Our Finest Hours Pro Bono 2012

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Weil's **Pro Bono Report 2012**

Weil's commitment to our pro bono program is an ingrained part of our culture. We believe that providing free legal services to those most vulnerable and in need is an essential element of our relationship with our communities and a vital professional obligation of every lawyer in the firm. We are pleased that many of our institutional clients share our commitment and actively work with us on initiatives in a number of areas, including criminal justice reform, human rights, community and economic development, children's welfare, civil and constitutional rights, health and environmental issues, and asylum and immigration. Last year, Weil devoted nearly 80,000 hours to pro bono work the equivalent of more than 40 full-time lawyers.

The sheer number of hours clearly indicates the importance we attach to gaining the best outcome for each client – and how deeply we believe that pro bono services are critical to our society. Weil maintains the goal that all lawyers at the firm perform 50 hours of pro bono work each year. Toward that end, every partner is expected to work on a pro bono matter every year, and every new attorney – including lateral partners – is required to take on a pro bono matter within his or her first two years at the firm.

Weil's strength is the empathy, energy, and passion of our lawyers. Nowhere is this more true than in our pro bono work, where the results we achieve can be life-altering for our clients. In the past year these include fighting global poverty and disability through new financing models, holding prosecutors accountable for decades-long wrongful imprisonment, protecting the due-process rights of low-income tenants on the brink of homelessness, challenging discriminatory laws around the globe, and helping asylum seekers escape persecution in their homeland. We invite you to explore a sampling of our work to appreciate the depth of our commitment, the breadth of our efforts, and the many reasons for the institutional pride we take in our pro bono accomplishments. We call the time we spend on pro bono work "our finest hours" – and they are.

Barry M. Wolf

Executive Partner

Steven Alan Reiss

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Pro Bono Committee

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Asylum

"Injustice anywhere is a threat to justice everywhere."

— Martin Luther King, Jr.

The Gambia

In a matter referred to us by the HIV Law Project, Weil represents a Gambian couple with AIDS who were ordered deported from the US sixteen years ago. The wife was a victim of female genital mutilation prior to her emigration from The Gambia. Their ability to remain in the US is crucial, since it would not only allow them to receive necessary medical care but would also protect their four US-born daughters from being subjected to female genital mutilation upon the family's return to The Gambia. Immigration and Customs Enforcement's Office of Chief Counsel agreed to join the motion to reopen the case so that the Immigration Court can hear the request for asylum based on the female genital mutilation claim. In 2011, the Board of Immigration Appeals granted the joint motion to reopen and remanded the matter to Immigration Court. This represents a significant victory, given the US government's policy that it will join motions "only under exceptional and compelling circumstances." The merits hearing on the asylum application in Immigration Court is scheduled for August 2013. The pending asylum application enabled Weil to successfully apply on behalf of the clients for interim work authorization in 2012. This was another meaningful step for the clients because finally obtaining the ability to work legally in the US to support their family had been one of the clients' main goals from the outset of the case.

Bosnia

In a matter referred by Immigration Equality, Weil successfully represented a Bosnian native who was seeking asylum based on his fear that, due to his homosexual status, he would be killed if forced to return to his country of origin. Through direct examination of our client, we were able to establish a credible basis for his fear. Our psychiatric expert provided support for our client's explanation that he had not filed his asylum application in a timely manner because of the deep depression spurred by his coming-out to his family (by phone from the US) and their repeated threats over the phone and in text messages that they would kill him if he ever returned. The court found the testimony credible, excused any delay in the filing for asylum, and granted our client's application. The government waived its right to appeal.



Human Rights

"'Freedom from fear' could be said to sum up the whole philosophy of human rights."

— Dag Hammarskjöld

Challenging Anti-Gay Laws Around the Globe

Weil is assisting the Human Dignity Trust (HDT) with a long-term project to challenge laws in jurisdictions around the world that continue to criminalize homosexuality. More than 80 countries worldwide treat consensual same-sex conduct as a criminal offense. This includes 42 of the 54 Commonwealth countries, many of which retain these laws as a holdover from Victorian-era legislation implemented in colonial times. HDT works with local organizations to support on-the-ground efforts to challenge the legality of such laws, starting with the Commonwealth countries but with the long-term goal of expanding this to all nations that criminalize same-sex conduct. Weil, along with a panel of London and international firms, is assisting HDT with the first stage of its longer-term strategy.

