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## Stein Center News - June 2014

Stein Center for Law and Ethics

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# STEIN CENTER NEWS

The e-newsletter for alumni and friends of the  
Stein Center for Law and Ethics at Fordham



## LOUIS STEIN CENTER FOR LAW AND ETHICS

June 2014

### June 2014

#### Stein Alumni Awards Reception (October 21)

## Stein Alumni *"In the Service of Others"* Awards Reception

On October 21 (6:30-8:30 pm), the Stein Center will hold its Stein Alumni Awards Reception at the new law school building. At the event, the Center will recognize two Stein Scholars graduates who have demonstrated exceptional leadership and commitment and have made significant public service contributions through their work with public interest organizations, government entities, courts and/or pro bono initiatives.

In addition to providing an opportunity to bestow the Stein Alumni "*in the Service of Others*" Award on two deserving graduates, the event will be a terrific chance to re-connect with fellow Steins, meet the new Stein Scholars, celebrate the Stein Scholars Program and visit the new law school building!

To nominate a deserving Stein Scholars graduate or to RSVP, [visit the event webpage](#).

#### Spring 2014 Hot Topics

On April 7, five Stein graduates spoke at the third Hot Topics panel discussion, Family and Children's Rights: Challenges, Accomplishments, and Emerging Issues:

- Stacy Charland '04, Staff Attorney at Bronx Defenders
- Susan Cordaro '04, Appellate Attorney at Children's Law Center
- Louise Feld '02, Senior Policy Associate for Food and Economic Security at Citizens Committee for Children
- Sandy Rosin '06, Litigation Supervisor at Center for Family Representation
- Lauren Wenegrat '00, Director of Legal Services – Family Foster Care at Good

## Shepherd Services

The panelists were introduced by Stein Scholar Mairead Maguire '15, and the event was moderated by Stein Scholar Liz Ling '15.

The speakers discussed the following topics:

- the role of race and poverty in the family court system
- proposed pending legislation designed to protect children's relationships with non-biological adults
- the relationship between food and nutrition and children's rights and well-being
- lack of affordable housing as a barrier to family reunification
- the development and expansion of trauma-informed family courts



The event was co-sponsored by the Youth Advocacy Law Association, Suspension Representation Project, Lincoln Square Neighborhood Children's Law Project and Family Advocacy Clinic.

## Calling All Steins: Tips for a Professional Transition

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More than 20 students and recent graduates dialed in on March 6 to listen to 5 Stein graduates share tips on making the switch from a private firm to a nonprofit/government entity. Andrew Chapin, Director of Public Interest Scholars & Counseling, moderated the call, which included the following participants:

- Gail Eckstein '03 – from Reed Smith LLP to the NYC Department of Education
- Erica Gersowitz '07 – from Kaye Scholer LLP to the Laura and John Arnold Foundation
- Adam Libove '07 – from Troutman Sanders LLP to NYC Department of Investigation
- Nicholas Mitchell '07 – from Allen & Overy LLP to Independent Monitor of the Denver Police and Sheriff Departments
- Seema Saifee '04 – from Kramer Levin Naftalis & Frankel LLP to the Innocence Project

The speakers provided tips on how to effectively position oneself to make the transition, find out about issues to consider before making the switch, get started, and decide it is time to make the change. After the panelists each described their own career moves, participants were given the opportunity to ask questions.

[Listen to a recording of the call.](#)

Email [achapin@law.fordham.edu](mailto:achapin@law.fordham.edu) for the password.

## Stein Center Co-sponsors Two Ethics Programs

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### Attorney Client Privilege and Selective Waiver in Bank Regulation

On February 24, 2014, the Stein Center for Law and Ethics, the Fordham Corporate Law Center, and Cardozo Law School's Center on Corporate Governance co-sponsored a panel on ethics in bank regulation based on an article by Fordham Law Professor Bruce Green entitled "[The Attorney-Client Privilege – Selective Compulsion, Selective Waiver, and Selective Disclosure: Is Bank Regulation Exceptional?](#)"



Michael H. Stone, Senior Fellow, The Samuel and Ronnie Heyman Center on Corporate Governance at Cardozo School of Law, moderated the panel, which consisted of the following speakers:

- Thomas C. Baxter, Jr., General Counsel & Executive Vice President, Federal Reserve Bank of New York
- Bruce Green, Louis Stein Chair and Director of the Stein Center for Law and Ethics at Fordham Law School
- Deborah Morris, Deputy Enforcement Director, Consumer Financial Protection Bureau
- John F. Savarese, Partner, Wachtell, Lipton, Rosen & Katz
- Harry J. Weiss, Partner, WilmerHale

Before a packed audience, the panelists addressed and debated selective disclosure and selective waivers, as well as broader issues having to do with the realities of investigations and bank regulation. A *New York Times* article titled "[A Standoff of Lawyers Veils Madoff's Ties to JPMorgan Chase](#)" that ran on March 5, a few days after the panel, quotes two of the panelists, Bruce Green and Thomas Baxter, Jr.

