, however, that it made her seriously ill. Poor conditions, including excessive heat, dust, and fumes, made it

difficult for her to breathe, exacerbated her asthma and allergies, and caused her significant stress. In 2013, she had a stroke that permanently impaired her vision and further compromised her mobility.

Ms. Kent’s medical team stated that her “housing accommodations aggravate her health condition[s]” and concluded that it was “very crucial for this high risk stroke patient to be transferred to

[a] new housing location with proper accommodations for her medical conditions.” Ms. Kent made many requests to the New York City Housing Authority (NYCHA) for an apartment transfer, but NYCHA ignored her. She then suffered a second stroke, as her doctors had warned she might.

Ms. Kent sued claiming discrimination on the basis of her disability. The trial court dismissed her case, but the **ACLU Disability Rights Project** appealed the decision, and the United States Court of Appeals for the Second Circuit reinstated her claims.

After the appeal, the ACLU referred the case to the firm to pursue in the trial court. The firm argued that NYCHA’s failure to provide Ms. Kent with a reasonable accommodation had resulted in significant psychological and emotional harm, caused or severely exacerbated her medical conditions, and stymied her efforts to complete her education and rejoin the workforce.

Through fact-finding and sustained negotiations, we worked to settle the case. In the fall of 2018, Ms. Kent moved into a new apartment more suited to her needs and received a considerable monetary settlement for the damages NYCHA had caused to her physical and emotional well-being.



NYCHA residents rally for repairs

Courtesy of Barbara Huang/Mott Haven Herald

Protecting Equal Access to Health Care for Women

The Affordable Care Act (ACA) requires individual and group health plans to provide coverage for certain preventive services without charging patients. Because preventive services for women include a full range of contraceptive methods and related care, this requirement became known as the “contraceptive mandate.” Recognizing that some entities object to covering contraception for their employees or students, the government issued rules in 2012 and 2013 to exempt religious employers from the mandate and to allow accommodations for certain universities and other nonprofit organizations. The Supreme Court later held that family-owned businesses with religious objections were entitled to similar accommodations.

In October 2017, without an opportunity for public notice or comment, the federal government issued Interim Final Rules (IFRs) that greatly expand the ACA’s religious exemption, making it much easier for all types of universities and employers (including for-profit businesses, regardless of size or whether they are publicly or privately held) to opt out of providing coverage for contraception. The IFRs also added a new exemption based on an employer’s “sincerely held moral conviction.” Moreover, the IFRs lifted the requirement that employers or universities seeking an exemption provide notice to the government. Such notice had enabled the government and insurance companies to offer alternative coverage for employees and students seeking contraceptive

In 2018, we filed briefs on behalf of the National Women’s Law Center, the National Latina Institute for Reproductive Health, SisterLove Inc., the National Asian Pacific American Women’s Forum, and 55 additional organizations in the Ninth and First Circuits that focused on the physical and economic harm that will result if the IFRs are permitted to take effect, especially to women facing multiple, intersecting forms of discrimination.

services. These changes threatened contraceptive coverage for tens of thousands of women.

Several state Attorneys General filed lawsuits challenging the IFRs. Two federal district courts issued orders preventing the IFRs from taking effect, after finding that the government likely violated the Federal Administrative Procedure Act by failing to provide a notice and comment period before issuing the IFRs. These cases were appealed to the Ninth Circuit and the Third Circuit Courts of Appeal, respectively. A third federal district court held that Massachusetts did not have standing to challenge the IFRs because it could not show that the state itself was an injured party, and that ruling was appealed to the First Circuit Court of Appeals.

Lowenstein teamed up with the **National Women’s Law Center** (NWLC) to file

friend-of-the court briefs in these appeals. In 2018, we filed briefs on behalf of the NWLC, the **National Latina Institute for Reproductive Health, SisterLove Inc., the National Asian Pacific American Women’s Forum**, and 55 additional organizations in the Ninth and First Circuits that focused on the physical and economic harm that will result if the IFRs are permitted to take effect, especially to women facing multiple, intersecting forms of discrimination.

In November 2018, the government issued new final rules on religious and moral objections to contraceptive coverage, which largely mirror the IFRs. A federal district court in Pennsylvania enjoined their enforcement on January 14, 2019, the date they would otherwise have taken effect. Along with our clients, we are watching the litigation and preparing to file briefs in support of challenges to the final rules.



