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# WASHINGTON LAWYER

THE DISTRICT OF COLUMBIA BAR MAGAZINE

FEBRUARY 2018



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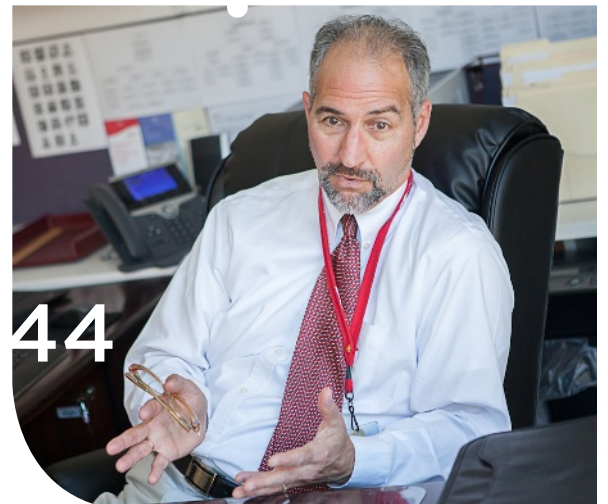
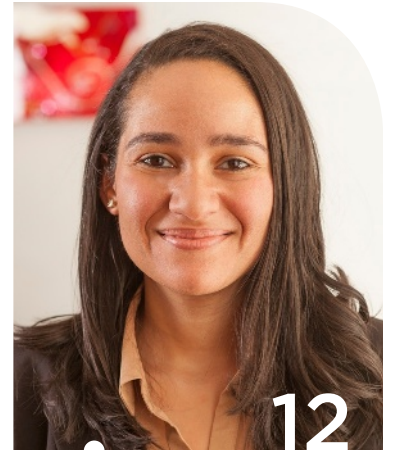
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Cover: D.C. Bar Changemakers by Patrice Gilbert Photography, David Feiling Photography, Sylvia Johnson, David Cole, Curtis Brown Photography, John Relman

This page from top, clockwise: Julia Saladino, Patrice Gilbert Photography; Darrin Sobin, Patrice Gilbert Photography; Steven Aden, courtesy of Americans United for Life

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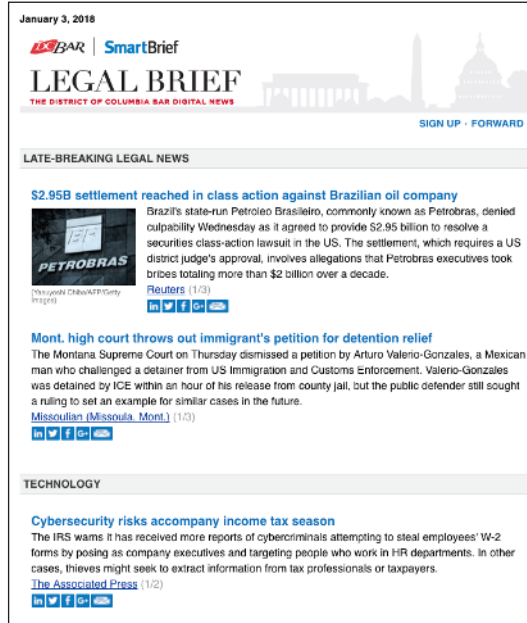
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### LEGAL BRIEF

THE DISTRICT OF COLUMBIA BAR DIGITAL NEWS

SIGN UP - FORWARD

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LATE-BREAKING LEGAL NEWS

**\$2.95B settlement reached in class action against Brazilian oil company**

Brazil's state-run Petrobrás, commonly known as Petrobras, denied culpability Wednesday as it agreed to provide \$2.95 billion to resolve a securities class-action lawsuit in the US. The settlement, which requires a US district judge's approval, involves allegations that Petrobras executives took bribes totaling more than \$2 billion over a decade.

Photo: CNN/AP/Getty Images

Reuters (1/3)

[in](#) [f](#) [t](#) [g+](#) [v](#)

**Mont. high court throws out immigrant's petition for detention relief**

The Montana Supreme Court on Thursday dismissed a petition by Arturo Valeno-Gonzales, a Mexican man who challenged a detainer from US Immigration and Customs Enforcement. Valeno-Gonzales was detained by ICE within an hour of his release from county jail, but the public defender still sought a ruling to set an example for similar cases in the future.

Missoulian (Missoula, Mont.)

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TECHNOLOGY

**Cybersecurity risks accompany income tax season**

The IRS warns it has received more reports of cybercriminals attempting to steal employees' W-2 forms by posing as company executives and targeting people who work in HR departments. In other cases, thieves might seek to extract information from tax professionals or taxpayers.

The Associated Press

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*Letters, posts, emails & tweets from our members*

# JUSTICE ISSUE BRINGS SEASONAL JOY



## OPEN CITY ADVOCATES SHOW IMPORTANCE OF GIVING BACK

Cover to cover, the November issue was full of excellent stories. It's nice to pick up a magazine around the holidays and see stories on giving back and helping others. I especially enjoyed reading about the Open City Advocates and the work they do with youths. The team at Open City — Whitney T. Louchheim and Penelope J. Spain — understand that once young offenders are in the system, this is exactly the time when they most need assistance. This is the type of advocacy that drew me to the legal profession in the first place.

Lennie Green



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# LAWYERS AS LEADERS

## *During Turbulent Times*

During our current era of social and political turbulence, I am buoyed by our profession's celebrated tradition of providing leadership and civic engagement when tumultuous times unfold. Promoting public service by lawyers is ingrained in the mission of the D.C. Bar. Rule I, section 2, of the D.C. Court of Appeals' Rules Governing the Bar describes the Bar's purposes, which, among other things, "shall be to . . . foster and maintain on the part of those engaged in the practice of law high ideals of . . . *competence in public service*, and high standards of conduct . . . to the end that the *public responsibility of the legal profession* may be more effectively discharged." (Emphasis added.)

Eighty years ago, during an acutely bleak period in the nation's history, Associate Justice Harlan F. Stone of the U.S. Supreme Court spoke of the importance of leadership in public affairs by members of the bar. When he addressed the University of Michigan Law School in June 1934, the country was struggling to escape the Great Depression. Unemployment exceeded 20 percent and destitution pervaded the nation. Reflecting on that era's collapse of financial institutions, Stone asked, in essence, "Where were the lawyers?" He reminded our profession of its particular obligation to steward civic virtues:

It is true, if tradition and history are guides, that we may rightly look to the bar for leadership in the preservation and development of American institutions. Specially trained in the field of law and government, invested with the unique privileges of his office, experienced in the world of affairs, and versed in the problems of business organization and administration, to whom, if not to the lawyer, may we look for guidance in solving the problems of a sorely stricken social order?<sup>1</sup>

Stone observed that in return for lawyers using "their special training and gifts for the advancement of the public interest," the profession has enjoyed a unique freedom to regulate its members: "[T]o no other group in this country has the state granted comparable privileges or permitted so much autonomy."

Stone fretted about emerging pressures that remain concerns to this day, including the intensifying specialization of practitioners and the increasing reference to profits as a measure of professional success. Such influences sap lawyers' "energy and talent for public service."

Yet the jurist, who had previously served as U.S. Attorney General and dean of Columbia Law School, retained an optimism that I hope we can share even during our current polarizing times. "We could make no greater mistake than to assume that ours has become a profession without ideals," he wrote. "No one familiar with the history of the bar, knowing its life and personnel, can doubt that it has the idealism, the will to sacrifice, [and] the capacity for leadership which will continue to enable it to play well its part."

At the midpoint of my service in this office, having witnessed so many of our members engaged in pro bono service, civic leadership, service to the public and the Bar, and zealous advocacy for social justice causes, I am heartened, as was Stone, that "we can continue to look to the bar for the preservation and development of American institutions."

*"I am buoyed  
by our profession's  
celebrated tradition  
of providing  
leadership and  
civic engagement  
when tumultuous  
times unfold."*

NOTE

1 Stone's speech is reprinted at Harlan F. Stone, *The Public Influence of the Bar*, 48 Harv. L. Rev. 1 (1934).





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 [dcbar.org/awards](http://dcbar.org/awards)

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# 19

PRESIDENTS  
DAY

# 22

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A LAWYER

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# 21 & 28

## MARCH

1 Capital Pro Bono Honor Roll Deadline

10 Mandatory Course

13 D.C. Bar Lawyer Assistance Program's  
Mental Health Support Group

17 2018 Youth Law Fair

## MEMBER SPOTLIGHT

### SUSAN SOMMER

*Associate Legal Director and Director  
of Constitutional Litigation*  
Lambda Legal

I joined the LGBT rights movement 17 years ago. I was a young parent at the time, and I went to a party with my children where there were identical twin boys. One of the twins was playing with Barbie dolls, the other with a sword and helmet. I told the parents how terrific it was that the kids were such individuals. The parents said they were worried about their son playing with Barbie dolls — that he would grow up to be gay and that the world would be hard on him. The injustice of that struck home for me, and I knew then that what we must do is change the world around that child.

# SOCIAL JUSTICE ISSUES

## *That Keep You Awake at Night*

By David O'Boyle



### HOWARD FOX

*Counsel*  
Earthjustice

I have long been concerned about how we are treating the environment, and particularly the unfairness of subjecting people to harmful pollution. Our health — and our very lives — depend on our environment. Air pollution kills thousands of people each year and causes even larger numbers of illnesses and hospitalizations. Climate change is real, and it is here now. Flooding, wildfires, and superstorms will only grow worse unless we cut the emissions that nudge the Earth's thermostat upward. And the courts should not be hearing only from the polluters and the government. For our adversarial legal system to work the way it's supposed to, those who breathe polluted air and who suffer other environmental harms also deserve a voice.



