

PRO BONO REPORT 2019



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 marginalized people, 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.

CONTENTS

2 STANDING
BACK UP

3 PRO BONO
BY THE NUMBERS

4 IMMIGRATION

12 CIVIL AND
HUMAN RIGHTS

16 NONPROFITS

22 CRIMINAL
JUSTICE

24 ACCESS TO
JUSTICE

26 2019 AWARDS

28 LOWENSTEIN IN
THE COMMUNITY

32 ACKNOWLEDGMENTS



Standing Back Up

A little before Thanksgiving, one of our immigration clients came for lunch. She had reached out to say that she wanted to thank her legal team. We ordered tacos and sat together in a conference room. She cried, not from sadness, but from overwhelming gratitude. "You made my life possible," she said. "Without you, I wouldn't be here." Her lawyers talked over one another to say that we're the ones who are grateful, that we feel lucky to know her.

But that doesn't begin to cover it. She was 15 when we met her and had already suffered sexual assault and witnessed the murder of her father. She had guided her younger sister through a dangerous journey to the United States, and when they crossed the river, immigration agents had arrested them and initiated removal proceedings against them. Even with counsel, she had been denied two separate forms of relief. The team had moved for reconsideration and filed multiple appeals before finally securing a green card for her. She had waited and waited and waited to find safety here.

Yet she is incandescent. "How is my English?" she asked. "I am getting better, no? I am studying to be a paralegal. Because of you! Because I want to be like you and help people like me!" Her smile is a beacon. She is so bright that you almost have to squint to look directly at her face. She is a logical impossibility.

What is more, she is not alone. The firm received an award at the end of 2019 from **Make the Road** for our

work on behalf of young immigrants, and the room was full of them. We realized quickly that this was not your typical awards event. The food was homemade, and people kept bringing more trays of it. There was overeating, loud music, and dancing. Teary grandfathers hugged us after the award presentation. Small children offered desserts. The crowd kept breaking into chants of "Si, se puede!" ("Yes, we can!").

Well then, so can we. We can keep using our skills to create reasons for celebration. We can learn from our clients, not only how to get back up, but how to dance when we rise. We can take steps to make the law better for people we may never even see. We can stand beside our nonprofit partners when they are tired and defeated. We can show our gratitude to everyone who does this work and everyone who makes it possible. We can find ways to engage others in the effort, and we can invite them to the party when we win.

Warmly,

Catherine Weiss

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

PRO BONO BY THE NUMBERS

The firm
dedicated

23,373
hours

to pro bono
work in
2019

Lowenstein
lawyers served

546
pro bono
clients

in 2019

On average,
each Lowenstein
lawyer spent

63
hours

on pro bono
matters
in 2019

The firm
has dedicated

441,531
hours

to pro bono work
over the past
23 years



IMMIGRATION

Winning Classwide Protection for Older Juveniles

Through a federal class action, *W.A.O. v. Cuccinelli*, Lowenstein secured swift relief for young immigrants threatened by a government policy that arbitrarily denied them Special Immigrant Juvenile Status (SIJS) and exposed them to unlawful deportation.

Congress created SIJS to protect immigrant children who are unsafe in their own families. SIJS gives these children the opportunity to remain legally in the United States so that they do not have to repatriate with, or rejoin, unfit parents. First, the child must appear in a state family court to seek a safe custodial placement or similar protection. In the course of the family law proceeding, the court may make specific findings related to SIJS, including that reunification with one or both of the child's parents is not viable because of abuse, neglect, abandonment, or something similar, and that it would not be in the child's best interest to be returned to his or her country of origin. The child may then rely on these state court findings to apply to federal immigration officials for SIJS.

Each of the named plaintiffs in the class action qualified under these standards. For example, N.L.J. was abused by his alcoholic father, abandoned by his alcoholic mother, and repeatedly assaulted by local gang members in his home country. He fled and was

reunited in the United States with his older sister. Eventually, a New Jersey family court awarded her custody of N.L.J. and made findings of abuse, neglect, and abandonment as to both of their parents. Similarly, K.M.R.L. fled after his father died and his mother put him to work in a factory for 18 hours a day when he was 12 years old. When he crossed the border, the government apprehended and detained him before releasing him to his older brother in New Jersey. The state family court later placed K.M.R.L. in his brother's legal custody. In both cases, the state court also found that although each juvenile had reached age 18, he remained dependent on an adult for care and support as both were still in high school. Neither one, the courts found, could be safely returned to his home country because his lack of parental protection would make him especially vulnerable to violence and exploitation.

In late 2018, however, the U.S. Citizenship and Immigration Services (USCIS) had begun denying SIJS to juveniles who had obtained New Jersey

USCIS STATES THAT IT HAS NOW GRANTED SIJS TO 70 PERCENT OF THE MORE THAN 750 JUVENILES IT IDENTIFIED AS POTENTIAL MEMBERS OF THE CLASS.

family court orders after the juvenile's 18th birthday, even though federal law allows applicants to petition for SIJS until they turn 21. USCIS had misread state law to conclude that the New Jersey family court lacked jurisdiction to make the necessary child welfare findings for juveniles between the ages of 18 and 21. The agency therefore delayed, questioned, and denied the SIJS applications of hundreds of juveniles in this age group.

In a federal suit against USCIS and its parent agency, the Department of Homeland Security, the firm obtained a [preliminary injunction](#) on July 3, 2019, ordering USCIS to adjudicate SIJS petitions for this class of juveniles in conformity with federal and state law. The injunction also required the government to reassess and correct past denials and other harms. The court put the onus where it belongs: on the federal agency that had adopted and implemented the illegal policy, rather than on the juveniles who suffered from it. With the consent of the defendants, the court also ordered the government



Three of the four named plaintiffs in the federal class action

Photo by Bernard DeLierre

to defer deporting juveniles in the class for six months.

Following entry of the preliminary injunction, the firm vigorously pursued effective remedies for all the juveniles

affected. To comply with the court's orders, USCIS has reconsidered, and granted, dozens of SIJS petitions that it had previously denied or revoked, along with scores of additional petitions it had previously questioned or signaled its

intention to deny. The parties are now discussing possible settlement terms that will prevent unlawful denials and deportations going forward.



