

THIS IS **PERSONAL**

Pro Bono Report



**MORRISON
FOERSTER**

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**MORRISON &
FOERSTER IS
ENGAGED IN
ADVANCING THE
LAW FOR THE
PUBLIC GOOD.**



**IN 2016, MOFO'S
U.S. ATTORNEYS
DEVOTED AN
AVERAGE OF
109 HOURS TO
PRO BONO
MATTERS.**

**PRO BONO WORK IS IN OUR DNA.
WE CARE DEEPLY ABOUT PEOPLE
AND THE COMMUNITIES IN WHICH
WE LIVE. IT'S WORK THAT'S
INTENSELY PERSONAL.**



THIS IS PERSONAL.

At Morrison & Foerster, pro bono work is part of our DNA.

Our commitment to working for the public good began a century ago when founder Alexander Morrison helped establish the Legal Aid Society of San Francisco. In the early 1990s, we were leaders in the Law Firm Pro Bono Challenge®, calling on the world's largest law firms to act on their responsibility to provide pro bono legal services to disadvantaged individuals and families and nonprofit groups. We were also one of the first law firms to create a full-time pro bono counsel position.

Today, you'll find us on the front lines in all areas of pro bono work — litigating for civil rights and civil liberties, improving public education for poor children, advocating for veterans, promoting international human rights, winning asylum for

the persecuted, safeguarding the environment, and partnering with social entrepreneurs.

That level of commitment takes immense resources. But most of all, it takes passion.

For the lawyers of Morrison & Foerster, the work is intensely personal. Our lawyers give unselfishly of their time and talents in pursuit of a better society — from class action representation that benefits thousands to individual advocacy for people who otherwise would be denied access to justice.

Pro bono is more than what we do. It's who we are. And it couldn't be otherwise. Because the issues we fight for are so deeply personal for the people and organizations we serve.



LARREN NASHELSKY

Chair | Morrison & Foerster



NATIONAL DISGRACE: VETERANS USED AS GUINEA PIGS TO TEST CHEMICAL WEAPONS

For 25 years, the U.S. Army used thousands of troops as unwitting test subjects to evaluate chemical and biological agents. At long last, these ailing veterans are getting the information and care they need.

The U.S. military subjected tens of thousands of U.S. troops to chemical and biological testing from the early 1950s through the mid-1970s at the Edgewood Arsenal and at Fort Detrick in Maryland, as well as at several universities and hospitals across the United States. These toxins sickened numerous service members, leaving many with permanent disabilities or serious diseases.

The military recruited participants on a volunteer basis, without disclosing details about the research and the associated risks. This lack of informed consent reduced soldiers to unwitting test subjects as the military conducted secret research on the effects of hundreds of chemical and biological agents, including LSD, plague, anthrax, and sarin and other nerve gases.

MoFo lawyers have been working to help address this injustice for more than eight years. In 2009, we filed suit against the Department of Defense, the CIA, and other government institutions on behalf of two veterans' rights organizations — Vietnam Veterans of America and Swords to Plowshares — as well as several veterans with multiple diseases and ailments tied to the secret testing program. The suit did not seek monetary damages but rather relief from the secrecy oaths signed by the test subjects and access to promised healthcare.

In 2010, MoFo won the right to proceed with the case and, in 2015, secured an injunction that required the U.S. Army to keep veterans apprised of health information relating to testing they underwent. The Ninth Circuit Court of Appeals affirmed the ruling and also ordered the Army to provide medical treatment for any disabilities, injuries, or illnesses the soldiers suffered as a result of the program.



THE FACT THAT ANYONE HAS TO BRING A LAWSUIT TO ENSURE VETS RECEIVE MEDICAL CARE IS INFURIATING.

STACEY SPRENKEL

In early 2017, the district court issued a detailed order for how the Army must provide that care.

A HISTORY OF ADVOCATING FOR VETS

Over the years, the MoFo team has included Gordon Erspamer, James Bennett, Eugene Illovsy, Ben Patterson, Grant Schrader, and Stacey Sprenkel.

Stacey, who heads MoFo's San Francisco litigation practice, has long championed veterans' rights. In addition to participating in this suit, she was involved in *VCS v. Peake*, an action brought on behalf of veterans with post-traumatic stress disorder (PTSD) against the Department of Veterans Affairs for failure to provide statutorily mandated benefits and healthcare to returning troops.

"When I was in law school, I saw young people my age who were serving in the military," recalls Stacey. "They were doing so much for us — but what were we doing for them? I'm proud that this firm has a long history of advocating for vets."

"Today, there's a heightened awareness of the real psychological wounds of going to war, such as PTSD and other mental health conditions that need to be treated and compensated," says Stacey.

"The fact that anyone has to bring a lawsuit to ensure vets receive medical care is infuriating," argues Stacey. "It's not just about victory in court. It's about using the resources of MoFo to draw attention to veterans' issues and make sure vets know that someone supports them."



SOCIAL ENTREPRENEURS + INNOVATIVE INVESTMENT OPPORTUNITIES = GREATER GOOD

MoFo lawyers have helped create an innovative new way for social enterprises and nonprofit organizations to raise funds and achieve their goals by paying investors when they are successful.

After overcoming cancer, Lindsay Beck founded a nonprofit organization called Fertile Hope to help preserve the fertility of cancer patients like herself. The experience gave her a firsthand look at another hard-fought battle: fundraising for a nonprofit. Securing funding from donors and philanthropic funders is a time-consuming and inefficient process.

So Lindsay enrolled in an executive MBA program at Wharton School of Finance, determined to use the tools of business for social good. In particular, she wondered why the nonprofit world couldn't take advantage of efficient capital-raising mechanisms available to the private sector. That led her to a presentation at Wharton's San Francisco campus given by

MoFo partner Susan (Suz) Mac Cormac in 2012. Suz had just completed drafting a new hybrid corporate structure, known as a flexible purpose corporation (FPC), which became law in California that year. The hybrid FPC that Suz and her team created enables a nonprofit to set up a wholly owned for-profit subsidiary that generates income and licenses the intellectual property of the nonprofit — sending a revenue stream back to the nonprofit to support its charitable programs.

Lindsay and Suz not only had a passion for social responsibility in common; both were mothers of three children. Suz introduced Lindsay to Anna Pinedo, a capital markets partner in MoFo's New York office whose investment expertise was the perfect fit for devising a creative solution to Lindsay's challenge.

Over the next few years, Anna helped Lindsay and her business partner, Catarina Schwab, create a new financial instrument that marries the quantifiable social performance that philanthropic funders crave with the financial returns that lure private sector investors.

"I'm a securities lawyer," says Anna, who typically works with global banks and tech firms to structure complex financial instruments, "so it was very nice to use those skills for a different cause."

Lindsay and Catarina, who cofounded NPX Advisors in 2013 to help social enterprises secure funding, took inspiration from "social impact bonds." These bonds pay investors only when a specific outcome has been achieved — for example, a reduced rate of recidivism among former inmates or a higher high school graduation rate. This "pay for success" model has caught on with many government entities as a way to get results in a revenue-neutral, more efficient way. However, contrary to their name, social impact bonds are not "bonds" at all but complex, individualized financial agreements that cannot be easily replicated or traded. Hardly a model of efficiency.

Lindsay and Catarina wanted to bring a new level of accountability, transparency, and efficiency to nonprofit funding while working within current standards and requirements.

"We didn't want to have to change laws or regulations — reinvent the wheel — to make this happen," says Lindsay. Coming up with a new capital-raising tool for nonprofits was a long, collaborative process. "We kept proposing different ideas and questions to Anna," says Lindsay. "The legal due diligence MoFo brought was invaluable."

Anna, along with a team that included Timothy Harris and Chris McKinnon, not only brought considerable experience to the effort but hosted events that brought industry insiders together with the NPX cofounders to test and quickly refine their ideas. One meeting assembled leading investment



PAY FOR PERFORMANCE BRINGS GREATER TRANSPARENCY AND ACCOUNTABILITY TO THE NONPROFIT WORLD. NOW DONORS AND INVESTORS WILL KNOW THAT THEIR MONEY HAS ACHIEVED THE DESIRED RESULTS.

ANNA PINEDO

management firms, such as Goldman Sachs, Merrill Lynch, and Morgan Stanley, and another meeting included approximately 20 nonprofit organizations.

Anna's solution combines the concept of pay for success with a standard debt security that is exempt from SEC registration — creating a financial instrument that can readily be issued by nonprofits.

Being exempt from SEC registration has other noteworthy benefits as well. “The securities can be offered publicly and reach a potentially larger audience of interested impact investors,” explains Anna.

Called the “impact security,” it brings together private donors, impact investors, and nonprofit organizations to finance measurable social good. Best of all, the new tool can be easily employed by nonprofits. Lindsay explains: “The impact security is completely novel, but nothing about it is new — and all of its components are already being used in finance.”

Here's how it works:

- Private donors pledge to donate to a nonprofit organization if specific metrics are achieved.
- Impact investors commit upfront capital by purchasing the nonprofit's impact security.
- The nonprofit uses the capital from the sale of the impact security to pursue its mission.
- An independent third party verifies the ROI or impact of the nonprofit's program. If the metrics are achieved, private donors fulfill their pledge to donate, and impact investors are repaid principal and interest at variable rates, based on impact.
- If the impact metrics are not achieved, private donors do not fulfill their pledge, and investors are not repaid, writing off their capital loss.

The impact security has great potential to streamline fundraising for nonprofits working to solve some of society's most pressing challenges. The project has gained support from several prominent Wall Street banks, including Goldman

Sachs, Merrill Lynch, and HSBC, and it has been featured in *The New York Times Deal Book*.

According to *The Times*, if wealthy individuals in the United States directed 1 percent of the money in their portfolios to nonprofits through new financial instruments such as an impact security, the nonprofit world would be awash in \$1 trillion worth of funding.

NPX advises nonprofit clients on how best to measure outcomes and then structures the impact security around those goals and prepares and executes the deal documents.

The Last Mile, for example, plans to issue impact securities to provide prison inmates with the skills they need to find meaningful employment once they leave prison. Its pilot program, at San Quentin Prison in Marin County, California, is the first in the United States to teach programming and coding skills to inmates, who now earn nearly \$17 an hour coding for nearby technology businesses — compared with the \$0.32 per hour they earn doing manual labor.

“Since 90 percent of inmates are released from prison at some point,” says Catarina, “you want them to have employable skills, some money in their pocket, and confidence that they are of value to society” when they are released.