#### Ethics for In-House Counsel

The complex and confusing ethics issues faced by in-house counsel took center stage at a conference, *Ethics for In-House Counsel: New Developments and Future Challenges*, chaired by Fordham Law alum James Bernard '95 and hosted by Fordham Law School's Stein Center for Law and Ethics and the office of CLE and Public Programs on March 20, 2014.

During four panels and a keynote address, participants learned about ethical boundaries in corporate drafting and negotiating, conflicts, recent ethics developments, and how to avoid pitfalls when interviewing employees.

Karla Sanchez, Executive Deputy Attorney General for Economic Justice, New York State Attorney General's Office, was the keynote speaker. Panelists included:

- the Honorable Jed S. Rakoff, U.S. District Judge, S.D.N.Y.
- Mark G. Califano, Senior Vice President and Managing Counsel, American Express
- Lauren Shy, Legal Director, Global Compliance and Ethics Department and Privacy Counsel, PepsiCo, Inc.
- James Bernard, Partner, Strock & Strock & Lavan LLP
- Joel Cohen, Partner, Strock & Strock & Lavan LLP
- Gordon Eng, General Counsel & Chief Compliance Officer, SKY Harbor Capital Management, LLC
- Yvette M. Garcia, General Counsel, Rockefeller & Co.



- Bruce Green, Louis Stein Professor and Director of the Stein Center for Law and Ethics, Fordham Law School
- Michele Hirshman, Partner, Paul, Weiss, Rifkind, Wharton & Garrison LLP
- Devika Kewalramani, Partner, Moses & Singer LLP
- Jennifer Paradise, General Counsel, White & Case LLP
- Kathleen Scanlon, Law Offices of Kathleen M. Scanlon, PLLC
- Tina Stark, Visiting Professor of Law, Fordham University

Several of the panelists are either Fordham alumni (James Bernard '95, Gordon Eng '05, Yvette Garcia '95 and Karla Sanchez '95) or visiting/adjunct Fordham faculty (Kathleen Scanlon, Joel Cohen and Tina Stark). Four Ethics CLE credits were provided for attendance at all four panels.

## Stein Scholars Organize Three Successful Spring Roundtables

### Decriminalization of Marijuana

On February 26, Stein Scholars produced a well-attended panel called Ending the War on Marijuana? The Legalization Movement in New York and the Nation.



Polls show that in New York and nationwide a majority of Americans support legalizing small amounts of marijuana for recreational use. Colorado and Washington have already legalized the drug, and many observers are predicting California will be next. Twenty states and Washington, D.C. have medical marijuana laws on the books.

But while lawmakers in New York have repeatedly introduced bills to either legalize cannabis or provide for medical marijuana by statute, Governor Andrew Cuomo has thus far only responded with an executive order permitting medical marijuana at a few select hospitals. Meanwhile, the drug remains illegal under federal law, and arrest data shows that black Americans are arrested for marijuana possession far more frequently than whites despite relatively similar use rates.

A distinguished panel of experts focused on how New York compares to other jurisdictions who have either legalized medical marijuana regimes or who have legalized it altogether. The panel had a lively debate on the merits of legalization, both as a criminal justice and public policy matter.

Panelists included:

- Emma A. Andersson, Staff Attorney, Criminal Law Reform Project at the American Civil Liberties Union, with a practice including litigation, indigent defense reform, marijuana law reform, and federal and state sentencing
- Gabriel Sayegh, New York State Director, Drug Policy Alliance, an advocacy and lobbying organization seeking to advance effective drug policies
- Dr. Jeffrey Reynolds, Executive Director of the Long Island Council on Alcoholism and Drug Dependence (LICADD), which provides screening, intervention and referrals to treatment, family interventions, and relapse prevention programs for adults and adolescents.

Stein Scholar Antoine Morris '14 chaired the event.

