

# Pro Bono and Social Impact Report

Skadden



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# Pro Bono and Social Impact Report



Skadden's *Pro Bono and Social Impact Report* provides an opportunity to look at some of the specific ways our attorneys and staff are making a difference in our communities, and our *pro bono* efforts last year were particularly impressive. The firm's lawyers dedicated more than 253,000 hours to *pro bono* service in 2018, an increase of 17,000 hours over an already remarkable total in 2017.

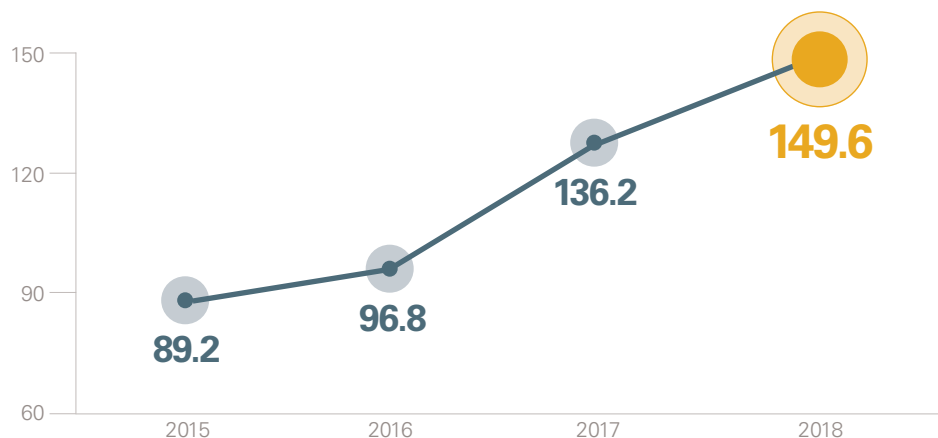
This issue highlights several significant successes on behalf of *pro bono* clients, including cases related to foster care, wrongful conviction and housing discrimination. We also examine the range of Skadden's work on immigration matters and on behalf of the LGBTQ+ community, and we hear from three partners — **Kady Ashley, Boris Bershteyn** and **Johannes Kremer** — about their latest *pro bono* contributions.

Finally, this issue includes a story about the new Ronald J. Tabak Community Champion Award, which LatinoJustice PRLDEF created this year in honor of special counsel **Ron Tabak**. Ron joined the firm in 1985 to lead our *pro bono* practice and has played an indispensable role in developing the culture, infrastructure and expertise that make our *pro bono* efforts possible. It's fitting that LatinoJustice PRLDEF would name an award after Ron and make him its first recipient.

Thank you to everyone at Skadden who has made *pro bono* work a part of their practice and community service a part of their lives. I'm proud of and deeply appreciate the difference you've helped make.

Warm regards,

### Average *pro bono* hours per Skadden U.S. attorney, per year

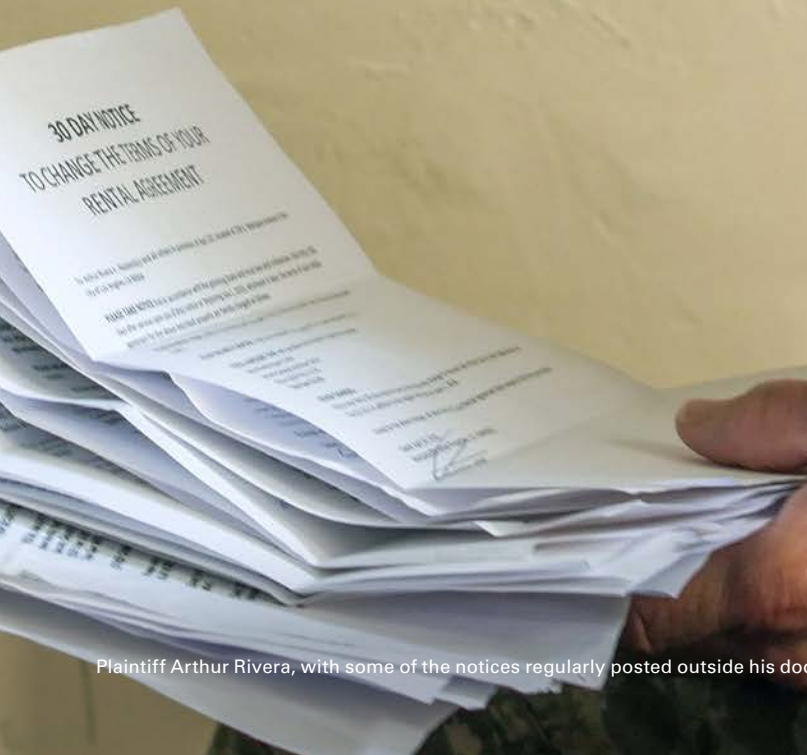




# Fighting for Fair Housing

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Skadden Helps Secure Major Settlement in LA Housing Discrimination Action



Plaintiff Arthur Rivera, with some of the notices regularly posted outside his door by the defendants

A team from Skadden's Los Angeles office has helped successfully resolve a housing discrimination case against a real estate investment firm that was wrongfully forcing Latino families and tenants with mental disabilities out of rent-controlled apartments.

In an outcome the firm's co-counsel said "we don't often see," the settlement included the landlord agreeing to: set aside its next seven vacant units for tenants receiving rent subsidies under the federal Section 8 program; send its management team to annual fair housing training; and post a summary of the Fair Housing Act in English and Spanish in all of its buildings.

"Every time a family is forced out of a rent-controlled unit, that unit is no longer affordable," says litigation counsel **Emily Ludmir Aviad**, a member of the Skadden team. "This fight was part of an effort to maintain every last unit of affordable housing in the city."

Skadden first became involved in the matter when the nonprofit Public Counsel reached out for assistance defending against several unlawful detainer cases initiated by the landlord of the six buildings in the Koreatown neighborhood, which ultimately were part of the federal lawsuit. As the number of those cases grew, Skadden and Public Counsel, with assistance from several additional co-counsel, filed a federal action on behalf of 15 tenants and two agencies that advocated on behalf of the tenants against the investment firm that owned the buildings, alleging housing discrimination in violation of the Fair Housing Act (FHA) and state and local housing laws.



The plaintiffs and legal team, from Skadden and Public Counsel

"As alleged in our complaint, once enough tenants had left, the landlord would make renovations and then sell the building at an enormous profit that wouldn't have been possible but for the illegal tactics of forcing people out of their rent-controlled units," Emily says.

The plaintiffs claimed that the landlord failed to make necessary repairs, harassed tenants with unmerited eviction notices, turned off their hot water, made disparaging comments about their ethnicity or disabilities, and threatened to call immigration, social services and the police. In its own marketing materials, the landlord referred to its aggressive purchase-and-flip tactics as its "Koreatown Strategy."

"The facts underlying the action were very strong, and we had third-party witnesses who saw the discrimination in the landlord's buildings firsthand and were willing to testify," Emily says.