Securing the Right of Prisoners to Act Collectively in Demanding Adequate Health Care

For years, the firm has represented national nonprofits that advocate for immigrants, foster children, people with disabilities, juvenile offenders, and other populations who often end up in government custody. These organizations rely on class actions to stop government policies that harm the populations they serve, and we have fought alongside them to ensure that the class action device remains a vehicle to do so.

In December 2018, the United States Court of Appeals for the Eighth Circuit issued an important decision in *Postawko v. Missouri Department of Corrections*, upholding the certification of a class of

inmates who were being denied access to the most effective drug for treating their chronic hepatitis C. On behalf of the **Arc of the United States, Center for Children's Law and Policy, Judge David L. Bazelon Center for Mental Health Law, Disability Rights Arkansas Inc., Human Rights First, Impact Fund, National Disability Rights Network, National Immigrant Justice Center, National Juvenile Defender Center, and Missouri Protection & Advocacy Services**, the firm filed an amicus brief arguing that the class was correctly certified. Our brief focused on the historic significance of the class action rule in helping vulnerable people effect change, and argued that a

prisonwide treatment policy imposes a common injury on inmates sufficient to certify a class.

In 2014, we had filed a similar amicus brief in a Ninth Circuit case, *Parsons v. Ryan*, arguing that class certification is appropriate when inmates are exposed to a common, unreasonable risk of harm because of government action or inaction. The *Parsons* court upheld the certification of a class of inmates who challenged the systematic denial of basic health care in the Arizona prisons and paved the way for a similar decision in the *Postawko* case.

Election Protection 2018

In 2018, the firm once again acted as the New Jersey command center for [Election Protection](#), a nonpartisan coalition headed by the **Lawyers' Committee for Civil Rights Under Law**, that assists citizens in exercising their right to vote.

Lowenstein volunteers responded to 95 issues that call-center and field volunteers escalated for immediate action on Election Day. These issues included nonfunctioning voting machines, delayed openings of the polls, improper electioneering at or near poll sites, unjustified requests for voter identification, misuse or denial of provisional ballots, and many more. Firm volunteers contacted officials at the

Firm volunteers contacted officials at the county boards of elections to advocate for the removal of the barriers voters encountered. As a result, more New Jersey voters were able to cast their ballots, and the state had a fairer election process.

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The firm continues to work with the Lawyers' Committee for Civil Rights, an array of local advocates, and state elections officials to address systemic issues and improve the voting process for future elections.

ON ELECTION DAY

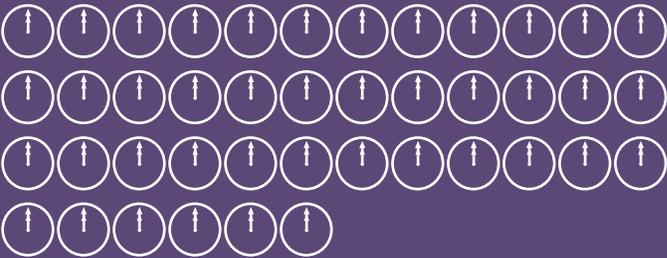
10

Lowenstein volunteers dedicated



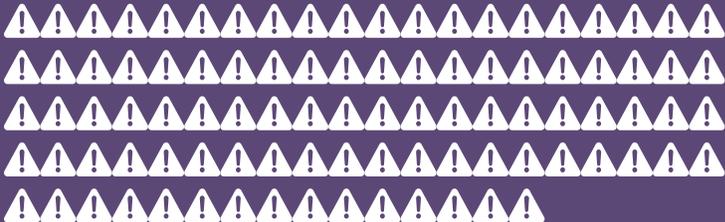
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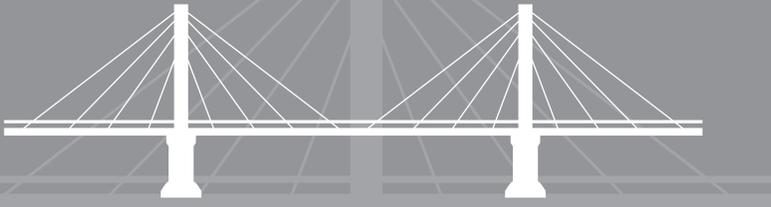
pro bono hours to handle



95

election-related issues





10 YEARS OF ACCESS TO JUSTICE



Photos by Bernard DeLierre except where indicated



Photo by Detati



In the 10 years since it formed the Lowenstein Center for the Public Interest, the firm has represented hundreds of individuals in need. We could not reach these clients without the assistance of dedicated legal service organizations in all our locations. We are grateful to our clients and our nonprofit colleagues for making us better lawyers and better people through these pro bono opportunities.