The Prison-Industrial Complex

On March 12, the Stein Scholars Program hosted an event titled *The Prison-Industrial Complex: The Prisons, the Profits and the Communities Affected*, which explored the causes and implications of the prison-industrial complex. Bringing together many issues of deep interest to the public interest community—the war on drugs, discriminatory law enforcement, unprecedented incarceration rates, for example—the event offered the perspectives of a broad array of professionals, as well as an opportunity for input from the audience.



The panelists included John Pfaff, Associate Professor of Law at Fordham who teaches criminal law, sentencing law, and law and economics; Chase Strangio, a Staff Attorney with the LGBT & AIDS Project at the ACLU; and Ellie Mochin '12, a Stein alumna and misdemeanor assistant to the Brooklyn DA.

The panel discussed the effect of the criminal justice system on vulnerable and marginalized populations, while also offering the perspectives of prosecutors and victims of crime. A good portion of the event also focused on a data-driven analysis of the effect of racial inequalities on the rise of mass incarceration.

The panel was introduced by Leeanne Cunningham '17 and moderated by Catherine Humphreville '16.

#### Guns: Violence, Policy, and the Second Amendment

On March 26, the Stein Scholars Program hosted a panel entitled *Guns: Violence, Policy, and the Second Amendment*, which was inspired by the art exhibit *Palas por Pistolas/Shovels for Guns* by artist Pedro Reyes. Fr. Gregory Waldrop, S.J., Professor of Art History and Executive Director of Fordham University Art Collections, introduced the work of Pedro Reyes and gave a short presentation about the intersection of social justice and art at play in the temporary art exhibition. Reyes began the project in the city of Culiacán, in western Mexico, which has a high rate of gun-related deaths. He organized a citywide campaign for a voluntary donation of weapons in exchange for coupons that could be traded at local stores for electronics or household appliances. 1,527 guns were collected, melted down by the Mexican Military, and transformed into shovels. These shovels were then distributed to both children and adults and used to plant 1,527 trees.



Waldrop explained that Reyes describes his work as "*ad usum*, an art to be used ... the piece or the

artwork operates as a tool, a device, or a tactic.” As Reyes says, what is important in this project is the story: “Adding stories to the world is a peaceful weapon for change. Taking guns out of circulation and planting trees is not a solution to the social problem, but the strength of this work remains in the realm of symbolism. Precisely in the crafting of the parable resides its effectiveness.”

Learning about the symbolism of the art exhibition was a perfect introduction to discussing the topic of gun control and the Second Amendment. The panelists included Leah Gunn Barrett, Executive Director of New Yorkers Against Gun Violence; Saul Cornell, Ph.D., the Paul and Diane Guenther Chair in American History at Fordham University; and Adam Skaggs, Senior Counsel for Mayors Against Illegal Guns.



The panel was a lively discussion about “common sense” gun regulations and how these regulations can and do significantly reduce gun-related deaths. These include disallowing certain unnecessarily dangerous features, background checks for those purchasing guns, and restrictions on guns for those suffering with mental health conditions. The common sentiment among the panelists was not anti-gun, but anti-gun violence.

The panelists also discussed using historical and originalist tactics to actually propel gun regulations forward. While this is not an intuitive idea, Professor Cornell was able to trace the history of gun control to show that guns have consistently been regulated throughout the history of the United States.

The panel, introduced and moderated by Stein Scholar Jake Hays '17, concluded with questions from the audience and a call to action for those interested in preventing future gun violence.

### Spring Break Service Trip

Stein Scholar Katie O'Hare '15 shares the following reflection on volunteering with Habitat for Humanity.

This year, fellow Stein Lucy Benz-Rogers '14, ten other students, three members of the Fordham Law administration, and I participated in Fordham Law's annual Habitat for Humanity spring break trip. It was a great way to take a break from legal work, spend some time volunteering with a terrific organization, and a wonderful excuse to enjoy some warm weather. In much of my public interest work, I have seen the tremendous need for affordable housing, and I felt lucky to have the opportunity to volunteer with an organization working to help people access affordable housing.



This year, the Fordham Law group joined with Habitat's chapter in Palm Beach County. On Monday, we volunteered at the local Habitat ReStore, which is a nonprofit home improvement store and donation center that sells new and used furniture, building materials, and appliances to the public at a portion of the regular price. On Tuesday, we helped to clean up and rehab an old Habitat house, which was getting renovated so a new family could move in. On Wednesday through Friday, we volunteered at a building site in Jupiter, Florida, the town we stayed in throughout the trip. We were working on a few houses in a new Habitat community of about 20 homes in Jupiter. Since the homes we worked on were nearing completion, much of our work involved painting, sodding, etc., but there was also some roof work. After we were done at the work site, we had some time to visit

the beach and explore Jupiter.