As the trial date grew nearer, after days of negotiations, the defendants agreed to a

settlement that, in addition to putting in place the protections to safeguard affordable units in the six Koreatown buildings, requires the landlord to pay \$2.5 million in damages, costs and attorneys' fees. Each individual plaintiff received just over \$50,000. Skadden donated the firm's share of attorneys' fees to Public Counsel and to increase the awards to each of the plaintiffs.

Deepika Sharma, the lead attorney for Public Counsel, says the resolution exceeded what she initially hoped they might accomplish.

"This really felt like true justice, in that we impacted the way they're doing business and we created seven new units of affordable housing," says Deepika. "That is something we don't often see."

In addition to Emily, the Skadden team included partner **Matt Sloan**; associates **Alyssa Clover**, **Rachael Schiffman**, **Richard Schwartz** and **Matt Tako**; and professional staff **Shannon Cooper**, **Marie Davis**, **Cecilia Maldonado** and **Candice Spoon**.

# Immigration & Asylum

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Over the past two years, Skadden attorneys and professional staff have mobilized to meet the increased demand for *pro bono* legal services stemming from the separation of undocumented families, travel bans for citizens from several predominantly Muslim countries, and efforts to eliminate asylum protections for domestic and gang violence victims.



## Firm Launches Immigration Impact Project

In late 2017, attorneys from Skadden’s Washington, D.C. office piloted the launch of the Immigration Impact Project (IIP), a *pro bono* initiative intended to more efficiently take on a large number and broad variety of immigration matters.

Over the past year, the project has extended to all of the firm’s U.S. offices, as well as to London, Frankfurt, Hong Kong and Paris. The participants are handling more than 600 open matters, involving asylum, visas for victims of domestic violence and human trafficking, and impact litigation, among other areas.

The IIP is led by a Steering Committee, which includes representatives from many of the participating offices and the firm’s *pro bono* counsel and director of *pro bono* programs, **Brenna DeVaney**. Retired environmental partner **Don Frost** has taken on the role of guiding the committee, because of his deep interest in the issues and experience leading a practice group.

Like all of Skadden’s Impact Projects, the IIP utilizes a practice area model to drive efficiencies in the delivery of *pro bono* legal services. “The Impact Project model recognizes that, for certain types of matters, we can make the biggest difference by utilizing the same approach we use for our billing practices,” Don says. “We provide the volunteers with the level of training, structure and support they receive from their usual practice groups, so

they can provide the same exceptional quality of service. We also partner with legal aid organizations and in-house lawyers to make the most of our complementary resources.”

To build the firmwide virtual practice group, the Steering Committee put together a list of approximately 40 types of matters volunteers can handle. For each one, an advisory team of attorneys experienced in that particular area is currently being established, and each such team will put together a “care package” with everything the participants will need to know to get started, such as key video and written training materials, substantive and procedural guidelines, model documents and expert referrals. “When our attorneys work on a transaction, they call upon all of Skadden’s expertise and experience,” Don says. “The same concept applies here. We’re building the same kind of department.”

The firm’s professional staff has played an important role in the IIP’s success. D.C. network administrator **Nancy Stephenson** and software engineer **Felix Kuzenov** and New York project manager **Donna Kennedy**, for example, led the development of a SharePoint experience site with links to documents,



**607**

Total Open Matters

As of December 27, 2018



**190**

Asylum



**165**

U Visa



**111**

Other



**65**

Naturalization



**33**

Violence Against Women Act



**24**

Special Immigrant Juvenile Status



**10**

T Visa



**9**

DACA



discussions, firmwide resources, and case and expert databases. D.C. *pro bono* legal assistant **Anna Frances Jones**, legal assistant **Tara Kohli** and secretary **Colleen Smith** and New York *pro bono* legal assistant **Jennifer Minervini** have helped administer the project. Countless volunteers have served as translators for interviews, applications and affidavits.

The program's early achievements fall largely into three categories: establishing the infrastructure that helps attorneys secure favorable results, developing expertise across a wide variety of subject areas and, most importantly, winning cases. "We're securing asylum and visas and having a real impact for people who are in extremely dire straits," Don says. "For clients seeking asylum or escaping from violence and trafficking, it's not about economic advantage, it's about survival."

#### Steering Committee Members

Don Frost (DC)  
Matthew Beebe (WIL)  
Peter Cheun (CHI)  
Holly Henderson-Fisher (NY)  
Peter Julian (NY)  
Sarah Knapp (LON)  
Wesley Laine (PAR)  
Marissa Leonce (BOS)  
Rebekah Reneau (HOU)  
Rachael Schiffman (LA)  
Natalie Walet (PAL)  
Michelle Weinbaum (DC)  
Brenna DeVaney (CHI), *ex officio*

## Ninth Circuit Requires Officials to Consider Detainees' Finances for Bail

A team of attorneys from Skadden's Los Angeles office helped secure a Ninth Circuit Court of Appeals decision requiring immigration officials to consider detainees' financial circumstances when setting their bail bond amounts. The ruling — which upheld and lifted the stay on a classwide preliminary injunction issued by the trial court — applies both to future bond hearings and to approximately 300 individuals already in custody, who were granted rehearings.

"Certain detainees have been held for years merely because the courts set bonds that they could not possibly afford," says litigation associate **Doug Smith**, who along with partner **Matt Sloan** led the Skadden team. "This decision will help detainees within the Ninth Circuit avoid that fate."

The underlying class action, which seeks broader, permanent remedies, remains ongoing.

The lawsuit originated with the American Civil Liberties Union (ACLU), which had found that the failure to consider immigrants' finances was endemic in bond determinations, often leading to indefinite detentions

even for detainees who were found to pose no danger to society. After the ACLU reached out to Skadden in 2015, the Skadden team traveled to the Adelanto Detention Center, 90 miles northeast of L.A., to find potential plaintiffs. Along with the ACLU, they interviewed dozens of individuals, including Cesar Mathias, a gay Honduran seeking asylum who had been held for more than four years because he could not afford to post a \$3,000 bond, and Xochitl Hernandez, a grandmother facing deportation to Mexico because of a shoplifting arrest a decade ago, whose bond had been set at \$60,000. Cesar and Xochitl agreed to serve as lead plaintiffs in the class action, *Hernandez v. Sessions*.

**"No person may be imprisoned merely on account of his poverty."**

In April 2016, Skadden and the ACLU filed the complaint, followed soon thereafter by motions for a preliminary injunction and class certification and an opposition to a motion to dismiss.

"The government's interest in setting a bond is to ensure that the detainee shows up at a future hearing," Doug says. "The only way you're going to know if the bond provides a sufficient incentive to appear is to know the immigrant's ability to pay."





