

# Pro Bono Matters

Summer 2019

## Davis Polk Pro Bono Awards

Congratulations to the winners of our third annual awards! We are so proud of their outstanding achievements and grateful for their tireless commitment to pro bono work.



### First Place: Mari Byrne

Mari has been actively involved with U-visa, asylum, veterans and clemency matters. She is currently working on a long-standing death penalty case in Louisiana. The case has gone through the post-conviction state court process and a habeas corpus petition has been filed in a federal court in Louisiana.



### Second Place: Gabe Jaime-Bettan

For many years, Gabe has co-taught the Columbia Asylum Clinic, handled numerous asylum cases and provided support and supervision to associates throughout the firm working on asylum cases. In response to the assault on certain procedural mechanisms historically employed by immigration judges, Gabe led a team in drafting amicus briefs opposing the diminution in the judge's authority and discretion.



### Third Place: Matt Brock

Matt has developed expertise in "junk science" related issues and has worked on a variety of appeals and amicus briefs addressing the admissibility of expert testimony. He has also worked on a number of veterans matters, and is actively involved in mortgage "scam" cases.

### Honorable Mentions:

John Briggs, Robyn Crowter, Merinda Davis, Brook Jackling, Jennifer Prevete



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2018 Pro Bono by the Numbers:

582

Pro bono matters

94

Average number of hours per participating U.S. lawyer

60,834

Number of hours devoted to pro bono

# Interview: Patrick Moroney and Sushila Rao

We recently sat down with New York associates Patrick Moroney and Sushila Rao, who led the Davis Polk team representing pro bono client Joo Hyun Bahn in a high-profile foreign bribery case. Mr. Bahn was accused of facilitating a \$500,000 bribe to close a real estate sale allegedly involving Qatar's sovereign wealth fund. He was arrested in January 2017 and charged with conspiring to violate the Foreign Corrupt Practices Act. On September 6, 2018, Judge Edgardo Ramos of the Southern District of New York sentenced Mr. Bahn to six months' imprisonment—significantly below the 70-87 month range that he faced under the federal sentencing guidelines.

## Q&A



Patrick Moroney



Sushila Rao

### ***How did Davis Polk get involved in this unique foreign bribery matter?***

#### **Patrick and Sushila**

The Court-appointed Federal Defenders have limited experience in foreign bribery cases, so Davis Polk was asked to assist, given the firm's significant experience in this area. The firm also took the lead in representing Mr. Bahn in concurrent civil enforcement proceedings brought by the SEC, another area in which the firm routinely represents clients.

### ***A large team collaborated on this case. How did Davis Polk's deep bench benefit our client?***

#### **Patrick and Sushila**

The government produced thousands of emails and other documents, including several foreign language documents;

accustomed to this kind of discovery, the team was able to quickly review, translate and organize the materials. We were also able to tap into our strength across the Litigation Department. Senior counsel Scott Muller and partner Denis McInerney provided insight on the defenses under the bribery statute; counsel Linda Chatman Thomsen provided invaluable guidance for working with the SEC; partner Avi Gesser fine-tuned the sentencing arguments; and counsel Jamie Haldin helped develop the overall case strategy.

### ***What was the biggest challenge?***

#### **Patrick**

The federal sentencing guidelines are heavily tied to the amount of money that stood to be gained or lost as a result of the defendant's conduct—sometimes at the expense of more important, qualitative factors. In this case, although the recommended sentencing range under those guidelines was quite high, there were other important facts that we wanted to make sure the judge took into account.

#### **Sushila**

In fact, even Judge Ramos noted that this case's unique facts made his sentencing

decision "extraordinarily difficult." Another challenge the team had to grapple with was the intense media attention that this case had attracted in South Korea since at least 2015, which included certain inaccurate descriptions of the underlying facts and Mr. Bahn's role in the bribery scheme.

### ***Beyond the satisfaction of giving back, how has working on this matter and other pro bono projects expanded your legal skillset?***

#### **Patrick**

The case gave associates exposure to a number of areas of criminal practice, including: drafting motions to suppress evidence; preparing a client for a presentence interview; and presenting in-court arguments in favor of a reduced sentence.