The most rewarding part of the trip was being able to meet and speak with a family who would be moving into one of the houses we worked on. I'm really grateful for the opportunity to have participated in Habitat's spring break trip this year!

## Stein Scholars Welcome Four New Spring Admits

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Rodrigo Bacus has been active with several public interest organizations since starting law school, including WomensLaw.org, Universal Justice, and the Iraqi Refugee Assistance Program. He was also a Court Advocate for the Courtroom Advocates Project, where he helped obtain protection orders for domestic violence survivors. He intends to use his legal skills to help people who are disadvantaged.



Sasha Fisher looks forward to interning at the Children's Law Center this summer. As a 1L at Fordham, she has devoted a lot of her time and energy during her first year to helping others through her participation in WomensLaw.org and as a Domestic Violence Conference volunteer. She has also been active with Youth Law as a 1L Board member and with Fordham Law Women.



Julianne Lee's goal is to provide legal services to immigrant communities. She will be interning with the Legal Aid Society Immigration Law Unit this summer and has volunteered with the Iraqi Refugee Assistance Program, the Immigration Advocacy Project, and Catholic Charities as a 1L law student. Through the Iraqi Refugee Assistance Project, Julianne has been working with a New York-based attorney to support a Syrian woman in applying for refugee status and resettlement.



Helen Terrero has secured a summer internship with the NYC Office of Administrative Trials and Hearings. She is a student member of the NYC Bar Administrative Law Committee and a volunteer with Fordham Law Women and Access to Justice. Prior to coming to law school, Helen was a nurse in the U.S. Army.

## Legal Ethics Roundtable with Scott Cummings

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On March 3, the Stein Center hosted Scott Cummings (UCLA School of Law) as part of the Legal Ethics Scholars' Roundtable. Scott discussed his paper titled "Reframing the Role of Law in Social Change."



Scott's article examines how empirical scholarship has shaped current understandings of what lawyers can (and cannot) do to advance social change. The article focuses on the problem of measuring the impact of social change and argues that empirical tools developed in the wake of *Brown v. Board of Education* are not well-adapted to evaluating the results of contemporary legal mobilization. In response, Scott offers an alternative model for understanding the role of law in social change and explores its theoretical implications.

The Legal Ethics Scholars' Roundtable was formed by Susan Fortney, Director of the Institute for the Study of Legal Ethics at Maurice A. Deane School of Law at Hofstra University, and Bruce Green, Stein Center Director, to provide opportunities for area legal ethics professors to discuss their work in progress.

## Steins in the News

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Cesar Cardenas '06 is now the Senior Government Relations Specialist at Pitta Bishop Del Giorno & Giblin LLC.



Brandworkers International, the workers' rights organization founded by Daniel Gross '07, was recently awarded Outten & Golden's 5th annual public interest award for its advocacy and grass roots efforts to empower local food production employees. To find out more about Brandworkers' efforts, visit the [organization's website](#).

Alycia Guichard '04 is in the news because she put her social entrepreneurial skills to work and recently opened up a health food store in Brooklyn called [SPLASH Health Spot](#). Not only will SPLASH [bring healthy food to an underserved neighborhood](#), but Alycia also plans to provide legal advice on issues such as schools and housing at the store.

Megan Elizabeth Horn '11 and Kamal Essaheb '06 were married May 3, 2014, at the Islamic Cultural Center of New York in Manhattan. Both work in Washington, D.C., Megan as a staff lawyer and policy analyst for Farmworker Justice, and Kamal as a policy lawyer at the National Immigration Law Center.

Carl Hum '97 relocated to Washington, D.C., to become the new Vice President for Policy and Programs at [Asian Americans Advancing Justice](#) (AAJC). Carl will be responsible for developing and implementing AAJC's strategic vision for their public policy and advocacy agenda, litigation and policy research initiatives.

Judge Joanne Quinones '97 was awarded the Andrew A. Rivera award at Fordham's Latin American Law Students Association (LALSA) 28th annual awards dinner on March 28.