Once its pilot at San Quentin is successful, The Last Mile's goal is to replicate this model and issue impact securities for high-tech jobs training programs at prisons across the United States.

The impact security is a first for the nonprofit world. But Anna is used to blazing new trails. The daughter of Cuban immigrants who fled the island after Castro took control, Anna is a fixture on the lists of leading lawyers published within the legal industry, so working with NPX was a natural for her.

“It was very gratifying to work with the two cofounders,” she says. “They are very passionate about ensuring that nonprofits get the support they need to make a real, measurable impact.”



FRAUD IS NOT FREE SPEECH

When anti-choice activists illegally videotaped medical meetings of abortion providers, the act threatened the rights of all women.

HARASSMENT TARGETING THOSE WHO PROVIDE AND SUPPORT ABORTION SERVICES IS BECOMING MORE SOPHISTICATED AND BRAZEN

In July 2015, an anti-choice organization posted heavily edited videos online that purported to show Planned Parenthood officials discussing the sale of fetal tissue for profit. The videos went viral, igniting a firestorm of controversy that has led to threats to strip government funding from this critical source of health services for women.

The anti-abortion extremists, calling themselves the Center for Medical Progress (CMP), secretly videotaped conferences of the National Abortion Federation (NAF), a professional association of abortion providers in North America. NAF's general counsel reached out to law firms for pro bono help to stop this campaign of intimidation. All had declined until she contacted Jennifer K. Brown, senior pro bono counsel in MoFo's New York office.

Jennifer put out the call, and San Francisco partner Derek Foran, a commercial litigator who had never worked on an abortion-related lawsuit, quickly raised his hand. As he told *The New York Times*, "I don't like bullies. And these guys were not only trying to bully women, they were trying to bully poor women."



NO MATTER WHICH SIDE OF THE ABORTION ISSUE YOU ARE ON, LEGAL PROTECTIONS APPLY. NO ONE CAN TAKE THE LAW INTO HIS OR HER HANDS.

DEREK FORAN

PERPETRATING A MASSIVE FRAUD

The crux of the case was the fraudulent means that the anti-choice activists used to gain access to NAF meetings. This included creating a fake biomedical tissue procurement company, assuming false identities, and signing confidentiality agreements that they failed to follow.

“No matter which side of the abortion issue you are on, legal protections apply,” says Derek. “No one can take the law into his or her hands. We’re not talking about people lawfully advocating for change, or standing outside a clinic and holding up signs. People have First Amendment rights to do those things. What these people did was perpetrate a massive fraudulent scheme that violated our client’s right to privacy and First Amendment freedom of association.”

Protecting the safety of NAF members is a priority. Many of these providers are such high-profile targets of anti-abortion extremists that they wear bullet-proof vests to work. NAF meetings are one of the few places where they can come together to learn about the latest research and advances in their field.

The MoFo team quickly secured a temporary restraining order against the activists, preventing further release of any

information or tapes collected at the meetings and blocking the activists’ access to future meetings. A federal district court granted NAF’s motion for a preliminary injunction in February 2016, citing the safety and security of abortion providers and their staff, and in early 2017, the Ninth Circuit Court of Appeals upheld the order.

“One thing this case taught me is that MoFo is different,” says Derek. “I told management it would be controversial, and yet I received approval to proceed in just six hours. At its peak, 28 people were working on the case, and it’s been an emotional experience for all of us.”

The MoFo team representing NAF received the organization’s 2016 Christopher Tietze Humanitarian Award. The award is NAF’s highest distinction. Prior honorees include the ACLU, Supreme Court Justice Harry Blackmun, and three U.S. senators.

“Our work allows abortion providers to get continuing education so that abortion is not only available to women, but becomes increasingly safer. If our client doesn’t have the right to associate in private to protect other people’s constitutional rights, then *Roe v. Wade* is dead,” says Derek. “Our case is about the rule of law.”



CARRYING ON A GRANDMOTHER'S LEGACY

When MoFo partner Alex Lawrence was a child, he watched his grandmother, a trial attorney, defend a Tennessee abortion clinic. Today, he's following in her footsteps all the way to the U.S. Supreme Court.

On June 27, 2016, the U.S. Supreme Court struck down a Texas law designed to burden the state's abortion clinics with medically unnecessary restrictions and thus shut them down.

This historic decision marks the most significant abortion-related ruling from the Court in more than two decades and reaffirms a woman's constitutional right to access legal abortion.

One of the co-counsel on the case was MoFo partner J. Alexander Lawrence. Alex led the MoFo team that, along with the Center for Reproductive Rights, challenged the constitutionality of the Texas law.

At issue in *Whole Woman's Health v. Hellerstedt* were provisions of a Texas statute that required clinics to meet the same building specifications as ambulatory surgical centers and ordered doctors performing abortions at these clinics to have admitting privileges at nearby hospitals.

Together, these restrictions would have closed down all but nine or 10 abortion clinics in a state with 5.4 million women of reproductive age and left more than 500 miles between San Antonio and the New Mexico border without a single clinic.

"Laws like this are designed to drive up costs, with no medical benefit, and place an undue burden on women's access to abortion," Alex explains. "Thousands of women a year, especially those of limited economic means, would have been impacted."



I WAS VERY PROUD OF MY GRANDMOTHER. SHE WAS MY MENTOR — THE REASON I BECAME A LAWYER.

ALEX LAWRENCE

A FAMILY HISTORY OF FIGHTING INJUSTICE

Alex regularly devotes hundreds of hours each year to protecting reproductive rights, but this case, in particular, spoke to him. He vividly recalls watching his late grandmother, Selma Cash Paty, a Tennessee lawyer, defend the Chattanooga Women’s Clinic abortion center before its 1993 closure.

“When I was a boy, she was representing the local clinic and protecting women from harassment by protestors,” says Alex. “I remember one protestor, in particular, who carried horrible signs. I was very proud of my grandmother. She was my mentor — the reason I became a lawyer.”

Alex’s grandmother practiced law until two days before her death, passing away just a month before her grandson helped secure the historic Supreme Court ruling protecting women’s health.

DECISION STRENGTHENED CONSTITUTIONAL PROTECTIONS FOR ABORTION RIGHTS

The Court’s decision has empowered women to fight back against deceptive anti-choice laws in Texas and beyond. Alex believes it will have a national impact on similar laws in many

other states that threaten to shutter abortion clinics with medically unnecessary red tape.

In deciding for the plaintiffs, the Supreme Court affirmed that such restrictions must be grounded in a credible medical need. “The state’s experts could show no proof of a medical rationale. Abortion procedures are not surgery. They are very safe. They don’t need to be performed in ‘mini-hospitals’ costing millions of dollars,” explains Alex.

The decision will not stop states from continuing to pass restrictive abortion laws, Alex admits. But with the Supreme Court ruling, advocates for reproductive rights “now have a legal tool to get those laws declared unconstitutional,” he affirms. “There’s a standard now.”

The case is also relevant to voting rights laws, he maintains. “This case is a landmark ruling that affirms the need to present evidence that proves a problem exists. The Court is telling those who seek to curtail rights: ‘Show me.’ You can’t just make stuff up.”

EQUALITY

MoFo lawyers firmly stand behind the highest traditions of American law and demand that the government and courts protect the rights of citizens.

IN THIS SECTION

- Protecting Voting Rights
- Championing LGBT Rights



VOTING RIGHTS STILL DENIED

The 1965 Voting Rights Act stands as a major achievement of the civil rights movement.

Five decades later, large portions of the population still face obstacles when exercising their right to vote.

In 2014, entertainer and civil rights activist Harry Belafonte visited MoFo's New York office to talk about his experiences in the battle for civil rights. Despite clear progress over the decades, Belafonte argued, the right to vote was still a critical civil rights issue — and still under attack. Hearing Belafonte's eloquent call to continue the struggle for equal rights was eye-opening, recalls Matthew D'Amore, formerly a partner in MoFo's New York office and currently a professor at Cornell Tech and Cornell Law School. "For me, it crystallized the link between the right to vote and civil rights — and that we shouldn't take access to the polls for granted." Matt and other partners at the firm responded to Belafonte's call by creating a voting rights team.

FOCUS ON VOTER REGISTRATION

To make their voices heard, U.S. citizens must first register to vote. To make voter registration simpler and more convenient, Congress passed the National Voter Registration Act of 1993 (NVRA). Commonly known as the "motor voter" law, it requires states to facilitate voter registration at public assistance agencies and department of motor vehicles (DMV) offices. Yet in 2012, about 51 million people — one out of four eligible citizens — were not registered to vote. A recent report from Dēmos found that in many states, the DMV and other agencies regularly ignore these motor voter requirements.

I'VE CHOSEN MY PRO BONO WORK TO MAXIMIZE THE LEVERAGE OF WHAT WE DO, AND I'VE BEEN ATTRACTED TO VOTING RIGHTS ISSUES BECAUSE IT IS A WAY TO EMPOWER OTHERS — THERE'S A FORCE MULTIPLIER EFFECT.

MICHAEL A. JACOBS

The MoFo pro bono team chose to help correct this failure to enroll voters.

PROGRESS IN NORTH CAROLINA

The MoFo team turned its attention to North Carolina. There, a change in state administration had coincided with a steep drop in motor voter compliance. MoFo and attorneys at Project Vote, Dēmos, the Lawyers' Committee for Civil Rights Under Law, and the Southern Coalition for Social Justice represented voting rights groups Action NC, Democracy North Carolina, the A. Philip Randolph Institute, and three North Carolina voters. They sued the state DMV, Department of Health and Human Services, and State Board of Elections in December 2015.

These agencies had been failing to offer opportunities to register to vote, as the NVRA requires, leaving many citizens at risk of being left out of the political process.

In early 2016, the plaintiffs asked the court to order the state agencies to bring their processes in line with what the motor voter law requires in time for the general election in November. Just before the election, a federal judge granted preliminary relief requiring North Carolina election officials to count the votes of eligible citizens who were improperly left off the voter rolls after attempting to register through state motor vehicle offices. Some 1,000 voters had their votes counted as a result.

This was an important victory for MoFo's

clients and the citizens of North Carolina. But the preliminary injunction only affected the November 2016 election, so the lawsuit over North Carolina's failure to comply with the NVRA is proceeding.