#### **Sushila**

Pro bono cases also compel us to engage with the dynamics of representing individuals with relatively limited resources. In a criminal case in particular, the stakes are incredibly high for defendants and their families—be it incarceration of a family's main breadwinner, or the potential immigration consequences of a conviction.

## Feature: Davis Polk Helps Protect *Titanic* Artifacts

Davis Polk represented The National Maritime Museum in an effort to protect the future of artifacts salvaged from the wreck of the RMS *Titanic*.

The future of a collection of artifacts salvaged from the wreck of the RMS *Titanic* was put into question when the titleholder to the collection filed for bankruptcy and sought to auction select artifacts in 2016. Representing a preeminent maritime museum, Davis Polk succeeded in securing additional restrictions on the titleholder which are intended to prevent a piecemeal sale of the artifacts to collectors and ensure that the historic collection remains together, intact and available to the public for posterity.

The wreck of the RMS *Titanic*, the luxury liner said to be unsinkable, was undiscovered for more than seven decades after the vessel collided with an iceberg and took 1,514 people to their deaths. Following its discovery in 1985, RMST Titanic, Inc. (“RMST”) and its predecessor salvaged approximately 5,500 artifacts from the wreck and, in 1994, was named the salvor-in-possession of the wreck by the U.S. District Court for the Eastern District of Virginia (the “Admiralty Court”). Although the Admiralty Court imposed certain “Covenants and Conditions” restricting the use and disposition of the artifacts, RMST and its investors alleged that the Covenants and Conditions do not extend to approximately 2,100 artifacts recovered with the assistance of a French oceanographic institute (the “French Artifacts”). The collection was appraised at \$218 million in 2014, but the Covenants and Conditions made monetization difficult, and in 2016 RMST and its affiliates filed for bankruptcy with \$15.5 million in debt.

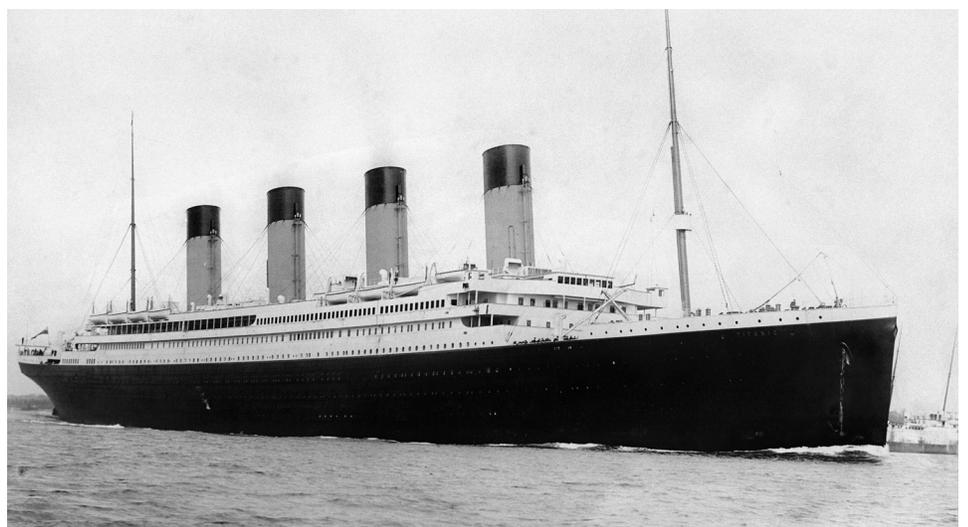
RMST quickly moved to sell select artifacts, setting off alarms among the maritime community that the historic collection would be irreparably broken up and disappear from the public view. The National Maritime Museum (“NMM”), a preeminent maritime

museum located in London, retained Davis Polk in 2017 and initially hoped to make a joint bid with other U.K. museums to purchase the artifact collection. RMST, however, expressed little interest in NMM’s bid, which was conditioned on a fundraising campaign, and instead its parent agreed to sell RMST’s stock to a private holding company (PAHL) controlled by certain hedge funds.