IMMIGRATION

Preventing the Removal of Children with Special Immigrant Juvenile Status

Having lost class actions around the country challenging its illegal refusal to grant SIJS to older juveniles, the government pivoted to another attack on immigrant children seeking to escape unfit families and remain safely in the United States: the government has taken the position that such children are subject to deportation even after USCIS has granted them SIJS.

In *Joshua M. v. Barr*, the government is attempting to deport a young man

whose SIJS application was approved. Both of Joshua's parents abandoned him when he was a baby, and other relatives had left him to fend for himself by the time he was 15. At age 16, Joshua fled his country to escape a gang that had physically attacked and permanently injured him. Based on evidence establishing these facts, a New York family court placed Joshua under the guardianship of his uncle; made findings of abuse, neglect, and abandonment against his parents; and determined that it would not be in his best interest to be returned to his home country. These findings supported his successful application for SIJS.

Like thousands of other SIJS grantees, however, Joshua could not immediately apply for lawful permanent residency (i.e., a green card). Instead, he had to wait on a long line – often more than three years – for the visa he needed to open the door to a green card. That is because he comes from the Northern Triangle of Central America (composed of Honduras, Guatemala, and El Salvador). For many years, the transnational gangs that control this region have driven out young people who resist conscription. Children such as Joshua, who lack the protection of fit parents, are especially vulnerable to such violence. Along with thousands of others escaping violence, many of these young people flee to the United States, resulting in a shortage of visas available to applicants from these countries.

Despite evidentiary findings in every case that a SIJS grantee cannot be safely returned to his or her home

country, the government has taken the position that it can deport grantees to whom a visa is not immediately available. This position endangers thousands of at-risk children around the country. In response, several prominent immigration advocacy organizations asked the firm to file an amicus (friend-of-the-court) brief on their behalf in Joshua's case.

The brief argued that by attempting to deport Joshua, the government contravened the purpose of the SIJS statute. SIJS was designed to provide a pathway to permanent residency for immigrant children who lack parental protection. Congress never intended a Special Immigrant Juvenile to be subject to deportation simply because no visa is immediately available. SIJS is worthless to a grantee who is deported to proven dangerous conditions while awaiting the opportunity to apply for a green card. Moreover, the law requires the government to follow specific procedures before revoking SIJS, including giving the juvenile notice and an opportunity to object. Bypassing these procedures violates due process.

In February 2020, a federal district court in Virginia asserted jurisdiction despite vigorous objections from the government and held that Joshua had proven a likelihood of success on the merits and a serious risk irreparable harm. The court therefore stayed Joshua's removal while it continues to consider the arguments of the parties and amici. The ultimate decision in this case could ensure – or undermine – the safety of thousands of immigrant children.

THE AMICI INCLUDE:

- Immigrant Justice Corps
- Kids in Need of Defense (KIND)
- Lawyers' Committee for Civil Rights of the San Francisco Bay Area
- New Jersey Consortium for Immigrant Children
- Northwest Immigrant Rights Project
- Political Asylum/Immigration Representation Project (PAIR)
- Public Counsel
- Young Center for Immigrant Children's Rights

Advocating to Reunite Separated Families

Since July 1, 2017, the government has separated more than 5,500 immigrant children from their parents, and these separations continue. The most recent government data documents the reunification of 2,320 (fewer than half) of these children with the parent from whom they were separated. Hundreds more children have been discharged

to “sponsors,” usually adult family members. Still other separated children remain, and continue to be placed, in federal custody.

These numbers are not wholly reliable because, as reported by the [Inspector General for the Department of Homeland Security \(DHS\)](#) in November

2019, “DHS did not have the information technology (IT) system functionality needed to track separated migrant families during the execution of the Zero Tolerance Policy.” As a result, the government cannot ensure an accurate count of these families. Moreover, the government is not tracking or



Clients of the firm, reunited after six weeks' separation and fighting to remain in this country



IMMIGRATION

otherwise accounting for children who were separated from other close family members – including siblings, grandparents, and aunts and uncles – even when those family members raised them.

Throughout the family separation crisis, Lowenstein has worked closely with the legal service providers (LSPs) that directly represent children in federal custody. The firm has provided ethics guidance about representing very young children; appeared on behalf of the LSPs in *Ms. L v. ICE*, the ACLU class action challenging family separation; advocated for the release and reunification of individual children in conjunction with the LSPs and the Young Center (which holds the federal

THE FIRM'S CURRENT WORK FOCUSES ON TRYING TO GET THE GOVERNMENT TO TRANSMIT TO THE LEGAL SERVICE PROVIDERS AND CHILD ADVOCATES APPROPRIATE INFORMATION ABOUT FAMILY SEPARATION.

contract to provide “best interest” recommendations about the most vulnerable children); and represented reunified families in immigration proceedings.

The firm's current work focuses on trying to get the government to transmit to the LSPs and Young Center child

advocates timely and appropriately detailed information about family separation. From the beginning of the crisis, a lack of information has stymied effective advocacy on behalf of the children. Of the children separated since June 26, 2018 (when the *Ms. L* court issued a preliminary injunction aimed at stopping the practice), more

1,556

Children separated after July 1, 2017, and released before June 26, 2018*

2,815

Children separated and in federal custody on June 26, 2018

1,142

Children separated between June 26, 2018, and December 21, 2019

5,513

Total separated children

Unknown

Children in this group who have been reunified with the separated parent

2,168

Children in this group who had been reunified with the separated parent as of January 13, 2020

152

Children in this group who had been reunified with the separated parent as of December 21, 2019

2,320

Total documented reunifications with separated parents

* June 26, 2018, is the date of the preliminary injunction in *Ms. L v. ICE*, the ACLU's class action aimed at stopping family separation.

than 220 were under five years old at the time of the separation. Children this young often cannot communicate basic information about the fact of the separation or the full names and whereabouts of their parents. Yet the government has resisted establishing a coherent system for communicating this information, along with explanations of the basis for the separations, to the children's lawyers and advocates.