CALIFORNIA REGISTERS RECORD NUMBER OF VOTERS IN 2016

The 2015 Dēmos report noted that California had one of the lowest levels of DMV voter registration in the United States. In February 2015, MoFo partner Michael Jacobs and former associate Javier Serrano joined Dēmos, Project Vote, and the ACLU Foundation of San Diego and Imperial Counties in sending a pre-litigation notice letter to the California secretary of state on behalf of the League of Women Voters of California, ACCE Institute, California Common Cause, the National Council of La Raza, and several individual California citizens. The letter asked the state to make voter registration easy and accessible, as required by the NVRA.

"The state of California is actually a leader in voter rights," explains Michael, "but the system just wasn't well implemented," requiring people to take multiple steps to register or update their registration.

At a meeting with state officials, the ACLU, MoFo attorneys, and a broad coalition of groups made it clear that they would go to court if necessary. "This was a potentially embarrassing lawsuit," says Michael, especially for Secretary of State Alex Padilla, who was a proponent of broadening voter registration. "They

eventually agreed, 'we've got to fix this.'"

The DMV and the secretary of state agreed to a memorandum of understanding, promising to make voting more accessible by including voter registration questions in the DMV's forms. To further simplify the process, the state legislature granted \$2.3 million to enable citizens to complete registration in one transaction at electronic signature pads at counters.

Then in October 2015, Governor Jerry Brown signed a law to transmit voter information electronically to a new voter registration database, Vote-Cal. The new law was expected to add millions of new voters on the rolls in the state of California, and in the 2016 election, a record 19.4 million Californians registered to vote, 1.2 million more than in 2012, accounting for 78 percent of eligible residents.

By early 2017, however, it was clear that the DMV was not complying with the NVRA when it came to facilitating voter registration for the one million Californians who renew their driver licenses each year. The plaintiffs filed suit to correct this deficiency and hope for a speedy resolution.

"I've chosen my pro bono work to maximize the leverage of what we do," says Michael, "and I've been attracted to voting rights issues because it is a way to empower others — there's a force multiplier effect."

FIGHTING FOR HUMAN DIGNITY — AND EQUAL TREATMENT FOR ALL

In the struggle for LGBT rights, Ruth Borenstein's legal talents and personal passion have helped lead to groundbreaking changes in the law.

Ruth Borenstein, senior counsel in Morrison & Foerster's San Francisco litigation group, is a pioneer for LGBT rights and a champion of marriage equality. Ruth, who received the firm's 2016 Kathi Pugh Award for Pro Bono Service, has tirelessly worked for over 20 years to help ensure that LGBT people can freely live, work, and love.

LEADING THE CHARGE

Ruth has been on the front line in the battle for marriage equality from the very beginning.

In 1997, when it appeared that a court case would result in Hawaii becoming the first state to grant marriage licenses to same-sex couples, Ruth worked with Lambda Legal to develop arguments for why other states should recognize the anticipated marriages. The Hawaii lawsuit was ultimately thwarted by the state legislature, which passed a new law defining marriage as between different-sex couples. The effort to recognize the freedom to marry sparked a backlash that led to many states' passing laws and constitutional amendments prohibiting same-sex couples from marrying and contributed to the U.S. Congress passing the Defense of Marriage Act (DOMA) in 1996, which



allowed states to refuse to recognize same-sex marriages.

Over the years, Ruth filed amicus briefs in the U.S. Supreme Court and several state supreme courts to support marriage equality. Among others, she represented international law experts, showing how constitutional democracies around the world concluded that excluding same-sex couples from marriage violates the constitutional principles of liberty, individual dignity, and equality. She also was part of a team of lawyers from MoFo and the ACLU who fought for relationship recognition for same-sex couples in Montana. That same team ultimately secured a historic victory in 2014, making Montana the 35th state to permit same-sex marriages.

NATIONAL GAINS, PERSONAL JOY (AND LOSS)

The fight for marriage equality has been a very personal one for Ruth. She and her now-wife Karen Strauss had been lead plaintiffs in an unsuccessful 2008 lawsuit asking the California Supreme Court to void the enactment of Proposition 8, which had amended the California Constitution to prohibit same-sex couples from marrying.

In July 2013, less than one month after a federal court judgment overturning Prop 8 took effect, Ruth and Karen were married in California, just shy of celebrating 22 years together. Reflecting then on their long-delayed marriage, Ruth told the *San Francisco Chronicle*: "In some ways, the LGBT cause has moved quickly," but "justice delayed had real-life consequences: We lost forever the chance for Karen's mother to dance at our wedding."

Ruth has served on the board of directors of the Bar Association of San Francisco (BASF) and as co-chair of its Sexual Orientation Diversity Committee. She was the primary author of the BASF Model Domestic Partner Benefits Policy and has been honored with the organization's Award for Achievement in Lesbian and Gay Civil Rights.

"As a lesbian, I am extremely motivated to work on cases that help the LGBT community — including people who ordinarily would not have access to MoFo's tremendous resources," says Ruth. "Equal dignity requires equal treatment, not just in marriage but in all things."

CRIMINAL JUSTICE REFORM

MoFo lawyers bravely take on difficult matters. Against the odds, they succeed in making a positive difference for their clients and promoting justice for all.

IN THIS SECTION

- Protecting the Rights of Muslims
- 20 Years and Still Seeking Justice
- Reforming Solitary Confinement



In June 2013, a lawsuit was filed on behalf of three New York Muslims, two mosques, and a Muslim nonprofit organization. The lawsuit claimed that NYPD officers monitored and mapped Muslim communities and their institutions, and sent paid infiltrators into mosques, student associations, and community events to keep tabs on individuals.

MoFo represented the plaintiffs in the lawsuit, along with the ACLU, the Creating Law Enforcement Accountability & Responsibility (CLEAR) project at the City University of New York School of Law, and the New York Civil Liberties Union.

“Our mosque should be an open, religious, and spiritual sanctuary, but NYPD spying turned it into a place of suspicion and censorship,” said Imam Hamid Hassan Raza, the lead plaintiff in the suit. “In America, we have the right to stand up and speak out in response to unfairness and injustice, just as throughout this country’s history, other minorities have secured their rights.”

A final settlement approved in early 2017 protects New York Muslims and others from discriminatory and unjustified surveillance by the NYPD. The settlement bars investigations in which race, religion, or ethnicity is a motivating factor. It constrains investigations of religious or political activity, requiring a clear factual basis for such investigations, limiting their duration, and restricting use of informants. Perhaps most importantly, the settlement empowers a civilian representative, working within the NYPD, to monitor police compliance with the order and report problems to the judge.

In a similar effort to uncover FBI surveillance of Muslim communities in Northern California, MoFo helped force the release of over 50,000 pages of FBI documents. Filed under the Freedom of Information Act, the litigation began in 2010 on behalf of the Asian Law Caucus and the ACLU. In its defense, the FBI claimed that the information that plaintiffs sought was exempt from disclosure because it was “compiled for law enforcement purposes.” But federal Judge Richard Seeborg ruled that because the withheld information had no connection to the enforcement of a specific federal law, the FBI was required to produce it.

The documents revealed troubling FBI practices: racial profiling and racist stereotyping, inappropriate training practices, and a widespread pattern of surveillance of people not even suspected of crimes but targeted because of their race or religion. Still, the FBI withheld more than it disclosed, claiming other exemptions. Judge Seeborg ruled, however, that the FBI’s claimed basis for withholding the remaining information at issue was improper.

PROTECTING THE RIGHTS OF MUSLIMS

Biased policing harms individuals and communities while making law enforcement less effective. Preserving constitutional freedoms and protecting public safety go hand in hand.

After the 9/11 terror attacks, the New York City Police Department began monitoring the activities of the city’s estimated 600,000 to 1 million Muslims. Frequently, that attention crossed the line into discriminatory and unjustified surveillance that violated Muslims’ political and religious freedoms.

IN AMERICA, WE HAVE THE RIGHT TO STAND UP AND SPEAK OUT.

IMAM HAMID HASSAN RAZA



20 YEARS AND STILL SEEKING JUSTICE

When an innocent man arrested for murder provided police and his own attorneys with proof of an alibi — and nothing happened — MoFo’s Chip Loewenson stepped up to help.

In 1996, police arrested Richard Rosario for murdering a 17-year-old man on a Bronx street. More than a dozen people with Rosario at the time — in Florida — said that he could not have committed the crime.

They would have testified to that fact, but most were never contacted by the police, by the district attorney, or by Rosario’s lawyers. Instead, based on testimony from two people who placed him at the scene of the crime, identified his mugshot, and picked him out of a lineup, Rosario was convicted of a murder he didn’t commit and sentenced to 25 years to life.

After a decades-long legal battle waged all the way to the U.S. Supreme Court by New York partner Carl (Chip) Loewenson, Jr., Rosario is a free man. But he is not a satisfied man. In front of a judge ready to dismiss the murder indictment, Rosario initially refused to let the charges be dropped.

Rosario explains his decision this way: “I’ve been in prison for 20 years saying I’m innocent. I’ve been forthcoming with information to prove my innocence. And it seems that the NYPD and the DA’s office position is that the truth doesn’t matter. The public should know the truth, and the family of the victim deserves that as well.”

I'VE BEEN IN PRISON FOR 20 YEARS SAYING I'M INNOCENT...THE NYPD AND DA'S OFFICE POSITION IS THAT THE TRUTH DOESN'T MATTER. THE PUBLIC SHOULD KNOW THE TRUTH.

RICHARD ROSARIO

A DECADES-LONG QUEST FOR JUSTICE

"I am delighted beyond words that Rosario is now a free man," says Chip. "When we learned about the case, I could not believe he was still in prison."

Chip and the MoFo team got involved in 2003. In a court hearing to evaluate whether Rosario had ineffective legal representation at his murder trial, MoFo called seven of the alibi witnesses to the stand for the first time — people who had been with Rosario at the time, nearly 1,000 miles away from the scene of the crime. Despite their testimony, the judge denied a motion for a new trial. For six more years, Chip and his team petitioned the federal courts, all the way to the Supreme Court, but lost. The consensus? Yes, Rosario's original counsel had been ineffective but not enough to overturn the decision. "It was the biggest professional disappointment of my career," admits Chip, but he fought on.

Chip brought in the Exoneration Initiative (EXI), an organization that pursues post-conviction relief in non-DNA cases. EXI interviewed additional witnesses and revived the

post-conviction process in state court. Meanwhile, the newly elected district attorney in the Bronx agreed to meet with Chip and EXI to discuss the case. Chip also got Dateline NBC interested in the case. Two days before an extensive Dateline piece was set for public release, the DA agreed to vacate Rosario's conviction.