2009-2018

127,477

pro bono hours dedicated to "signature projects," including:

35,833

hours representing **378 nonprofits** seeking a wide range of corporate and tax assistance

28,076

hours representing **224 immigrants** seeking lawful status or release from detention

19,408

hours representing **564 tenants** fighting eviction or seeking to remedy unlivable conditions

11,700

hours representing **220 individuals with criminal convictions** seeking to prove their innocence, appeal their convictions, petition for pardons or sentence commutations, or expunge low-level criminal records

7,747

hours representing **53 domestic violence survivors** seeking final restraining orders and/or child custody and support orders

7,724

hours representing **77 veterans** applying for service-related disability benefits or attempting to regain their driver's licenses

7,392

hours representing **185 low-income inventors or entrepreneurs** filing for patents or starting businesses

7,224

hours representing **114 low-income individuals filing for personal bankruptcy** to get a fresh financial start

1,284

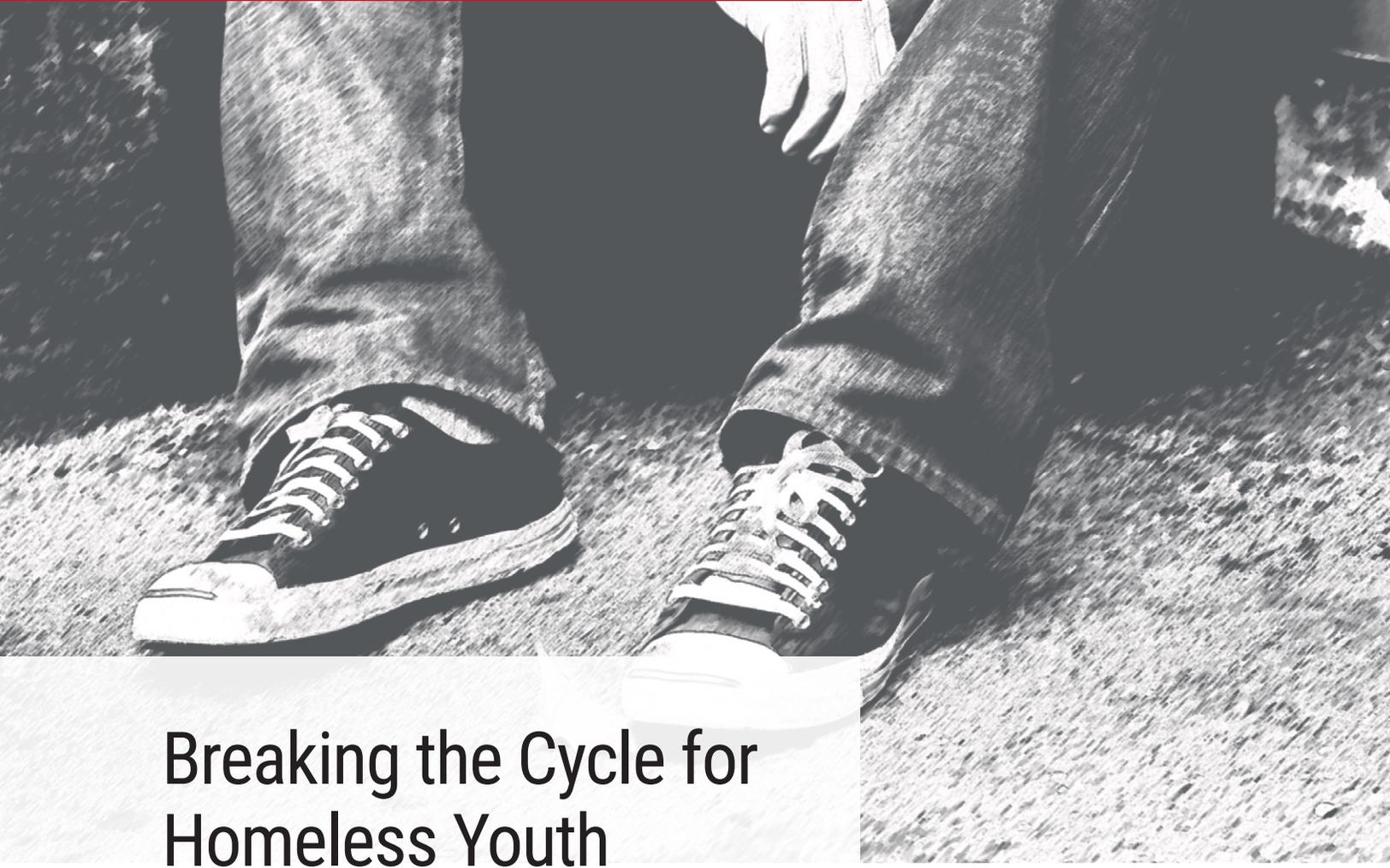
hours representing **18 guardians and conservators** seeking legal custody of children or young adults with disabilities