### STEVEN H. ADEN

*Chief Legal Officer and General Counsel*  
Americans United for Life

For the past 10 years, I have been engaged fulltime in the movement to guarantee the right to life of all human beings, from conception to death. There's no more important issue than respect for all life, whether it's in the womb or on the deathbed. Life in the womb is human life; that is a biological fact, not a matter of ideology or subjective belief. The law should reflect respect and love for all persons — that's what I fight for, that's what I brief courts for, and that's what I work with state legislatures for. I'm privileged to do it.



Read about what Tristia Bauman of the National Law Center on Homelessness and Poverty is fighting for at [dcbar.org/news](http://dcbar.org/news).

Susan Sommer, courtesy of Lambda Legal; Howard Fox by Mariana Bellot-Flores; Steven H. Aden, courtesy of Americans United for Life

# THE CHANGEMAKERS



Chuck Michel	Linda Correia
Jason Downs	Don Davis
Julia Saladino	Judy Donegan & Ann Newton
Victoria Maqueda	John Relman
David Cole	

# IN PURSUIT OF SOCIAL JUSTICE

Changemakers are advocates for the rights of others. They are passionate. Determined. Resolute. These D.C. Bar members, identifying a problem, have worked tirelessly to improve the situation and make a difference. They are a diverse group, representing both sides of the political aisle, a full spectrum of religious beliefs, and various races and genders. The causes they stand up for are equally diverse, ranging from gun rights to LGBTQ equality.

These Bar members came to be changemakers through different paths. Some always knew what they wanted to do and never wavered in their determination to right a wrong. Others came into their advocacy later in their careers after practicing in different areas of the law. Over the next few pages, these changemakers tell us what makes them tick and why they chose to pursue their causes.



**If you own a gun in California, this book could keep you out of jail**

- Where can you have a gun?
- Where can you have a gun?
- How many guns can you have?
- Can you carry a gun in public?
- Which guns are banned?

**CALIFORNIA GUN LAWS**  
A guide to state and federal firearm regulations



# CHUCK MICHEL

## *Upholding the Right to Bear Arms*

By David O'Boyle



Chuck Michel has been an active proponent of Second Amendment rights for nearly three decades. Born and raised in New Jersey, Michel says he often spent his afternoons exploring the forests behind his parents' house.

"Back then, my parents would wish me luck as I went back in the woods with a shotgun and say, 'Come on back with a rabbit,'" recalls Michel, CEO and managing partner at Michel & Associates, P.C.

Michel grew up around guns, although he doesn't recall a political angle around gun ownership during his youth. It wasn't until he moved to California where he worked as a criminal prosecutor for the Los Angeles County District Attorney's Office that he says he began to see an inherent unfairness in many of the gun laws in the state and around the country.

"In Los Angeles, I started to see laws that I felt were counterproductive," Michel says. "The laws weren't doing anything to stop bad guys from getting guns. The more I saw, the more I came to realize that the laws got a lot of good guys in trouble because they were so difficult."

*"The laws weren't doing anything to stop bad guys from getting guns. The more I saw, the more I came to realize that the laws got a lot of good guys in trouble because they were so difficult."*

Michel cites cases in which gun owners drove home from a gun range without storing their guns in accordance with California law, leading to misdemeanor charges. Witnessing these gun owners charged with what he considered to be trivial infractions was eye-opening, Michel says. The people affected by these laws weren't "gang members going out and doing drive-by shootings. They were people who just didn't understand what, exactly, the law required," he argues.

Michel later joined the law firm of O'Melveny & Myers, LLP, where some of his colleagues did pro-gun control pro bono work for the city of Los Angeles. To counter his colleagues, Michel volunteered with the National Rifle Association, often representing individual gun owners who were in trouble for possessing illegal firearms, or others who "broke the law accidentally because they just didn't understand what they were obligated to do."

Michel also joined the board of directors of the California Rifle and Pistol Association and did pro bono work for the organization, taking on cases like *CRPA v. West Hollywood*, challenging West Hollywood's ban on the sale of "affordable self-defense handguns," informally known as "Saturday night specials."

After building a strong background in firearms law, Michel struck out on his own, launching his firm, Michel & Associates. Much of his practice focuses on pro-gun rights work for organizations like the CRPA and larger civil cases with the NRA. Michel and his colleagues have been involved in legal challenges ranging from the restrictions on the carrying of firearms in public to the sale of firearms, to the extent of protections guaranteed by the Second Amendment.

Michel bases his work on what he says is a cornerstone of the American social contract. "It is the right of the individual to choose the best tool to defend themselves and their family. It's their right to choose to not be totally dependent on the government to defend their family."

David O'Boyle is a regular contributor to Washington Lawyer.



# JASON DOWNS

## *Holding Law Enforcement Accountable*

By Anna Stolley Persky

Jason Downs, a civil rights and criminal defense lawyer, says it's time to acknowledge that some police departments throughout the country condone a culture of violence. Downs, who pursues wrongful death cases against law enforcement agencies, hopes other lawyers will join him in the fight against police brutality by representing victims and their families.

"Right now, the trust between the community and the police is dissolving day by day," Downs says. "The more we bring these lawsuits on behalf of victims of police violence, the more we force our society to acknowledge the problem and law enforcement agencies to change their culture."

Downs, a partner in the Baltimore-based law firm Downs Collins, P.A., has spent the last few years relentlessly pursuing civil cases on behalf of the families of unarmed men killed by police.

Downs represents the family of Terrence Sterling, the unarmed 31-year-old black man killed by a D.C. police officer. Sterling was shot in the neck and back. Police have said that Sterling intentionally rammed his motorcycle into a police cruiser.

Downs was also part of a team of lawyers representing the family of Freddie Gray, 25, who suffered a fatal spinal injury while being transported by Baltimore police. In 2015 the city of Baltimore approved a \$6.4 million settlement for Gray's family. Gray's death sparked protests and riots in Baltimore and beyond.

"The Freddie Gray case opened my eyes as to how important this issue is to the entire country," Downs says. "We saw expressions of frustrations on the part of the community in Baltimore over this senseless killing. Since then, I've spoken about this issue all over the country, and frankly, these feelings of frustration exist whether you live in Baltimore, California, New York, or Tennessee."

Downs, who grew up in Baltimore and Columbia, Maryland, says he is motivated by his desire to serve the community in which he was raised. He graduated magna cum laude from the University of Baltimore and then received his J.D. from the University of Maryland Francis King Carey School of Law.

Downs honed his litigation skills during nearly a decade of work with the Public Defender Service for the District of Columbia. He says he always knew he wanted to help people gain access to justice.



*"The Freddie Gray case opened my eyes as to how important this issue is to the entire country."*

When Downs left the Public Defender Service, he joined the Baltimore firm of Murphy, Falcon & Murphy, where he helped handle the Gray case. Since joining forces with lawyer Tiffani S. Collins, Downs has continued to specialize in civil rights and criminal defense. Downs also serves as faculty for Harvard Law School's trial advocacy workshop and as an adjunct professor at the University of Maryland's law school.

Downs says he saw "first-hand growing up" that poor people were often without legal representation when they needed it. Downs says he has always been motivated by a desire to promote access to justice.

"I'm very fortunate to be able to do what I love and give a voice to the voiceless," Downs says. "Now, when I settle a case for someone or someone's family and give them an opportunity for a small amount of justice and closure, I get some measure of satisfaction."

But, Downs adds, there's more work to be done to shed light on the problem of police violence.

"We need to force a national conversation about the bad apples and the good apples that nevertheless allow this to happen," Downs says.

*Anna Stolley Persky is a regular contributor to Washington Lawyer.*



# JULIA SALADINO

## *Advocating for Domestic Violence Survivors*



By Tracy Schorn

When it comes to helping victims of domestic violence, WomensLaw.org staff attorney Julia Saladino has just about done it all, from representing survivors of domestic violence to mentoring D.C. Bar Pro Bono Center attorneys on family law cases through the Advocacy & Justice Clinic, and from clerking on a domestic violence docket at the D.C. Superior Court to serving in her current position as a national advocate for the National Network to End Domestic Violence.

Starting in law school at American University, Saladino says, "I put myself in a box that was very domestic violence-focused." She got involved in AU's Women in the Law Program and did domestic violence internships at Legal Aid, Break the Cycle, and Catholic Charities. But it was while clerking at Superior Court with Judge Fern Flanagan Saddler, now the presiding judge of the Domestic Violence Unit, that Saladino says she got to "really see attorneys litigating on [domestic violence], and what challenges litigants face."

The greatest of those challenges? Lack of legal representation.

"It was often very confusing for them. [Pro se litigants] weren't sure how the court process worked or what they could expect," Saladino says. Collecting evidence was particularly challenging because a lot of the clients were transient.

*"It was often very confusing for them. [Pro se litigants] weren't sure how the court process worked or what they could expect."*

These days, Saladino is out of the courtroom, but she is still busy creating exactly the kind of resources those pro se litigants need. Through a project with the National Network to End Domestic Violence, WomensLaw.org is establishing an online clearinghouse for victims. The site includes legal information on restraining orders; custody and divorce statutes; a state-specific law database; and resources all written in plain, accessible language with citations of statutory and case law.

"I think of it as a giant national toolkit," Saladino says.

In addition, Saladino coordinates and supervises volunteers for the site's email hotline, where users can ask questions about their domestic abuse situation and get a personal response from legal volunteers. The hotline directs users to relevant laws, the nearest legal aid providers, and lawyer referral services.

Although Saladino's work now focuses more on the national level, she says she misses the strategizing of litigation. "I miss preparing a case. I miss my clients. I miss the interactions."

One of her most memorable cases came to her when she was an attorney for Bread for the City.