In November 2016, a judge dismissed the case against Rosario entirely. "The criminal case is over, the conviction has been wiped away and Richard is a free man," says Chip. "Now, he will try to get compensation for the 20 years he was wrongfully imprisoned."

Along with Chip, a dedicated MoFo team has devoted thousands of hours to Rosario's case.

The miscarriage of justice that Rosario experienced is not an isolated case, says Chip. "It has almost every item on the menu of what is wrong with the criminal justice system: the prosecutor struck minority jurors from the jury and withheld exculpatory evidence; the defense was underfunded and incompetent; eyewitnesses provided mistaken identification; and the system refused to self-correct."

Chip believes Rosario's case provides lessons for those hoping to improve criminal justice in America. "It shows you need persistence," he says. "You don't always achieve justice on the first attempt."



**YOU NEED PERSISTENCE.
YOU DON'T ALWAYS
ACHIEVE JUSTICE ON THE
FIRST ATTEMPT.**

CHIP LOEWENSON



GETTING OUT OF THE BOX

One of the most brutal forms of punishment in U.S. prisons, solitary confinement harms both society and the individual. The door to reform is opening, one state at a time.

According to estimates, the U.S. prison system holds as many as 100,000 people in isolation — a number unequaled by any other democratic country in the world. Historically, solitary confinement — known to many in prison as “the box” — has been overused as a tool to punish people in prison, often for nonviolent and minor infractions.

The trauma inflicted by solitary confinement is well documented, including depression, hallucinations, violent mood swings, and, in many

cases, long-lasting mental impairment. A United Nations expert concluded that prolonged solitary confinement amounts to torture and should be prohibited.

MoFo is at the forefront of the movement to achieve meaningful reform of isolation practices in U.S. prisons.

In March 2016, a federal judge approved the settlement of a class action lawsuit against the state corrections department brought in 2013 on behalf of all New York State prisoners by the New York Civil Liberties Union, MoFo lawyers, and attorney Alexander Reinert. After three years of negotiations, a landmark settlement overhauling solitary confinement was achieved.

I HOPE THAT NEW YORK CAN FINALLY BEGIN TO FIND ITS WAY OUT OF THE BOX.

TONJA FENTON

When fully implemented, the settlement should substantially reduce the number of inmates in solitary confinement in New York. Before the lawsuit, 87 different infractions of prison rules could land an inmate in solitary. Of those, 23 can no longer be punished by isolation, and 42 cannot be punished by solitary for a first offense. Up to 1,100 inmates will avoid isolation altogether or be housed in alternative units that allow greater human contact — such as monthly phone calls and group recreation — and this will improve the chances of rehabilitation.

“New York officials recognized the vast overuse of solitary confinement in the corrections system and came to the table with an appetite for reform,” said Jennifer K. Brown, MoFo senior pro bono counsel. “Our firm was honored to play a part in the negotiations that led to this historic pact.”

One of the plaintiffs was Tonja Fenton, who received three solitary sentences for nonviolent conduct. At the settlement announcement, she said: “I hope that New York can finally begin to find its way out of the box.”

IMMIGRANTS + REFUGEES

MoFo lawyers work to ensure that immigrants and refugees are treated and respected as individuals with legal rights.

IN THIS SECTION

- Protecting Young Refugees in Germany
- Refugees in Japan
- Detention or Punishment?

PROTECTING YOUNG REFUGEES IN GERMANY

Over one million refugees fled to Germany in 2015 to escape war and persecution — many of them unaccompanied minors. MoFo is working to protect and guide these young people as they build new lives.

Before the war in Syria, the number of refugees seeking asylum in Germany was small, and the government could care for asylum seekers on its own. But the refugee crisis in 2015 changed everything. Today, there are more than 60,000 children and adolescents in Germany who entered the country as refugees without a parent or guardian. Nearly 14,500 arrived in 2015 alone, more than triple the number from a year before. The government needed help.

MINORS FACE UNIQUE CHALLENGES

Faced with an influx of more than 2,000 unaccompanied minors in Berlin alone, the president of the Berlin Court of Appeals called on lawyers to volunteer as guardians for these children, advocating for their housing and other governmental benefits. Lawyers from MoFo's Berlin office answered the call. They now act as guardians for seven children from the Middle East, ages 10 to 18, who lost their parents in their



home countries or on their way to Germany. Those involved are partners Kristina Ehle and Hanno Timmer, counsel Felix Helmstäder and Julia Schwalm, and associates Jannis Werner and Jens Wollesen.

“I have three kids of my own,” says Felix. When he learned of the many child refugees needing to integrate into a new culture and a new way of life, he explains, “I wondered how I would feel if my kids were in this situation.”

Julia points out the broad responsibilities of a guardian, encompassing the children's health, education, housing, food and clothing, and more. “We are responsible for all things that need a signature,” she says. “And in addition to that, we of course care about the children and want them to find a future here.”

A key responsibility is to prepare the children for the asylum application process. “We have to collect their stories without re-traumatizing them,” says Julia. It's critical to get detailed accounts, since the young asylum seekers will have to undergo official interviews in which any omission or inconsistency in their story could result in denial of asylum. Cultural integration is another

challenge. A guardian had to convince one young refugee to look adults in the eye when speaking to them. In his home country of Pakistan, that is a sign of disrespect; in Germany, the opposite is true: averting one's eyes is viewed with suspicion.

Another refugee, only 11 years old, was encouraged by his guardian to join a soccer club to meet peers, have fun, and develop his language skills.

MoFo lawyers Jens-Uwe Hinder, Moritz Heuser, and Jens Wollesen are also working pro bono on a refugee-related hotel project. They are advising Prinzip Heimat e.V., a charitable association that is establishing Hotel Utopia. The hotel will provide refugees with jobs and vocational training in hospitality and gastronomy.

The American Lawyer recognized the firm's work for refugees in Germany with its 2017 Global Legal Awards Grand Prize in Citizenship.

I HAVE THREE KIDS OF MY OWN, AND I WONDERED HOW I WOULD FEEL IF MY KIDS WERE IN THIS SITUATION.

FELIX HELMSTÄDTER



JAPAN AND REFUGEES: OPENING CLOSED DOORS

Japan immigration authorities reject nearly all refugees who seek asylum, admitting less than one percent in 2015. MoFo lawyers in Tokyo devote thousands of pro bono hours advocating on behalf of those rejected for asylum.

Japan is not welcoming to asylum-seekers. In 2015, the country granted refugee status to only 27 out of 7,586 applicants — just 0.3 percent. In comparison, the United States took in 69,933 refugees during roughly the same period, and Germany granted asylum to 140,910.

MoFo attorneys in Japan are assisting the Japan Association for Refugees by providing legal counsel to some of the more than 5,000 asylum-seekers from Africa, Southeast Asia, Syria, and other countries — devoting thousands of pro bono hours to help refugees and immigrants avoid danger in their homelands and relocate safely to a new country.

Yukihiro Terazawa is a partner in MoFo's Intellectual Property Group and worked on refugee issues even before joining MoFo in 2009. Associate Yuri Inoue has been involved in refugee assistance for three years. Other team members include associates Judd Abramson, Pieter de Ganon, Naoyuki Fukuda, Naoko Ishihara, Shinsuke Kaneko, Yoshitaka Katayama, Kana Kobayashi, Akinari Nakano, Hisatada Ohashi, Agnes Petrucione, Ken Sakane, Kyoko Sato, and Yosuke Yamamoto.

Together, Yukihiro and Yuri have represented more than 20 asylum-seekers in the past eight years and have beaten the odds to win refugee status for two of the 20 — a testament to the critical importance of experienced legal assistance.

YEARS OF WAITING AND HOPING

In a recent case, Yukihiro and Yuri worked with a 25-year-old refugee from Afghanistan. The young engineer was threatened and kidnapped in his homeland but managed to escape and come to Japan.

NINETY-NINE PERCENT OF ASYLUM-SEEKERS DO NOT MAKE IT PAST THE INITIAL INTERVIEW... THIS IS WHEN OUR REAL WORK STARTS.

YUKIHIRO TERAZAWA

The first step for an asylum-seeker is to file an application for refugee status and submit it to examination by the Immigration Bureau. “Ninety-nine percent of asylum-seekers do not make it past the initial interview,” says Yukihiro. Applicants who are rejected are eligible to be represented by a Japanese attorney. “This is when our real work starts,” says Yukihiro. The attorneys submit an appeal to the Ministry of Justice. If the high court decides the initial ruling was erroneous, it is overturned and the person is granted refugee status.

It can often take five to six years to complete the application process, during which time the applicant cannot get a job.

“The biggest challenge is the long wait time between hearings. The lawyers have to keep the refugees’ spirits up during the application process,” says Yukihiro. An attorney can devote 5,000 hours to guide an applicant through the process.

The young Afghan was one of the few successful asylum-seekers. He was granted a certificate for refugee recognition and a five-year visa by the Immigration Bureau. Our client can now work and begin to build a new life in Japan.



DETENTION OR PUNISHMENT?

Immigrants detained in Border Patrol stations in southern Arizona are held in freezing, filthy cells and denied adequate food, water, sleep, and sanitation — often for days. MoFo joined the fight to enforce their legal rights.

Each year, the Border Patrol — a division of U.S. Customs and Border Protection (CBP) — detains hundreds of thousands of individuals crossing the U.S.-Mexico border. Some are suspected of illegal entry or criminal activity;

others are held to determine their eligibility for admission into the country. CBP detains these immigrants in holding facilities that, according to the CBP's own guidelines, are not intended to house people for more than 12 hours.

Actual detention practices witnessed near Tucson, Arizona, tell a different story. There, the CBP holds immigrants in small concrete holding cells for days at a time, deprived of adequate heat, bedding, food, water, and facilities for basic hygiene. During a 12-month period in 2014 and 2015, the CBP held detainees in the Tucson sector for 128.4 hours on average. Lights glare in the cells day and night, and immigrants — among them traumatized asylum-seekers and mothers with infants and small children — are stripped of their outer layers of clothing and suffer in brutally cold temperatures.

BRINGING BRUTALITY TO LIGHT

In June 2015, MoFo joined the National Immigration Law Center, the American Immigration Council, the ACLU of Arizona, and the Lawyers' Committee for Civil Rights of the San Francisco

BORDER PATROL'S TREATMENT OF MEN, WOMEN, AND CHILDREN IN ITS CUSTODY IS SIMPLY INEXCUSABLE, AND THEIR LACK OF TRANSPARENCY SHOWS THEIR DESIRE TO AVOID ANY PUBLIC OVERSIGHT OR ACCOUNTABILITY.