The firm recently surveyed the LSPs and child advocates and established that caseworkers in the federally contracted shelters share contact information for the parents in only 11 percent of cases, explain the basis for the separation in only 29 percent of

cases, and advise the child's lawyer or advocate of reunification planning in only 45 percent of cases. Partly in response to the survey, the court has ordered the parties to confer with the firm about how to ensure more open communication with the children's lawyers and advocates so that they can represent their young clients effectively.

In addition, Lowenstein assisted the ACLU in preparing a motion to enforce the June 2018 preliminary injunction in *Ms. L*, in the hope of stemming the tide of ongoing separations. On January 13, 2020, the court issued a mixed decision. On the one hand, the court declined to hold the government to stricter standards in separating families based on a parent's alleged

"criminal history." On the other hand, the court required the government to verify by DNA testing any doubts about parentage before separating families on this basis. And the court reaffirmed that when separations are necessitated by a parent's illness, the government must reunify the family as soon as the parent has recovered.

While pursuing such classwide remedies, the firm has continued to represent reunified families and to advocate on behalf of individual children. One of the families we represent was recently featured in a [NJ Spotlight article](#) that tells a now too-familiar story of compounded pain and the struggle toward resilience.

Launching the New Jersey Consortium for Immigrant Children

Five years ago, at the beginning of 2015, Lowenstein joined with the **Rutgers Child Advocacy Clinic** and **Kids in Need of Defense (KIND)** to bring together a core group of nonprofits, law schools, law firms, and corporate legal departments that had demonstrated a significant commitment to representing unaccompanied immigrant children (i.e., those who arrive in the United States without a parent or legal guardian). The idea was to share information, collaborate on advocacy issues, coordinate legal representation and social services, and expand the number of lawyers with the skills and knowledge necessary to win protection for these children. Early on, the **New Jersey Consortium for Immigrant Children** attracted the interest of the **Community Foundation of New Jersey**, which made generous, multiyear donations to support the effort, focused on expanding

immigration representation for foster children and increasing legal capacity in underserved areas of the state.

The consortium has met bimonthly ever since. Its members have kept one another up to date on rapidly changing policies and procedures in the immigration courts and agencies; responded collectively to the family separation crisis; beat back attacks on both asylum and Special Immigrant Juvenile Status; drafted and disseminated model pleadings, briefs, and orders; joined forces with organizers around the state to ensure that immigrant children are not denied their legal right to enroll in public school; and created model documents immigrant parents can use to designate alternative caregivers for their children in the event that federal enforcement separates them from their families. The consortium has also reached out to and begun to collaborate with medical and

mental health care providers who work with immigrant children.

In 2019, a group of state and national foundations took interest in the consortium, as well as in the **New Jersey Alliance for Immigrant Justice**, a coalition of the leading nonprofits that help New Jersey's immigrant communities organize and advocate on their own behalf. The foundations solicited a joint proposal from the two groups and generously agreed to make a collective grant of \$360,000 to support the separate and joint efforts of the two coalitions. As a result, the Consortium will have the resources to hire an executive director who will solidify its past successes and help build the infrastructure needed for it to move forward. The firm will have a seat on the three-member executive committee that will continue to guide this growing organization.



IMMIGRATION

Easing the Way for Parents to Identify Alternative Caregivers for Their Children

As Immigration and Customs Enforcement (ICE) began to arrest, detain, and deport undocumented immigrants without regard to longstanding enforcement priorities, panic spread through immigrant communities. In particular, parents worried that if ICE arrested them, there would be no one to care for their children. To address this concern, the firm worked with the Rutgers Child Advocacy Clinic to create a power of attorney that would allow parents to designate alternative caregivers. While this effort helped, state law imposed significant limitations on the model document.

To overcome these limitations, the firm has once again collaborated with the Rutgers clinic to redraft the state legislation that authorizes parents to

name alternative caregivers. The new bill would cover parents in a wide range of circumstances, including those facing immigration enforcement, but also those with serious illnesses, those called into active military service, and those facing incarceration, among others. The bill would authorize any of these parents to complete a power of attorney naming an adult they trust to care for their children in the event that the parent became incapacitated or unavailable, and delegating to that adult whatever powers the parent possessed and chose to delegate. For instance, a parent could allow the substitute caregiver to make decisions about the child's education and health care, but not finances, or to travel with the child domestically, overseas, or both. The power of attorney would be valid for one year and indefinitely renewable for

THE BILL WILL AUTHORIZE PARENTS TO COMPLETE A POWER OF ATTORNEY NAMING AN ADULT THEY TRUST TO CARE FOR THEIR CHILDREN.

additional one-year periods, and the parent would not forfeit parental rights during or after the delegation but would exercise authority concurrently with the substitute caregiver.

The bill is now pending in the New Jersey Legislature, and we are hopeful that it will pass.

Celebrating Victories!

After gang members murdered her father and threatened her family, J fled to find her mother in the United States. She won her green card in 2019 after years of litigation. She is now working nights to put herself through school.

F is the fourth member of his family to secure a green card with the firm's assistance, and three more won asylum in 2019. F and his siblings and cousins fled after witnessing the massacre of six family members. F is about to finish high school and go to work to help support the others.

M fled after being threatened by a drug cartel because of her work to persuade local farmers to plant food crops rather than coca. Here in the United States, she met and married an American citizen. She now has her green card and runs a business with her husband.

N's parents drank too much to take proper care of her. When she was old enough, she made her way to the United States and found her uncle, who is now her legal custodian. She won Special Immigrant Juvenile Status in 2019 and is doing well in high school.

C and her sister were held captive by gang members for a year before finding a way to escape. They now live with their mother, and C got her green card last spring when she was finishing ninth grade.

R was born in the Dominican Republic and has been living and working in the United States as a lawful permanent resident since 2012. R's application to become a naturalized citizen was approved, and she is looking forward to exercising her right to vote in the 2020 elections.