Judge Jesus G. Bernal of the U.S. District Court for the Central District of California held a hearing on the three motions, at which Doug argued the class certification motion. In November 2016, Judge Bernal ruled in favor of the plaintiffs. The government appealed, and the Ninth Circuit stayed the preliminary injunction. In October 2017, the appellate court affirmed the preliminary injunction, lifted the stay and remanded the case to the district court.

“The government’s discretion to incarcerate noncitizens is always constrained by the requirements of due process,” the late Judge Stephen Reinhardt wrote for the unanimous panel. “No person may be imprisoned merely on account of his poverty.”

The preliminary injunction gave the government 45 days to conduct rehearings for detainees whose ability to pay had not been considered, and requires officials to consider financial ability and potential alternatives to money bond, such as ankle monitors, going forward.

The Skadden team expects that the information received through discovery will inform the plaintiffs’ motion for a more comprehensive permanent injunction, which will challenge other potentially unconstitutional bond-setting practices, like requiring all-cash bonds.

Because the government appealed, the precedent extends to the entire Ninth Circuit, bringing its reach to thousands of additional detainees. The first-of-its-kind ruling also is being cited by courts not bound by the precedent, including the California Court of Appeal and the U.S. District Court for the Western District of New York.

In 2018, the ACLU honored the Skadden team’s contributions to the case with the organization’s Access to Justice Award.

## Volunteers Advise Detainees in Texas and New York

Beginning in July 2018, attorneys from our Houston, New York and Washington, D.C. offices advised people who were being detained in facilities in Texas — many of whom had been recently separated from their children — in conjunction with the South Texas Pro Bono Asylum Representation Project and Refugee and Immigrant Center for Education and Legal Services. Among other things, the participants, counsel **Christine Okike** and associates **Elena Coyle**, **Caroline Kim**, **Pete Osornio**, **Iricel Payano**, **Rebekah Reneau** and **Tereza Widmar**, prepared clients for pre-asylum “credible fear” interviews (CFIs) and immigration judge reviews at the detention centers in Karnes and Port Isabel.

In addition, *pro bono* coordinator **Erika Szymanski** helped coordinate the Association of Pro Bono Counsel’s (APBCo) efforts for sending attorneys from throughout the U.S. to detention centers in Texas to assist clients with their CFIs. Erika received inquiries from hundreds of attorneys wanting to help and organized their responses, to ensure that APBCo was sending attorneys with proper skill sets on dates they were available.

## Skadden attorneys prepared clients for pre-asylum “credible fear” interviews and immigration judge reviews.

Attorneys from our New York office assisted immigrant detainees who were transferred by the Department of Homeland Security to the county jail in Albany, New York. The volunteers went to Albany to meet with individual detainees and prepare them for CFIs. If successful, the detainees received an Immigration Court hearing to determine their eligibility for asylum or other legal relief; if not, they were deported immediately. The team included associates **Rebecca Blake**, **Carolyn McKenzie**, **Aviva Nusbaum**, **Nonny Onyekweli** and **Deepa Vanamali**.



(L to R) Amanda Strauss, Jonathan Lerner, Michael Griffin, Patrick Rideout and Robert Fumerton

# Advocating for a Lost Child

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**Skadden Secures \$6 Million  
Settlement for Boy Who Disappeared  
From Foster Care in 2010**

In September 2018, the U.S. District Court for the Eastern District of New York approved a \$6 million settlement secured by a Skadden *pro bono* trial team on behalf of a Staten Island boy who vanished in 2010 at the age of 7 from the custody of New York City’s Administration for Children’s Services (ACS), which had removed him from his family. The child, referred to in the litigation as PA, Jr., remains missing.

“The settlement satisfies our goal of securing sufficient funds not only to provide a comfortable life for PA, Jr. if he is found, but also to support the continued search to locate him and, hopefully, secure his safe return,” says retired New York litigation partner and former head of the New York Litigation Group **Jonathan Lerner**, who led the Skadden trial team, along with partners **Robert Fumerton** and **Patrick Rideout**.

The events leading to PA, Jr.’s disappearance began on December 29, 2009, when he was seized by ACS officials from his great aunt’s home and placed with a foster parent who was fluent only in Spanish (which PA, Jr. did not speak). This occurred over the objections of family members including his father and great aunt — both of whom had previously been approved by ACS officials to care for PA, Jr. and had offered to care for him when ACS took him. Less than one month later, on January 22, 2010, PA, Jr. disappeared while taking out the garbage with his foster parent, who momentarily looked away.

In 2011, Eastern District Judge John Gleeson reached out to Jon, who had previously tried a complex jury case in his court, and asked him to represent PA, Jr.’s interests. After former Executive Partner **Bob Sheehan**, who oversees the firm’s *pro bono* program, approved acceptance of the case by Skadden, Jon agreed to undertake the representation. With help from then associates Rob and Pat, Jon filed an amended complaint against New York City; St. Vincent’s Services (SVS), which provides foster parents and other child protective services for the city; and several individual representatives of ACS and SVS. The suit alleged that the city defendants unlawfully seized PA, Jr., and that the defendants then failed to protect and care for him by neglecting to provide necessary medical care, despite knowing he was suffering from escalating psychological distress and being informed by two SVS doctors that he needed “urgent” psychiatric intervention.

The litigation lasted more than seven years and involved protracted discovery and two attempts at mediation. According to Jon, a key turning point came when the defendants withdrew their only designated expert after receiving reports from Skadden’s expert witnesses, including the director of Pediatric Psychiatric Emergency Services at Columbia University Medical Center, who stated that PA, Jr. was suffering from severe emotional distress and required an emergency psychiatric evaluation, which the defendants failed to provide. Skadden’s two other experts detailed the horrors encountered by children who disappear. Both the magistrate judge and district judge rejected the defendants’ subsequent attempt to belatedly reopen expert discovery to allow them to designate a new expert.

With an imminent trial date looming, the lack of expert testimony to contradict Skadden’s experts and the specter of a potentially huge verdict, the defendants’ insurance carrier finally initiated serious settlement discussions and made a proposal the team determined would be in PA, Jr.’s best interests to accept, despite the strengths of the case.

“Once they came up with a \$6 million offer, which we felt was within the bounds of reasonableness, we didn’t want to expose PA, Jr. to the risk of a lower damage verdict,” Jon says.

After an agreement in principle was reached, attorneys from Skadden’s Private Client/Trust and Estates Group drafted a trust agreement and obtained a corporate trustee to manage the settlement funds. The funds have been paid and are being held in the trust for PA, Jr.’s benefit, and a portion will be used to continue efforts to locate him, including establishing a reward for information leading to his return. The settlement was tied for the fifth largest in New York in 2018.

**“The settlement [will] provide a comfortable life for PA, Jr. if he is found, but also ... support the continued search to locate him and, hopefully, secure his safe return.”**

In addition to Jon, Rob and Pat, who successfully argued an appeal in the Second Circuit Court of Appeals, the Skadden team included New York litigation associates **Michael Griffin** and **Amanda Strauss**; private clients/trusts and estates partner **Ivan Taback** and associate **Eric Fischer**; senior legal assistant **Maureen Williams**; and former associates Tom Haley and Alex Owings.