MARY KENNEY



NO AMERICAN WOULD ACCEPT HOW THE GOVERNMENT TREATS PEOPLE WHOSE ONLY CRIME IS WANTING A BETTER LIFE.

COLETTE REINER MAYER

Bay Area in filing a class-action suit on behalf of detainees held for extended periods in CBP cells.

The suit alleges that the Border Patrol holds individuals in violation of the U.S. Constitution and the CBP's rules and subjects detainees to mistreatment, abuse, and neglect. Specific allegations include deprivation of beds, bedding, and sleep; adequate food and water; medical screening upon arrival; and basic sanitary conditions and hygiene items such as soap, sufficient toilet paper, sanitary napkins, diapers, and showers.

"Border Patrol seems to think these brutal conditions, and the human suffering that results, will deter immigration, but the fact is that many of these people are fleeing persecution and violence, reuniting with family, or are themselves U.S. citizens," said James Duff Lyall, an attorney with the ACLU of Arizona. "These policies and

practices serve no legitimate purpose, violate the U.S. Constitution, and offend basic American values."

In June 2016, a federal district court unsealed shocking video stills of conditions inside the cells. Among the images: small children crawling on dirty, trash-strewn floors, individuals sleeping on concrete floors and benches, and cells too crowded for anyone to move. The photos were part of the evidence submitted by plaintiffs' attorneys to support a motion for a preliminary injunction filed in December 2015.

"It is important to break through the secrecy that surrounds these holding facilities," says Colette Reiner Mayer, a partner in MoFo's Intellectual Property Group and vice chair of the Pro Bono Committee. "No American would accept how the government treats people whose only crime is wanting a better life." Together with Louise

Stoupe, a litigation partner in MoFo's Tokyo office, Colette leads the firm's international team working on the case.

In November 2016, a federal judge ordered the Border Patrol to immediately begin providing basic amenities to people detained in their Tucson holding cells. Any detainee held more than 12 hours was to be given a sleeping mat, as well as the opportunity to clean themselves, among other things. Colette says the judge's order "changed conditions immediately" and estimates the ruling impacted 30,000 to 40,000 people, annually.

MoFo has devoted close to 7,000 hours to the pro bono case to date. "It's very rewarding to put our weight behind a case that affects hundreds of thousands of people," says Colette. "If we're successful, the government will be required to completely revise the way they are handling people."

BUILDING COMMUNITIES

MoFo lawyers find sustainable solutions that help local communities thrive and prosper.

IN THIS SECTION

- Does Publishing the Law Break the Law?
- Improving the Odds for Small Businesses
- Fighting for Safe, Affordable Housing in Washington, D.C.



DOES PUBLISHING THE LAW BREAK THE LAW?

Open-government activist Carl Malamud says his mission is simple: “If law is the operating system of society, show me the manual.” MoFo lawyers have taken up his cause to make government regulations and standards freely available to all.

The developed world runs on technical codes and standards. Whether you’re designing a 20-story high-rise or building a deck in your backyard, you must know the regulations and follow them. The trouble is, says

Carl Malamud, those regulations are not easily accessible, and many carry criminal penalties for noncompliance. “If someone says this is the law and you can’t read it unless you pay for it, then we’ve undermined something fundamental in our society,” explains Malamud. Regulatory groups like the National Fire Protection Association provide a valuable service, but governments, not individuals, should bear the costs, Malamud believes. That’s why he founded Public.Resource.Org, a nonprofit organization dedicated to making government information more accessible. Malamud and his staff purchase standards manuals, transcribe them into HTML language, and post them on the group’s website, where anyone can access the information for free.

RESISTANCE MAY LEAD TO LANDMARK CHANGE

Malamud’s open-government activism is under attack in the courts, however. In Germany, for example, Deutsches Institut für Normung e. V. (DIN) brought a civil action before the Hamburg Local Court. DIN is the

German national standards body that also represents German interests in European and international standards organizations.

The court ruled against Public.Resource.Org in 2015, issuing a cease and desist order, which is when MoFo partner Andreas Grünwald, who heads the German antitrust law practice, got involved. “The law should be available for free, and if you want people to comply with standards, they should be accessible,” says Andreas. “The current system is outdated — pre-Internet — with paper books you must buy in bookstores.”

MoFo attorneys filed an appeal with the higher regional court in Hamburg, arguing that the DIN copyright doesn’t comply with German constitutional law as well as European law. The appeal was unsuccessful, but MoFo is now discussing with Carl whether to ask the Federal Supreme Court in Germany to review the decision. “If we get a chance to present to this court, we may be able to overturn the copyright law,” says Andreas.

“The odds are against us,” says Andreas, but if Public.Resource.Org prevails, “it will be a landmark decision and a signal to legislators to change these provisions.”

THE LAW SHOULD BE AVAILABLE FOR FREE, AND IF YOU WANT PEOPLE TO COMPLY WITH STANDARDS, THEY SHOULD BE ACCESSIBLE.

ANDREAS GRÜNWARD



IMPROVING THE ODDS FOR SMALL BUSINESSES

For startups to grow into sustainable businesses, they need legal help — often when their cash flow is only a trickle. MoFo lawyers give entrepreneurs a helping hand.

On average, more than half a million people in the United States start new businesses each month. Virtually all small businesses need help with legal and regulatory issues, especially at formation, yet many startups lack the resources to hire professional assistance.

MoFo directs significant pro bono resources to helping small businesses succeed.

“These people can’t afford to hire a lawyer. Even a few thousand dollars is make-or-break for many small businesses,” explains Larry Ceriello, a partner in MoFo’s Real Estate Group in New York.

MoFo focuses its efforts on three areas: conducting public seminars and workshops, providing legal advice to individual small business owners, and helping social entrepreneurs get their businesses off the ground.

Many MoFo attorneys provide some form of small business pro bono counsel. Most of the referrals come to MoFo from nonprofit organizations such as Volunteers of Legal Service in New York, the Lawyers Committee for Civil Rights in San Francisco, and Start Small Think Big in New York and the Bay Area.

STRUGGLES OF THE SMALL BUSINESS OWNER

“I come from a long line of small business owners, so I understand their struggles, especially here in New York City,” says Larry.

In 2016, he represented the owner of a hair-removal salon in Manhattan who had contracted with a builder to

renovate her shop. The builder left the job unfinished and, when the owner deducted part of her payment as per the contract, the builder filed a mechanic’s lien, jeopardizing her lease.

“This owner was meticulous about everything she did, so being accused of not running her business properly was anathema to her. It threatened her business and her view of herself,” says Larry. Larry, Al Williams, and Joshua Roy, using a little litigated provision of the New York Lien Law, succeeded in having the lien removed from the property records, so the owner was no longer at risk of losing her lease.

SMALL BUSINESS OWNERS HAVE A FIRE AND A DRIVE TO CREATE SOMETHING. WORKING WITH PEOPLE WHO ARE THAT PASSIONATE ABOUT WHAT THEY ARE DOING IS QUITE INVIGORATING.

MITCH NEWMARK



I DO PRO BONO WORK FOR THE SAME REASON I LIKE BEING A LAWYER: I WANT TO WORK WITH COMPANIES AND PEOPLE WHO DO GOOD THINGS.

FREDO SILVA

A restaurant in the Bronx had a lease pegged to the building's real estate taxes. Taxes had virtually quadrupled in the last five years, pushing the lease payment beyond the means of the restaurant owner. The landlord began eviction proceedings, and Larry, David Manspeizer, Ben Smiley, and Brendan Inman stepped in. While simultaneously defending against the action, the MoFo team was successful in working out an affordable payment plan, in part because Larry persuaded the landlord that the shop and its owner, a Vietnamese woman, were of great value to the neighborhood.

"Most MoFo clients are big corporations or institutions. This work gives us the opportunity to deal with problems on an individual level," says Larry.

Mitchell Newmark, a partner in MoFo's New York office, focuses on tax litigation. That experience comes in handy when advising small businesses, such as a small café and an apparel printing company.

"Most entrepreneurs are not accustomed to dealing with the wide variety of taxes affecting their businesses," says Mitch.

"The laws can appear not just onerous, but frightening. We spend a lot of time talking people off the ceiling."

Another hub of pro bono support for small businesses is Los Angeles. MoFo works closely with the Chinatown Service Center, a support organization for new immigrants. "We help those who want to set up a new business," says Hillel Cohn, senior of counsel. A recent pro bono effort, carried out by associate Phillip Kim, helped a craft soda company set up its LLC business and handle liability issues.

THE RISE OF SOCIAL ENTREPRENEURS

MoFo attorneys have seen a rise in startups focused on bettering society and the world. "We look at two metrics when working with these startups," explains Fredo Silva, a San Francisco partner in MoFo's Corporate Group and a member of the Pro Bono Committee. "Is there a mission to make things better — to enhance the economic, health, or social condition of low-income and disadvantaged people and groups or the environment — and will revenues from the business venture directly support this mission?"

One example is RideAlong Labs, a group that hopes to improve interactions between patrol officers and people with mental health issues who have frequent contact with police. The RideAlong app provides profiles of these individuals based on their prior interactions with the police so that officers have information—such as a caseworker's name—that can increase the chances of a positive outcome. RideAlong is currently being tested in Seattle. In addition to helping prepare RideAlong's incorporation documents, including shareholder and intellectual property agreements, Fredo helped the founders understand how transactions they enter into now would impact future financing and liquidity scenarios.

"I do pro bono work for the same reason I like being a lawyer: I want to work with companies and people who do good things. I want to make a positive impact on the world," says Fredo.

The attorneys also get considerable satisfaction in return. "Small business owners have a fire and a drive to create something," says Mitch. "Working with people who are that passionate about what they are doing is quite invigorating."



FIGHTING FOR SAFE, AFFORDABLE SHELTER IN A PERFECT STORM OF GENTRIFICATION

In Washington, D.C., low-income tenants suffer from a scarcity of safe and affordable housing amid the disruptive forces of gentrification. MoFo attorneys are helping this vulnerable group get the representation they need — and keep a roof over their heads.

Affordable housing is a pressing issue in cities across the United States, but the problem is particularly acute in Washington, D.C. The population has soared by 100,000 since 2000, driven by an influx of young professionals and retirees. Home values have tripled over that period in some areas. As neighborhoods gentrify and developers look to cash in on the boom, long-time residents, particularly those with low incomes, are being pushed out.