CIVIL AND HUMAN RIGHTS

Securing Fair Treatment for Service Members Who Are Transgender

Working with **GLBTQ Legal Advocates & Defenders (GLAD)** and the **National Center for Lesbian Rights (NCLR)**, we are currently representing active and aspiring transgender service members in their lawsuit challenging the government's ban on their ability to serve in the military. The military's current policy is to discharge or deny enlistment to anyone who will not serve in the gender to which they were assigned at birth or who is undergoing hormone therapy or other gender-confirmation treatment. This policy exempts from discharge only a small number of transgender troops who had been serving in secret but who came out after June 2016, under a short-lived policy allowing open service.

In June 2016, after comprehensive review by military experts, the Department of Defense (DOD) announced that transgender people could serve openly in all branches of the military, because open service

would serve the military's best interests. Reversing that policy in July 2017, the President announced that DOD would no longer allow transgender individuals to serve. In February 2018, DOD released a report that detailed the government's proffered justifications for the policy change.

In a lawsuit pending in the U.S. District Court for the District of Columbia, Lowenstein and co-counsel argue on behalf of active and aspiring transgender service members that the ban on open service unlawfully discriminates against them in violation of the Fifth Amendment. The government has attempted multiple times to get the case dismissed, but the court has rejected those motions and recognized the merit of the claims. The case has therefore proceeded to the discovery phase, in which the parties exchange documents and question witnesses and experts.

In September 2019, the firm won a significant victory when the court rejected the government's argument that it should automatically be accorded a high level of deference simply because the policy resulted from military decision-making, and ruled that "[a]dditional discovery is needed to determine if the [challenged] Plan is the product of considered military decision-making that reasonably and evenhandedly regulates the matter at issue." The judge agreed further that DOD could not broadly invoke the deliberative process privilege, which protects documents revealing the process behind government decisions, because "[t]hose documents go to the heart of Defendants' intent and decision-making process . . . both key issues in establishing the legitimacy of the disputed transgender policy." The opinion made clear that "Plaintiffs' need for the information overcomes Defendants' privilege."

This critical ruling will allow the team to obtain additional information on the facts behind the government's decision-making process, whether it reflected a discriminatory purpose to exclude transgender people, and whether the evidence that was considered in – or excluded from – that process supports the government's decision to implement the ban. We expect the court to schedule a trial sometime in 2020.



Protecting Transgender Inmates

"Kate" is a transgender woman. For nearly two decades, she has identified, presented herself, and lived her daily life as a woman. The gender designation on her birth certificate and other identity documents, including her state-issued identification, is "female." In 2016, Kate was arrested by the East Orange Police Department on charges that were ultimately dismissed. She spent almost three weeks in custody, first at police headquarters and later in the Essex County jail.

Throughout her detention, Kate repeatedly identified herself as "legally female" and requested that she be housed with female inmates. She feared that she would be subject to harassment, abuse, and physical harm if housed in a male unit. At each step in her detention, however, police and corrections officers ignored Kate's female gender identity and legal status

and rejected her housing requests. In this regard, they followed their policy of categorizing inmates by sex based on their external genitalia or assigned

victimization in state and federal prisons – a rate that is 10 times higher than for prisoners in general.

- The National Prison Rape Elimination Commission has identified transgender people as a population at high risk of experiencing assault and violence while incarcerated.
- According to a [2014 U.S. Department of Justice Report](#), 40 percent of transgender prisoners reported sexual

- In California prisons, [59 percent of transgender women housed in men's units reported being sexually assaulted](#).

sex at birth, regardless of their gender identity, presentation, or legal status. They subjected Kate to multiple cross-gender searches and medical



"Kate"

Photo by Bernard DeLierre



CIVIL AND HUMAN RIGHTS

examinations, conducted solely for the purpose of observing her genitals in order to determine her biological sex.

Kate's fears materialized as she experienced a litany of humiliations and assaults while confined with male prisoners. She had to shower, sleep, and live among male inmates and corrections officers. Within hours, male inmates verbally and physically harassed Kate and exposed their genitals to her in a threatening manner.

Kate repeatedly told corrections officers of the harassment she was experiencing. Some turned a blind eye, while others laughed at and encouraged the harmful behavior. No one tried to protect her. When Kate started having panic attacks, the jail still refused to place her in an environment where she could safely reside and interact

with other inmates. Instead, the jail moved her to a male protective custody unit. Kate spent 14 days in solitary confinement in this unit, a traumatizing experience in itself.

But even "protective" custody was not enough to protect Kate from harm. From the moment she stepped onto this unit and walked past other inmates on the way to her cell, they began taunting and threatening her – all in the presence of corrections officers. Two days later, one of the more vocal inmates spent the better part of an hour throwing human waste and rotting food at Kate through the food tray slot in the door of her cell. The corrections officers – who should have been regularly monitoring the unit – stood by and ignored her calls for help.

In February 2019, a federal court appointed the firm to represent Kate in a lawsuit against the police, the jail, the corrections officers who failed to protect her, and the warden and others responsible for the jail's policies on housing and treatment of transgender inmates. Based on federal and state civil rights claims, the lawsuit seeks monetary compensation on Kate's behalf, as well as systemwide reforms that would ensure that the police and the jail develop and implement policies that satisfy their constitutional and statutory obligations with respect to the care and treatment of transgender individuals in custodial settings. Many other jurisdictions have enacted laws and policies to protect this at-risk population from harm during incarceration. The defendants in this case must do the same.

Defending Democracy

This past term, the firm again filed an amicus brief in the United States Supreme Court in a pair of partisan gerrymandering cases: *Rucho v. Common Cause* and *Lamone v. Besinek* (we filed briefs in similar cases in the 2017 term). Our clients included a wide range of nonpartisan organizations and governmental entities that pursue public policy goals through legislative action and are therefore invested in fair elections.