# LGBTQ+ Rights

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From impact litigation to representing refugees seeking to escape violence and repression, our efforts on behalf of LGBTQ+ individuals are as diverse as their legal needs.

## Seventh Circuit Ruling Nixes Prison Officials' Claims of Qualified Immunity

Chicago litigation associate **Nicole Jakubowski** secured a precedent-setting U.S. Court of Appeals for the Seventh Circuit victory in July 2018 on behalf of a transgender woman who was denied hormone treatment while in prison and on parole.

The ruling, which reinstated plaintiff Lisa Mitchell's claims against the Wisconsin Department of Corrections (DOC) mental health director and three probation officers, limits the ability of defendants who fail to provide transgender medical care to assert qualified immunity by contending that they lacked notice that their actions violated constitutional rights.

"With respect to the claims against the DOC medical official, the Seventh Circuit ruled that, while there may not have been a decision directly on point for transgender issues, prison officials have been on notice for years that leaving serious mental issues, such as gender dysphoria, untreated can constitute deliberate indifference, and so officials cannot use qualified immunity to block these suits," Nicole says.

Ms. Mitchell filed the underlying suit *pro se* in 2015. She claimed that, despite entering prison with a diagnosis of gender dysphoria, it took Wisconsin DOC medical personnel more than a year to assess, and ultimately deny, her request for hormone treatment, even after the DOC's outside expert determined she was an excellent candidate for such treatment. Ms. Mitchell also claimed that, after her release, her parole officers forbade her from receiving hormone treatment or dressing as a woman.

The defendants asserted, among other defenses, that no precedent required them to promptly treat an inmate's gender dysphoria. A U.S. District Court for the Western District of Wisconsin judge agreed, finding that the prison officials rightfully asserted qualified immunity, and dismissed the case.

The case came to the firm after Chicago *pro bono* coordinator **Eddie Houlihan** reached out to the Seventh Circuit asking for cases in which the firm could assist *pro se* appellants. Nicole briefed the case and argued before the three-judge Seventh Circuit panel.

In its decision, the Seventh Circuit reversed and remanded the claims against both the DOC mental health director and the parole officers, finding that prison officials know that leaving serious



medical conditions untreated can amount to deliberate indifference, and that each specific condition need not be elaborated for the officials to be on notice.

**"Ms. Mitchell ... claimed that, despite entering prison with a diagnosis of gender dysphoria, it took Wisconsin DOC medical personnel more than a year to assess, and ultimately deny, her request for hormone treatment."**

"If prison medical staff exhibit deliberate indifference to an inmate's serious medical condition, they subject her to unnecessary and wanton pain and suffering and thereby run afoul of the Eighth Amendment," Chief Judge Diane Wood wrote. "The Wisconsin DOC staff must approach Mitchell's request for treating gender dysphoria with the same urgency and care as it would any other serious medical condition."

## Skadden and Human Dignity Trust Produce Groundbreaking Report on the Unlawful Criminalization of Transgender People

A Skadden team led by attorneys from the London office helped Human Dignity Trust (HDT) develop, research and draft a report that will identify the ways in which punitive laws are used to criminalize and marginalize trans and gender-diverse (TGD) people globally.

The report, set to be published in early 2019, will address the “knowledge gap” regarding such laws and is intended to serve as a basis for challenging them, says litigation counsel **Jonathon Egerton-Peters**, who led Skadden’s efforts along with banking associate **Jo Jimenez**.

“Laws used to criminalize gay men, and, to a lesser extent, laws used to criminalize lesbians and bisexual people, have been reported on fairly widely, but the research regarding the criminalization of trans and gender-diverse people is much less developed,” Jonathon says. “The knowledge gap makes it harder for activists to advocate for change at the regional, national and international levels. The report aims to help fill in that gap.”

Skadden and HDT — a U.K.-based human rights organization that conducts legal research and assists with strategic litigation in jurisdictions around the world that criminalize LGBTQ+ people — worked together to comprehensively map where and how punitive laws are used to target TGD people; provide an in-depth legal analysis of how such laws breach international human rights, norms and standards; and enhance existing literature with evidentially supported research.

The report will show how TGD people are frequently targeted by state actors through the use of laws criminalizing gender expression and same-sex intimacy, or public order violations, such as vagrancy. For example, the report will note that at least 14 jurisdictions across Africa, Asia, the Caribbean and the Middle East impose criminal sanctions against people whose gender expression does not align with their sex as assigned at birth, by outlawing cross-dressing, disguise, impersonation or imitation. The report also will highlight extrajudicial police abuses of TGD people and include a legal analysis of how TGD human rights are frequently violated. It will conclude that criminalization dissuades TGD people from disclosing their identities to their communities and legitimizes and bolsters transphobic violence, repression and extortion.

“Ultimately, the report will call for these laws to be repealed or amended to explicitly provide that they do not apply to trans and gender-diverse people,” Jo says.

In October, an early version of the report was submitted to the United Nations Human Rights Council (UNHRC) Working Group on discrimination against women in law and in practice. In the U.K., HDT used the research to inform its submissions for the Government Equality Office’s consultation on reforming the Gender Recognition Act, the law that legislates how TGD people may achieve legal recognition.

**The report will show how TGD people are targeted through the use of laws criminalizing gender expression and same-sex intimacy, or public order violations.**

In addition to Jonathon and Jo, the Skadden team included, in London, Hong Kong, New York and Singapore, associates **Kathryn Bartolacci**, **Rahul Desai**, **Javeste Dulcio**, **Nour El-Kebbi**, **Nicole Gonzalez**, **Brittany Hazelwood**, **Vanessa McGoldrick**, **Abigail Reeves**, **Dominic Spence** and **Rosy Worsfold**; trainees **Elif Acar** and **Sym Hunt**; and former legal assistant Sara Saleh.



## Amici Briefs Support LGBTQ+ Refugees in Travel Ban Challenge

A team from four of our offices filed *amici* briefs in the U.S. Supreme Court, as well as the Courts of Appeals for the Fourth and Ninth Circuits, supporting the challenge to President Trump's executive order banning travel and immigration from six majority-Muslim countries. The briefs discussed the many ways in which LGBTQ+ people in the six affected countries experience persecution and violence, and asserted that U.S. law favors accepting these persecuted refugees. The briefs also contended that LGBTQ+ people should be entitled to the same family reunification visa preferences that are accorded to non-LGBTQ+ people. "Individuals who identify as lesbian, gay, bisexual, transgender and queer live, in many countries around the world, in persistent, grave danger. As of October 2016, homosexual conduct was still outlawed in more than 70 countries worldwide, 13 of which made such conduct punishable by death," one brief stated. "For LGBTQ+ individuals, this shutdown is not simply a bureaucratic inconvenience but potentially a matter of life and death."