That's only exacerbated the situation for low-income renters, who often live in substandard housing plagued by unsafe conditions — such as lead paint, cockroaches, and faulty plumbing — that go neglected by absentee landlords.

As a former D.C. resident, MoFo partner Brian Busey took a personal interest in the plight of families struggling to keep a roof over their heads.

“Housing has been an area of great need in the city for a long time, and that’s what drew me to it,” says Brian, who supervises cases referred by the D.C. Bar

Pro Bono Center. “With gentrification, low-income people are pushed out, and landlords are not following housing codes and keeping up the facilities,” he adds.

He and his MoFo colleagues, including associate Paul Varnado, have set out to help right that wrong, taking on a handful of housing cases each year pro bono.

Eviction cases clog the housing court. Yet more than 80 percent of tenants are not represented by counsel. That means that they cannot take advantage of laws that protect against eviction or raise violations of the district’s strict housing code as a defense.

“You need counsel to exercise your rights as a tenant,” says Paul, who also works in MoFo’s D.C. office.

The MoFo attorneys help their clients navigate the process and fill out the appropriate forms. Simply having a lawyer makes a huge difference in negotiations. Landlords sometimes falsely accuse tenants of unpaid rent in the thousands of dollars. But when they realize the tenant is represented by counsel, they often drop their charges.

Brian and his colleagues acknowledge that they can’t solve the affordable housing crisis. But through their work, he says, “we’re trying to right the imbalance between the leverage of the landlord and the typical lower-income, unrepresented tenant. It’s trying to make a difference, case by case.”

WE’RE TRYING TO RIGHT THE IMBALANCE BETWEEN THE LEVERAGE OF THE LANDLORD AND THE TYPICAL LOWER-INCOME, UNREPRESENTED TENANT. IT’S TRYING TO MAKE A DIFFERENCE, CASE BY CASE.

BRIAN BUSEY

SUSTAINING THE PLANET

Across the globe, MoFo lawyers partner with nonprofit organizations in creating a healthier and more sustainable future.

IN THIS SECTION

- The Boy Who Loved the Ocean
- Protecting an Ecological Plum
- Declining Tuna Fisheries in Palau
- Billion Oysters Project

THE BOY WHO LOVED THE OCEAN

A family channels their grief over the death of a young man by adopting the aquarium that inspired him.

The Roundhouse Aquarium is a Southern California landmark. The distinctive white octagonal building with a Spanish tile roof perches at the end of the Manhattan Beach Pier. Inside, viewing and touch tanks display a brilliant selection of marine fish and invertebrates.

Open to the public seven days a week, free of charge, the aquarium is dedicated to helping people understand and appreciate the ocean, tidelands, sea life, and beaches of Southern California.

Each year, 125,000 people from around the world visit the aquarium. More than 15,000 are students, taking part in the Roundhouse's fun, hands-on educational programs. Harrison Greenberg, the eldest son of SKECHERS USA President Michael Greenberg, was one of those kids.

"Growing up in Manhattan Beach, Harrison spent most of his free time on the beach or in the water," his father remembers. The many hours Harrison visited the aquarium while growing up filled him with a deep love of the ocean.

In 2015, Harrison died unexpectedly while vacationing in Thailand. He was only 19. Harrison's grieving family decided that the most fitting memorial



for the boy who loved the ocean was to fund the restoration and redesign of the 96-year-old Roundhouse in his honor.

INSPIRING FUTURE MARINE SCIENTISTS

Oceanographic Teaching Stations (OTS), a nonprofit organization, has operated an aquarium and marine studies center in the Roundhouse since 1980. A pro bono client of MoFo, OTS asked the firm to represent the nonprofit in three-party negotiations with the city of Manhattan Beach (as agent for the state of California, which owns the facility) and the Harrison Greenberg Memorial Fund. An agreement to pursue the renovation project was finalized in October 2016.

The Roundhouse Aquarium Beautification Project will cost up to \$2.5 million, according to estimates, with the Memorial Fund committing a minimum of \$1.25 million to the project. Planned renovations include upgrading the interior of the facility aesthetically, installing state-of-the-art tanks, adding new marine life, and improving the tide pools.

"The renovation spearheaded by Harrison's family will be a fitting memorial to this vibrant young man," says Hillel Cohn, senior of counsel in MoFo's Los Angeles office and a board member of the Roundhouse Aquarium. "What's more, it's a lasting legacy that will ensure the facility can continue to inspire children, some of whom may go on to become marine scientists and protect our oceans for the future."

THE RENOVATION SPEARHEADED BY HARRISON'S FAMILY...IS A LASTING LEGACY THAT WILL ENSURE THE FACILITY CAN CONTINUE TO INSPIRE CHILDREN, SOME OF WHOM MAY GO ON TO BECOME MARINE SCIENTISTS AND PROTECT OUR OCEANS FOR THE FUTURE.

HILLEL COHN



PLUM ISLAND IS ONE OF THE LAST PRISTINE NATURAL ENVIRONMENTS IN THE NORTHEAST, AND ITS SALE REPRESENTS A UNIQUE OPPORTUNITY FOR PRESERVATION THAT OTHERWISE WILL BE LOST FOREVER.

JOSH ROY

PROTECTING AN ECOLOGICAL PLUM

Plans to sell pristine Plum Island, home to more than 200 bird species and other endangered wildlife, have run aground thanks to MoFo's advocacy.

When the federal government announced its intent to sell a pristine 840-acre island off the eastern tip of Long Island to the highest bidder, environmental groups sounded the alarm.

Since 1954, Plum Island has housed a federal research facility for studying animal diseases. The facility is being relocated to Kansas, and the government planned to auction the island to private bidders.

But the facility is not the island's only occupant. Plum Island and its surrounding waters have become a

rich habitat for an array of plants and wildlife, some considered endangered or threatened. Those species — which range from roseate terns, ospreys, and other birds, to various types of sea turtles — have thrived in part because the research facility has limited human presence on the island.

Opponents of the sale, aided by the pro bono efforts of MoFo attorneys, want the island's wild areas protected.

The MoFo team includes New York litigation partner David Manspeizer, associate Cameron Tepfer, and managing attorney Josh Roy, also in New York.



“The relative isolation of Plum Island has created a truly unique nature preserve that supports several threatened species, including rare plants, endangered birds, sea turtles, seals, whales, and dolphins,” says Josh.

“Plum Island is one of the last pristine natural environments in the Northeast, and its sale represents a unique opportunity for preservation that otherwise will be lost forever.”

A FLAWED PROCESS

In July 2016, MoFo filed suit in New York federal court on behalf of the Connecticut Fund for the Environment’s Save the Sound program and six other organizations. The suit targets the U.S. Department of Homeland Security and the U.S. General Services Administration, alleging a host of flaws in the process for assessing the environmental impact of the sale.

Plum Island and its surrounding waters and neighboring islands have repeatedly been recognized by government and independent bodies for their ecological value, including designation by the Audubon Society as an Important Bird Area. The federally endangered roseate tern and the federally threatened piping plover use the island’s shores to nest, as do 57 bird species listed as of Greatest Conservation Need in New York, such as the osprey and common eider. Threatened plants and insects also populate the island. The waters around the island are home to five threatened or endangered species of sea turtle, and its rocks host the largest and most frequent foraging activities of grey and harbor seals in southern New England.

The suit asks the court to halt any sale of Plum Island and to force the federal government to comply with federal and state environmental laws in completing a thorough and accurate

environmental impact study. The goal is outright protection for the island or, at the very least, sale of the undeveloped portion of the island to a conservation organization.

“Plum Island is a natural treasure that has been serendipitously conserved for decades. We want to shine a light on the proposed sales process and take every step to ensure the government complies with the law. The environmental impact of other paths is too high,” says Josh.

WE WANT TO SHINE A LIGHT ON THE PROPOSED SALES PROCESS AND TAKE EVERY STEP TO ENSURE THE GOVERNMENT COMPLIES WITH THE LAW.

JOSH ROY



DECLINING TUNA FISHERIES IMPERIL PALAU

The island nation of Palau is on a mission to stop illegal fishing. MoFo is helping the government create a model program for sustainable fishing to protect tuna for future generations.

Sixty percent of the world’s annual tuna catch comes from the waters of 16 island nations in the Pacific Ocean, including Palau, which owns and manages five percent of these waters. The Pacific is one of the last strongholds of global tuna stocks. Overfishing — which is already occurring for bigeye tuna — could lead to the collapse of Pacific tuna fisheries, putting Palau’s economy and culture at risk.

Lawyers from MoFo’s San Francisco office are assisting longtime pro bono client, The Nature Conservancy, in helping the government of Palau create a model program for sustainable tuna fishing. The team includes partners Robert Townsend and Eric McCrath, and associate Jennifer Jeffers.

“Palau has become a leading force in marine conservation. It’s fundamental to their culture and their economy,” says Jennifer. Palau’s fishing rights extend 200 nautical miles beyond its coasts, but the country has only a small marine police force to enforce regulations. “We had to design a regulation that could be practically implemented,” Eric adds. Longline commercial fishing entails dragging a main fishing line up to 100 kilometers (60 miles) in length, with secondary lines branching off of it, each set with hundreds of thousands of barbed, baited hooks. Overfishing with longlines degrades marine ecosystems and results in substantial bycatch of non-commercial sea life, as well as threatened marine and bird species.

Using their experience in regulatory guideline development, government-

NGO partnerships, bid processes, and economics, MoFo lawyers developed a new model for regional fisheries management, with regulations that increase local control and improve the fishery’s economic and environmental performance.

“Essentially, we developed a scheme that allocates ‘catch quotas’ to individuals,” explains Rob. A regulator will set a total allowable catch (TAC) quota for tuna, measured by weight, for a given time period. The quotas can be bought, sold, and leased, a feature called “transferability.”

Palau’s Congress adopted the standard in 2016. To enforce the regulations, fishing vessels will be outfitted with electronic monitoring systems that capture video of everything brought up on the longlines.

“We hope this solution will become a template to help other western Pacific nations where tuna fisheries are being devalued and destroyed by over-fishing and illegal fishing,” says Rob. “Our goal is to ensure that tuna will be around for future generations.”

According to The Nature Conservancy’s general counsel, Wisla Heneghan, “the dedicated services and insight [of the MoFo team] enabled the Conservancy to not only achieve our goals for the Palau Fisheries Project, but also to engage in cutting-edge conservation around the globe.”