In *Rucho*, the Court considered North Carolina's 2016 congressional map, which was drawn with the primary goal of creating as many districts as possible in which Republican candidates would win seats. In *Lamone*, the Court evaluated Maryland's 2011 congressional map,

THE AMICI INCLUDE:

- Anti-Defamation League
- County of Santa Clara
- Democracy 21
- Dēmos
- Friends of the Earth
- Government Accountability Project
- League of Women Voters, Maryland Chapter
- National Council of Jewish Women
- National Federation of Democratic Women
- North Carolina Justice Center
- OneVirginia2021
- Southern Poverty Law Center
- Virginians for Fair Redistricting

THE BRIEF URGED THE SUPREME COURT TO ADOPT CLEAR STANDARDS FOR DETERMINING WHEN THE MANIPULATION OF AN ELECTORAL MAP CROSSES A CONSTITUTIONAL LINE.

which was intentionally created to favor Democratic candidates. In both states, the lawmakers who crafted the redistricting plans conceded their intent to gerrymander for partisan benefit, and they used highly sophisticated techniques to redraw electoral districts to entrench their power. In both cases, the plans in fact produced the intended partisan electoral advantage while undermining the will of North Carolina and Maryland voters.

The firm's amicus brief argued that voters should choose their representatives, and not the other way around. Election manipulation through partisan gerrymandering violates fundamental democratic principles by subverting representative government and rendering elected officials unaccountable to their constituents. The brief urged the Supreme Court to adopt clear standards for determining when the manipulation of an electoral map crosses a constitutional line.

Although the Supreme Court has long recognized that severe partisan gerrymanders are "incompatible" with "democratic principles," and it has successfully developed and applied legal standards to safeguard the constitutional integrity of the electoral process in other types of redistricting challenges, it ruled that it could not set a constitutional standard to limit partisan gerrymandering. In a 5-4 decision, the court concluded that partisan gerrymandering presents a "political question" that federal courts cannot police.



Published in the 1812 *Boston Weekly Messenger*, this drawing was titled the **Gerry-Mander**, a mashup of the name of Massachusetts Governor Elbridge Gerry and the word "salamander," because the shape of the voting district drawn to benefit Governor Gerry's party looked (at least to someone) like a salamander.

Despite this disappointing decision, the fight for fair elections continues. Although the Supreme Court declined to put an end to extreme partisan gerrymandering, challenges to this undemocratic practice are

proceeding in state courts under state constitutions. Moreover, voters are continuing to seek fair redistricting in their states through ballot initiatives, new state laws, and independent redistricting commissions.

An illustration at the top of the page shows three stylized human figures in dark blue. One figure stands on the ground holding a large red puzzle piece. Another figure is on a ladder, placing a piece onto a tall, rectangular tower made of red puzzle pieces. A third figure is at the very top of the tower, also holding a piece. The background features a light blue sky with a few white clouds and a dark blue silhouette of a city skyline. Below the illustration is a solid red horizontal bar.

NONPROFITS

Securing a New Home for the ACLU-NJ

Amol Sinha, executive director of the ACLU-NJ, describes better than we could how our corporate lawyers advance the work of the nonprofits that support our communities:

As you may know, over the past several months, we've been working with Lowenstein attorney Kim Lomot, who has counseled us through a real estate lease negotiation. I wanted to share with you that our experience with Kim has been outstanding. She has been professional, responsive, detail-oriented, and caring throughout the process. From reading several draft leases, to ensuring each detail is worked out in our favor in the new lease and making sure it is "ACLU friendly," to advising us on our termination rights in our current space, Kim has been a joy to work with. As Kim's client, I felt heard and cared for, and I truly appreciate her for that.

Lowenstein has long held a reputation for stellar pro bono work, and that of course is seen in the urgent immigrants' rights, housing, criminal justice, and other crucial work you do. But we rarely hear about the unseen work – like lease negotiations that organizations like the ACLU-NJ do not have any staff for, but that are absolutely necessary for our mission to be realized. By giving such matters the time they deserve and treating pro bono clients as you would any other, you exceed your reputation and deliver long-lasting results for organizations like mine.

Amol Sinha

Executive Director of the ACLU-NJ

Helping Immigrants Connect in Their Local Communities

United Tastes of America is an innovative nonprofit dedicated to helping refugees and asylum-seekers integrate into their communities. Based on the belief that refugee resettlement works best when Americans and new immigrants join together in the effort, United Tastes facilitates connections based on mutual appreciation, commonalities, and respect for the unique attributes of each group. United Tastes' core program, the Syria Supper Club, harnesses the cooking skills of refugees from Syria, Iraq, and other Middle Eastern countries. They prepare, offer, and share in dinners hosted and attended by Americans who want to help with the resettlement of these groups. Cooks have the opportunity to work collaboratively and share the foods of their cultures. Supper hosts and guests pay a small fee to eat very well while learning more about how their new neighbors are adjusting to life in the United States. The fees enable United Tastes to offer culinary training and financial support to help meet the basic needs of the cooks and their families.

United Tastes first connected with the firm in 2017 when the program was not yet set up as a charitable organization. Our attorneys assisted United Tastes to trademark the organization's name and logo, incorporate, and file for tax-exempt status, with the result that the IRS has classified the organization as a public charity. Now, donors can make tax-deductible contributions to United Tastes, allowing it to expand its funding and grow its programs to assist more resettling refugees and asylum-seekers.



United Tastes of America cooks preparing for a Supper Club

Courtesy of United Tastes of America



NONPROFITS

Advancing Environmental Advocacy

The **Natural Resources Defense Council, Inc. (NRDC)**, one of the world's leading environmental advocacy organizations, has more than 700 employees who work in vastly different capacities. The organization identified



a need to train its large team on how to distinguish confidential legal advice that needs to remain private from newsworthy material that can be shared with external stakeholders.

NRDC turned to the firm for help. Lowenstein first delivered a training to NRDC's legal team, providing a refresher on privilege and waiver rules and offering advice on how to preserve privilege and protect NRDC from aggressive attempts by opposing counsel in litigation to access NRDC's records and email. The presentation also helped attorneys understand how NRDC can maintain confidentiality even when its staff are working closely with outside law firms and supporters to advance shared goals.

Lowenstein then delivered a similar presentation to the nonlegal staff to help them understand the concepts of confidentiality, privilege, and waiver and how they are relevant to nonlawyers at NRDC, especially those who work in communications, legislation, and advocacy. The goal of this presentation was to help NRDC staff members recognize what is and is not privileged information, and how they can minimize institutional risk while still advancing NRDC's goals.