The Ninth Circuit Court of Appeals found our *amicus* brief on the third iteration of the travel ban particularly persuasive. In weighing whether or not to uphold a preliminary injunction entered by the District of Hawaii, the Ninth Circuit cited our brief and specifically held that the travel ban would be contrary to the public interest, as it threatened to deny equal treatment to LGBTQ+ would-be immigrants and their family members seeking reunification in the United States.

The various briefs were filed on behalf of Immigration Equality, the New York Gay and Lesbian Anti-Violence Project, the National Queer Asian Pacific Islander Alliance, the LGBT Bar Association of Los Angeles, the LGBT Bar Association of Greater New York, the Lesbian and Gay Bar Association of Chicago, GLBTQ Legal Advocates & Defenders, Bay Area Lawyers for Individual Freedom and others. The Supreme Court upheld the travel ban in June 2018, by a vote of 5-4.

The Skadden team included, in Chicago, Houston, Los Angeles and Washington, D.C., partners **Noelle Reed** and **Matt Sloan**; associates **Jennifer Berman**, **Alyssa Clover**, **Brittany Ellenberg**, **Sarah Grossnickle**, **Allison Holcombe**, **Joe Sandman** and **Richard Schwartz**; and professional staff **Shannon Cooper**, **Alfred Raucii** and **Candice Spoon**.

## Skadden Team Assists LGBTQ+ Individuals at Monthly Clinic

Each month, New York senior legal assistants **Francine Waldbaum** and **Jessica Jaffe** support volunteer attorneys at a legal clinic for the LGBTQ+ community hosted by the Callen-Lorde Community Health Center in Manhattan. The clinic provides *pro bono* support for various issues, including disability and housing claims. Among other things, Jessica and Francine help clients fill out HIPAA forms to request medical records, and they reach out to medical providers to ensure the records are received. They also have provided help to associates **Victoria Smallwood**, **Lucas George** and **Deepa Vanamali** for their representation of clinic participants at Social Security hearings. Since January 2017, the Skadden volunteers have assisted more than 100 clients.



Skadden attorneys have secured asylum and refugee status for LGBTQ+ clients from around the world.

2017-18

11 Clients

8 Countries of Origin



# Securing Freedom

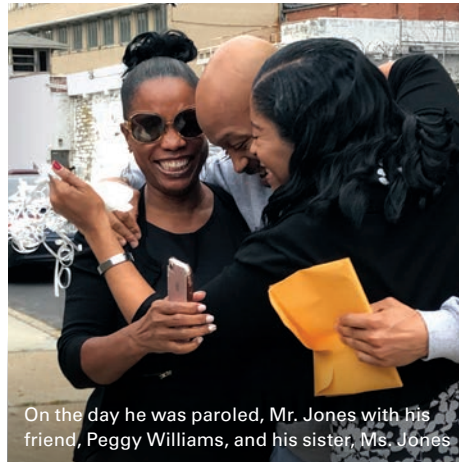
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**Parole Board Releases  
Father Convicted of  
'Shaken Baby' Murder**





L to R, alum Caitlin Kasmar, Don Salzman, Clarence Jones, Mr. Jones' sister Lynette Jones and co-counsel Frances Walters



On the day he was paroled, Mr. Jones with his friend, Peggy Williams, and his sister, Ms. Jones

A Skadden team, in collaboration with attorneys from the Mid-Atlantic Innocence Project and Buckley Sandler, helped secure the release of Clarence Jones, a Maryland father convicted in 1999 of murdering his infant son on the basis of the now-discredited “shaken baby syndrome” theory.

Mr. Jones was caring for 9-week-old Collin when the baby began spitting up formula and breathing oddly. Mr. Jones brought Collin to the hospital, where he died six days later. Although the baby showed no physical signs of abuse, he suffered from bleeding in the eyes and brain and swelling of the brain, which doctors at the time considered, absent a serious accident, evidence that a baby had been violently shaken. Mr. Jones, suspected because he was the last person with Collin before the onset of his symptoms, was charged with and convicted of second-degree murder and child abuse and sentenced to 30 years in prison.

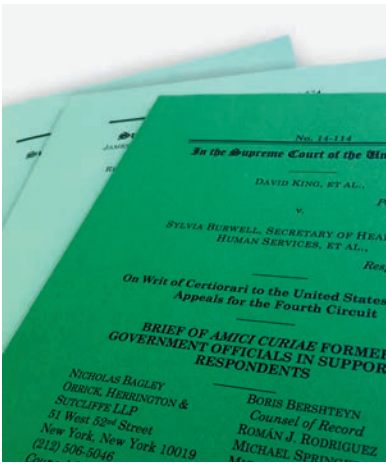
In recent years, there has been a growing consensus among medicals experts that other explanations, such as bacterial infections or bleeding disorders, may account for the symptoms often attributed to shaken baby syndrome. Mr. Jones’ case came to attention of the Mid-Atlantic Innocence Project, which agreed to represent him in seeking a writ of actual innocence. The Innocence Project then sought the assistance of Washington, D.C. *pro bono* counsel **Don Salzman**, who had defended individuals charged under the shaken baby theory as a Montgomery County assistant public defender.

The Skadden team — which also included Washington, D.C. associate **Mike Alonso**, legal assistant **Angie Owens**, and alums David Hill and Annalisa Cravens — and the attorneys from Buckley Sandler and the Mid-Atlantic Innocence Project drafted the writ. The team deposed medical experts, including a biomechanical engineer and specialists in pathology, hematology, infectious disease and neuroradiology, who concluded that the core tenets of the shaken baby syndrome have been rejected by widely accepted scientific research and that Collin died of serious, lifelong medical conditions. The team submitted a detailed letter to the parole commission, and Don and Mike met with the commissioners and presented the evidence of both Mr. Jones’ innocence and his sterling prison record.

“Parole commissions generally don’t consider innocence, but we wanted them to understand why Clarence wouldn’t express any remorse, which is one of the key factors they typically look for,” Don says.

The commission granted Mr. Jones parole, and he was released in December 2017. The court held an evidentiary hearing in December 2018 but denied the writ of actual innocence in February 2019. The team plans to appeal, and if successful and if the writ is later granted, the court could grant Mr. Jones a new trial or simply declare his innocence and bar a new trial.

“Clarence wants to clear his name,” Don says. “It will change how he’s viewed and his potential employment, but most importantly, it will remove a cloud that has marred his life. He’s been found guilty of murdering his son, and the evidence is really compelling that the baby died of natural causes. Lifting that stigma is the most important thing, particularly now that he has his liberty.”



# What I'm Working On

Partners from our Frankfurt, New York, and Washington, D.C. offices discuss their *pro bono* service.