1,089

hours representing **24 transgender individuals** seeking legal name changes



CRIMINAL JUSTICE



Breaking the Cycle for Homeless Youth

Covenant House of New Jersey (CHNJ) offers shelter and services to homeless youth ages 18-21 and is the sole provider of no-cost legal services to youth charged with noncriminal offenses in municipal court. Many homeless youth come to CHNJ with outstanding warrants for failure to appear in court and/or charges for low-level misdemeanors resulting from periods of homelessness



Because homeless youth are often unable to pay the fines and fees associated with municipal court offenses, they end up in an endless cycle of debt and jail time.

and adolescent behavior (e.g., subway fare evasion or shoplifting). When they do appear in court, they are ordered to pay fines and fees for the offenses. Still homeless and unable to pay, youth then typically incur contempt charges. And this results in new warrants, additional

fines, and ultimately driver's license suspension.

In June 2018, the New Jersey Supreme Court Committee on Municipal Court Operations, Fines, and Fees released a report proposing a number of solutions

to remedy the problems currently plaguing the municipal courts. As the problems detailed in the report disproportionately affect homeless youth, CHNJ asked Lowenstein to help prepare comments and suggestions in response.

The comments encouraged the committee to join other states in

establishing a presumptive exemption from municipal court fines and fees for homeless people. We also asked the committee to consider wraparound services such as job training and mental health and substance abuse treatment as alternatives to municipal court fees and fines. Because homeless youth

are often unable to pay the fines and fees associated with municipal court offenses, they end up in an endless cycle of debt and jail time. A homelessness-based exemption and credit for the completion of wraparound services would help break this cycle.

Ending Solitary Confinement, Part 2

In our [2017 Pro Bono Report](#), we profiled a civil rights lawsuit we pursued on behalf of “Tobias,” challenging his more than 13 years in solitary confinement as a result of his placement in involuntary protective custody (IPC). During that litigation, it became clear that New Jersey was keeping dozens of inmates in prolonged IPC, without cause or a meaningful opportunity to challenge their placement. We had witnessed firsthand how such extreme and indefinite solitary confinement affected Tobias, and we were motivated to explore whether this was a systemic problem that required further intervention on behalf of inmates in IPC.

In partnership with the **ACLU-NJ**, we initiated an investigation. This involved meeting with and reviewing the records of 10 inmates in IPC, as well as tracking the overall number of inmates in IPC and the length of time they spent in this status. Our interviews with the inmates confirmed that most had experiences

As we were finalizing our investigation, something remarkable occurred: The inmates we met were suddenly released into the general population or transferred to another state prison where they would not have to be in isolation.

similar to Tobias’, both in the horrific conditions they endured for years and in the flawed process that led to their prolonged placement in IPC.

As we were finalizing our investigation, something remarkable occurred: The inmates we met were suddenly released into the general population or transferred to another state prison where they would not have to be in isolation. An additional request for information to the state revealed that over the course of three months (May 1–August 1, 2018), the IPC population had decreased from 81

to 35 inmates. And of the remaining 35 inmates, one-third had been in IPC for less than a year.

Recognizing the overuse of IPC and the indelible harms it was causing, the Department of Corrections had apparently begun to revisit its placement decisions and reduce its use of prolonged isolation. We will continue to monitor this positive policy shift to ensure that no inmate experiences what Tobias lived through.

Reforming the Juvenile Justice System

Serving on a State Task Force

In 2018, the firm continued its commitment to improving the juvenile justice system through direct representation of incarcerated youth, participation as amicus in significant appeals, and advocacy for ongoing reform. A representative of the firm was also appointed to a newly formed Task Force for the Continued Transformation of Youth Justice in New Jersey, which is charged with “providing recommendations to the Governor’s Office, the Department of Law and Public Safety, other Executive Branch departments and agencies, and the Legislature on strategies and actions to continue the reform of New Jersey’s Youth Justice System.” We hope the task force will lead to a safer, more effective, and more rehabilitative juvenile justice system.

