

# Pro Bono Matters

Summer 2020

## Davis Polk Pro Bono Awards

Congratulations to the winners of our fourth annual awards! We are so proud of their outstanding achievements and grateful for their tireless commitment to pro bono work. In honor of the winners, the firm donates to a non-profit of their choice.



### **1** First Place: Meredith Manning

Meredith has been actively involved in work for U-visa clients and both formerly detained and non-detained asylum applicants. She also played a major role in a class action litigation pending in the Southern District of New York, brought on behalf of persons with intellectual disabilities who are not receiving services from the Administration for Children's Services, in violation of the Americans with Disabilities Act and other civil rights laws. Meredith also worked on a divorce/domestic violence case that involved activities in Alabama, California, New York and Nevada.



### **2** Second Place: Chui-Lai Cheung

Chui-Lai has done a significant amount of asylum work and co-leads the Columbia Law School Asylum Clinic. She has secured victories on behalf of asylum clients from Chad, and she continues to work on asylum and immigration matters for formerly detained and non-detained clients. In addition, she has contributed to our amicus efforts in opposing rulings issued by the U.S. Attorney General on asylum procedure and standards. Chui-Lai also worked on a custody and order of protection matter.



### **3** Third Place: James Park

James regularly works on T-visas and SIJS applications. During the course of briefing two matters before the Second Circuit Court of Appeals on behalf of detained asylum seekers, James developed expertise in analyzing the complex issue of whether a state law conviction subjects an asylum applicant to removability under federal asylum law based upon the "categorical approach" analysis.

### Honorable Mentions:

Claudia Carvajal Lopez, Ian Hogg, Erika James, Ryan McCartney, Chase McReynolds



## Highlights

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# Interview: Nancy Marchand, COVID-19 Efforts

We recently sat down with Pro Bono Counsel Nancy Marchand to discuss her pivotal role in the firm's corporate pro bono efforts in response to the coronavirus (COVID-19) pandemic.

## Q&A



### *How has the firm transitioned to providing pro bono coverage remotely?*

Rather than meeting clients in a conference room at a scheduled clinic time, our lawyers set up individual phone or WebEx meetings with each client. We also receive the clinic assignments by email from the referring legal service organizations and follow up each consultation with a brief summary that we send back by email to the referring legal service organization. Other than that, the clinic services are similar to what they were pre-COVID-19: a team of two Davis Polk lawyers provides a one-hour consultation, a senior lawyer is available to supervise and assist, and training materials are posted on the pro bono intranet page.

### *Can you share some examples of the types of pro bono work we're doing related to the pandemic?*

We are providing corporate pro bono legal advice to small businesses and nonprofits whose operations have been shut down or significantly reduced due to COVID-19 and who are seeking financial relief. For instance, we've advised multiple small businesses and nonprofits on how to apply for loans under the CARES Act Paycheck Protection Program. We have also helped small businesses understand their rights under commercial leases and negotiate with their landlords when these businesses are unable to pay rent. We are also about to begin a program providing assistance in preparing end-of-life documents to frontline workers.

### *Are there any notable success stories?*

While it's probably not what the question is getting at, one success story I'd like to mention is the cooperation among major New York City law firms to address the enormous need of small businesses and nonprofits. The Legal Relief Alliance, one of the three corporate clinics in which we participate, brings together 24 New York City law firms in one network to address this need. As assignments are referred by legal services providers such as the Legal Aid Society, the law firms allocate assignments among themselves based on expertise and availability and share pro bono resources and training materials that may be useful to all.

### *Any particularly meaningful projects you'd like to share?*

All of the consultations are meaningful given the extent of economic devastation caused by the pandemic. Huge numbers of small businesses and nonprofits across all New York City communities are facing collapse unless they can access relief. Timely and targeted legal advice can make the difference. To date, Davis Polk has advised a diverse group of businesses and nonprofits such as an after-school art program, a Himalayan craft store, a laundry business, a coffee shop, a sole practitioner family doctor, a nonprofit that assists young adults seeking to finish high school and a nonprofit providing carpentry training and small business mentorship to formerly incarcerated people.

### *How can associates get involved with these efforts?*

There is a great need for attorneys to help. Associates from all departments can get involved by signing up to volunteer for the COVID-19 small business and nonprofit clinics and other programs in which Davis Polk is participating. Associates can reach out to Pro Bono Counsel Nancy Marchand, Pro Bono Attorney Dara Sheinfeld or Special Counsel for Pro Bono Sharon Katz to join a project.