**Johannes Kremer**  
Frankfurt / Banking

**Boris Bershteyn**  
New York / Litigation

**Kady Ashley**  
Washington, D.C. / M&A  
Head, D.C. *Pro Bono* Program





# Johannes Kremer

**In Germany, finding ways to provide *pro bono* support can be challenging, in part because of German ethics rules. In addition, the indigent are eligible for subsidized legal advice and representation; we have to be mindful that we're not taking cases from lawyers who make a living handling such work.**

For quite some time, Florian Roeckl, who heads up J.P. Morgan AG's legal team, and I have been trying to think of ways to join forces. In 2017, he mentioned that the JPMorgan Chase Foundation is a sponsor of the Social Impact Lab, a start-up incubator that holds "casting events" for young entrepreneurs to present their business ideas. The winners are awarded a desk in the lab, where they receive coaching and mentoring to help develop their ideas. I asked Florian if there might be opportunities for us to advise participants on a *pro bono* basis, and we ended up meeting with the head of the program, who was very enthusiastic about the idea. We decided Skadden and J.P. Morgan would help with issues arising out of four areas: corporate, tax, labor and general civil law.

We launched the clinic in February 2018 and have held additional clinics every other week since. The participants put together a list of issues on which they'd like advice and email us by the end of the week before the clinic, which gives us time to prepare for the clinic the following Wednesday. Our associates, research assistants and interns are excited to participate. Before we hold the clinic, we talk with our counterparts at J.P. Morgan — they're in the same building, one floor above us — and discuss our analysis.

At each clinic, there is at least one J.P. Morgan lawyer and one Skadden lawyer, though usually two or three of us will attend. We always invite the persons who handled the initial analysis, which gives them a chance to participate and share any expertise they've developed while researching the questions. European counsel **Joerg Hanke** has helped lead the effort, and counsel **Ulrich Ziegler** and associate **Max Broermann** have been

very active, and many others have also contributed significantly.

The entrepreneurs come to us, either at J.P. Morgan's offices or ours. We address the questions and steer each in the right general direction, and if they have follow-up questions, we might set up a phone call for further discussion. We don't take on any of the matters — as the companies grow, they may eventually need to retain a lawyer, and the Social Impact Lab can provide limited funds to help cover the expense.

The entrepreneurs are amazing. Stitch-by-Stitch, a business-to-business seamstress workshop that employs refugees in key positions, has already received a lot of attention in Germany and won several awards. The Female Finance Forum provides women advice on financial matters. One of my personal favorites is Companion to Go, which connects disabled and nondisabled people. In Germany, if you're disabled and unable to walk, you're entitled to a free companion ticket on public transportation, and many movie theaters, sports events and the like provide free access for helpers. Two disabled students came up with the idea of finding a way to connect disabled and nondisabled people in a way in which everyone can benefit.

The clinic has been great for everyone involved. As far as the German *pro bono* market is concerned, it's a much more efficient way of getting a sustainable workstream, for both us and J.P. Morgan, which shares our commitment to social responsibility. The Social Impact Lab has told us that it is thrilled with our contributions and that there will always be demand from the junior entrepreneurs, so we expect to continue this work indefinitely.

A portrait of Boris Bershteyn, a man with glasses, wearing a dark suit, white shirt, and blue tie. He is smiling and has his arms crossed. The background is a blurred office interior with wooden stairs.

## Boris Bershteyn

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**A large portion of my *pro bono* work involves drafting *amicus* briefs for the Supreme Court and other appellate courts. The cases come to me a few different ways. Many of them simply come into the firm, and then come my way because I focus a significant share of my time on appellate work.**

I'm also occasionally asked to author briefs by former government officials who know me from my time as general counsel to the White House's Office of Management and Budget back in the Obama administration. And because my work in government exposed me to a somewhat eclectic range of specialist knowledge, such as fiscal law or certain aspects of regulatory law, from time to time attorneys contact me hoping I might file an *amicus* brief on one of those subjects.

One consideration in deciding whether to take a case is whether I'm interested in the legal question. For example, for *King v. Burwell*, a Supreme Court case that upheld the Affordable Care Act's tax subsidies, I led a team that represented *amici* in the question of deference to agency decisions — an issue I am intellectually quite captivated by. I also take on briefs for causes I consider important, such as marriage equality, immigration and reproductive rights. We represented, for instance, a number of nurses' and doctors' organizations in *Whole Women's Health* — one of the most significant recent reproductive rights cases — in which the Supreme Court ruled that Texas couldn't regulate health care facilities in a manner that imposed an "undue burden" on women seeking an abortion. More recently, I worked with a team of associates on *Planned Parenthood of Greater Texas v. Smith*, which centers on the question of whether states can terminate Medicaid funding for clinics that provide abortion services. We represented a large coalition of U.S. Senators before the Fifth Circuit. We also represented a group of members of the House of Representatives as *amici* supporting challenges to the Trump administration's implementation of the Teen Pregnancy Prevention Program. And perhaps

most memorably, we represented the American Public Health Association and Whitman-Walker Health in support of marriage equality in the Supreme Court's landmark *Obergefell* case.

Once I've decided to take on a brief, I typically send a short call for volunteers to a distribution list of litigation associates. I'll check my inbox two minutes later, and, without fail, it's filled with replies. I usually take the first five or six volunteers, but I also try to create a diverse team, with a mix of offices and seniority, as well as a combination of new and familiar faces. As much as possible, I like the associates to take ownership of the entire project — the drafting, client communication, you name it. I will generally focus most on helping set the strategy and, of course, on vetting the final brief.

I also occasionally take on appeals by a party to a family law or criminal case, in part because it gives me a chance to make an appellate argument. I also supervise associates who are likewise looking for argument opportunities.

One unusual recent case in which I got oral argument time as an *amicus* involved sentencing for synthetic marijuana convictions. The sentencing guidelines are outdated, designed for "real" (rather than synthetic) marijuana and could result in disproportionate penalties. A case of first impression was going to be argued before the Second Circuit, and the National Association of Criminal Defense Lawyers was concerned that the court would reach the issue on an incomplete record. I was asked to submit a *pro bono amicus brief*, in which we asked for, and then received, an opportunity to participate in the oral argument. We urged the court not to resolve significant policy issues in this case (and should the court resolve them, we suggested an approach). The Second Circuit allowed me to argue and, in the end, did just what we asked — defer the issue in favor of a more appropriate case.

# Kady Ashley

One of the things I really like about *pro bono* service is that it has given me the opportunity to interact with people and organizations who are working on issues of great impact to society, like CO<sub>2</sub> Sciences.

Its mission is to lower the cost of capturing carbon dioxide — a leading contributor to global warming — and advance the science of transforming it into commercial products.