Revamping Juvenile Parole

Over the past couple of years, the firm conducted in-depth research on New Jersey’s juvenile parole system and prepared a nationwide survey of best practices. Working closely with the ACLU-NJ and **Rutgers Criminal and Youth Justice Clinic**, we developed a number of proposed amendments to the Juvenile Code. If passed, these amendments will:

- Give youth a meaningful opportunity for early release;

Working closely with the ACLU-NJ and Rutgers Criminal and Youth Justice Clinic, we developed a number of proposed amendments to the Juvenile Code.

- Heighten due process in parole revocation proceedings;
- Drastically reduce the mandatory supervision period now imposed on all incarcerated youth after they complete their term in custody;
- Help ensure that incarceration is treated as a means of last resort; and
- Require data collection and reporting on the incarcerated youth population and what happens to them during out-of-home placements.

We and our partners have shared these recommendations with representatives from the Juvenile Justice Commission, the courts, and the legislature, and evaluated early drafts of a bill to accomplish the changes we recommend.

Recalibrating Juvenile Sentencing

On behalf of the ACLU-NJ, the firm submitted an amicus brief in a criminal appeal challenging certain aspects of the juvenile sentencing scheme. The court held that the juvenile defendant should have had the opportunity to withdraw his guilty plea because he was not informed

of the actual length of his sentence, which included a mandatory supervision period during which he could be re-incarcerated after having already served his entire term in custody. This decision helped change the plea process for juveniles. Beginning September 1, 2018, new rules require courts to use a written plea form in all juvenile delinquency cases, informing defendants of the post-incarceration supervision period.

The court declined to reach our more ambitious arguments, including that the prolonged universal period of post-incarceration supervision unconstitutionally deprives youth of individualized sentencing determinations. Nevertheless, the appeal was a significant victory that will ensure that juveniles are fully informed of the actual length of their sentence. And we will continue to work toward eliminating the lengthy post-incarceration supervision period—and other unfair sentencing practices—through further litigation or legislation.



HOUSING

Keeping Tenants in Their Homes

In 2018, the firm represented 79 tenants in conjunction with **Prudential, Volunteer Lawyers for Justice**, the **Legal Aid Society of D.C.**, and the **Children's Law Center**. Forty-nine of these clients had their eviction actions dismissed outright or settled on terms that allowed them to remain in their homes. Another 18

decided to leave, often because the conditions in their apartments were intolerable, but they left with more time, more money, or both. In four cases, our teams are still fighting to get landlords to repair unlivable conditions. Only eight of our clients were evicted. This extraordinary success rate is proof of

the importance of counsel in housing court, where the overwhelming majority of tenants still face eviction without a lawyer. As further proof of the difference a lawyer can make, one of our D.C. teams won a \$20,000 judgment for a tenant who agreed to vacate an apartment that had multiple housing code violations.

Winning a Long Fight for a Tenant

We first met "Maya Montoya" in October 2016, when she came to a pro bono tenancy clinic the firm helps run. She and her two daughters were living in a substandard building where rain and snow came through the roof and flooded their apartment, ruining the family's sparse furniture and clothing. The leaks were so constant that parts of the

The leaks were so constant that parts of the ceiling and walls were falling in.

ceiling and walls were falling in. Mice and insects infested the building, and localized extermination efforts proved useless given that cracks and holes in the structure allowed pests in through the walls. The apartment also had only intermittent heat, and even when the heat was on, the rooms were often freezing

because the walls and windows were not properly sealed.

The landlord had sued Ms. Montoya for nonpayment of rent, seeking to evict the family. We went to court with Ms. Montoya and reached a settlement under which she paid back rent in return for the landlord's promise to make all necessary

repairs within a month. We also put the landlord on written notice that Ms. Montoya would withhold rent beginning the following month if the repairs were not completed.

The following month came and went with no repairs to the building, other than the installation of inadequate baseboard



"Ms. Montoya" and her daughters in their new home

Photo by Bernard DeLierre

heaters in some of the rooms. Ms. Montoya began to pay her rent into the firm's trust account rather than to her landlord. She also began looking for another apartment but found little safe and decent housing within her price range. Ultimately, it took 15 months before the family secured a better place to live.

After the family moved out, the landlord sued Ms. Montoya for all the withheld rent. The firm represented her in defending against this action.

We prepared for trial, including by subpoenaing a witness from the state bureau of housing inspection, which had documented 66 code violations in the three-unit building. In addition to citing the conditions Ms. Montoya had identified, inspectors found dozens of unauthorized and potentially explosive propane tanks stored on the premises. The inspector we spoke to was prepared to testify that he had rarely seen a more dangerous residential building.