## 2014 Mary Daly Prize Winner

Jason Tortora '14 has been named this year's Mary Daly Prize recipient. Jason, author of the note "Reconsidering The Standards Of Admission For Prior Bad Acts Evidence in Light of Research on False Memories and Witness Preparation," *40 Fordham Urb. L.J. 1493 (2013)*, is a member of the Stein Scholars Program. While at Fordham, he interned with a state prosecutor's office and the Legal Aid Society's Criminal Defense Practice, participated in the Criminal Defense Clinic, and volunteered in a prison visitation project organized by the Legal Aid Society. He has also been an active member of the Brendan Moore Trial Advocacy Center, doing well at competitions and serving as this year's Alumni Affairs Editor. Jason will be working with the Legal Aid Society's Criminal Defense Division upon graduation.



Jason Tortora and fellow Brendan Moore competitors and coaches at the American Association for Justice Student Trial Advocacy.

The Mary Daly Prize in Legal Ethics is awarded to the Fordham Law School graduating student who publishes the most significant writing or makes the most significant contribution relating to lawyers' professional responsibility and/or the legal profession. It was established by the directors of the Stein Center for Law and Ethics in memory of their beloved colleague Mary Daly, who directed the Stein Center in the 1980s and 1990s. [View a list of past recipients](#).

Learn about the other 7 Steins who were also recipients of 2014 graduation awards in the next issue of Stein Center News.

## Four Stein Graduates Talk About Their Pro Bono Efforts

One way some Steins make "in the service of others" a day-to-day reality is through their work on pro bono cases. Here are how four graduates are fulfilling such service.

Katrina Baker '08, Associate at Kramer Levin Naftalis & Frankel LLP



A large part of the reason I decided to join Kramer Levin Naftalis & Frankel is the firm's historical and continuing dedication to pro bono work. From day one, I have been fortunate to do a variety of pro bono work. Within my first year I worked on a project with the William J. Clinton Foundation, successfully represented a client seeking asylum from Peru, and chipped in on other small pro bono opportunities. While these experiences were fulfilling, I decided to focus my pro bono work on two goals and began

originating pro bono work to meet those goals: (1) developing my practice and expertise and (2) helping students who, like me, are among the first in their families to go to college.

#### *A great way to gain skills*

As an employment attorney counseling and litigating on behalf of employers, I have found no shortage of organizations in need of pro bono employment counsel, and I have been fortunate to work with several over the years, including the Hawn Foundation. At this point in my career, a significant portion of my job is counseling clients. But as a junior associate, clients were not exactly breaking down my door to hear my rookie advice. Counseling pro bono organizations gave me the opportunity to beef up my counseling experience and provide meaningful and necessary assistance to these clients.

Pro bono as a supplement to on-the-job experience cannot be undervalued. During my third year, I participated in the New York Law Department's deposition program. After taking four depositions for the Law Department, I was able to leverage those experiences into later billable depositions. Most firms see the benefit: the partner can tell the billable client that this will not be the first time this mid-level associate is taking a deposition.

#### *Developing subject area knowledge*

I have long been interested in how mental illness impacts the workplace and how employers and employees must walk a tight rope between accommodating employees and ensuring their safety. Along those lines, I was asked by a colleague to represent a woman who applied for and was denied accommodations in connection with the New York State bar exam. I came to learn the inane, and—I would argue—illegal, practices of the New York State Board of Law Examiners and was able to represent the client in connection with her application. Such an experience has only deepened my interest in this area.

#### *Working with students*

As for my desire to work with students, I have been involved with Kramer Levin's summer institute for Legal Outreach since I was a summer associate. During the institute, we host eight students for a week, informing them of various practices of law, leading exercises demonstrating such areas, and coaching them through an oral argument. Additionally, for three years I was a year-round mentor for a Legal Outreach student. This involved being a support system for the student and working with her as she wrestled with the four oral argument problems she was assigned each year. Even though she graduated from high school in June 2013, we get together frequently, and I have also been fortunate to build relationships with other students in the program as well.

While I have done a wide variety of pro bono work, there will always be a tension between pro bono work and billable work. I was fortunate to find a firm that prioritizes pro bono work, but I also manage the expectations of the partners I work with. Junior attorneys should be prepared for the fact that in most instances pro bono work is something that you are doing in addition to your billable work. Even when billable work seems overwhelming, you should still try to fit in one or two pro bono matters. It will keep you sharp, focused, and sane.

Tanya E. Kalivas '08, Associate at Arnold & Porter LLP



After working at Arnold & Porter LLP as a summer associate in 2007, I started there in the fall of 2008, right after I graduated from Fordham Law. My primary focus is on general commercial litigation, but the relatively small size of the New York office means that there is not a high degree of specialization.