# COVID-19: Pro Bono Opportunities

Remote Pro Bono COVID-19 opportunities include (further details [here](#)):

## City Bar Justice Center – COVID-19 Small Business Clinic:

City Bar Justice Center is sponsoring a New York COVID-19 Small Business Legal Clinic covering not only CARES Act loan resources, but other topics such as commercial leases, employment, bankruptcy and contracts. Lawyers indicate their area of practice and provide 45-minute remote consultations.

## Legal Relief Alliance COVID-19 Small Business Clinic:

The Legal Relief Alliance, a network of law firms and legal services organizations, is sponsoring a COVID-19 small business clinic. Lawyers provide short telephonic or other remote consultations to small businesses facing legal issues or seeking CARES Act loans due to COVID-19.

## Legal Aid Society Habeas Proceedings for Medically Compromised Detained Asylum Seekers:

Lawyers work with co-counsel from The Legal Aid Society to represent detained medically compromised asylum seekers in habeas proceedings aimed to secure their release from immigration detention pending removal proceedings.

## Lawyers' Alliance COVID-19 Nonprofit Clinic:

Lawyers Alliance for New York, a provider of business and transactional legal services for nonprofits and social enterprises, is sponsoring a COVID-19 Nonprofit Clinic. Lawyers provide a one-hour remote consultation to a nonprofit seeking CARES Act loans and other relief.

## VOLS COVID-19 Frontline and Healthcare Workers Initiative:

Volunteers of Legal Service (“VOLS”), the organization we work with on our elder law pro bono work, is launching the VOLS COVID-19 Frontline and Healthcare Workers Initiative to serve healthcare workers and others on the frontlines of the COVID-19 pandemic free of charge by providing them with life planning documents that function to protect their legal rights should their own health be jeopardized as a result of their service.

## NY State Prisoner COVID-19 Emergency Release Habeas Project:

Lawyers work to file habeas petitions for persons incarcerated in New York State prisons who are at risk for COVID-19.

“We’ve advised multiple small businesses and nonprofits on how to apply for loans under the CARES Act Paycheck Protection Program.”

– Nancy Marchand

## Spotlight: Victories on Behalf of the Wrongfully Convicted

Over the past year, Davis Polk achieved significant victories on behalf of wrongfully convicted individuals – a domestic violence victim coerced into participating in crimes by her abusive husband, and a man wrongfully convicted in connection with a 1993 Brooklyn shooting. The work to achieve these victories involved many meetings with the clients, significant fact investigation and tracing of witnesses, preparation of written applications or motions, and advocacy and collaboration with prosecutors, government officials and/or advocates.



Dara L. Sheinfeld



Craig Cagney

On January 3, 2020, Governor Cuomo commuted the sentence of Davis Polk pro bono client Monica Szlekovics, a victim of domestic violence whose (now ex-) husband kidnapped her at gunpoint, kept her hostage and forced her to accompany him on a crime spree. She was released from prison after serving 23 years of a 50-year-to-life sentence at Bedford Hills Correctional Facility. Without this grant of clemency, Ms. Szlekovics would not have even been eligible for parole for another

22 years. Her clemency grant was one of only two sentence commutations given to incarcerated individuals in New York State at the time.

Spearheaded by Pro Bono Attorney Dara Sheinfeld and Special Counsel for Pro Bono Sharon Katz, the Davis Polk team working on Ms. Szlekovics' behalf included associates Peter Bozzo and Jennifer Kalmanides and former associates Jaryn Fields and Brooklynn Moore. Partner Tatiana Martins provided support. The team prepared an extensive clemency application and helped to galvanize support from leaders of prominent domestic violence and women's justice organizations throughout New York State.

Davis Polk's pro bono efforts also resulted in another victory on behalf of a wrongfully convicted individual. On October 3, 2019, Davis Polk, with the assistance of The Legal Aid Society, succeeded in vacating the second-degree murder and first-degree

assault convictions of pro bono client Carlos Weeks, who was wrongfully convicted in connection with a July 1993 shooting in the Tompkins Housing Projects in Brooklyn. At Mr. Weeks' trial in 1995, the only evidence connecting him to the shooting was the purported eyewitness testimony of two sisters, who claimed to have looked out of their 12th-floor apartment window and identified Mr. Weeks as the shooter. Mr. Weeks, who had been incarcerated for more than 26 years, has steadfastly maintained his innocence. At a hearing in the New York State Supreme Court for Kings County, Justice Dineen Riviezzo vacated Mr. Weeks' conviction, dismissed the original indictment and ordered his immediate release.

The Davis Polk team working on Mr. Weeks' behalf included associates Craig Cagney and Patrick Moroney, who assisted in the early stages of the investigation, former associate Jennifer Maloney and Special Counsel for Pro Bono Sharon Katz.