On the eve of trial, however, the parties agreed to a settlement, with the landlord accepting a two-thirds abatement of the rent to reflect the unlivable conditions Ms. Montoya and her girls had endured. Not only did this victory save the family enough money to improve their prospects for better housing, but it also alerted state and city inspectors to the dangers facing other tenants in the building, where enforcement actions are ongoing.

Stabilizing Communities Through Creative Finance

New Jersey Community Capital (NJCC) is a nonprofit community development financial institution that provides financing, capital investment, and technical assistance aimed at transforming low- and moderate-income communities. Acting as a nonprofit lender, NJCC channels investments from financial institutions, insurance companies, and other socially responsible entities to a network of nonprofits. This funding ultimately creates affordable homes, steady jobs, quality education, and stronger urban communities.

NJCC has been a longtime pro bono client of the firm. In 2018, our lawyers assisted with two programs:

- The mortgage finance group structured transactions in the ReStart Program through which NJCC acquires distressed mortgages in bulk from the Federal Housing Administration for the purpose of keeping low- and moderate-income families in their homes. Since launching the program in the aftermath of the foreclosure crisis, NJCC has helped nearly 1,000 families avoid displacement by offering them an effective combination of financial education and principal reduction. When the mortgaged

properties are vacant, NJCC works with its subsidiaries to convert them into affordable homes. Nearly 800 affordable housing units have been created in all. In 2018, New York State invited NJCC to bring the ReStart Program to its urban centers, and the firm assisted in ensuring that the replicated project would conform to New York law.

- The firm helped build the legal architecture for the Address Yourself Program, through which NJCC partners

with credit unions to meet the need for mortgage credit among low- and moderate-income families who otherwise have trouble getting loans. The initiative combines extensive pre-ownership credit counseling with access to low-cost mortgage products, and then offers financial counseling to successful homebuyers throughout the life of their loans. In 2018, this model was extended to assist immigrant families in achieving their dreams of homeownership.



Before and after a renovation financed by NJCC



NONPROFITS AND LOW-INCOME ENTREPRENEURS

Low-Income Entrepreneurs and Inventors

ProBoPat

A hybrid heat engine, an outdoor collapsible convection oven, a device to enable remote canine detection of illegal substances in vehicles, and ground control targets for use in aerial surveying are a sampling of the patent applications that Lowenstein lawyers filed on behalf of low-income inventors in the Mountain West in 2018.

In 2017, Lowenstein's Utah office began accepting pro bono patent cases through ProBoPat, a program

Every lawyer in the Utah office participates in the program, and the team has worked on securing 17 patents for low-income inventors to date.

of the **Mi Casa Resource Center** in Denver. Mi Casa launched ProBoPat in response to the 2011 America Invents Act, which encourages the U.S. Patent and Trademark Office to “work with and support . . . the establishment of pro bono programs designed to assist financially under-resourced independent inventors and small businesses.” Qualified inventors who are residents of Colorado, Montana, New Mexico, Utah, and Wyoming can receive assistance with patent preparation and prosecution through the program.

Lowenstein lawyers meet with the inventors, perform searches to ensure that the inventions are original, and prepare patent applications for their clients. Every lawyer in the Utah office participates in the program, and the team has worked on securing 17 patents for low-income inventors to date. This supplements the pro bono work of patent lawyers in the New York, New Jersey, and Palo Alto offices who collectively represented 32 clients and dedicated 670 hours in 2018 alone.

Rising Tide

In 2018, we continued to help low-income entrepreneurs through our partnership with the **Social Enterprise & Startup Law Group at NYU School of Law** and **Rising Tide Capital**, a community development organization. The entrepreneurs who are part of this program attend workshops that teach concrete business and legal principles, equipping them to make their small businesses successful. Since 2012, we have provided legal assistance to 36 different startups, each with different missions, products, and legal needs.

One of the entrepreneurs Lowenstein assisted in 2018 was Lorna McCrave. Ms. McCrave's company, Fhyrs and Co., is a surface pattern design studio that sells original designs to product development clients in the apparel and home décor industries. Proud of the unique designs she created through her company, Ms. McCrave wanted to assure her clients that they were receiving original works of art.

The assistance we provided allows her business to initiate transactions with customers who will use her designs to make their products more beautiful.

Ms. McCrave's legal team drafted an invoice for the sale of her designs, an artwork assignment agreement to use with contractors, and a copyright assignment agreement that guarantees her designs as original. In addition, the team informed Ms. McCrave about how to incorporate the business in both New York and New Jersey. The assistance we provided allows her business to initiate transactions with customers who will use her designs to make their products more beautiful.