#### *Cases on behalf of civil rights, the mentally ill, and homeowners impacted by Sandy*

I have been involved with many pro bono cases while at Arnold & Porter. Most recently, I helped prepare an amicus brief to the Third Circuit on behalf of doctors, therapists, and mental health practitioners in *King v. Christie*, a case involving a challenge to a New Jersey statute that bans the

use of gay conversation therapy on minors. The law had originally been challenged in the District Court for the District of New Jersey, where it was upheld as constitutional. The firm's efforts to defend the statute have been undertaken in conjunction with the National Center for Lesbian Rights. My pro bono practice also includes representation of individuals living in Baldwin, New York who were adversely impacted by overflowing sewage as a result of Hurricane Sandy. The residents live near a sewage treatment plant that has a long history of flooding. During Sandy, their houses were inundated with 3–6 feet of raw sewage. I helped process the FEMA and insurance claims. I am also part of a team that is representing the residents in lawsuits against Nassau County for damages and clean up costs. Finally, the firm has brought a Clean Water Act claim against Nassau County to try to get the county to remedy the situation going forward.

Another big pro bono case that I worked on involved severely mentally ill inmates at the Supermax prison in Florence, Colorado. That case was brought against the Federal Bureau of Prisons for not following its own policy prohibiting solitary confinement for severely mentally ill inmates.

#### *Rewards and frustrations*

I get a lot of satisfaction from using the skills and training I have gained as an associate at Arnold & Porter on behalf of interesting issues that I really care about. As practitioners and professionals, I think lawyers should strive to have a positive impact on the world around them.

Sometimes the difficulty of providing services for pro bono clients stems from the very issues (Sandy, mental illness, etc.) that bring the clients to Arnold & Porter in the first place. Since I am committed to providing high-level legal services and the burdens faced by clients have such an intense impact on their lives, at times the demand is difficult to balance, but I never doubt that pro bono cases are a critical use of my time and the firm's resources.

#### *Tips for prioritizing pro bono cases*

If taking on pro bono cases becomes part of your practice from the outset and your firm does not view pro bono work as separate and inferior, then the integration into your everyday practice will be seamless. At Arnold & Porter, you are expected to dedicate some portion of your work time to pro bono and pro bono cases are approached with the same level of seriousness and dedication as the commercial cases.

Try making sure the firm has an integrated pro bono practice, takes the work seriously, and has an active pro bono caseload before accepting a job there. If you wind up at a firm that does not prioritize those types of cases, look for mentors and talk to those attorneys who share your values. Seek to get them interested in you and in having you assist with their pro bono cases, even if it means starting out only handling a small piece of the case.

Take advantage of your time at a law firm, where you will hopefully find yourself surrounded by skilled attorneys who also want to have a positive impact on the world around them. Do not be quiet about dictating your professional goals; seize opportunities as they materialize.

Sarah Lorr '10, Associate at Patterson Belknap Webb & Tyler LLP\*



I have been an associate at Patterson Belknap Webb & Tyler LLP since 2012, where I work in the litigation department. Prior to joining the firm, I first clerked for the Honorable Joan N. Ericksen in the United States District Court for the District of Minnesota, and then for the Honorable Boyce F. Martin in the United States Court of Appeals for the Sixth Circuit.

#### *Back at Fordham Law*

When I started with Patterson Belknap, the firm had just taken on a case with the Center for Constitutional Rights representing four civilians who were detained and tortured at Abu Ghraib. The case (*Al Shimari v. CACI International Inc.*), which was brought against a private military contractor, is currently pending in the Fourth Circuit Court of Appeals. I was able to meet the plaintiffs in Turkey during the initial phase of the case and worked to obtain discovery from the U.S. government.

Lately, I have been working with two Fordham Law students and Criminal Defense Clinic Professor Martha Rayner. Professor Rayner, the students, and I are preparing a motion challenging solitary confinement on behalf of a Guantánamo detainee, as part of an ongoing habeas case.

I was a clinic student with Professor Rayner, so I am very happy to be back working with Fordham's clinic.

#### *Finding the right balance is key*

The most rewarding part of working on pro bono cases is getting to work on issues and cases that aren't otherwise a part of my regular practice and that I have been interested in for many years. On the other hand, dividing my time between my regular cases and my pro bono responsibilities—and finding the right balance—is a constant challenge. If one's firm is on board with pro bono cases—as is the case with Patterson Belknap—then it is much easier.

#### *Tips for current Stein Scholars*

Be pro active. Don't be afraid to ask for what you want. Consider making a firm's commitment to pro bono one of the considerations you weigh before taking a firm job. For example, is the pro bono caseload active and ongoing? How easy is it to get involved in pro bono cases? Does the firm give billable credit for the time spent on pro bono cases?