“Every time we left Bedford Hills after meeting with Monica, through the gates and metal doors, and the seemingly endless walls of barbed wire, gutted by the injustice of her continued incarceration, our resolve to continue our work until she could walk out freely beside us strengthened. There has been no better day in my career as a lawyer than January 27, 2020, when I watched through a window as Monica made that same journey to freedom, walking along a path she had not traversed since entering the facility 23 years before.”

– Dara Sheinfeld

## Feature: Loan Scam Cases

For over a decade, a cross-practice Davis Polk team has fought on behalf of homeowners preyed upon by loan companies in the wake of the global financial crisis. Our litigation and restructuring lawyers joined forces to achieve a series of favorable resolutions, resolving the last of these cases in late 2019. Over the many years that these cases were being litigated, dozens of associates, legal assistants and other staff contributed to this important work.

Following the 2008 financial crisis, Davis Polk partnered with the Lawyers' Committee for Civil Rights Under Law to represent victims of multiple foreclosure rescue and mortgage modification scams on a pro bono basis. These for-profit loan modification companies were found preying on low-income borrowers, promising sweetheart deals to reduce borrowers' mortgage payments or get out of their mortgage altogether. In many instances the scammers ceased communication after pocketing substantial up-front fees and the promised benefits never materialized.

Davis Polk recently resolved the last of these cases against a Long Island law firm called Norton Law Group (NLG), its head partner Kyle Norton and his deputy, Kevin O'Rourke. Davis Polk, with the Lawyers' Committee, initially filed this lawsuit on behalf of 11 homeowners on August 24, 2012, which marked the sixth lawsuit filed in Nassau County, New York against a for-profit loan modification company.

Davis Polk's complaint alleged that Norton, O'Rourke and NLG promised clients that, in exchange for an upfront fee of several thousand dollars, they could reduce their clients' mortgage payments and help them avoid foreclosure. Targeting low-income homeowners, Norton and O'Rourke allegedly told clients that NLG had a 99% success rate in obtaining loan modifications and promised to handle all work with the banks to obtain the modifications. According to the complaint, NLG collected its clients' fees up-front in violation of New York law, and then did little to no work on their modifications, defrauding clients desperate to save their homes of the only money they had left in their bank accounts. At the same time, NLG advised clients not to pay their mortgages during the negotiation period, causing many clients' homes to fall into foreclosure.

In 2015, Davis Polk's litigation team obtained a judgment against Kyle Norton and NLG for over \$250,000. Norton shut down NLG, and soon thereafter, Norton filed for bankruptcy, seeking to discharge his debts and liabilities.

Davis Polk's restructuring team then argued that Norton's legal liability isn't dischargeable in bankruptcy, as the debt was based on fraud. This past April, the bankruptcy court issued its order agreeing with Davis Polk's clients in full, allowing them to continue collections against Norton.

In parallel, Davis Polk pursued its suit against the remaining defendant, Kevin O'Rourke. After years of delay tactics, including the failure by Norton to produce discovery that ultimately led to a contempt order against him, the case against O'Rourke was set for trial in October 2019. Following jury selection, on the first day of trial, O'Rourke agreed to a confidential settlement, resolving the matter.

The Davis Polk litigation team on this matter included counsel Adam Mehes, associates Matthew Stratis Vasilakos and Amber Leary, and former associates Benjamin Mills, Korey Boehm, Peter Cavallaro and Andrew Walker. Senior counsel Daniel Kolb provided advice. The Davis Polk bankruptcy team included partner Eli Vonnegut and associate Omer Netzer.



“Our associates took ownership of this complex matter, diving into trial preparation and conducting jury selection on their own.”

– Dan Kolb



“A broad team spanning associates from our corporate and litigation groups worked together seamlessly, which was key to achieving a positive outcome for our clients.”

– Eli Vonnegut

# Interview: Doctors Without Borders Team

With more than 25 years of experience in export controls and economic sanctions, partner John Reynolds typically advises companies on U.S. trade restrictions. The deep knowledge that John and others at Davis Polk have in this area has also been uniquely valuable to pro bono client Médecins Sans Frontières (MSF or, in English, Doctors Without Borders), which provides lifesaving medical care in trouble spots around the globe. We recently spoke with John, counsel Will Schisa and associate Kendall Howell about the work they have been doing for this group, which received the Nobel Peace Prize in 1999.

## Q&A

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John B. Reynolds



Will Schisa



Kendall Howell

*MSF is a nonprofit, not a business. Why does the group need sanctions advice?*

### John

They operate in many places where Americans are not supposed to be present and where American goods and services generally are not supposed to be sent. Sometimes MSF has sought advice on how to get U.S. government approval of a particular activity, such as staying in Syria when it was an active war zone and caregivers' neutrality was not being respected. In other scenarios, they may have concerns about an activity and we can tell them there is no restriction and they can move forward.