A Fhyrs and Co. design

The Acceleration Project

The Acceleration Project (TAP) is an innovative consulting firm that connects small businesses with the skills and expertise they need to grow and flourish.

With a focus on providing services to minority and women-owned businesses, TAP strategically matches the knowledge of professional women, many of whom had stepped away from the workforce, with local business owners in need of

expert consulting advice. As a nonprofit, TAP is able to deliver services at a rate that ensures accessibility.

In 2018, Lowenstein continued to work closely with TAP to help implement its consulting model and expand its professional services to reach even more business owners. TAP sought assistance on the development of agreements with its consultants in order to continue to attract a diverse pool of experts to join its network of professionals. Our lawyers also assisted TAP by reviewing grant agreements, vendor agreements, insurance policies, and technology licenses.

TAP consultants at work with clients

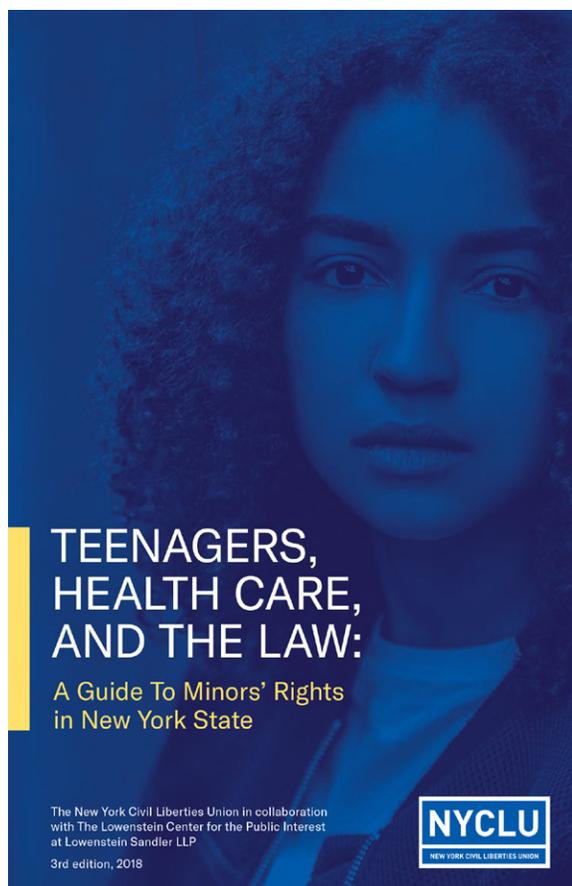


Courtesy of TAP



CHILDREN AND EDUCATION

Educating Professionals About the Health Care Rights of Teenagers



On behalf of the NYCLU, the firm updated and redrafted a manual that outlines the rights and restrictions that apply under New York law when teenagers seek health care of all kinds. Teenagers, parents, teachers, social workers, and health care providers, among others, rely on the manual for answers to important questions such as: When are teenagers permitted to consent to care on their own? What confidentiality rules protect the health records of teens? When can teenagers independently obtain sensitive services such as reproductive or mental health care?

Since July 2018, 1,600 hard copies have been distributed, and 735 individuals have downloaded the manual [online](#). The NYCLU is also translating the manual into Spanish for wider distribution.



NJCDC preschool class on Read Across America Day

Courtesy of NJCDC

Rescuing a Preschool, Part 2

Our nonprofit client **New Jersey Community Development Corporation (NJCDC)** is dedicated to revitalizing the City of Paterson by running first-rate schools, creating affordable housing, offering job-training and youth-development programs, and providing various other services for residents. In 2016, Lowenstein helped NJCDC rescue a preschool for more than 250 low-income children by purchasing the property from a nonprofit in bankruptcy.

NJCDC did this by creating a subsidiary to buy and hold the property, a common practice with financial and legal benefits. After learning that the City of Paterson had placed the property on its tax rolls, the subsidiary applied for the standard property-tax exemption available to schools under the law. Because the new subsidiary was not established as a nonprofit, however, the city denied the exemption, threatening to impose a substantial financial burden that could again threaten the preschool's existence.

Working with NJCDC, Lowenstein helped address the issue with the city government. The firm redrafted the subsidiary's organizational documents to highlight its nonprofit purpose and submitted a detailed letter to the mayor and the city's lawyer analyzing the relevant law and explaining why the property qualifies for the exemption. The firm then negotiated directly with city officials, persuading them that the property should be exempt.