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WISLA HENEGHAN



REBUILDING OYSTER REEFS, SHELL BY SHELL

Restaurant owners and student-scientists join forces to restore New York Harbor by replenishing it with oysters — the sea’s natural sanitation engineers.

The Billion Oyster Project (BOP) is an ambitious effort to restore New York Harbor by bringing oysters and their reef habitat back to the waters. The nonprofit project, an initiative of the New York Harbor Foundation (NYHF), has already engaged thousands of New Yorkers — from restaurant owners to school children — in the restoration work.

Oyster reefs once covered more than 220,000 acres of the Hudson River estuary. Critical to maintaining healthy water environments, oysters filter water so more sunlight can penetrate into the harbor. One adult oyster filters 40 to 50 gallons of water per day. Their reefs provide a habitat for other marine species and help dissipate wave energy. Today, oysters are functionally extinct in the harbor due to overharvesting, dredging, and pollution.

NYHF aims to restore one billion oysters to the harbor by 2030. It is

doing so with pro bono assistance from MoFo, including partner Bradley Wine and associate Susan Borschel from the Government Contracts & Public Procurement Group, and Lawrence Ceriello, a partner in the Real Estate Group.

19.5 MILLION NEW OYSTERS... AND COUNTING

A key initiative is to collect shucked oyster shells from restaurants in the area and recycle them to “seed” new reefs. Shells are sent to the NRG Arthur Kill power plant in Staten Island, where they cure for a year before being reintroduced into the harbor. BOP uses these cured oyster shells to grow new oysters — up to 20 per saved shell — and improve the quality of water.

More than 50 restaurants currently recycle their shells, and the results have been spectacular. Since 2014, more than 300,000 pounds of shells have been recycled, 19.5 million oysters grown, and 1.05 acres of reef restored.

Sue, working closely with New York Harbor Foundation staff, has been helping to secure and structure state and city funding to support oyster replenishment in the breakwaters and bays. As one of the largest government contract practices in the United States, MoFo has the experience necessary to help NYHF. “It’s not the same as a standard commercial project,” Sue says. “There are many layers of requirements for direct contractors and sub-contractors — everything from ethics and intellectual property, to record keeping and equal employment regulations.” The state has been so pleased with the contract work done by

MoFo that it has authorized NYHF to act as a prime contractor going forward and negotiate its own arrangements with subcontractors.

Student engagement is a big part of the BOP initiative. Students at New York Harbor School have been restoring oysters in the harbor for years. The young people learn to scuba dive, raise oyster larvae, operate and maintain vessels, build and operate commercial-scaled oyster nurseries, design underwater monitoring equipment, and conduct research projects. Fifty-four schools partner with the project, and thousands of students participate in these learning opportunities each year.

Larry negotiates licenses that allow student volunteers to go on private property bordering the harbor to drop oyster cages. “Waterfront property owners are getting involved as well, allowing students to come back and monitor the progress of the baby oysters,” he says.

“New York City has such a rich maritime history, and we need to protect our coastline. Hurricane Sandy taught us that,” says Larry. “The Billion Oyster Project is restoring the ecosystem that forms a natural line of defense for the harbor, while introducing city kids to marine ecology and environmental stewardship.”

**THE BILLION OYSTER
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STEWARDSHIP.**

LARRY CERIELLO

ON THE VANGUARD

By working on cutting-edge legal and technology developments, MoFo provides innovative solutions that help organizations advance a host of social missions.

IN THIS SECTION

- Social Purpose Corporations
- Innovative Technologies



AN ICONIC BOOK STORE RESTRUCTURES TO PROSPER IN THE AGE OF DIGITAL — AND SOCIAL ENTERPRISE

Social purpose corporations and public benefit corporations allow businesses to pursue profit and social missions

These days, a for-profit venture is just as likely to be solving a pressing social or environmental challenge as a nonprofit. As the growth of social enterprise blurs the lines between nonprofits and socially conscious for-profits, new fundraising strategies and corporate structures that accommodate these dual-purpose entities are needed.

Susan (Suz) Mac Cormac, a partner in the firm's San Francisco office, chair of the Social Enterprise and Impact Investing Group, and co-chair of the Energy and Clean Technology Groups, was instrumental in one such advance: creating a new corporate form, the social purpose corporation (SPC). Adopted originally in California in 2012 as the Flexible Purpose Corporation (FPC), this structure allows corporations to have a dual purpose so that their board members and management have an equal fiduciary duty to advance a defined mission and to achieve financial returns.

Suz, a champion of social enterprise and impact investing, co-chaired a

CALIFORNIA'S 2012 LAW CREATING THE FLEXIBLE PURPOSE CORPORATION — THE RESULT OF THREE YEARS' WORK BY MOFO ATTORNEYS AND A SMALL WORKING GROUP — WAS AMONG THE FIRST TO SUPPORT SOCIAL ENTERPRISE STRUCTURES. TODAY, MORE THAN 30 STATES HAVE PASSED SIMILAR LAWS.

small working group that spent three years drafting the law and advocating for its passage. Companies that incorporate as an SPC can specify a social or environmental mission in their corporate charters, alongside the traditional pursuit of profits. That legal status can protect a company's social mission even as it takes on new investors, changes leadership or ownership, or goes public — such as, for example, Laureate, which made the first PBC IPO filing.

California's law was among the first to support social enterprise structures. Today, more than 30 states have passed similar laws. Suz's creative, committed work on SPC legislation is just one reason she was named the Most Innovative North American Lawyer by the *Financial Times* in 2015, among other honors.

One of the first test cases for California's new SPC structure was Kepler's Books, a legendary bookstore in Menlo Park. Founded in 1955 by peace activist Roy Kepler, the store became a cultural icon, providing a communal gathering

place for Beat writers, folk singers, students, and activists. Fifty years later, the bookstore closed its doors but was resurrected after the local community rallied to support it.

Things went smoothly until late 2011, when Clark Kepler, the founder's son, decided to retire. He once again turned to community supporters to help him “reinvent the community bookstore.” He reached out to MoFo to help create a legal structure that could support the for-profit bookstore going forward and allow it to continue providing the kinds of free readings and community events it was known and loved for.

Suz and Alfredo Silva, together with the rest of the MoFo team, helped Kepler's create a hybrid structure consisting of Kepler's 2020, a for-profit bookstore structured as an SPC, and Peninsula Arts & Lectures, a nonprofit organization that handles the literary events and activities, including close to 100 events for schools annually.

The MoFo team also helped Kepler's structure an offering that raised

more than \$700,000 for both efforts simultaneously, allowing supporters to invest in the bookstore or to donate to the nonprofit.

The store is thriving under the new structure.

“We want to enable companies to do good for the world,” says Fredo, who worked on the Kepler's team. “We want to help people more efficiently raise and use capital to support socially conscious business ventures.”

WE WANT TO ENABLE COMPANIES TO DO GOOD FOR THE WORLD. WE WANT TO HELP PEOPLE MORE EFFICIENTLY RAISE AND USE CAPITAL TO SUPPORT SOCIALLY CONSCIOUS BUSINESS VENTURES.

FREDO SILVA



AMPLIFYING THE VOICES OF SWEATSHOP WORKERS

Workers toiling in unsafe and degrading conditions in overseas factories can now use their mobile phones as a lifeline to get help — thanks to innovative technology from Good World Solutions.

More than 12 million people endure forced labor and dangerous working conditions in sweatshops around the world, and about 6,000 die of work-related accidents or diseases each day. Many toil in factories of suppliers to Fortune Global 500 companies, including major U.S. apparel and electronics retailers. These workers suffer in silence, however, because they have no way to be heard or to communicate directly with decision-makers.

International companies are increasingly concerned about such conditions and are spending significant sums to create more ethical and sustainable supply chains. A key tool in this effort is the “social audit” in which a paid observer goes to a factory to conduct a physical inspection of the working environment, review payroll records and other documentation, and talk to workers.

However, workers are often too fearful of retribution to voice their true concerns to these auditors, and many are coached by managers on how to answer questions. As a result, companies do not have an accurate picture of the working conditions in their factories.

FROM SEXUAL HARASSMENT TO CRUMBLING STRUCTURES

Recognizing that mobile phones are ubiquitous in developing nations, Good World Solutions, a U.S.-based nonprofit organization, saw them as a powerful way to get to the truth. It developed an innovative mobile platform called Laborlink that enables workers to call in anonymously and privately to report unsafe conditions, harassment, or exploitative practices in their factories.

It also provides a channel for global companies to deliver information on health, safety, education, and finances to workers.

Since 2010, more than 500,000 workers in 16 countries have used the service, reporting such practices as sexual harassment in South India and dangerous buildings in Bangladesh. Global brands using Laborlink include American Eagle Outfitters, Hasbro, J.Crew, Mattel, Walmart, and Walt Disney.

MoFo’s Michael Doherty and Christine Lyon head the pro bono team assisting Good World Solutions. Michael is senior of counsel in the New York office, and Chris is a partner in the Palo Alto office. Other members of the team include associates Justin Haan and Allison Lauterbach Dale from the Technology Transactions Group in San Francisco and Mary Race from the Privacy Group in Palo Alto.

The MoFo team advised Good World Solutions on terms of service and privacy policies for the public website and the private portal that companies use to review survey results. A key goal was to protect data confidentiality so that all parties — the workers as well as the multinational corporations that provide the Laborlink service to them — would be protected against unauthorized disclosures of sensitive personal data.

THE PROJECT OPENED MY EYES TO HOW MANY COMPANIES ARE EAGER TO GET INFORMATION FROM THE VERY FAR END OF THE SUPPLY CHAIN [AND] THAT THEY DO CARE ABOUT ENDING HUMAN RIGHTS VIOLATIONS.

JUSTIN HAAN

SUPPORTING CHILDREN + FAMILIES

MoFo lawyers are staunch advocates for children and families and fight hard for the rights of students with special learning needs.

IN THIS SECTION

- Special Education Advocacy



SPECIAL EDUCATION: DENIALS, DELAYS, AND DISCRIMINATION

From coast to coast, MoFo attorneys are assisting disability activists and civil rights organizations in their fight to secure the education that children with special needs deserve.

PASADENA, CALIFORNIA: WAREHOUSING CHILDREN WITH MENTAL HEALTH NEEDS

Disability rights advocates filed a federal class action lawsuit against the Pasadena Unified School District (PUSD) in February 2016, alleging that the district is violating the rights of students with learning disabilities. The suit was filed on behalf of six students by Disability Rights California, the Bazelon Center for Mental Health Law, Mental Health Advocacy Services of Los Angeles, and MoFo.