*What is our most recent project for MSF?*

### Will

Last year, MSF was looking to send U.S. software and computer equipment to North Korea to support its tuberculosis testing and treatment program. The U.S. allows exports of medicines, medical devices and agricultural products to highly sanctioned jurisdictions. But because the needed equipment did not fall under that authorization, MSF needed to obtain a specific license from the U.S. Commerce Department.

### Kendall

My role was to run point, to be the go-between between the Commerce Department's Bureau of Industry and Security (BIS) and MSF. I worked with MSF to draft and submit the application and then to provide supplemental information requested by BIS. I started on this in October of last year, only weeks after I joined Davis Polk, and MSF got the license in January.

*What other types of projects has Davis Polk helped the group with?*

### John

Some work has involved three-way conversations with MSF and pharmaceutical companies donating medicines for the group to use. Drug companies often make generous donations, but some companies get nervous when the MSF staffers say they are excited to take those medicines to a sanctioned country. We can talk to a compliance person at the company about any sanctions or export control issues and often will tell them there isn't an issue they need to be concerned about. We have enough credibility that they will tend to listen to us, even though we aren't their counsel.

**Interview:** Doctors Without Borders Team (cont.)

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In other cases, we have helped negotiate a solution in which MSF sets up a system to segregate medicines from a particular company and ensure that those goods go only to a particular destination.

**Will**

I have been able to provide counsel to MSF that was informed by my previous work at the Treasury Department's Office of Foreign Assets Control.

*Are there particular aspects you have enjoyed or found meaningful while working with MSF?*

**Will**

The most meaningful part is being able to help an organization that does a lot of worthwhile work.

**John**

MSF's people are oriented toward solving problems – life-threatening health and humanitarian crises – and they turn to us to help solve legal problems that can get in the way of the critical services they provide.

**Kendall**

I was familiar with MSF's work from my time in the military, and it was a real honor to be able to contribute to their mission. As a first-year associate, pro bono work is a really excellent opportunity to learn a great deal, work closely with the client and see the impact you have on the organization.

## Awards



The **Law Society of Hong Kong** honored Davis Polk with a Gold Award in recognition of the firm's strong commitment to pro bono and community service at its Pro Bono and Community Work Recognition Programme 2019. This year, lawyers and staff from the Hong Kong office took on a range of important and impactful projects, including appellate and first-instance work with refugees, advocacy for the LGBTI+ community and providing advice to social enterprises and charities. Davis Polk also received an Improvement Award in recognition of steadily increasing pro bono participation by our Hong Kong lawyers. Former associate Robyn Crowter was one of only two individuals across Hong Kong to receive the Distinguished Pro Bono Service Award. Counsel Jonathan Chang and associates Joyce Chow and Robyn Crowter received Individual Gold Awards; associates Kate Chan, Vivian Chow and Lincoln Jim and former associate Andrea Feuer received Individual Silver Awards; and associate Enoch Lee received an Individual Bronze Award.

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Associates Chui-Lai Cheung and Joshua Sills, Special Counsel for Pro Bono Sharon Katz, Pro Bono Attorney Dara Sheinfeld and former associate David Robles were honored at **Sanctuary for Families'** Above & Beyond Benefit for their work on behalf of a transgender trafficking survivor from Mexico in obtaining her T-visa and for successfully representing a domestic violence victim in custody and order of protection trials in family court.

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The **Legal Aid Society** honored Davis Polk with the Honorable Jonathan Lippman New York Pro Bono Publico Award for its work in helping to preserve the privacy rights and privileges of incarcerated persons in their communications with counsel. In addition, partner Michael Flynn was honored for his mentorship and supervision of numerous associates working on behalf of criminal defendants in connection with their appeals. Associates Shanaye Carvajal, Connie Dang, Alexander Diamond, Rebecca Harris, Brendan Mooney, Lindsay Schare, Patrick Blakemore, Kelsey Clark, Jonathan Goldsmith, Luca Marzorati, Brooke Theodora, Gianna Walton and former associate David Robles were also honored for their work on behalf of those clients.

“As a first year associate, pro bono work is a really excellent opportunity to learn a great deal, work closely with the client and see the impact you have on the organization.”

– Kendall Howell

# Get Involved!

## Pro Bono Matters

For more information about our pro bono practice, please visit [davispolk.com/pro-bono](https://davispolk.com/pro-bono)

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### Pro Bono Committee

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