\*As of June 16, 2014, Sarah will be a Staff Attorney in Brooklyn Defender Services's Family Defense Practice.

Jeremy Shweder '08, Associate at Kramer Levin Naftalis & Frankel LLP



I am fortunate to work at a firm that places a heavy emphasis on doing pro bono legal work, so opportunities to take on pro bono matters are not hard to come by. As is the case with representations for paying clients, pro bono cases can involve a lot of work and, often, a lot of stress, so I try to make sure that when I take on a new pro bono matter that not only am I working for a client or cause that I believe in but also that I am going to get an opportunity to gain or expand my legal skills.

#### *Pro bono cases*

For instance, right now I am representing an inmate who is bringing excessive force claims against several correctional officers in federal court. In the next couple of months I will take and defend depositions in the case, and then probably brief and argue against a summary judgment motion. The case may eventually go to trial. At this stage of my career, I may not get a chance to handle all aspects of a case like this for one of my paying clients. Similarly, in 2012 I represented an indigent client in state criminal court who had been wrongly accused of felony possession of stolen property. I handled all the court appearances, negotiated with the government, determined case strategy, and eventually was able to convince the government to dismiss all the charges. In another pro bono matter I negotiated the resolution of a commercial real estate dispute. Each one of these representations allowed me to take the lead role on a case and improve different legal skills.

#### What's New in Legal Ethics?

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Legal Ethics During a Political Tempest: Life As Special Counsel to the Moreland Commission

by Janos Marton '09



The eight months I spent as special counsel to the Commission to Investigate Public Corruption, also known as the Moreland Commission, were easily the most tumultuous of my career. The Commission, established in July 2013 by Governor Andrew Cuomo and Attorney General Eric Schneiderman in the wake of widespread scandal uncovered earlier that year, was stacked with high-profile commissioners and governed by a broad and powerful subpoena authority that allowed our dozen-attorney staff to investigate the efficacy of New York State's campaign finance and lobbying laws. While the legal work was fascinating, so too was the omnipresent political rancor. The Commission made headlines from the moment it began until well after it was disbanded. The media leaks that drove these articles raise questions of how seriously certain parties considered legal ethics. My hope is that this article serves as a warning to any young attorney considering working in a politically charged environment to demand a clearer legal ethics roadmap than the one we received at the Moreland Commission.

The Moreland Commission was only intended to last 18 months (it lasted nine before it was shut down), so from the outset it was suffused with the intensity and accompanying improvisation of a start-up or political campaign. Little time was devoted to discussing legal ethics, either in the context of running investigations or communicating with the media, even as clearly confidential commissioner meetings were leaked to the press. Those leaks may have come from commissioners, their surrogates, senior Commission staff, representatives of the governor's office or representatives from the attorney general's office, most of whom were attorneys.<sup>1</sup>

All lawyers, particularly lawyers operating in an arena that attracts press attention, should be familiar with Rule 1.6 of the American Bar Association's Rules of Professional Conduct. This Rule, "Confidentiality of Information," precludes a lawyer from revealing information relating to the representation or prior representation of a client, with a few exceptions relating to issues such as impending bodily harm or fraud. While helpful, this Rule introduces several more questions in this instance. First, who was the client here? The governor's office might argue that despite its stated independence, the Commission was an executive agency, which would mean the governor is the client.<sup>2</sup> However, if "the Commission" is the client, that presumably means the commissioners collectively, or, more practically, the three co-chairs who made most of the major decisions, spoke for the client. (Several non-lawyer friends wistfully suggested that an anti-corruption's client should be "the public.")

Second, who was representing the client? Nearly everyone involved with the Commission, from the commissioners to staff to representatives from the governor and attorney general, were lawyers. My title, "special counsel to the Commission," suggested that virtually everything I learned while employed related to representation of the client, whereas that might not have held true for others (who would still be required to observe confidential settings like commissioner meetings and witness interviews). But as an investigative attorney, was my work as broadly related to "representation" of the client as someone like the Commission general counsel?

Anyone who follows politics closely takes for granted that privileged leaks are part of the political process. Many political staffs think nothing of it, and media operatives are an entire professional universe that operates off the trading and forwarding of information. But lawyers seeking to follow ethical guidelines must follow a standard that runs completely contrary to the present model. Indeed, for all of the leaks I have alluded to in this article, there were innumerable attacks in the press to which we responded, "no comment," showing a restraint that was both proper and politically unfortunate.