Ultimately, these presentations guided NRDC staff to a better understanding of how to balance the protection of the privilege with the need to promote the organization's good work to the world.

Preserving Art and History

The **Jersey City Museum (JCM)**, a repository of visual arts and culture that was forced to close in 2012 because of insufficient funding, has, after long effort, successfully donated its entire collection to another renowned museum. JCM's valuable collection – consisting primarily of 19th century, 20th century, and contemporary paintings, works on paper, sculpture, and historical objects from New Jersey – is now part of the Jane Voorhees Zimmerli Art Museum at Rutgers University.

Following JCM's closure, its board of trustees remained tenaciously committed to fulfilling the museum's mission to safeguard and display the collection. With the firm's help, the

THE BOARD REMAINED UNDAUNTED, AND AT LAST SUCCEEDED IN FINALIZING A GIFT AGREEMENT WITH THE ZIMMERLI TO TRANSFER THE MUSEUM'S COLLECTION, HISTORY, AND LEGACY TO THIS HIGHLY RESPECTED AND DESERVING INSTITUTION.

JCM board searched for more than eight years for the right recipient. The task appeared insurmountable, as a successful placement would require alignment of many legal, financial, logistical, and artistic goals. After running out of funds, the museum paid its fine arts insurance and other essential expenses with personal

donations from its own board members and advisors.

Lowenstein worked with JCM on a series of projects to maintain the organization's tax-exempt status, most recently obtaining a determination by the IRS that the museum could remain classified as a publicly supported



A few of the artworks the Jersey City Museum donated to the Jane Voorhees Zimmerli Art Museum at Rutgers University

Courtesy of Jersey City Museum

organization rather than as a private foundation, a designation that would have made the transfer of art to the Zimmerli more challenging. The board remained undaunted, and at last succeeded in finalizing a gift agreement with the Zimmerli to transfer the

museum's collection, history, and legacy to this highly respected and deserving institution.

Currently, the firm is working with JCM to wind down its affairs with New Jersey and the IRS. Having completed

what seemed an impossible task, JCM can now dissolve in the knowledge that its collection is again being proudly displayed for the enjoyment and edification of the public.



NONPROFITS

Clearing the Way for a Community Center

New Jersey Community Development Corporation (NJCDC) has been transforming the city of Paterson and creating meaningful opportunities for its residents since 1994. Through its many initiatives, NJCDC creates affordable housing for the city's most marginalized populations, operates multiple schools, leads educational after-school programs, empowers local residents and business owners to advocate for their community, and purchases and repurposes neglected buildings to run community programming.

In 2019, NJCDC acquired the First Presbyterian Church of Paterson, a historic building that was in need of extensive renovation to be transformed into a youth center. NJCDC envisioned a space where Paterson teens could

NJCDC ENVISIONED A SPACE WHERE PATERSON TEENS COULD HAVE ACCESS TO A COMPUTER LAB, A MAKERSPACE, AND A THEATER.

have access to a computer lab, a makerspace, and a theater. The organization came to the firm for legal help with the purchase.

What initially seemed like a straightforward real estate deal turned into a long and complicated transaction. NJCDC first had to overcome a condition contained in the original 18th century deed stating that the building could be used only for church purposes. The firm conducted a thorough legal analysis, including

research into early American history and consideration of contested constitutional issues, to determine that no laws would be violated if the purchase agreement eliminated religious use. The seller of the property agreed to the terms, and in February 2019, NJCDC took ownership of one of the first church buildings constructed in Paterson. NJCDC is now working with an architect to design the site's transformation, while preserving one of the city's most valuable historic structures.

First Presbyterian Church of Paterson in the 1860s and today

Courtesy of NJCDC



Merging Nonprofits to Create a Stronger Service Organization

Avidd Community Services of NJ

is a charitable organization that develops and manages group homes and provides other programming and services to individuals who are intellectually and developmentally disabled. Avidd provides individualized assistance so that people with disabilities can fulfill their potential, become as self-sufficient as possible, and participate in the community.

The firm has represented Avidd since 2016 in connection with a merger between Avidd and Bethel Ridge Corporation, another nonprofit with a similar mission. On behalf of Avidd, the firm has performed due diligence,



updated organizational documents, reviewed services agreements, and helped Avidd change its name from Special Homes of New Jersey to Avidd Community Services. We are currently

helping Avidd finalize the merger, which will leverage the funding, resources, and expertise of both organizations to create a new and stronger entity that can serve more individuals in need.

Remembering Allen Levithan

Allen Levithan was an innovative thinker, strategic problem solver, and firm leader who worked hard for his clients. When he passed away in late 2018, Allen left behind a multi-decade career in corporate law and a commitment to serving communities that would otherwise go unrepresented. Throughout his 42 years at Lowenstein, Allen shaped the firm's corporate department, launched our investment funds and mortgage finance practices, and led by example in his pro bono and community services work.

The nonprofits Allen represented relied on and benefited from his knowledge and experience in many areas of law. Although he worked on matters with several organizations during his career, Allen was especially committed to the **Jewish Federation of Greater MetroWest NJ**, an organization that describes itself as "a safety net,

providing counseling for families in crisis, support services for seniors and for people with disabilities and their families, and career counseling and job placement assistance for the unemployed." Through hundreds of pro bono hours, Allen helped the federation assist families to become safer, more connected to their communities, and more financially secure.

Allen's example both reflected and sustained a culture at the firm that values pro bono work and encourages community engagement. The Lowenstein Center for the Public Interest is part of his legacy.





CRIMINAL JUSTICE

Reforming New Jersey's Approach to Juvenile Justice

As a founding member of **Youth Justice New Jersey**, the Lowenstein Center for the Public Interest has advanced a number of initiatives to improve New Jersey's juvenile justice system. Most recently, we worked with the **Criminal and Youth Justice Clinic at Rutgers Law School, ACLU-NJ, New Jersey Office of the Public Defender**, and **Juvenile Law Center** to draft and advocate for a bill that significantly reforms juvenile sentencing and parole. The percentage of youth serving their maximum sentence has steadily increased in New Jersey over the past 10 years, and alarming numbers of young people who have been released from custody are reincarcerated because of technical parole violations. The bill is intended to reverse these destructive trends while also ensuring public safety.