"[The client] had been in a long marriage, with physical abuse in some of the earlier years and continued emotional abuse, and she was hesitant to go forward with legal action because of her children. When she did finally seek a restraining order she was turned away, and that was really discouraging. So, she came to Bread for the City's walk-in clinic, and I took her case. From the temporary restraining order to the end, she was very nervous about trial. Her abuser was there and was gaslighting her, calling her a liar, and telling me she was a liar, and it went to a contested trial. He tried to drag her character through the mud. It was all very difficult," Saladino recalls.

"But we got a great ruling from the judge. The judge spoke to all the [abuser's] power and control. She got custody of her children, and he had to complete a domestic violence intervention program. That was a success. She was very happy with the outcome."

Saladino believes advocating for survivors of domestic abuse is her calling. "It would be hard to convince anyone to let me do something else at this point," she says. "I'm passionate about what I do."



# VICTORIA MAQUEDA

## *Helping Dreamers Achieve the American Dream*

By Erika Winston

Victoria Maqueda has dedicated her legal career to guiding hopeful men and women through complex immigration processes. Most of her work has centered on the Deferred Action for Childhood Arrivals (DACA), an immigration policy where children of undocumented immigrants may be allowed to temporarily remain in the country and obtain work visas. These individuals are commonly referred to as Dreamers, and Maqueda strongly believes they are worth fighting for.

"I started off doing DACA [work] early in my legal career," Maqueda explains. "My first job was with an organization that started off primarily doing DACA themselves. I helped clients file their applications and monitored the process."

According to Maqueda, recent changes to DACA under President Trump's administration have caused significant apprehension, even among experienced legal professionals. "After November 9, [2016], there was great uncertainty among the legal community about whether or not to continue filing DACA applications. We were providing the government with information about an applicant's undocumented status, including their address. What was going to happen with that information?"

Maqueda says some attorneys made the decision to stop submitting new DACA applications shortly after the election, instead only working on renewals where the government is already privy to the applicant's undocumented status and address. For her part, Maqueda advocated for a system where the client is fully informed of the potential risk and makes the final decision on whether to file an application.

"Dreamers are the most resilient and bravest individuals I've ever met," Maqueda says. "Even through the ambiguity, people were showing up, interested in going forward to invest in themselves and their dreams."

The future of DACA remains uncertain. "Dreamers currently have until their work authorization and DACA status expires," Maqueda explains. "There is no renewal option. If they fall out of status, they become subject to deportation."

Maqueda says the termination of DACA would have far-reaching effects outside of the immigrant community. "It is a misunderstanding to think that nonimmigrants don't have a stake in DACA. Once it's taken away, it's going to reverberate throughout our communities. DACA has provided stability for a lot of recipients, allowing them to have professional careers and a stake in our economic community, through home buying, lines of credit, and owning their own businesses," she says. "We should care about the participants because they are the Americans we understand them to be. DACA recipients are everywhere. They are our neighbors, friends, classmates, and coworkers. They have interests that span the gamut, and we are losing that."

*"DACA has provided stability for a lot of recipients, allowing them to have professional careers and a stake in our economic community."*



Maqueda is also concerned about an additional threat to DACA recipients — widespread confusion over the current policy. The ease and simplicity of DACA filings resulted in many non-attorney actors helping Dreamers file their application and recertification forms. Maqueda says legislative changes brought about a spike in nefarious actors using legislative changes to take advantage of Dreamers.

"They are charging immigrants for work they are not doing, which can ultimately prove harmful to an individual's immigration status," Maqueda says. In her current position as a staff attorney with Ayuda, Maqueda fights against these deceptive practices through a program called Eradicating Notario Deceit, or END, aimed at remedying the harms caused by immigration consultant fraud. Maqueda says the project is particularly mindful of DACA participants.

Even with the current uncertainties, Maqueda is hopeful for Dreamers. "As a U.S. citizen, I've been given great opportunities. I want to provide those same opportunities to people who will take them and grow. It's the American dream. That's why they call themselves Dreamers."

Erika Winston is a regular contributor to Washington Lawyer.

Interested in learning more about immigration law? Take a look at our CLE on-demand courses at [dcbar.org/cle/cle-on-demand-schedule.cfm](https://dcbar.org/cle/cle-on-demand-schedule.cfm). For volunteer opportunities, go to [dcbar.org/pro-bono/volunteer/immigration-clinic.cfm](https://dcbar.org/pro-bono/volunteer/immigration-clinic.cfm).





# DAVID COLE

## *Defending the First Amendment*

By Tracy Schorn

David Cole has defended the First Amendment rights of a lot of unpopular people. By his own telling, his clients have included “flag burners, gay performance artists, documentary filmmakers who made films critical of U.S. policies, [and] Palestinians who advocated self-determination and were labeled terrorists,” among others. In July 2016, Cole, a constitutional law professor at Georgetown University Law Center, took his dream job — national legal director of the American Civil Liberties Union, where he leads the organization’s U.S. Supreme Court practice and oversees the work of nearly 300 lawyers.

At the time Cole was asked to take the position, he assumed Hillary Clinton would be the next president and she would appoint Justice Antonin Scalia’s successor, creating the first liberal majority Supreme Court in 40 years. “Obviously, the job changed dramatically on November 8, 2016,” Cole says. “In many ways, it’s a more important job than ever.”

Since Donald Trump was elected president — a man Cole describes as having “utter disregard for basic constitutional principles” — the ACLU has experienced a surge in growth. In a typical year, the organization receives around \$4 million in online donations. But in one weekend alone, in January 2017, the ACLU received more than \$24 million in donations when it challenged portions of Trump’s travel ban. (Editor’s note: On December 4, 2017, the Supreme Court allowed the third version of Trump’s travel ban to take full effect while legal challenges continue in lower courts. The ban blocks people from Chad, Iran, Libya, Somalia, Syria, Yemen, North Korea, and Venezuela from entering the United States.)

“Before I started working for the ACLU, we had 400,000 members. Today, we have 1.6 million members. In a democracy, that’s power. Citizens believe in our vision [and] want to work with us to make our vision a reality. It’s tremendous,” Cole says.

*“[The ACLU] defends the rights of people to speak regardless of how offensive their views are, regardless of whether we are in agreement with them.”*



However, that vision is not without controversy. The ACLU came under fire last August for defending Jason Kessler, the organizer of the white nationalist protests in Charlottesville, Virginia. The ACLU condemned the violence that left one person dead, but defended the tiki torch-wielding white supremacists’ right to march under the First Amendment.

“These are challenging cases,” Cole says. “When we represent someone whose point of view is diametrically opposed to ours, who seeks to undermine the rights we are trying to defend with vulnerable groups, that creates a tension for the group. We’re working through that tension. [The ACLU] defends the rights of people to speak regardless of how offensive their views are, regardless of whether we are in agreement with them. That’s an important part of what the First Amendment is.”

Does it really further the goals of democracy to tolerate views that are antithetical to democracy itself?

“I have faith in the American people. I actually think that when those views are aired, they are roundly rejected. The best response to white supremacists is what happened in Boston, where you had 40,000 counter-demonstrators to something like 50 white supremacists,” says Cole. “When [white supremacist] views are suppressed, when they are barred from speaking, they become martyrs and they get more attention. They want that. I think it’s much more effective if we ignore them, do counter-protests, shame them, and we don’t suppress them.”

Cole concedes it’s a challenging time to be a defender of First Amendment freedoms. “You have the same party in control of both houses of Congress, of state legislatures, and the majority on the Supreme Court. The checks have to come from somewhere else.” Cole says that role of defender and watchdog has fallen to civil society, organizations like the ACLU, universities, the press, and religious institutions, which are all protected by the First Amendment.

“Part of the reason they are protected by the First Amendment is because they are the way citizens come together outside the government to put checks on the government,” he says.

On December 5, 2017, Cole argued before the Supreme Court the case *Masterpiece Cakeshop v. Colorado Civil Rights Commission*, which pits First Amendment rights and religious freedom against anti-discrimination laws. The ACLU is representing the gay couple at the center of the case.

With close to 300 lawyers and a record-breaking war chest, it’s probably safe to say the ACLU isn’t going anywhere. “We’ve been around for 96 years. We have sued Democratic presidents and we have sued Republican presidents. We defend the Bill of Rights regardless of who is in office,” Cole says.



Read an expanded interview with Cole about his First Amendment work at [dcbar.org/news](http://dcbar.org/news).



# LINDA CORREIA

## *Fighting Retaliation in Discrimination Cases*



By Sarah Kellogg

Civil rights attorney Linda M. Correia remembers the moment she first understood how deeply employment discrimination can distress an individual, no matter how strong they appear or how outwardly acquiescent they seem.

In her first notable trial, she represented a woman who had been fired because of her gender. Her client had been remarkably stoic throughout the trial — calm and assured. When the verdict was read, and she had won her case, her client fell apart.

“She was inconsolable,” recalls Correia, cofounder of Correia & Puth, PLLC, a civil rights firm focusing on employment discrimination. “The vindication was so powerful for her.”

Correia, who has worked on Capitol Hill and wanted to practice civil rights and immigration law since law school, not only represents aggrieved workers but also advocates for stronger legal protections for employees. She has gravitated toward sex discrimination and sexual harassment cases in workplaces, although she has handled a variety of discrimination cases for different classes.

Correia was co-counsel to the plaintiff class in the gender discrimination lawsuit *Hartman v. Powell*, securing a \$508 million settlement in 2000 — the largest award in the history of the Civil Rights Act of 1964 — on behalf of 1,100 women.

One area that has become a particular specialty for Correia is representing people who have been retaliated against for coming forward to aid or testify on behalf of a colleague, student, or teammate alleging Title IX violations.

Her clients include coaches, teachers, professors, and school administrators who were punished for publicly criticizing colleagues for harming or discriminating against students.

“I got into Title IX through retaliation cases where coaches have gone to bat for student-athletes who didn’t have equal resources and opportunities for athletic participation,” she says. “Those cases were appealing to me because they were people who stood up for someone else’s rights at a cost to them personally.”