CO<sub>2</sub> Sciences was looking at strategic alternatives to fundraising, such as joining up with another nonprofit or an academic institution. The chairman reached out to D.C. partner **Bill Sweet**, with whom he had previously worked, and I joined the team to assist with analyzing and eventually implementing any such joint venture or other reorganization. During the year or so they were talking to possible partners and developing a strategic plan, I assisted in certain day-to-day work relating to their consulting agreement with their CEO (with help from New York partner **David Schwartz**), board meeting processes (with D.C. associate **Jenna Godfrey**), IP questions (with D.C. partner **Matt Zisk**) and due diligence. Eventually, the organization identified the University of Michigan as a potential partner, and I was involved in advising the board on its duties with respect to the proposed transaction and negotiating and documenting the transaction, which was announced in August 2018. Michigan ultimately acquired all of CO<sub>2</sub> Sciences' assets. Palo Alto partner **Sean Shimamoto** and associate **Katy Cummings** helped on the tax aspects of CO<sub>2</sub> Sciences' dissolution.

I've also really enjoyed working with the National Women's Law Center to help set up the Time's Up Legal Defense Fund, which was founded to fight sexual assault, harassment and inequality in the workplace. Time's Up raised more than \$20 million to support women pursuing claims relating to sexual misconduct and was seeking a partner to administer the funds and connect women with legal assistance. We ultimately ended up representing NWLC, which agreed to put together the infrastructure to house and administer the funds. I was invited

to join the team by D.C. of counsel **Fred Goldberg**, who knew of my interest in work related to women's initiatives. The project was a perfect fit, giving me the chance to utilize my transactional skill set in an area in which I'm very invested.

The bulk of our work was negotiating a memorandum of understanding (MOU) between NWLC and the Time's Up entities. The agreement spells out the contractual terms by which Time's Up will provide resources to the fund, and the fund's obligations with respect to the money. The MOU has now been finalized, but we're still advising NWLC on related contractual and tax matters. It's an amazing project — they've already provided "know your rights" materials to over 3,500 women who have reached out to them with questions, and they've funded more than 60 matters. In addition to D.C. corporate associate **Rachel Berlage**, the team includes Fred, Palo Alto partner **Emily Lam** and D.C. associate **Jared Binstock**, who continue to address questions related to maintaining tax-exempt status. IP attorneys from our New York office, including counsel **Jessica Cohen** and associate **Brianna van Kan**, negotiated a licensing agreement that allows each entity to refer to the other's names and trademarks and continue to advise on those matters.

Since I became a partner, I've also played a more active leadership role. I've served as the head of the D.C. office's *pro bono* program since 2015, and I co-lead our domestic violence Impact Project and co-chair the firm's Global Women's Initiatives. One of the parts I enjoy most is speaking with new associates and summer associates about *pro bono* service. Taking on a matter on your own can be intimidating, so I sometimes suggest considering the Impact Project — with its team approach to matters and its training and resources, it's the perfect place to start for anyone who wants to deepen their *pro bono* service.



# Clinical Approach

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Clinics are an efficient way to provide *pro bono* legal services to large numbers of clients, particularly ones facing common or similar legal issues. They also enable us to work with corporate and nonprofit partners in ways that allow each of us to leverage our particular strengths and resources.

**2018 Clinics,  
by the Numbers**

**150+**  
Clinics

**1,500+**  
Clients

**750+**  
Skadden  
Attorneys

**180+**  
Professional  
Staff



## Mega-Clinics

Attorneys advise large groups of clients at the same time. These clinics typically have a limited scope, such as expunging juvenile criminal records or preparing bankruptcy applications.

In L.A., for example, our **Small Business Legal Academy** provides presentations and materials on legal issues for low-income entrepreneurs.



## Clinics-Plus

At these events, which include many of our immigration-related clinics, attorneys begin what can become continuing relationships with *pro bono* clients.

In New York and Washington, D.C., our **U visa clinics** help low-income, immigrant domestic violence survivors begin the process of gaining legal status in the United States.



## Signature Clinics

These clinics occur on a regular basis at the same location and cover the same legal issues. The consistency makes the events more accessible to clients and enables repeat volunteers to develop experience and expertise.

In New York, our **Military Mondays** provide U.S. military veterans with free legal help completing Social Security Disability applications.

# News & Awards

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## Ron Tabak Honored With Eponymous Award by LatinoJustice PRLDEF

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In November 2018, LatinoJustice PRLDEF announced that it was renaming its Community Champion Award in honor of New York special counsel **Ron Tabak**, at a program honoring Ron's extraordinary commitment to *pro bono* service. Ron received the inaugural Ronald J. Tabak Community Champion Award at a gala the following week.

At the program, the speakers offering tributes to Ron included capital punishment lawyer George Kendall, who discussed Ron's introduction to *pro bono* service: At the beginning of his career, as an oil and gas associate, Ron wanted to do *pro bono* work, so he called up the NAACP Legal Defense Fund and volunteered to help. Much to his surprise, the LDF asked him to serve as lead counsel in a capital case. "He took that case on. It was before a tough panel, but Ron got a 3-0 win that not only won the whole case for his client, but put a big question mark over about 40 other capital cases in Georgia," George said. The prosecution appealed to the U.S. Supreme Court, where Ron made his second-ever oral argument and won 5-4. "Not bad for your first and second arguments," George said.

Those victories marked the beginning of a truly extraordinary career dedicated to *pro bono* service, in which Ron has established himself as a leader in capital punishment litigation and continues through his service establishing and leading the firm's *pro bono* program.

Jose Perez, the deputy general counsel of LatinoJustice PRLDEF, told the audience that the organization named the award after Ron because he "is a man who embodies everything that is a community champion and who we should model and emulate in all aspects and regards."

## Housing Authority Tenant and Children Avoid Homelessness

A team of Boston litigation attorneys successfully settled a "for-cause" eviction case by the Boston Housing Authority (BHA) against a tenant, a working single mother who faced homelessness and separation from her three young children. The BHA brought the eviction action in Massachusetts state court after a visitor to the tenant's apartment was arrested and charged with possession of a controlled substance. The tenant consistently maintained that she was unaware of the substance, but the BHA nevertheless pursued the case, arguing that the lease

imposed strict liability. The Skadden team, working with the Volunteer Lawyers Project of the Boston Bar Association and Lawyers Clearinghouse, filed motions to dismiss, engaged in discovery and deposed the BHA's trial witnesses, filed emergency motions to extend the trial, appeared at court hearings and negotiated at two mediations. On the eve of trial, the team obtained a negotiated agreement allowing the tenant and her children to remain in the apartment. The team included counsel **Chris Clark**, associates **Kate Jones**, **Nigel Tamton** and **Isaac Saidel-Goley**, and legal assistants **Elise Ogden** and **Feimei Zeng**.

## Skadden Wilmington Honored for Pro Bono Efforts by State Bar

In October 2018, the Delaware State Bar Association honored Skadden Wilmington with its 2018 Christopher W. White Distinguished Access to Justice Leadership Award. The annual award is presented to a legal organization that has demonstrated outstanding leadership in the field of *pro bono* service to Delaware's indigent population. The honor is based on selected criteria, including numbers of billed hours, matters accepted and attorneys accepting cases, and the fostering of a culture that recognizes the value of *pro bono* service.