On January 20, 2020, Governor Murphy signed the bill into law, after its passage by the Legislature on January 13. The new law brings New Jersey's Juvenile Code in line with best practices around the country by creating more transparency and predictability in the juvenile sentencing and parole process, promoting incentives for positive youth behavior, and supporting the juvenile's eventual reintegration into society. The new law will improve conditions for juveniles in a number of important ways:

- The Juvenile Justice Commission (JJC) will now share responsibility with the parole board for making parole decisions and establishing conditions for parole, giving youth a meaningful opportunity for early release.
- Juveniles will no longer be subjected to onerous financial penalties, which often inhibited their successful reentry.
- The sentencing laws will limit when a juvenile may be incarcerated and ensure that incarceration is used only as a last resort.
- The mandatory supervision period formerly imposed on all incarcerated youth after they completed their term in custody will now be discretionary, time-limited, and used only to support a juvenile's rehabilitation and reintegration.
- The standards for granting or revoking parole are now more objective, transparent, and geared toward the juvenile's successful return to the community.
- The JJC will now collect and report on data about the incarcerated youth population and what happens to them during out-of-home placements.

The new legislation promises to reduce crime and recidivism by giving young people the opportunities and support they need to move on with their lives.



Community members speaking out in favor of juvenile justice reform at a public listening session

Appealing Criminal Convictions

For more than a decade, the firm has partnered with the **New Jersey Office of the Public Defender (OPD)** to represent indigent defendants

appealing their criminal convictions. We continue this work through the OPD Appellate Section Pro Bono Partnership Program, which formally

launched in 2018. As a participating firm and counsel of record in the appeals we take on from the OPD, Lowenstein is responsible for legal research and strategy, preparation of the appellate briefs and record, and oral argument. The matters often present significant and complex evidentiary and constitutional issues, and the stakes are high as our clients are typically serving long prison terms.

Through this program, young lawyers have an opportunity to develop their written and oral advocacy skills while ensuring that indigent defendants can appeal what may be unjust convictions.

Since the inception of its partnership with the OPD, the firm has devoted approximately 7,500 hours to this work.

As a first-year associate working on an OPD appeal, I received significant autonomy within my first few months at the firm on an appeal that raised novel issues about whether my client's trial violated the Double Jeopardy Clause. At the start of the case, I reviewed the appellate record, consulted with senior attorneys regarding potential appealable issues, and researched the law surrounding those issues. With that strong understanding of our case, I was given the opportunity to prepare the first drafts of the opening and reply briefs and to argue the appeal. It was an honor and a privilege to have a prominent role in such an important case so early in my career.

Pat Thomas, *Lowenstein Associate*

Remembering Robert J. Kipnees

Almost immediately upon joining Lowenstein Sandler in 2004, Rob Kipnees became a leader in the firm's pro bono program, particularly in the area of criminal justice. Rob's focus on criminal justice was not surprising given his experience in this area. He served as an Assistant U.S. Attorney for the District of New Jersey, taught white-collar criminal defense as an adjunct professor at Seton Hall Law School for 19 years, authored seven editions of the *Criminal Trial Practice* textbook for the New Jersey Institute for Continuing Legal Education, and appeared as a frequent lecturer on a variety of criminal law-related topics.

Rob was also passionate about giving back to his community and mentoring junior lawyers. This led him to develop a partnership with the New Jersey Office of the Public Defender's Appellate

Section, through which he would handle appeals on behalf of indigent criminal defendants. For over a decade, Rob devoted hundreds of hours to supervising criminal appeals referred to the firm through this partnership, and to helping young lawyers develop their appellate advocacy skills. He also actively participated on numerous nonprofit boards and devoted significant time to providing pro bono legal services to nonprofits and religious institutions.

Rob passed away in December 2018. Everyone who worked with him became a better lawyer and many became more thoughtful people. His contributions to the firm and the center live on through his clients, the many lawyers he helped train, and the communities he participated in and supported.





ACCESS TO JUSTICE

2019

18,613

pro bono hours dedicated to
“signature projects,” including:

6,635

hours representing **105 immigrants** seeking lawful
status or release from detention

4,694

hours representing **119 nonprofits** seeking a
wide range of corporate and tax assistance

2,019

hours representing **10 domestic violence
survivors** seeking final restraining orders and/or
child custody and support orders

1,990

hours representing **31 individuals with criminal
convictions** seeking to prove their innocence,
appeal their convictions, petition for pardons or sentence
commutations, or expunge low-level criminal records

1,115

hours representing **44 low-income entrepreneurs
or inventors** starting businesses or filing for patents

Regulating the Practice of Law and the Administration of Justice

Holding lawyers and judges to their professional obligations is a key part of ensuring the fair administration of justice. Unlike some states that have full-time staff to handle complaints against lawyers and judges, in New Jersey, volunteer committees often begin the process of reviewing claims of misconduct. These committees include District Ethics Committees, which investigate, prosecute, and conduct hearings arising from grievances filed against lawyers;

District Fee Arbitration Committees, which arbitrate fee disputes between attorneys and clients; and the Advisory Committee on Judicial Conduct, which investigates allegations of unethical judicial conduct and refers to the New Jersey Supreme Court those matters that the committee concludes demand public disciplinary action.

Half a dozen Lowenstein attorneys spent more than 700 hours serving on these volunteer committees in 2019.

Committee members are responsible for investigating allegations of wrongdoing, conducting legal research on ethics issues, and drafting written recommendations on proposed outcomes in individual cases. This pro bono service fills a critical gap in the state's disciplinary systems and helps protect the integrity of the legal profession and the state courts.