Frequently, workers who witness discrimination don’t want to speak to attorneys because they’re fearful of retaliation at work. Their anxiety often leaves plaintiffs without a legitimate witness and emotionally alone, Correia says.

*“I got into Title IX through retaliation cases where coaches have gone to bat for student-athletes who didn’t have equal resources and opportunities for athletic participation.”*

That’s why it’s so impressive to find people who don’t have a grudge against the institution, but are still willing to stand up to protest discrimination and inequality, she says.

“These retaliation cases have been really powerful for me because of who the people are and what they’re risking,” Correia says. “They’re people I want to help and defend.”

*Sarah Kellogg is a regular contributor to Washington Lawyer.*



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# DON DAVIS

## Keeping LGBTQ Rights Rollbacks at Bay

By Jeffery Leon

The topic of LGBTQ rights is immensely personal for Don Davis. He came out while in college and navigated the experience of being an openly gay man while maintaining a relationship with a religious and conservative family.

"It was very difficult for my parents to get a handle on what it meant to have a gay son," recalls Davis, an employment lawyer at Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.

From 2010 to 2013, while living in North Carolina, Davis served on the board of directors of the statewide LGBTQ advocacy organization Equality NC, including as vice chair. During his time with Equality NC, the organization worked with other advocacy groups in the state to try to defeat Amendment 1 banning same-sex marriage and other forms of domestic relationships in the state. It eventually was approved by voters.

In 2015 Davis relocated to Washington, D.C., where he continues his LGBTQ rights work. He joined the LGBT Bar Association of the District of Columbia and was elected president in 2016, a position he still holds. He also sits on the board of directors of Supporting and Mentoring Youth Advocates and Leaders (SMYAL), which empowers LGBTQ youth in the Washington metropolitan area. Davis relishes his work with SMYAL, saying it allows him to positively affect young adults.



*"There's such a thing as equal rights, but to be truly equal is to experience a 'lived equality' in which a person's gender identity or sexual orientation does not determine [their] social and economic worth."*

Photo by Curtis Brown Photography

"SMYAL works with many disaffected and homeless LGBTQ youth who have been cast out of their homes or social circles because of their identities," Davis says. "It's incredibly important to help them gain the resources and build the confidence they need to empower them to be who they are."

Davis is proud to be at the helm of the LGBT Bar, which works to foster community and connection among LGBTQ legal professionals in the District. As president, he is committed to providing space for all types of legal professionals to meet, interact, learn, and give back to the community. While happy that the District of Columbia is a jurisdiction that has chosen to respect LGBTQ rights, Davis says the LGBT Bar will continue to advocate for change and progress on that front.

Davis is following developments on the national level, including troubling rollbacks of antidiscrimination measures across the country, and the possibility that the U.S. Supreme Court will resolve in *Evans v. Georgia Regional Hospital* the issue of whether federal antidiscrimination laws, such as Title VII of the Civil Rights Act, cover sexual orientation discrimination.

He also is keeping an eye on a pair of cases that test the limits of religious refusal — *Masterpiece Cakeshop v. Colorado Civil Rights Commission* and *Barber v. Bryant* — the first involving businesses that routinely offer goods and services to the public, the other challenging the constitutionality of Mississippi's HB 1523, which critics say is the most sweeping and aggressive anti-LGBT legislation in the country.

Davis says his goal in his fight for LGBTQ rights is "lived equality."

"There's such a thing as equal rights, but to be truly equal is to experience a 'lived equality' in which a person's gender identity or sexual orientation does not determine [their] social and economic worth."



Bar members Sharra Greer and Michele Zavos have also devoted their careers to fighting for LGBTQ rights. Read their stories at [dcbar.org/memberspotlight](http://dcbar.org/memberspotlight).



# JUDY DONEGAN & ANN NEWTON

## *Fighting on the Side of Veterans*



By Debra Bruno

While it might seem like a small thing, the 5,000th case of the Veterans Consortium Pro Bono Program was a case involving sleep apnea.

A Vietnam veteran who had been awarded a bronze star and other medals for his service was fighting to get the Veterans Administration to award him benefits to help manage a condition that he developed while he was serving his country.

That's where Judy Donegan, director of litigation for the organization, comes in.

"The VA, to their credit, they get things like missing limbs from IEDs or mortar attacks," she says. "They can see it, they can rate it. But it's the things that are more subjective, especially the more psychological, that they struggle with, since [those] can't be seen or touched."

Although Donegan has only been with the organization for a year, she's spent her life paying attention to veterans' issues. The granddaughter of a World War II vet and the daughter of a Korean conflict veteran, Donegan gets it.

So the fit seemed perfect when she joined the Veterans Consortium, which acts as a clearinghouse to match attorneys with veterans and their dependents. The consortium recruits pro bono attorneys, trains them, and mentors them through the process as they represent vets before the U.S. Court of Appeals for Veterans Claims — mainly seeking compensation that has been denied.

At the moment, 2,500 attorneys are part of the national volunteer corps, along with non-attorney practitioners, Donegan says.

About that 5,000th case, which coincided with the consortium's 25th year of operations: The man has peripheral neuropathy and other health issues, possibly as a result of his sleep apnea, a medical condition in which a person stops breathing temporarily during sleep. The question is whether the apnea began during his service — in which case he would be covered — or later.

"He has statements from family and former fellow service members who saw him stop breathing" when he was sleeping, Donegan says. And a disability that developed while he was serving means he can be covered, whether or not there is evidence that the disability actually was caused by the military service.

In fact, many service-related disabilities are hard to match directly to an actual event, but can be real. "Hearing loss is a tough one," Donegan says. While many veterans end up with hearing loss as a result of firearm use, it's often hard to prove that the hearing loss began during their service.

Another common disability for Vietnam vets is diabetes. "If you are a Vietnam vet, you are automatically awarded" benefits if you develop diabetes, Donegan says. Soldiers were exposed to Agent Orange, an herbicide and defoliant dropped by U.S. forces on the jungles of Vietnam to clear the land and reveal the location of enemy fighters. The National Institutes of Health has determined that the higher rate of diabetes among Vietnam vets is connected to Agent Orange exposure. "You cannot explain it any other way," Donegan says.

In her private practice in the past, Donegan did pro bono work for veterans, including what she calls "a classic case of a Vietnam vet who was wounded in action, patched up, sent back, wounded again, patched up again. The third time, he finally says, 'I'm out,' and he went AWOL in a village."

After spending time in a military prison and then being discharged, the man ended up on the streets of Detroit. "He was obviously suffering from PTSD," Donegan says. The goal was to get the VA to consider whether he met the definition of insanity at the time he went AWOL. Donegan says she lost track of the vet's case — the challenge took place in 2010 — but she suspects he's still battling the case with the VA.

While the consortium handles claims at the federal level, it refers veterans with other problems to organizations that could help with civil or criminal cases.

And in September, the consortium announced that attorney Danica Gonzalves, through an Equal Justice Works Fellowship, will work on its Discharge Upgrade Program, since many veterans leave the service with an other-than-honorable discharge, making them ineligible for VA benefits.

Another attorney who also advocates for discharge upgrades is Ann Newton of the Neighborhood Legal Services Program's Veterans Legal Assistance Project. One of the benefits of being part of a larger legal services program is that there are other attorneys in the organization that could help vets with legal issues involving housing, family law, or even barriers to employment, Newton says.

One discharge upgrade case that Newton recently worked on involved a World War II vet, a doctor who served on Omaha Beach on the Allies' initial approach to Normandy in 1944. While he was tending to the wounded, "he would run and was afraid and disoriented," Newton says. The man was given an other-than-honorable discharge, returned home, practiced as a doctor for the rest of his life, and died in 1990.

His family, however, wants his discharge upgraded posthumously, so that his service is properly recognized, Newton says. The doctor's son and his family actually went on a trip to Normandy last October to see where the veteran had served.

For many veterans, waiting for recognition and benefits can take years, both Donegan and Newton say.

"At the federal court, we see them after they've been in the system for 6 to 12 years," Donegan says. "Some of them just give up."

*Debra Bruno is a regular contributor to Washington Lawyer.*





# JOHN RELMAN

## *Ending Housing Segregation for People With Disabilities*

By Sarah Kellogg



For civil rights attorney John Relman, spatial segregation remains a disgrace in the United States, especially when governments and corporations perpetrate it by exploiting underserved communities.

"We've represented many different protected classes: race, disability, national origin, and gender," says Relman, whose interest in civil rights law began in law school after a summer internship with the NAACP Legal Defense Fund in Alabama and Mississippi. "These are cases that reveal a truth about what American society is like. There is still overt discrimination that goes on every day."

His work in the 1990s at the national and D.C. offices of the Lawyers' Committee for Civil Rights Under Law exposed him to a wide variety of cases, including a lawsuit filed by six black U.S. Secret Service agents who were discriminated against at a Denny's restaurant in Annapolis. The lawsuit triggered a national class action lawsuit and a \$54 million settlement.

The central focus of his firm Relman, Dane & Colfax PLLC has been on housing and fair lending, bringing cases where public agencies and private companies have used the mechanisms of government to block access to public water supplies, affordable housing, integrated neighborhoods, and fair lending.

A recent case against the city of Los Angeles pitted Relman against entrenched efforts to deny access to accessible housing for people with disabilities. Despite mandates and allocated funds to improve apartments, the city refused to update public housing to make it accessible for the blind, the deaf, and people in wheelchairs.

Relman noted that the city's failure had created a shortage of accessible housing for people with disabilities, and officials had made it worse by not enforcing accessibility requirements for developers building new apartment complexes.