LOWENSTEIN IN THE COMMUNITY



200+

volunteer hours

1,000+

toys donated

320

book bundles
donated



In 2018, Lowenstein employees:

- Assembled bicycles for foster children in the Bay Area through **Together We Rise**
- Hosted an "Art Party" to create materials for **Free Arts NYC**, a nonprofit that empowers underserved youth through art and mentoring programs
- Collected 625 books for **Project Cicero Northern New Jersey** to donate to under-resourced public schools
- Participated in the Memorial Sloan Kettering Cancer Center's **Cycle for Survival** in New Jersey, New York, Washington, D.C., and Palo Alto, raising \$15,000 for cancer research

- Hosted students from **Great Oaks Legacy Charter School** in Newark for an afternoon of learning how to run a law firm
- Created 320 diversity and inclusion book bundles for **North Star Academy Charter School of Newark, B.R.I.C.K. Peshine Academy, Achieve Community Charter School, Uncommon Charter High School, East Palo Alto Charter School, and Aspire East Palo Alto Phoenix Academy**

- Assembled 1,500 bags of fresh produce for food-insecure families in Essex County, New Jersey, through **Table to Table**
- Created 500 meals for homeless residents with **D.C. Central Kitchen**
- Collected 150 coats and winter accessories for the **Interfaith Food Pantry of the Oranges**
- Donated Thanksgiving packages to 15 families through **D.C. Child and Family Services Agency**
- Collected and delivered more than 1,000 holiday gifts for children of **YMCA of Greater Newark's** Emergency Residence Program; acted as Santa's helpers to three inner-city classrooms, providing toys for 90 children in New York City; and offered gifts to 30 children of the Nia Project at **Unity Care**

15

Thanksgiving packages donated

150+

winter items donated

ACKNOWLEDGMENTS

Lowenstein works with and contributes to a wide array of nonprofits, including:

ACLU	Her Justice	National Latina Institute for Reproductive Health	Rutgers University School of Law
ACLU-NJ	Housing and Neighborhood Development Services Inc.	National Women's Law Center	Safe Passage Project
Achieve Community Charter School	Human Rights First	New Jersey Community Capital	Seton Hall Law School
American Friends Service Committee	Impact Fund	New Jersey Community Development Corporation	SisterLove Inc.
Aspire East Palo Alto Phoenix Academy	Interfaith Food Pantry of the Oranges	New Jersey Institute for Social Justice	Table to Table
B.R.I.C.K.	Jersey Cares	New York Lawyers for the Public Interest	The Acceleration Project (TAP)
California Lawyers for the Arts	Judge David L. Bazelon Center for Mental Health Law	North Star Academy	The Arc of the United States
CASA for Children of Essex County Inc.	Kids in Need of Defense (KIND)	NYCLU	The Bronx Defenders
Catholic Charities Community Services of the Archdiocese of New York	Law Foundation of Silicon Valley	NYU School of Law	The Door
Center for Children's Law and Policy	Lawyers Alliance	OneJustice	Together We Rise
Center for Constitutional Rights	Lawyers' Committee for Civil Rights of the San Francisco Bay Area	Partners for Women and Justice	Transgender Legal Defense and Education Fund
Children's Law Center	Lawyers' Committee for Civil Rights Under Law	Pro Bono Institute	Uncommon Charter High School
City Bar Justice Center	Legal Aid Society of D.C.	Pro Bono Partnership	Unity Care
Community Hope	Legal Aid Society of San Mateo County	Project Cicero Northern New Jersey	Vera Institute of Justice
Community Legal Services of East Palo Alto	Legal Outreach Inc.	Rachel Coalition	Volunteer Lawyers for the Arts
Covenant House of New Jersey	Legal Services NYC	Rising Tide Capital	Volunteer Lawyers for Justice
Cycle for Survival	Legal Services of New Jersey		YMCA of Greater Newark
D.C. Central Kitchen	Legal Services of Northwest Jersey		YWCA of Union County
D.C. Child and Family Services Agency	Mi Casa Resource Center		
Disability Rights Arkansas Inc.	Missouri Protection & Advocacy Services		
East Palo Alto Charter School	National Asian Pacific American Women's Forum		
Education Law Center	National Disability Rights Network		
Essex-Newark Legal Services	National Immigrant Justice Center		
Free Arts NYC	National Juvenile Defender Center		
Free the Slaves			
Great Oaks Legacy Charter School			

The firm also partners with corporate legal departments and vendors in its pro bono program, including:

Corporate Partners:

Merck
Prudential

Vendors:

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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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