829

hours representing **84 tenants** fighting eviction or seeking to remedy unlivable conditions

516

hours representing **14 veterans** applying for service-related disability benefits or attempting to regain their driver's licenses

334

hours representing **14 low-income debtors** filing for personal bankruptcy to get a fresh financial start

298

hours representing **31 transgender individuals** seeking legal name changes

183

representing **3 conservators** seeking legal custody of children and/or young adults with disabilities in their care



In 2019, we were honored with:

The Legal Leadership Award
from the **ACLU-NJ** for the firm's
work to prevent the deportation
of Indonesian Christians facing
religious persecution

The Equal Justice Medal
from **Legal Services of New
Jersey** in recognition of the
firm's collaboration with **Legal
Services of Northwest Jersey** in
representing veterans in disability
matters

The Pro Bono Partner of the Year
Award from **Transgender Legal
Defense & Education Fund** for
the firm's work launching and
sustaining the Name Change
Project in New Jersey

The Law Firm Pro Bono Achievement Certificate from the **United States Patent and Trademark Office** for the firm's accomplishments in patent pro bono service

The Corporate Leadership Award, one of the Jefferson Awards for Public Service, from the **New Jersey State Governor's Office** for the center's commitment to providing free legal services to marginalized populations

The Firm of the Year award from **Community Legal Services in East Palo Alto** for the firm's work to clear low-level criminal records for pro bono clients

The Dignity and Respect Award from **Make the Road New Jersey** in recognition of the firm's class action to preserve Special Immigrant Juvenile Status for older youth



LOWENSTEIN IN THE COMMUNITY



200+ | **volunteer hours**

700+ | **books donated**

600+ | **holiday gifts donated**

250+ | **winter coats donated**

200+ | **meals prepared for
the homeless**



LOWENSTEIN IN THE COMMUNITY



In 2019,

Lowenstein employees:

- Through **Hands on Bay Area**, assembled herb garden kits that were donated to a low-income public school in Oakland, California
- Created costumes through **Only Make Believe**, a nonprofit that puts on interactive theater performances for sick and disabled children
- Collected 700 books for **Project Cicero Northern New Jersey** and **Access Books Bay Area** to donate to low-income public schools
- Through **Jersey Cares**, assembled "bravery award kits" for **Liberty USO** for children whose parents are in the military
- Made 200 shelf-stable meals for **Martha's Table** to distribute to homeless people in Washington, D.C.
- Created care packages for low-income new mothers who are part of Raphael's Life House at **Covenant House New Jersey**
- Created 100 kitchen sets for LGBTQ transitional housing organizations **The Essex LGBT RAIN Foundation**, **Wanda Alston Foundation**, **Bill Wilson Center**, and **New Alternatives**
- Beautified **South Mountain Reservation** by removing invasive weeds and planting natural flora
- Donated Thanksgiving packages to 10 families through **D.C. Child and Family Services Agency**
- Distributed healthy meals to food-insecure families at **Ecumenical Hunger Program** in East Palo Alto, California
- Collected more than 250 coats and winter accessories for the **Interfaith Food Pantry of the Oranges**
- Painted "Stars of Hope" with messages of hope and healing for **Community of Hope**, a social service organization in Washington, D.C.
- Collected and delivered more than 600 holiday gifts for children living in the emergency shelter of the **YMCA of Newark and Vicinity**; donated new toys to 90 New York City students at a Title One school as part of the Dear Santa Project of the **Association of Legal Administrators**; and fulfilled the holiday wishes of 30 foster youth at **Unity Care** in San Jose, California





ACKNOWLEDGMENTS

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

Access Books Bay Area	Ecumenical Hunger Program	Legal Aid Society of San Mateo County	NYCLU
ACLU	Education Law Center	Legal Outreach	OneJustice
ACLU-NJ	The Essex LGBT RAIN Foundation	Legal Services NYC	Only Make Believe
American Friends Service Committee	Essex-Newark Legal Services	Legal Services of New Jersey	Partners for Women and Justice
Avidd Community Services of NJ	GLBTQ Legal Advocates & Defenders (GLAD)	Legal Services of Northwest Jersey	Political Asylum/Immigration Representation Project (PAIR)
Bill Wilson Center	Hands on Bay Area	Liberty USO	Pro Bono Institute
The Bronx Defenders	Her Justice	Make the Road New Jersey	Pro Bono Partnership
California Lawyers for the Arts	Human Rights First	Martha's Table	Project Cicero Northern New Jersey
CASA for Children of Essex County	Immigrant Justice Corps	Mi Casa Resource Center	Public Counsel
Catholic Charities Community Services of the Archdiocese of New York	Immigrant Legal Services	National Center for Lesbian Rights (NCLR)	Social Enterprise & Startup Law Group at NYU School of Law
Center for Social Justice at Seton Hall Law School	Interfaith Food Pantry of the Oranges	National Juvenile Defender Center	Transgender Legal Defense & Education Fund
Child Advocacy Clinic at Rutgers Law School	International Refugee Assistance Project	Natural Resources Defense Council	United States Patent and Trademark Office
Children's Law Center	Jersey Cares	New Alternatives	United Tastes of America
City Bar Justice Center	Jersey City Museum	New Jersey Alliance for Immigrant Justice	Unity Care
Community Foundation of New Jersey	Jewish Federation of Greater MetroWest NJ	New Jersey Community Development Corporation	Vera Institute of Justice
Community Hope	Juvenile Law Center	New Jersey Consortium for Immigrant Children	Volunteer Lawyers for the Arts
Community Legal Services in East Palo Alto	Kids in Need of Defense (KIND)	New Jersey Office of the Public Defender	Volunteer Lawyers for Justice
Community of Hope	Law Foundation of Silicon Valley	New York Lawyers for the Public Interest	Wanda Alston Foundation
Covenant House New Jersey	Lawyers Alliance	Northwest Immigrant Rights Project	YMCA of Newark and Vicinity
Criminal and Youth Justice Clinic at Rutgers Law School	Lawyers' Committee for Civil Rights Under Law		Young Center for Immigrant Children's Rights
D.C. Child and Family Services Agency	Lawyers' Committee for Civil Rights of the San Francisco Bay Area		Youth Justice New Jersey
	Legal Aid Society of the District of Columbia		YWCA of Union County

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.

The firm also partners with corporate legal departments and vendors in its pro bono program.

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