"That, of course, is a type of discrimination against persons with disabilities that has the same pernicious effect as race discrimination," says Relman, noting that Los Angeles was ordered to spend some \$200 million to provide apartments for people with disabilities in its publicly funded housing. "It relegates people who are wheelchair users to institutions and narrows their choices where they can live and have access to schools and jobs."

*"We've represented many different protected classes: race, disability, national origin, and gender. These are cases that reveal a truth about what American society is like. There is still overt discrimination that goes on every day."*

*Sarah Kellogg is a regular contributor to Washington Lawyer.*

Photo courtesy of John Relman



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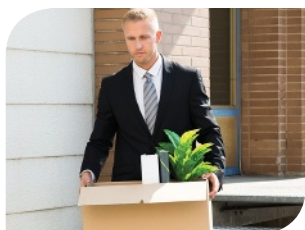
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# SOCIAL JUSTICE

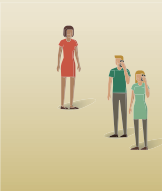


*By Peter Jones*

**AROUND THE WORLD**, the past year has seen an outpouring of activism from advocates, organizers, and community leaders calling and fighting for justice. Here's a look at some of the ways that courageous women and men have taken a stand on issues such as gender-based violence, environmental justice, religious discrimination, and slavery.

**DEMOCRATIC REPUBLIC OF THE CONGO:**

Since the outbreak of war in the mid-1990s, women in the Democratic Republic of the Congo have suffered one of the highest rates of sexual assault in the world. According to a United Nations report, an ineffectual and corrupt justice system means that survivors rarely get justice and often face ostracism by their communities. In response, women from the Congo and around the world are working to empower survivors of sexual assault and other forms of violence. In Bukavu, a refuge and educational center called the City of Joy opened in 2010, giving Congolese women a safe place to live and an opportunity to learn skills that will help them to earn a living, advocate for themselves, and work together to build a more peaceful and inclusive future.



**INDIA:**

The intense smog that blanketed New Delhi and other parts of northern India in late 2017 has led some to question whether Prime Minister Narendra Modi's efforts to encourage economic growth by loosening environmental regulations may be hurting India's most vulnerable citizens. Air pollution is particularly dangerous for young children, as the inhalation of particulate matter from sources such as coal-fired power plants can inhibit neurological development, resulting in educational setbacks that limit economic and social opportunity. In a country like India, these educational and health setbacks lead to reduced opportunity for those already struggling to get by and can trap families in a generational cycle of poverty.

# & HUMAN RIGHTS



**JERUSALEM:** Given its support from evangelical Christian leaders at home, President Trump's decision to move the U.S. embassy in Israel to Jerusalem has drawn criticism from what might be a surprising group: Christian leaders in Jerusalem itself. In a letter addressed to the president, Catholic, Orthodox, and Protestant clergy from the ancient city called on Trump to reconsider the move. In recent years, Christians in Israel have protested against government discrimination and have been targeted in arson attacks against holy sites.

**LATIN AMERICA:** While the women of the #MeToo campaign against sexual harassment and assault have been recognized as Person of the Year by *Time*, they are not the only ones using social media to fight misogyny and sexism. Across Latin America, women have organized under the banner Ni Una Menos (Not One Woman Less) to protest against gender-based violence. The movement started in Argentina in response to the murder of women by their boyfriends and husbands, but soon spread across the region. In Peru, more than 150,000 people gathered to protest sexual violence in what was the largest single protest in the country's history, and in 2017, contestants in the Miss Peru pageant used their platform to raise awareness of the country's epidemic of sexual assault.

**LIBYA:** Shocking footage aired last November of a modern-day slave auction in Tripoli showing men from Nigeria and elsewhere in sub-Saharan Africa being sold into slavery has spurred action from leaders in Africa and Europe. In an agreement signed in Ivory Coast, the African Union and the European Union agreed to work to quickly repatriate thousands of migrants detained in Libyan camps on their journey to Europe. The camps are fertile ground for human traffickers, who lure migrants with false promises of passage to Europe only to sell them into slavery in auctions like the one in Tripoli. According to the NGO Anti-Slavery International, 40.3 million men, women, and children are enslaved around the world today, many of them in Africa.

**POLAND:** In Poland, efforts by the conservative Law and Justice party to tighten its control over the press and judiciary were bolstered by the appointment of Mateusz Morawiecki as prime minister in December. According to Human Rights Watch, since taking power in October 2015, Law and Justice has pursued policies aimed at limiting freedom of assembly, the rights of asylum seekers, women's rights, and the ability of civil society groups to organize and demonstrate in public. However, civil society and human rights groups are doing their best to resist these new restrictions. Beginning in late 2016, they have actively protested these new measures and successfully shut down at least one effort to eliminate the Polish supreme court's independence from the ruling party.

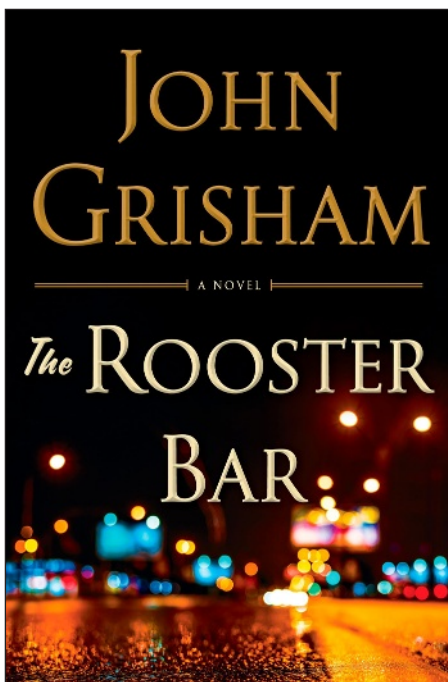
**SERBIA:** Although Ana Brnabic is making history as the first woman and the first lesbian or gay prime minister of Serbia (and the first lesbian head of government in continental Europe), she has little interest in making her gender or sexuality a focus of her time in office. "Why does it matter?" she asked following her appointment. "The government of Serbia is here for all citizens." Instead, Brnabic has decided to focus on the basics: economic stability and paving the way for Serbia to join the European Union sometime in the early 2020s, a path that includes strengthening the rule of law and environmental protections.

**SOUTH SUDAN:** In South Sudan, where a United Nations peacekeeping mission has been working to ensure stability in the young country, women are coming together to demand an end to forced marriages. At a leadership forum organized by the UN Mission in South Sudan, women from groups such as the Jonglei Women's Association spoke out against the tradition of marrying teenage girls to older men, a practice that keeps girls out of school and closes social and economic opportunities for them. The forum, which is designed to give local communities a stake in the peacekeeping process, is part of a larger UN effort against gender-based violence that affects one in four South Sudanese women every day.



# TALE OF DECEPTION STRIKES AT FOR-PROFIT LAW SCHOOLS

Review by Ronald Goldfarb



John Grisham got his idea for his 31st novel, *The Rooster Bar*, from a 2014 article in *The Atlantic* about private law school scams, a subject that will interest lawyers who are saddled with student loans. The rest of us more fortunate lawyers ought to be interested in this recent law school phenomenon for reasons noted in my February 2013 *Washington Lawyer* review of professor Brian Z. Tamanaha's book *Failing Law Schools* — exorbitant tuition, too many graduates deeply in debt, poor training on the fundamentals of law practice, and 25,000 new job openings for 45,000 new lawyers annually at the end of the experience.

Novelists with their special literary talents sometimes accomplish what nonfiction writers cannot, given their smaller audiences and lesser public influences. Think of Charles Dickens' *Bleak House*, a classic on the failures of the probate system; Tom Wolfe's *The Bonfire of the Vanities* that exposed the hypocrisies and failures of the criminal justice system; or Harper Lee's *To Kill a Mockingbird*, which motivated a generation of young readers to become lawyers. Given Grisham's extraordinary success in writing stories about lawyering, readers who pick up *The Rooster Bar* expecting a compelling read will be disappointed.

Part of the problem is that the story is told through the misadventures of two totally unattractive, unsympathetic protagonists — Mark Frazier and Todd Lucero — untalented hustlers who inadvertently discover a national financial scam involving

a new breed of private law schools. The scam was unearthed by their bipolar friend's manic delvings prior to his committing suicide. Zola Maal, the Senegalese girlfriend of the deceased law student, teams up with Mark and Todd in their desperate escapades. The three drop out of law school, live squalid lives upstairs of a bar, and start a DUI lower court "practice" without a license, and eventually for their own selfish purposes, scam the scammers using their dead friend's discoveries. They do so not to undo the unethical practices, but to escape responsibility from their own.

The scam that Grisham read about and uses to drive his story is worthy of exposing. For-profit law schools providing incompetent legal education and funding naïve, low-scoring students through financial loan companies they control and using federal funds, tied to connected law firms that lend the appearance of success to the hapless, deeply indebted law graduates, are disgraceful. The real hero of this book, deceased in early pages, discovered:

It's one great big fat law school scam that's risk free. If we default, the taxpayers pick up the tab. Rackley gets to privatize the profits and socialize the losses.

The story, unfortunately, is told through the two sleazy hustlers who end up conning the conners, helping their Senegalese friend solve her family's immigration problems, being indicted while fugitives fleeing to Africa, and opening a bar.

Better to read the *Atlantic* article, and Tamanaha's important book.

Ronald Goldfarb is an attorney, author, and literary agent in Washington, D.C. [www.ronaldgoldfarb.com](http://www.ronaldgoldfarb.com).



See Goldfarb's review of professor Brian Z. Tamanaha's book *Failing Law Schools* at [dcbar.org/WashingtonLawyer](http://dcbar.org/WashingtonLawyer).