To prosecutors, not commenting on an ongoing investigation might seem like a no-brainer, but sometimes our silence did no favors to the parties we were investigating. Even if we knew that our investigation would not bring criminal charges, political opponents of those entities could still make political hay about our involvement. When we saw one such entity suffer real political consequences from simply having received our subpoena, the difficulty of being both sensitive and thorough in choosing our investigative targets really hit home. Finally, for a short-term commission that depended on public trust, being hamstrung from commenting on our work likely made us more vulnerable to being shut down as part of a legislative compromise this April, as we often passed up opportunities to explain our role to the public.

I would encourage any attorney taking a position in a city, state, or federal commission, or any other highly charged political environment, to take the following measures, or ask that these measures be taken:

1. Have the general counsel review attorney-client privilege issues with all leadership and staff, issuing a document explaining such issues and protocols.
2. The first time privileged issues are aired in the media, hold a meeting discussing the internal

response to leaks, and consistently apply a post-leak procedure moving forward.

3. Generate a media strategy for defending the entity's work without violating ethical rules regarding ongoing investigations.

To any attorney contemplating this line of work, I recommend honing in on these legal ethics questions at the outset, no matter how many crises will claim prioritization on a daily and weekly basis.

My time on the Moreland Commission was exhilarating and enlightening, a disturbing but riveting glimpse into how our state political system operates. I only wish I could tell more of the story, but for better or worse, others have done it for me.

1 There is of course, the ubiquitous "source with knowledge of the Commission's operations" cited in various stories, who might not be included on this list, but would not be the original source of said information.

2 See Chris Bragg, "Cuomo on Moreland tampering: It's my commission," *Crain's New York* (April 24, 2014).

## What's New with the Stein Directors?

Sheila R. Foster reports that after six years (three as Associate Dean for Academic Affairs and three as Vice Dean), she is stepping down from the Vice Dean position and returning to the faculty.

Jennifer Gordon's work these past several months has taken her to Mexico and Canada and back. On March 10–11, she was in Mexico City to present to staff of the Mexican Department of Labor and Mexican Foreign Ministry, and to staff of the U.S. Embassy in Mexico, on her research and recommendations regarding new approaches to the regulation of global labor recruitment. On April 11, Professor Gordon was a speaker at a meeting of the International Labor Recruitment Working Group, proposing a new approach to advocacy on issues of labor recruitment. On May 2, she was a panelist at the NYU Wagner School International Public Service Association Conference, speaking about her transnational labor citizenship proposal. Finally, Professor Gordon was the opening plenary speaker and (the following day) a panelist at the New Frontiers for Citizenship at Work Conference in Montreal, Canada on May 12–13.

In early 2014, Professor Bruce Green had a variety of speaking engagements. In New York, he spoke on a panel on Tony Kronman's book, *The Lost Lawyer*, at the annual meeting of the Association of American Law Schools; on a panel at the Manhattan federal courthouse on the recent "stop-and-frisk" litigation; in a Cardozo Law School program (co-sponsored by the Stein Center) on attorney-client privilege; in a CLE program on ethics for public interest lawyers at the Brennan Center; and on a program on ethics for in-house corporate lawyers (sponsored by the Stein Center) at Fordham. He also participated in a conference at University of Georgia Law School on judicial ethics; a conference at Georgetown Law School on race and access to justice; and an ethics program in Chicago at the ABA's annual midyear meeting.

Professor Green also engaged in various work with bar associations and not-for-profit organizations, some of which gave him a chance to connect with graduates of the Stein Scholars Program. He assisted Annie Chen '09 at the Vera Institute in a program to give ethics assistance to lawyers around the country who represent juveniles in immigration proceedings.

And while in Austin, Texas, for a meeting of the committee that drafts the MPRE, he had a chance to catch up with Gilbert Martinez '00, who is now teaching in the journalism program at Texas State University.



From March 17–20, Russell Pearce participated in a multi-faith conference in Castelgandolfo and Rome that included approximately 250 Catholic, Buddhist, Muslim, Sikh, and Jewish participants from throughout the world. Professor Pearce co-moderated the presentations on Catholic-Jewish dialogue in Argentina, Mexico, Israel (dialogue of Jews, Christians, and Muslims), and the United States, and also presented the work at Fordham Law School as the featured United States project. Vatican Radio broadcast an interview with Professor Pearce about the conference, as well as the potential for the Catholic Church to help facilitate dialogue between Muslims and Jews in the Middle East and internationally.

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