For Davis Polk and NMM, a key forum in the effort to protect the artifact collection was the Admiralty Court, which had *in rem* jurisdiction over the *Titanic* wreck and a portion of the artifact collection. Davis Polk filed numerous pleadings in the Admiralty Court on behalf of NMM and secured important revisions to the Court’s order approving the sale of RMST to PAHL. Most significantly, the order required that RMST and PAHL provide advance notice and obtain Admiralty Court approval of “any action that would result in the [artifact collection] no longer being maintained as an integral whole.” Chief Judge Rebecca

Beach Smith further assured at a December 2018 hearing that, upon receipt of the advance notice, it would issue “an order that [RMST and PAHL] can take no further action whatsoever until they come before [the Admiralty Court]” and brief the issue of whether the French Artifacts can be liquidated under the Covenants and Conditions and applicable law.

Members of the Davis Polk restructuring team who worked on the case included partner Timothy Graulich, counsel Steven Szanzer and James Millerman, associates Jacob Weiner, Mary Prager, Omer Netzer, Erik Jerrard and Christina Bell, former associates Sarah Levin, Jordan Weber and James Eland. The litigation team included partner Jim McClammy, associates Drew Dean and Matthew Cormack, and former associate Mara Theophila. The M&A team included associates Michael Gilson and Katey Peardon and former associate Brian Russell. Also contributing were finance associate Yuko Sin and former trusts and estates associate Daniel Ain.



# Spotlight: Angela Burgess and Ryan McCartney on the New York State Justice Task Force

Davis Polk has been involved with the New York State Justice Task Force since its inception over a decade ago by the then-Chief Judge of the State of New York, Jonathan Lippmann. The Task Force's initial mission was to examine the causes of wrongful convictions and make recommendations to prevent them. In 2017, its charter was expanded to address broader issues of concern for a fair and effective criminal justice system. We recently sat down with partner Angela Burgess and associate Ryan McCartney to learn more.

## Q&A



Angela Burgess



Ryan McCartney

***What has been Davis Polk's role with the Task Force? What has been your involvement personally?***

### **Angela**

Davis Polk has been counsel to the Task Force since it started in 2009. The Task Force's members include judges, prosecutors, defense attorneys, law enforcement officers, victim advocates and others involved with the criminal justice system. I lead our team of lawyers supporting the Task Force's work. I became involved in 2012 when the Hon. Ronnie Abrams, then the firm's Special Counsel for Pro Bono, left to become a judge in the Southern District of New York.

### **Ryan**

I have been involved since June 2016. During this time, the Task Force has focused on attorney misconduct and, most recently, bail reform. My work has included doing research and analysis, bringing in guest speakers, drafting reports and other materials for the Task Force members, and overseeing the work of junior associates and summer associates.

***Have you seen reforms implemented as a result of the Task Force's recommendations over the years?***

### **Angela**

Yes, quite a few, either through legislation or, more commonly, new judicial rules. For example, last year the New York State Legislature passed a number of reforms to the procedures used to conduct eyewitness identifications and custodial interrogations. Much of that legislation came from recommendations the Task Force made in 2011 and 2012.

More recently, the Task Force's work on attorney misconduct found its way into judicial rules that current Chief Judge Janet DiFiore implemented in November 2017.

***Chief Judge DiFiore hailed those reforms adopted in 2017 as groundbreaking. Can you tell us more about them?***

### **Angela**

In February 2017, the Task Force published a report on attorney responsibility in criminal cases. In our analysis, we had considered the extent to which attorney misconduct can lead to wrongful convictions, along with possible recommendations to address that misconduct (or, as the case may be, the perception of it).

The state adopted the Task Force's recommendation that New York trial court judges issue an order at the outset of criminal cases, addressing the obligation of prosecutors to make timely disclosures of information favorable to the defense. The state also adopted the Task Force's call for judges to issue orders directing criminal defense counsel to comply with defendants' statutory notice obligations and help ensure constitutionally effective representation.

**What has been the most interesting and rewarding aspect of working with the Task Force?**

**Angela**

The Task Force brings together some of the main stakeholders in New York's criminal justice community. One of the most fascinating – and challenging – parts of our job as counsel is working with those stakeholders to build consensus on some of the most difficult issues in our state's criminal justice system.