*The Rooster Bar* cover, courtesy of Penguin Random House

By Jeffery Leon



HEAR IT STRAIGHT FROM LAWYERS

"I Am the Law" is a monthly podcast series that uses informational interviews with new and experienced attorneys to "convey what the practice of law is really like" by shedding light on careers in the law. Produced by Law School Transparency, the podcast is geared toward law school students, recent graduates, and young lawyers. The series delves deeply into areas of the law such as estate planning, immigration law, tax law, environmental advocacy, and much more, speaking with legal professionals from solo practices to large firms, nonprofits, and corporations.



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CRYPTOCURRENCY FOR FREEDOM

Bail Bloc is a new computer app for PCs and Macs dedicated to helping people pay for bail. Created by the New York-based nonprofit The New Inquiry and the Bronx Freedom Fund, the app utilizes your computer's unused processing power to generate Monero, a cryptocurrency that is then exchanged into U.S. dollars and utilized to post bail for detained low-income individuals in New York. Bail Bloc uses a cutting-edge technological approach to push for access to justice, highlighting the need to protect at-risk people from being incarcerated pretrial for weeks, months, or even years. Bail Bloc does not transfer any identifying data about the user, nor does it put your computer at risk, and 100 percent of the currency generated by the app is transferred to clients of the Bronx Freedom Fund.



[bailbloc.thenewinquiry.com](http://bailbloc.thenewinquiry.com)



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# ATTORNEY BRIEFS

By Tracy Schorn

## HONORS & APPOINTMENTS

**Brian H. Bieber**, a shareholder at GrayRobinson, P.A. in Miami, was elected to the board of governors of the American Board of Criminal Defense Lawyers... **Brian L. Rubin**, a partner at Eversheds Sutherland LLP, has been selected to join the National Society of Compliance Professionals' board of directors... **Jay Epstein**, co-chair of DLA Piper's global real estate practice and a partner in the firm's Washington, D.C., office, has been elected president of the American College of Real Estate Lawyers... **Jamienne Studley**, former deputy undersecretary of education, has been appointed president and CEO of the WASC Senior College and University Commission, a regional higher education accrediting organization... **Wesley Bizzell**, assistant general counsel and director of political law and ethics programs for Altria, has been named by the Financial Times to the 100 Outstanding Leading LGBT+ Executives List... **Dan Toomey**, senior counsel at McManus-Felsen, LLP, became the 2017 recipient of the Daniel G. Grove Award "in grateful recognition of his exceptional work as a teacher" in the NITA Advanced Trial Advocacy: Next-Level Trial Techniques Program.

## COMPANY CHANGES

The specialized intellectual property law firm **Winterfeldt IP Group** opened in October and is led by Brian J. Winterfeldt... Newly launched **Inclusivity Strategic Consulting**, a division of the law firm Brown, Goldstein & Levy LLP, will be co-led by Eve Hill and Regina Kline and will focus on disability inclusion and employment, with offices in Baltimore and Washington, D.C... Merrill Hirsh has formed **HirshADR PLLC** and the law office of **Merrill Hirsh PLLC**.



D.C. Bar members in good standing are welcome to submit announcements for this column. Email submissions to attorneybriefs@dcbar.org.

Nicole Saharsky, courtesy of Gibson, Dunn & Crutcher LLP; Doug Bonner, courtesy of Potomac Law Group, PLLC; Les Schiefelbein, courtesy of Les Schiefelbein

## ON THE MOVE

**Christopher Young** has joined IMF Bentham as in-house corporate counsel... **Gerald Sachs** has joined Venable LLP as partner... **Cassandra W. Lenning** has joined Outten & Golden LLP as associate in the firm's employment practice... **David Baron** has joined Crowell & Moring LLP as partner in the firm's international dispute resolution group... **Nicole J. Owren-Wiest** has joined the firm as partner in its government contracts group... **Christina G. Sarchio** joined Dechert LLP as partner... **Mark Chenoweth**, formerly general counsel of Washington Legal Foundation, has been named executive director and general counsel of the New Civil Liberties Alliance... **Michael G. Hoffman** has joined Thomas Title & Escrow.



*Nicole Saharsky, a former assistant to the solicitor general of the United States, has joined Gibson, Dunn & Crutcher LLP as co-chair of the firm's appellate and constitutional law practice group.*



*Doug Bonner has joined Potomac Law Group, PLLC as partner in the firm's communications, media, and entertainment group.*



*Les Schiefelbein was elected CEO and vice chair of the Silicon Valley Arbitration & Mediation Center.*



## ASK THE ETHICS EXPERTS

# DO GOOD AND GET PAID

By Erika Stillabower

**Q** I repeatedly find myself in the unfortunate position of representing a client in a litigation where opposing counsel makes an offer of settlement conditioned on my client agreeing to waive the attorney's fees to which I am statutorily entitled. Because the settlement does not involve a transfer of money, there is no "pot" from which I could seek a percentage of the recovery. I know that I may not ethically let my interest in being compensated interfere with my duty to advise my client whether to accept a good settlement offer, but it seems unfair that lawyers who are vindicating important rights on behalf of their clients are unable to be compensated for their time and effort — and results.

**A** The bad news is that no less an authority than the United States Supreme Court in *Evans v. Jeff D.*, 475 U.S. 717 (1986), has ruled that judges have discretion to approve settlement offers in which an attorney's right to seek fees is waived. While recognizing the policy arguments that may weigh in favor of mandating recovery for lawyers who bring successful cases under fee-shifting statutes, the Court concluded that Congress was better situated to make that determination.

However, in the event statutory recovery is foreclosed, there is an ethical path through which lawyers may preserve their right to seek recovery of their fees directly from their clients. In D.C. Legal Ethics Opinion 289, the Legal Ethics Committee considered the predicament of lawyers in your situation and determined that:

the lawyer and client may agree in advance that the client shall cooperate in obtaining fees; that fees will be sought if available; and that the client will be required to pay counsel fees (either contingent or hourly) in the event that such fees are not sought or recovered from the defendant. Such an agreement removes the conflict between counsel and client arising in the event of a fee-waiver settlement offer.

When a lawyer includes such a provision in the written fee agreement, the lawyer may fairly counsel the client about the client's fee obligations if the client exercises his or her right to accept a settlement that waives attorney's fees. While collecting fees directly from the client presents its own set of challenges, such a provision would at least create the possibility for lawyers such as yourself to recover a fee.

*D.C. Bar Legal Ethics counsel Hope C. Todd, Saul Jay Singer, and Erika Stillabower are available for inquiries at [ethics@dcbar.org](mailto:ethics@dcbar.org).*



To access the D.C. Rules of Professional Conduct, visit [dcbar.org](http://dcbar.org), keywords: D.C. Rules.

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## **Disciplinary Actions Taken by the District of Columbia Court of Appeals**

### *Original Matters*

In re James Q. Butler. Bar No. 490014. November 16, 2017. The D.C. Court of Appeals denied Butler's petition for reinstatement.

In re Gerald F. Chapman. Bar No. 432168. November 2, 2017. The D.C. Court of Appeals indefinitely suspended Chapman based on disability.

In re Berhan Dargie. Bar No. 455288. November 9, 2017. The D.C. Court of Appeals accepted Dargie's petition for negotiated discipline and suspended him for 60 days for violations of Rules 4.1(a) and 8.4(c). The violations stem from Dargie's professional misconduct, wherein he knowingly made a false statement to a third party about the amount of a settlement agreement, and the statement prompted the third party to take a lesser fee for services it provided to his client.

In re Richard L. Denman. Bar No. 445330. November 2, 2017. The D.C. Court of Appeals indefinitely suspended Denman based on disability.

In re Darrell N. Fuller. Bar No. 499204. November 9, 2017. The D.C. Court of Appeals accepted Fuller's petition for negotiated discipline and suspended him for two years, fully stayed in favor of two years unsupervised probation with requirements, for a violation of Rule 8.4(c). The violation stems from

Fuller's professional misconduct, wherein he used his work-issued phone to take lewd photographs and videos of clothed, unaware, and nonconsenting individuals.

In re Nathaniel H. Speights. Bar No. 952036. November 22, 2017. The D.C. Court of Appeals suspended Speights for six months. While retained to represent parents and their son in a personal injury case concerning injuries the son suffered in a skiing accident, Speights failed to provide competent representation, failed to represent the clients with the skill and care afforded by other lawyers in similar matters, failed to represent his clients zealously and diligently, and failed to act with reasonable promptness. Rules 1.1(a), 1.1(b), 1.3(a), and 1.3(c).

In re Dominic G. Vorv. Bar No. 470139. November 30, 2017. The D.C. Court of Appeals accepted Vorv's petition for negotiated discipline and suspended him for 30 days, stayed in favor of one year of probation with conditions. While retained to represent a client in immigration proceedings, Vorv failed to provide competent representation, failed to explain a matter to the client, and engaged in conduct that seriously interfered with the administration of justice. Specifically, Vorv improperly conceded before the immigration court that his client's prior criminal conviction for burglary constituted an "aggravated felony" within the meaning of the Immigration and Nationality Act (INA), and that his client was, therefore, removable.

Ultimately, the client retained new counsel who successfully argued that the client's conviction was not for an "aggravated felony" within the meaning of the INA, and that the client was, therefore, not removable from the United States. Rules 1.1(a), 1.1(b), 1.4(b), and 8.4 (d).

### *Reciprocal Matters*

In re Scott B. Gilly. Bar No. 442356. November 2, 2017. In a reciprocal matter from the United States District Court for the Southern District of New York, the D.C. Court of Appeals imposed identical reciprocal discipline and suspended Gilly for one year, nunc pro tunc to September 12, 2016. In New York, Gilly admitted making false statements to a judge and to a disciplinary committee.

In re Wright H. Lewis. Bar No. 1010919. November 2, 2017. In a reciprocal matter from Virginia, the D.C. Court of Appeals imposed identical reciprocal discipline and suspended Lewis for nine months, subject to the conditions imposed in Virginia, nunc pro tunc to August 16, 2017. In Virginia, Lewis stipulated that he had failed to stop after an automobile collision.