### Civil Rights Lawsuit Against Correctional Officers Is Settled

A team from our Boston office helped a client obtain a very favorable settlement in July 2018 from several current and former correctional officers of the Massachusetts Department of Correction in a civil rights lawsuit alleging excessive force. In February 2015, correctional officers at MCI Concord in Concord, Massachusetts, allegedly assaulted the client as he was leaving the prison's dining hall. The incident, which left the client with physical injuries, was recorded by several cameras. The correctional officers then allegedly tried to cover up the assault by filing false incident reports with the Department of Corrections (DOC), which concluded in an internal investigation that the officers had used excessive force and written false reports regarding the assault. Three of the correctional officers were suspended without pay for a period of one to five days. The Skadden team filed a civil lawsuit in federal district court under 42 U.S.C. § 1983. After several months of discovery and settlement negotiations, the DOC and the individual correctional officers agreed to a substantial monetary settlement. The team included associates **Rene DuBois** and **Mary Grinman**, summer associate **Vasundhara Prasad**, and legal assistants **James Hamilton** and **Megan Ganley**, with guidance from counsel **Chris Clark** and Prisoners' Legal Services of Massachusetts.

### Legal Research on Hostage Protections Is Published

A team from our London office researched and drafted the international law section of a report, "Held Hostage? A Legal Report on Hostage-Taking by States in Peacetime and the Victim Protection Gap," published by the Thomson Reuters Foundation. The report addresses what the foundation considers the growing phenomenon of dual-national

citizens or foreign citizens being held prisoner in foreign states seemingly to use as diplomatic "bargaining chips" in international negotiations. The foundation requested the report in collaboration with Richard Ratcliffe, the husband of Nazanin Zaghari-Ratcliffe, a British-Iranian dual-national citizen being held in an Iranian prison. The Skadden team was led by partner **David Herlihy** and associates **Kathlene Burke**, **Sara Goodman** and **Clare McKay** and included associates **Peter Beaumont**, **Nour El-Kebbi**, **Christopher Lillywhite** and **Rosy Worsfold** and legal assistant **Sinead Corcoran**.

### Paris Office Advises Wide Range of Nonprofits

Attorneys from Skadden's Paris office regularly advise a variety of nonprofit organizations on projects involving corporate, tax, labor and employment, regulatory and other issues. Among other recent matters, attorneys from the Paris labor practice have advised a France-based environmental nonprofit on the drafting and negotiation of a collective bargaining agreement on working time. Labor attorneys also have assisted an anti-poverty organization on a variety of projects, including the internal training of key staff members regarding new labor regulations and the implementation of working-time agreements for a program that supports prisoner reintegration by providing training and unsupervised, out-of-prison work. Various practices have worked together to assist an organization that facilitates internships at nonprofits with its restructuring, which includes the creation, in parallel to its existing nonprofit structure, of a company that provides commercial services. Members of the office's regulatory and labor practices also have assisted an international human rights organization with the drafting and implementation of a whistleblowing policy.



### Stu Finkelstein Honored at Legal Aid Awards

In October 2018, the Legal Aid Society posthumously honored **Stu Finkelstein** at its Pro Bono Publico Awards. Executive partner **Eric Friedman** accepted the award on behalf of Stu's family.

In presenting the award, Legal Aid's Low Income Taxpayer Clinic said, "A tireless supporter of *pro bono*, Stu was instrumental in getting many of his colleagues — including partners, associates, summer associates and counsel — to devote thousands of hours to representing low-income residents of New York City to help resolve tax disputes with both the IRS and the NYS Department of Taxation ... His passion, enthusiasm and sense of humor endeared him to all of us at Legal Aid, and his work improved the lives of so many economically vulnerable New Yorkers."





Mary Schaus and her son Alex

### Hong Kong Office Supports People With Disabilities

The Hong Kong office has been working on several *pro bono* and community initiatives in the disability area, including working with the University of Hong Kong on legal clinics focused on disability rights and assisting the nonprofit SENSational, which finds meaningful employment for people with disabilities, with acquiring tax-exempt status. Hong Kong attorney recruiting and development manager **Mary Schaus**, whose son Alex was diagnosed with autism and other disabilities in 2017, has been very active in the area of disability rights, working to help others, especially those from underprivileged backgrounds, to have equal opportunities for health care, education and equal treatment. In December 2018, she spoke on a panel hosted by SENSational about including people of different abilities into corporate diversity and inclusion agendas. The event brought together leaders in diversity, talent acquisition and human resources from various sectors in Asia, including banking, corporate, technology and NGOs, seeking to make positive changes in how people with disabilities are viewed in the workplace and in corporate talent acquisition strategies.

### Former Convict Secures a State Pardon

In November 2018, California Gov. Jerry Brown issued a pardon to Tung Nguyen, a Vietnamese immigrant who was convicted in the early 1990s, at age 16, of felony murder in connection with a fatal stabbing for which he was present but did not himself commit. Palo Alto associate **Justine Kentla Cho** handled the application for gubernatorial pardon in cooperation with Human Rights Watch. Tung was sentenced to 25 years to life and had served more than 16 years in San Quentin State Prison before his release on parole in 2011. At San Quentin, Tung pursued every educational opportunity available, participated in restorative justice and victim's rights programming, and risked his life when he served as a human shield to protect civilians during a prison riot. Since his return home in 2011, he has continued to lead an exemplary life, founding a nonprofit that works with formerly incarcerated Asian-Americans and Pacific Islanders, working on gang-diversion programs and advocating for juvenile justice reform. The pardon gives Tung the opportunity to reopen his immigration case and apply for U.S. citizenship.

### Hong Kong Team Advises Domestic Worker on Civil Remedies

A team based in our Hong Kong office, led by partner **Drew Foster** and associate **Danette Chan**, advised an Indonesian domestic worker on potential civil remedies under Hong Kong law for the physical abuse she suffered at the hands of her former employer. As part of the case, the team prepared a memorandum addressing the civil standard of evidence and the available legal actions for compensation under Hong Kong law. Next steps involve collecting evidence to build the case with the end goal of achieving a just settlement for the client. The team is partnering with Justice Without Borders on the matter.

### Widow of Holocaust Survivor Secures Lifetime Pension

New York counsel **Jerry Lawton**, who heads Skadden's program to obtain relief for Holocaust victims and their surviving spouses under two German government programs, recently obtained compensation for the widow of a Holocaust survivor, "SV." In 1944, 17-year-old SV was forced into a Nazi ghetto in Hungary. He was then transported to a Hungarian concentration camp and force-marched to two other death camps in Austria, in the Nazi's effort to escape the allies. When the Allies liberated his camp in 1945, SV weighed less than 100 pounds and his feet were permanently damaged by frostbite. With few exceptions, his family members did not survive the war. Jerry helped his widow obtain a substantial lifetime pension. She and her family recently honored Jerry and Skadden's program by planting an orchard of 10 trees in Israel.