**Ryan**

For me, the most interesting and rewarding work has been on bail reform over the past two years. Bail reform has been a hot-button issue in recent years, with widespread agreement that reform is needed to reduce the number of defendants spending long periods in jail solely because

they cannot afford to post bail. However, opinions about the changes that should be made have been sharply divided.

In our research for the Task Force, we started with a study of bail systems and reform efforts in all 50 states and the District of Columbia, and then held 16 meetings where we heard from a broad range of speakers. One of the most rewarding experiences for me was organizing and moderating a panel of key stakeholders involved in New Jersey's bail reform efforts, including New Jersey Chief Justice Stuart Rabner. It was also gratifying to see the project progress from initial planning stages to ultimately building consensus on major reform recommendations.

This past February, the Task Force released its recommendations on bail reform, which were endorsed by the Chief Judge during her annual "State of Our Judiciary" a few

weeks later. The recommendations became an important part of deliberations in Albany, and the New York State Legislature passed legislation on bail reform in the spring.

**Can you tell us about projects the Task Force and Davis Polk attorneys are working on this year?**

**Angela**

The Task Force's next project is to investigate disparate treatment of defendants in the criminal justice system, which is a complex and very important topic.

**Ryan**

This project, like bail reform, promises to be a really meaningful one. And there should be plenty of opportunities for incoming associates and summer associates to get involved.

“One of the most fascinating – and challenging – parts of our job as counsel is working with those stakeholders to build consensus on some of the most challenging issues in our state's criminal justice system.”

– Angela Burgess

In 2018, Davis Polk handled:

47

U Visas and Green Cards

32

Name changes

17

Veterans Assistance matters

34

Uncontested Divorce matters

20

Elder Law matters

# Pro Bono Clinic Partnerships with Clients

Periodically, clients approach Davis Polk to partner with them on pro bono clinics. This year was no exception.

**Elder Law Clinic** – On April 3, 2019, JPMorgan had its annual day of service. As part of this day of service, Davis Polk hosted an elder law clinic at the firm. Teams of Davis Polk and JPM attorneys helped clients to draft their wills, healthcare proxies, powers of attorney and other life planning documents. Davis Polk associates Carrie Guo, Deborah Mazer, Tomislava Dragicevic, Eric Lewin and Jolie Yang, and law clerks Stephen Rettger and Mario Babic participated in this clinic.

**Green Card Clinic** – On May 2, 2019, Davis Polk hosted an Immigration Clinic in conjunction with the Financial Institutions Pro Bono Day of Service. At this clinic, Davis Polk lawyers partnered with several financial institutions to assist survivors of domestic violence in completing their lawful permanent residence (Green Card) applications. These survivors cooperated in the investigation and prosecution of their abusers and have now held U nonimmigrant status for three years. Davis Polk partner Yan Zhang, associates Michelle Adler, Claudia Carvajal Lopez, Claire Choi, Elizabeth Kim, Elizabeth King, Amy Larsen, Nancy Lee and Ariella Pultman, and foreign associates Shimpei Nohara and Andrea Sorace participated in this clinic.

**Manhattan Family Justice Center (MFJC) Screening** – On a monthly basis, attorneys from Bank of America and Davis Polk assist Pro Bono Attorney Dara Sheinfeld at the MFJC during family law consultations with victims of domestic violence, regarding issues pertaining to custody/visitation, orders of protection, child support and divorce. The MFJC is a walk-in center for victims of domestic violence, run by the NYC Mayor's Office to End Domestic and Gender-Based Violence.

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**In addition to these client partnerships, we partner with non-profit organizations throughout the City to provide legal advice on a variety of other subjects in clinic settings. These include:**

- Eastern District of New York Pro Se Clinic
- Incarcerated Mothers' Law Project
- Volunteer Attorney Project – Family Court Clinic
- Queens Trafficking Intervention Pro Bono Project
- Volunteer Lawyers for the Arts clinics
- Legal Services of NYC Naturalization clinics
- Neighborhood Entrepreneur Law Project
- Brooklyn Law School Center for Urban Business Entrepreneurship clinics
- Women Entrepreneurs NYC legal clinics
- City Bar Veterans Assistance Project

115

**Clinics benefited from Davis Polk volunteers in 2018**

Associates interested in clinics should review the Pro Bono Calendar on the intranet and RSVP to participate. The Pro Bono team also regularly emails about clinic opportunities.