In re Pamela B. Stuart. Bar No. 220236. November 2, 2017. In a reciprocal matter from Florida, the D.C. Court of Appeals imposed reciprocal discipline and suspended Stuart for one year with fitness, nunc pro tunc to June 7, 2017. In Florida, Stuart stipulated that, while acting as a trustee, she loaned herself money from trust assets without adequate security

and at an inadequate interest rate, then failed to repay the loans or file required annual accountings that would have revealed her actions.

In re Russell W. Warnock. Bar No. 418808. November 2, 2017. In a reciprocal matter from Colorado, the D.C. Court of Appeals imposed identical reciprocal discipline and suspended Warnock for three years with fitness. Warnock was found to have neglected client matters, gave clients misleading information regarding the status of patent applications, and failed to keep clients informed about the representations.

## **Interim Suspensions Issued by the District of Columbia Court of Appeals**

In re Cyrus A. Bischoff. Bar No. 983732. November 14, 2017. Bischoff was suspended on an interim basis based upon discipline imposed in Florida.

In re Harry Tun. Bar No. 416262. November 16, 2017. Tun was suspended on an interim basis pursuant to D.C. Bar R. XI, § 9(g), pending final action on the Board on Professional Responsibility's July 14, 2017, recommendation of a one-year suspension with fitness.

## **Disciplinary Actions Taken by the Board on Professional Responsibility Hearing Committees on Negotiated Discipline**

In re Kevin J. McNeely. Bar No. 473950. November 16, 2017. The Board on Professional Responsibility's Ad Hoc Hearing





Committee recommends that the D.C. Court of Appeals accept McNeely's petition for negotiated disposition and suspend him for 30 days, stayed in favor of three years' probation with conditions for violations of Rules 1.1(a), 1.1(b), 1.3(a), 1.4(a), and 1.15(a).

In re Dominic G. Vorv. Bar No. 470139. November 8, 2017. The Board on Professional Responsibility's Ad Hoc Hearing Committee recommends that the D.C. Court of Appeals accept Vorv's petition for negotiated discipline and suspend him for 30 days, stayed in favor of one year of

probation with conditions for violations of Rules 1.1(a), 1.1(b), 1.4(b), and 8.4 (d).

**Disciplinary Actions Taken by the Board on Professional Responsibility**

*Original Matters*

In re Douglas A. Kuber. Bar No. 423238. November 21, 2017. The Board on Professional Responsibility recommends that the D.C. Court of Appeals disbar Kuber. Kuber pleaded guilty in the United States District Court for the District of Maryland to one count of "conspiracy to commit wire

fraud; aiding and abetting" in violation of 18 U.S.C. §§ 2 and 1349, a crime involving moral turpitude per se, for which disbarment is mandatory under D.C. Code § 11-2503(a)(2001).

In re Leslie Silverman. Bar No. 448188. November 27, 2017. The Board on Professional Responsibility recommends that the D.C. Court of Appeals disbar Silverman by consent.

*The Office of Disciplinary Counsel compiled the foregoing summaries of disciplinary actions. Informal Admonitions issued by Disciplinary*

*Counsel and Reports and Recommendations issued by the Board on Professional Responsibility are posted at [www.dccattorneydiscipline.org](http://www.dccattorneydiscipline.org). Most board recommendations as to discipline are not final until considered by the court. Court opinions are printed in the Atlantic Reporter and also are available online for decisions issued since August 1998. To obtain a copy of a recent slip opinion, visit [www.dccourts.gov/court-of-appeals/opinions-memorandum-of-judgments](http://www.dccourts.gov/court-of-appeals/opinions-memorandum-of-judgments).*



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MANAGEMENT & LEADERSHIP

A CHAT WITH  
**DARRIN P. SOBIN**

*D.C. Bar Chief Programs Officer*



In July 2017, Darrin P. Sobin assumed the role of chief programs officer of the D.C. Bar, bringing to the organization an extensive background in legal and government ethics, and experience with commercial and intellectual property law, international banking law, and wrongful death litigation. Prior to joining the Bar, Sobin was the District of Columbia's first director of government ethics overseeing the city's Board of Ethics and Government Accountability (BEGA).

Born in New York and raised in Washington, D.C., Sobin attended The George Washington University for his undergraduate studies and earned his law degree from the University of the District of Columbia David A. Clarke School of Law. Sobin previously served as government ethics counselor for the D.C. Office of the Attorney General when ethics guidance sat with that office. He also worked in both small and medium-size firms, as well as at what was then the Office of Bar Counsel (now Office of Disciplinary Counsel).

Below, Sobin shares insight into his background, what shaped his career in the law, and his top priorities in overseeing the Bar's Continuing Legal Education Program, Regulation Counsel (including Legal Ethics, Practice Management Advisory Service, Lawyer Assistance Program, and Fee Dispute Program), and the newly re-envisioned Communities.

**You attended Archbishop Carroll High School in Northeast D.C., and then GW for undergrad. What were those years like?**

In high school I was a non-athlete at a very athletics-focused school. I was in the marching band, however, so I at least got to attend a lot of athletic events. Told by my guidance counselor to

distinguish myself in some way, I did so by becoming the top chocolate seller two years running in the annual school fundraiser, smashing all previous records — a skill that helps me even today as I try to recruit lawyers to the D.C. Bar's Communities. In college I was a commuter student living at home in Southwest D.C., which meant I was pretty much a social exile with respect to all other students who were blissfully experiencing traditional college life.

**Why did you decide to become a lawyer?**

It was the first thing I discovered that I was really good at, and I needed to make a living.

**Did you enjoy the challenge of law school?**

I say this with all humility, but compared to my childhood, law school was a breeze. I actually found it to be incredibly interesting and rewarding. I think that this was for two reasons. First, I really enjoyed case analysis and figuring out what courts were probably concerned about in reaching a given outcome in an opinion. Second, I was very fortunate to be at what is in my view the best law school in the country, UDC David A. Clarke School of Law, for hands-on clinical work.

In my first year, I was in Superior Court handling juvenile matters with other students, while at the same time taking former D.C. Court of Appeals Chief Judge William Pryor's criminal procedure class, so I was literally applying almost in real time what I was learning. I can't imagine a better teaching model for future lawyers, and a lot of law schools have since sought to do similar things. I remember once being in Superior Court where some law students from another local law school were observing. One of them, thinking I was already a lawyer, asked me during a break what that seat was next to the judge. I said that's where the witness sits and gives testimony. We had a good laugh about that later.

**Has the legal profession met your expectations?**

The profession has more than met my expectations. No matter what kind of law I practiced or what kinds of cases I found myself handling, I have always found something interesting and important in each. It didn't matter if it was a simple landlord-tenant case or a case against a global financial institution involving futures contracts. I saw the law as a very effective tool for conflict resolution. Indeed, what would be the alternative?

*“The Bar should be a ready resource for lawyers whenever they need it. The Bar does not exist for itself — it exists to serve our membership, who in turn serve the lay community and the public at large.”*

### **Who do you consider your role models or mentors?**

I have three. Former Bar Counsel Leonard H. Becker and current Deputy Disciplinary Counsel Elizabeth A. Herman were both very important to my early appreciation and understanding of the law. Not only did they lay the foundation for my eventual specialty in ethics, but more importantly, they taught me how to write like a lawyer — something that is a real problem for many freshly minted lawyers these days.

But perhaps the most important inspiration for me was U.S. District Court Judge June L. Green, who literally changed my life. There is no way to do justice in this brief interview to just how important she was to my personal and professional development, except to say that I have never quite met a person with such compassion, integrity, and grace as this amazing judge. By some accounts she was just the third female U.S. district court judge ever appointed to the federal bench (President Johnson appointed her in 1968), having been a successful trial lawyer previously.

Judge Green was as fine a legal scholar as any of her colleagues, but what made her so special was her love of and faith in humanity. She was always optimistic and positive about people despite seeing the constant conflicts and bad behavior that came before her each day in court. She was the only judge I have ever known who, after court ended for the day, would go in the evening to D.C. Jail where she would tutor inmates who couldn't read or write, believing that illiteracy and lack of education oftentimes contributed to criminal choices. Later, when she was in her 80s and it became too difficult for her to travel to the jail, she tutored returned citizens in her chambers in the evenings and performed marriage ceremonies there for incarcerated individuals during the lunch recess.

I had the great gift of clerking for Judge Green for five years until just before she passed away in 2001, and I never tired of hearing her stories or watching

her administer justice from the bench. Did I mention that the first time I encountered her was as a teenager and I was on the wrong side of that bench?

### **What do you do in your free time?**

I love the practice of law, but winemaking is my passion. I started making wine about 10 years ago with an old-timer from Italy who taught me his techniques. Today, my two friends and I produce a couple hundred bottles a year from grapes sourced from the San Joaquin Valley in California and shipped east in a chartered truck. In 2016 we won a gold and a bronze medal at an international wine-making competition, and two more medals in 2017. Unfortunately, we can't sell our wine because we are not a commercial operation, but if this law thing ever gets old, you won't have to guess what I'll be doing instead.

### **What are you known for in either legal or social circles?**

I'm the ethics guy. I guess it all started when I worked at the Office of Bar Counsel while in law school. Wherever I went after that — private practice or government — someone would always just assume that I was the go-to guy for ethics questions. This finally culminated in me being named as the director of government ethics for the District government when the ethics oversight board, BEGA, was created in 2012. I guess that's what they mean when they say your specialty area chooses you and not vice versa.