According to the complaint, PUSD sends students with behavior-related disabilities to Focus Point Academy, where they are given an inferior education; excluded from extracurricular activities; and subjected to dangerous

physical restraints, forced isolation, threatened and repeated arrests, and suspensions for minor offenses. During the 2014–2015 school year, more than 80 students with behavior-related disabilities were enrolled at the school, which serves first through 12th grades.

The lawsuit alleges that PUSD is unlawfully segregating these children and denying them equal educational opportunities. “These children face serious challenges, but they can have success in school and in adult life with the right educational supports and opportunities. We hope this lawsuit will get them the supports they need and are entitled to,” says Robert Stern, senior counsel in MoFo’s Los Angeles office and one of the lead attorneys in the suit.

ANTIOCH, CALIFORNIA: PATTERN OF DISCRIMINATION AGAINST AFRICAN AMERICAN STUDENTS WITH DISABILITIES

Since at least 2004, the East County NAACP (ECNAACP) has received complaints from its members that African American students with disabilities face a pattern of discrimination in the Antioch Unified School District (AUSD). In 2013, the ECNAACP sent the AUSD a demand letter, setting forth its legal claims. After over a year of negotiating, the parties entered into an interim settlement agreement in March 2015. Under this agreement, the AUSD agreed to retain leading experts in the fields of school discipline, special education, and social psychology to investigate the ECNAACP's claims and make recommendations to rectify the District's practices.

Although the AUSD retained experts, the AUSD failed to cooperate with the experts to ensure completion of the experts' evaluation. In a lawsuit filed in July 2016, the ECNAACP alleged that the district failed to follow through on its agreement to address the disproportionate suspension and expulsion of African American students and students with disabilities. They are represented in the lawsuit by MoFo, the Disability Rights Education & Defense Fund, the National Center for Youth

Law, and the Equal Justice Society. "The tragedy is that the agreement looked very promising. There was a sense of optimism, and then it stalled," says James Schurz, a partner in MoFo's San Francisco office and chair of the firm's Pro Bono Committee.

Before attending law school, James was a high school history teacher, so he brings a unique perspective to this issue.

"Children with special needs confront monumental challenges. The importance of early intervention and support is paramount in their long-term development. Some school districts lack the will," he says.

MOUNT VERNON, NEW YORK: FAILING TO MEET SPECIAL EDUCATION MANDATES

In 2014, MoFo attorneys and Legal Services of the Hudson Valley filed a civil rights action on behalf of eight students with special education needs in the Mount Vernon City School District (MVCSD), alleging that the students had been repeatedly denied their legal right to a free and appropriate public education.

The complaint accuses the district of systematically failing to provide eligible students with the necessary services and protection they are entitled to under the Individuals with Disabilities Education

Act (IDEA). Because of the suit, the school district has already agreed to hire an independent expert to perform a comprehensive assessment of its IDEA compliance, and it is now working on a plan to implement the expert's recommendations.

In 2017, Legal Services of the Hudson Valley honored MoFo with the Access to Justice Award. In presenting the award to the firm, Robert Hermann, a board member and senior counsel at Legal Services of the Hudson Valley, commended the commitment of the MoFo team. "No other law firm has had the unwavering involvement, matched with the talent, drive, and enthusiasm, that MoFo has delivered for [our] clients."

THESE CHILDREN FACE SERIOUS CHALLENGES, BUT THEY CAN HAVE SUCCESS IN SCHOOL AND IN ADULT LIFE WITH THE RIGHT EDUCATIONAL SUPPORTS AND OPPORTUNITIES. WE HOPE THIS LAWSUIT WILL GET THEM THE SUPPORTS THEY NEED AND ARE ENTITLED TO.

ROBERT STERN



HEALTH

As nonprofit organizations make innovative use of technology, MoFo lawyers help them address important legal issues.

IN THIS SECTION

- Global Health Innovative Technology Fund
- Callisto

HEALTHCARE FOR THE POOREST OF THE POOR

MoFo is a driving force behind a unique public-private partnership to fight HIV/AIDS, malaria, and other infectious diseases in developing countries.

More than one billion people subsist on less than \$1 a day and, faced with poverty, costly medicines, limited public health systems, and other obstacles, many lack access to essential healthcare. Furthermore, drug development is slow, expensive, and often fails to target the infectious diseases that plague the developing world.

Enter the Global Health Innovative Technology Fund (GHIT Fund), founded in 2013: a public-private partnership among the government of Japan, a consortium of leading Japanese pharmaceutical companies, and several foundations.

From its inception, GHIT Fund has benefitted from the experience and enthusiasm of Ko-Yung Tung, who was a senior counsel in MoFo's New York office before his retirement from the firm. As senior vice president and general counsel of the World Bank, Ko-Yung had been instrumental in establishing The Global Fund in 2000, which through public-private partnerships is estimated to have saved 17 million lives.



“I had a template for structuring GHIT Fund,” explains Ko-Yung. “Japan has the second-largest library of chemical compounds in the world, but turning those compounds into cost-effective drugs can be a long, expensive process,” he adds. “We want to bridge the gap” from discovery to development to real-world solutions that save lives.

INDUSTRY, ACADEMIA, VENTURE CAPITAL, AND NGOS — WORKING TOGETHER

Having already raised more than \$75 million, GHIT Fund promotes breakthrough R&D through “open innovation” in partnership with life science companies, universities, and research institutions. Because the solutions GHIT and its partners develop can have large built-in markets from government purchases, the R&D-associated risks are minimized.

By encouraging collaboration and risk-sharing, GHIT Fund makes the R&D and delivery of global health solutions more sustainable.

A team of lawyers in MoFo's Tokyo office, led by partners Hisateru Goda and Kenji Hosokawa, has provided assistance on a broad range of matters, including governance, internal regulations, employment, and investments. As a supervisory board member, Ko-Yung continues his involvement with GHIT Fund.

WE WANT TO BRIDGE THE GAP FROM DISCOVERY TO DEVELOPMENT TO REAL WORLD SOLUTIONS THAT SAVE LIVES.

KO-YUNG TUNG

ONLINE REPORTING TOOL EMPOWERS SEXUAL ASSAULT SURVIVORS

Fewer than 10 percent of sexual assaults on U.S. college campuses are reported. A confidential reporting website is working to change that with help from MoFo data privacy experts.

Sexual health issues — from sexually transmitted infections to sexual assault — impact millions of Americans. Young people, racial and gender minorities, women, and LGBTQ individuals are particularly vulnerable since it can be difficult for them to access high-quality sexual health education, services, and support.

Jessica Ladd wants to change that using the power of technology. In 2011, she founded Sexual Health Innovations (SHI), a company that creates websites, apps, and software systems that tackle sexual health challenges.

The company's first initiative, So They Can Know, was a website designed to encourage reporting of sexually transmitted infections (STIs). It offered users information and ideas about how to notify their partners in person, on the phone, via email, or via text message. The site also allowed users to inform their partners by sending anonymous emails generated by the site. In the first two years of operation, more than 42,300 people visited the site, with 392 users sending 682 notification emails.

In 2014, SHI introduced another innovation, also web-based, called

Callisto, and as demand grew, decided to reorganize the entire company under that name. The Callisto site gives college students who are survivors of sexual assault a confidential and secure way to report an incident, without pressure or judgment.

SELF-REPORTING, SELF-EMPOWERMENT

An estimated 20 percent of women, 7 percent of men, and 24 percent of transgender and gender-nonconforming students are sexually assaulted while attending college. The vast majority (85 percent) know their assailant, but fewer than 10 percent report the assault to campus authorities or local police, often fearing they won't be believed.

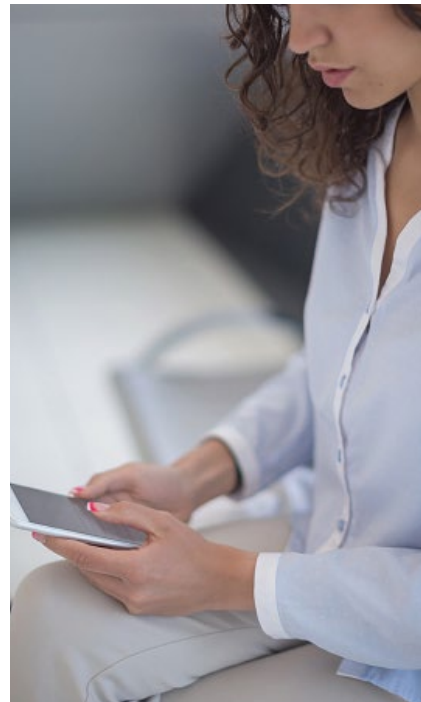
Callisto was born of Jessica's own experience of being assaulted while an undergraduate at Pomona College in Claremont, California. "I went through the reporting process and found it disempowering and retraumatizing," she told *The New York Times*. "I started thinking about what would have been helpful."

Jessica developed Callisto with input from over 100 survivors of college assaults, as well as experts in the fields of trauma, sexual assault prevention, data security, web accessibility, and legal compliance.

On the Callisto website, users can create a time-stamped record of an assault, learn about reporting options and support resources, or report electronically to campus authorities. One option the site offers is to forward a report to authorities only if the same assailant is named in another user's report.

Because many assaults are committed by repeat perpetrators, Jessica believes the Callisto reporting system could stop almost 60 percent of campus sexual assaults by catching repeat offenders earlier.

Pomona College and the University of San Francisco were the first campuses to adopt Callisto. Other campuses with



dedicated Callisto sites include Central College (Pella, Iowa), Coe College (Cedar Rapids, Iowa), Canisius College (Buffalo, New York), and St. John's University (New York City).

MoFo's global privacy team, including lawyers from New York, Washington, D.C., and Brussels, are advising Callisto on issues of data privacy and security.

"Their platforms have unique privacy challenges related to the collection and use of personal information," explains Marian Waldmann Agarwal, of counsel in MoFo's New York office. MoFo lawyers are also helping Callisto develop collaboration agreements with participating universities.

"It is exciting to help Jessica bring about change by addressing sexual assault from the survivor's point of view," says Marian.

**IT IS EXCITING TO HELP
JESSICA BRING ABOUT
CHANGE BY ADDRESSING
SEXUAL ASSAULT FROM THE
SURVIVOR'S POINT OF VIEW.**

MARIAN WALDMANN AGARWAL

MORRISON
FOERSTER