# Awards



The **ACLU of New Jersey** honored Davis Polk for its work assisting Indonesian Christians subject to deportation. Associates Michael Pucci, John Rostom and Jarret Colby, former associates Merinda Davis, Edith Beerdsen, Ben Setel, Justine di Giovanni and Michelle Ha, and Special Counsel for Pro Bono Sharon Katz have worked on this matter.



The **New York State Bar Association** honored Davis Polk as a Law Firm Honoree at its Eighteenth Annual Justice For All Luncheon in recognition of the firm's participation in the NYSBA Empire State Counsel Program.



The **Pro Bono Partnership** honored former Davis Polk chairman Tom Reid at its 21st Anniversary Gala, presenting him with the 2018 Champion Award in recognition of his deep commitment to pro bono work.



The **Bronx Defenders** honored Davis Polk with an In Pursuit of Justice Award for its collaboration with the Bronx Defenders and four law firms to secure bond hearings on behalf of detained asylum applicants through the filing of habeas corpus petitions in the Southern District of New York. Associates Kelsey Clark, Benjamin Schak, Nuveen Dhingra, John Hammond Heath and Erika James, former associate Ana Isaac, and Special Counsel for Pro Bono Sharon Katz worked on this matter.



The **Law Society of Hong Kong** honored Davis Polk with a Distinguished Pro Bono Law Firm Award in recognition of the firm's outstanding commitment to pro bono work and community service at its 2018 Pro Bono and Community Service Awards. Counsel Jonathan Chang was one of three recipients of the Distinguished Pro Bono Service Award; partner Martin Rogers, counsel Jonathan Chang, and associates Robyn Crowter, John Hammond Heath, Sybil Sam and Yuan Zheng received individual Gold awards; associates Sui Hang Hui and Vincent Ko received individual Silver awards; and former counsel Kevin So and associate Enoch Lee received individual Bronze awards.



Partner Po Sit, associate Hanbing Zhang, former associates Lisa Doolittle and Iris Hsiao, and Special Counsel for Pro Bono Sharon Katz were honored at **Sanctuary for Families'** Above & Beyond Benefit for their work on behalf of Sanctuary clients, including an international child custody and human trafficking matter.



**Community Business** honored Davis Polk with the Diversity & Inclusion in Asia Collaboration Award at its 2018 DIAN Decade Awards. Partner Martin Rogers, counsel B. Chen Zhu, associates John Atchley, Robyn Crowter and Sui Hang Hui, and trainee solicitor Lincoln Jim were honored for serving as pro bono counsel to 31 financial institutions and law firms advocating for equal treatment to same- and opposite-sex partners who apply for dependent visas, using their spouse as visa sponsor.



**The Legal Aid Society** honored Davis Polk with the Honorable Jonathan Lippman New York Pro Bono Publico and Public Service Law Firm Award for its work in the areas of children's rights, bail reform and immigration. In addition, partners Lara Samet Buchwald and Avi Gesser, senior counsel Dan Kolb, Special Counsel for Pro Bono Sharon Katz, counsel Nancy Marchand, associates David Angel, Christina Bell, Garrett Cardillo, Chui-Lai Cheung, Drew Dean, Stephanie Dorsey, Hannah Gerstenblatt, Walter Hawes, John Hammond Heath, Gabriel Jaime-Bettan, Alicia Robinson, Will Schildknecht, Serena Wu, Mengyi Xu and Grace (Wen) Zhang, and former associates Shahira Ali, Merinda Davis, Hunter Brooks Mims, Peter Starr and Mara Theophila received individual awards for their invaluable contributions helping the Society serve low-income New Yorkers.

# 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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**Edmund Polubinski III, Chair**

**Lara Samet Buchwald**

**Yan Zhang**

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