### **What is the most interesting thing about you that we wouldn't learn from your bio or résumé?**

Well, I'm not sure if it's very interesting, but I do like to go for a mid-day or sunrise run each day. When I was five years old, I nearly lost my right leg to a rare bone infection, and though I recovered, I just never really got into sports. It wasn't until Leonard Becker organized noonday runs for Bar Counsel staff that I was bitten by the running bug. For years, we ran on the mall from the Capitol to the Lincoln Memorial, a

tradition that I continue today even though Len passed away several years ago. That particular course is probably one of the most awe-inspiring in the world. Running past our great museums, government buildings, and monuments is a constant reminder of how fortunate I am to live in this city and do what I do, and really, to be able to run at all.

### **How has your career shaped your view of how the Bar should serve lawyers and the community?**

For me it is very simple. The Bar should be a ready resource for lawyers whenever they need it. The Bar does not exist for itself — it exists to serve our membership, who in turn serve the lay community and the public at large. Period. It is hard to estimate the number of times in the course of my career that I called the Bar's Legal Ethics Helpline for advice and guidance for me and for my clients (I handled ethics matters in private practice as well). I was always glad they were there.

### **What motivated you to take on this new role?**

One name: D.C. Bar CEO Robert Spagnoletti. Bob had been the chair of BEGA before coming to the D.C. Bar, and he was D.C. attorney general when I first started at that office as an assistant AG. He knew I was very happy as BEGA's first director, and so at first he didn't invite me to apply for the chief programs officer position. Then suddenly he did (following a nationwide search, as I heard later).

Sometimes in life an opportunity presents itself and you know it's the right thing to do. During lunch, Bob literally mapped out for me on a napkin why my skill set and experience matched up perfectly with what he was looking for in a chief programs officer. I did struggle with leaving behind the unfinished mission of ethics reform in the District, something I believed, and continue to believe, to be of historical significance and importance to the District of Columbia and its citizens. As it happens, a few months after I left, Mayor Muriel Bowser nominated me to fill Bob's vacant ethics board position, and the Council confirmed me in January 2018 so I get to do that also.

### **Now that you've been in this role for six months, can you tell us your biggest priorities? Are there any big changes on the way that you can share?**

My biggest priorities are to make even more and better resources available to our members. In addition to our 207 CLE classes and over 300 Communities events we offered in 2017, our award-winning Practice Management Advisory Service for practice management assistance and Lawyer Assistance Program for substance abuse and mental health issues continue to thrive. Our Attorney/Client Arbitration Board helps attorneys and clients alike reach outcomes without the time



and cost of going to court, and our Clients' Security Fund protects clients from financial loss caused by attorney misconduct. And as I mentioned previously, the Legal Ethics Helpline is a critical resource that provides attorneys who want to do the right thing with the information and guidance they need to do so. In fact, this is so important that we have recently taken steps to ensure that the helpline is always answered by a knowledgeable Bar attorney rather than rolling over to voicemail.

As far as additional changes are concerned, I would love to see the creation of a Law Student Community as an addition to the 20 Communities we already sponsor. There are over 13,000 law students in the D.C., Maryland, and Virginia area, and getting them involved with the D.C. Bar now will make it more likely that they will want to join and practice in D.C. upon graduation.

I am also excited about our new headquarters building, which, in addition to expanded membership meeting areas, has state-of-the-art production

facilities for broadcasting events and programs to our members wherever they may be — locally, in all 50 states, or internationally (we have D.C. Bar members in 83 countries). The programming possibilities are endless.

#### **Do you think members are aware of the wide range of services the D.C. Bar provides?**

Many attorneys are aware of one or several of our services. Very few realize how wide-ranging these services are. Recently I met with a U.S. district court judge about our Lawyer Assistance Program to explain how that free service — one-on-one mental health and substance abuse counseling — is also available to attorneys who practice in federal court, as long as they are D.C. Bar members, and he was surprised at our range of services. And even if folks generally are aware of our services, such as our Practice Management Advisory Service, they may not be aware that our attorneys, free of charge, will actually make onsite visits to law firms to do assessments and offer guidance on practice

management best practices. It's my job to communicate these perks to our membership, and I intend to do so.

#### **How big a problem is substance and alcohol abuse in the legal profession? How can the Bar continue to help?**

It is a problem. The American Bar Association (ABA) recently issued a study that found, among other things, that the high stress levels that oftentimes go hand in hand with the practice of law can in fact lead to higher rates of substance and alcohol abuse. It is a form of self-medicating. And it's not just limited to lawyers — law students experience this as well. That's why we make our Lawyer Assistance Program available to both groups. In the aftermath of the ABA report, I was encouraged to see that at least one of the big firms here in town invited us in to do a presentation for its employees. Traditionally, substance abuse and mental health issues and the fact that they exist at all is not something discussed openly, which of course is part of the problem.

#### **How is the process of re-envisioning Sections (now Communities) going?**

I think it is going very well. This is admittedly a work in progress, but I am greatly encouraged at what I have seen so far. I came to this job just after the changeover occurred, so I don't have the same perspective that some of the steering committee members or D.C. Bar staff who went through it all might have. Maybe that's a good thing. From everything I have seen, the concept makes a great deal of sense. With the value proposition, D.C. Bar members can join up to three Communities for only \$79 and get two free, fully accredited online CLE classes and a discount on the *D.C. Practice Manual*. That's a \$425 value! And by belonging to three Communities, there is a much greater chance that members will engage in Bar activities, which of course is one of our goals. I really do have to credit the D.C. Bar staff who have made herculean efforts to make this transition as smooth as possible.

#### **Any other thing you'd like Bar members to know about you?**

Only that I am incredibly honored to have been entrusted with the responsibilities of the chief programs officer in this great organization, and to have inherited such a highly skilled and dedicated team of attorneys and professionals. In only six months I have come to realize that the D.C. Bar is second to none when it comes to member value and the services we provide. At the time of this publication, we are about to become the largest mandatory bar in the United States, which means that we will have to work even harder for our members. I look forward to doing that.

# HAPPENINGS

## FROM AROUND THE LEGAL COMMUNITY

*By Jeffery Leon and Tracy Schorn*

### 1 BAR CELEBRATES THE HOLIDAYS

The D.C. Bar held its annual holiday party on December 8. The day's festivities included a silent auction, an ugly sweater contest, and, of course, a visit from Santa Claus to entertain the Bar's little guests, including Malia Harris. Bar CEO Bob Spagnoletti, shown here with Board of Governors member Moses A. Cook, shows off his festive suit. Staff members John Randolph and Barry Mills celebrate the holidays, while colleagues Lauren Paley and Lindsey Bledsoe vie for the best ugly sweater.

### 2 BEING A GOOD NEIGHBOR

On December 6, D.C. Bar President Patrick McGlone took part in the heavy lifting when the Bar donated several computers to the Central Union Mission shelter in the Mount Vernon Triangle Neighborhood, just blocks from the Bar's new, state-of-the-art headquarters. Bar leaders Annamaria Steward, Suzanne Peck, McGlone, and Bob Spagnoletti were present at the hand-off, along with Mount Vernon Triangle CID President and CEO Kenyattah Robinson. Debra Byrd, here with Peck, accepted the computers on behalf of the Mission.

### 3 HOLIDAY MARKETING TIPS AND STRATEGIES

Mary Ellen Hickman of Hickman Consulting Partners shared holiday marketing tips and strategies on November 30 at the D.C. Bar Practice Management Advisory Service's Small Firm Lunch and Learn series.

### 4 WCL HONORS PATTY FUGERE, ADVOCATE FOR THE HOMELESS

James Sandman, president of the Legal Services Corporation, presented the Washington Council of Lawyers' President's Award for Public Service to Patty Mullahy Fugere on December 5 during the WCL's 2017 Awards Ceremony. The award recognizes Fugere's 26-year leadership as executive director of the Washington Legal Clinic for the Homeless.



For full coverage of other D.C. Bar news, visit [dcbar.org/news](http://dcbar.org/news).

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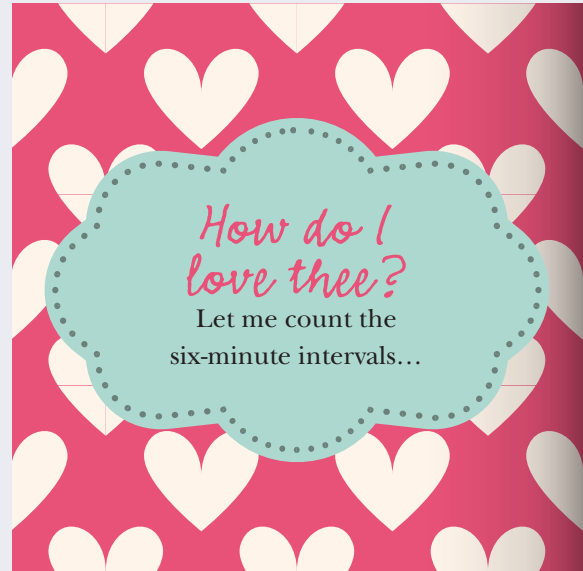


# COMMUNITY & CONNECTIONS



# Lawyers Send Their Love — *Sort Of*

By Tracy & Paul Schorn



*Casus belli, sua sponte*

Ad hoc and quid pro quo  
I love you more than words can say  
You legal so-and-so!

*Praise the spells*

and bless the charms

I found a lawyer in my arms

Lawyer golden, lawyer rowdy

Lawyer pinstriped, sometimes dowdy

Love is soft, love is rash

Apologies to Ogden Nash



You have a way with words and want to show it?  
Check out more Valentine's Day musings at  
[dcb.org/news](http://dcb.org/news) and submit your own!

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**Communities**  
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\* Restrictions may apply.

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<b>Entire 2nd Floor:</b>	27,495 SF
<b>Partial 3rd Floor:</b>	17,596 SF
<b>Rent:</b>	Negotiable
<b>Term Through:</b>	5/31/2021 (longer term available through the Landlord)
<b>Availability:</b>	Flexible

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