The Weil team is preparing a number of in-depth legal, social, and political reports on three Commonwealth countries: Namibia, Saint Lucia, and Saint Vincent and the Grenadines. HDT will use the reports to plan a strategy for launching legal challenges to the constitutionality of these laws. Weil lawyers have been scouring news sites, poring over national constitutions and international human rights treaties, researching obscure statutes and ancient case law, and forming contacts and networks to render the national reports as comprehensive and accurate as possible. The aim is to provide HDT with a strong research foundation for the proposed legal challenges. Weil lawyers also hope to assist local counsel and organizations with litigation in their national courts and so directly contribute to efforts to sweep away these discriminatory laws.





Stopping the Exportation of Execution Drugs

Weil has advised Reprieve, a UK-based organization that promotes prisoners' and human rights, on the laws governing the export of drugs from the United Kingdom and the European Union for use in executions in the United States. Both the UK and the EU have abolished the death penalty and aim to achieve its abolition in the rest of the world. Following an Arizona execution in October 2010, Reprieve discovered that sodium thiopental, the anesthetic most commonly used in execution protocols by American states, was being exported to the US from England for use in executions, due to a general shortage of the drug in the US.

Reprieve was especially concerned because of questions about the drug's condition and viability; also there is evidence that the sodium thiopental used in a number of recent US executions may not have been properly effective as an anesthetic, leaving the condemned prisoner conscious and in excruciating pain as the other, lethal drugs caused asphyxiation and cardiac arrest, accompanied by a painful caustic burning sensation.

In November 2010, under pressure from Reprieve, the UK government agreed to create controls making it illegal to export sodium thiopental from the country for such purposes, and with Weil's support, Reprieve succeeded in its efforts to extend these controls to the rest of Europe. The EU has now banned the export of sodium thiopental to the US, and a recent US judgment requires the return of all foreign-manufactured sodium thiopental to the Food and Drug Administration. Those actions severely reduce the availability of this execution drug and potentially restrict the states' ability to carry out executions.

Providing Humanitarian Support for the Condemned

We continued to assist Reprieve in another of its programs: providing support to people of European origin who have been sentenced to death in the United States. In the case of a death-row prisoner with family ties to Hungary, Weil advised on matters of Hungarian law and collected data from public registers about the man's family background in Hungary.

Weil received notable recognition in 2011 from numerous charitable and pro bono organizations, including:

- City Bar Justice Center (NY)
- Council of Senior Centers and Services of New York City
- Dallas Volunteer Attorney Program
- DC Appleseed Foundation
- Kids In Need of Defense (KIND)
- The Legal Aid Society (NY)
- Legal Services NYC
- Minority Corporate Counsel Association
- New York State Bar Association
- Westchester Residential Opportunities



Community & Economic Development

"The good we secure for ourselves is precarious and uncertain until it is secured for all of us and incorporated into our common life."

— Jane Addams

Providing Corporate Advice to an Innovative Housing Not-for-Profit

Weil represented Community Solutions, a national organization whose mission is to end homelessness, in its separation from its parent organization, Common Ground New York. Community Solutions focuses its work on the "tipping point" communities that account for the majority of homelessness in the United States with the ultimate goal of changing public systems so that homeless families and individuals can get the transformative help they need at lower public cost. By identifying high-need individuals and connecting them to housing and services, Community Solutions helps individuals end their homelessness and improve their health and selfsufficiency. Our support of Community Solutions, founded by MacArthur Foundation and Ashoka fellow Rosanne Haggerty, included not only drafting the separation agreement dividing the groups' assets and responsibilities but also developing a charter and bylaws and 501(c)(3) tax exempt status. We continue to function, essentially, as the organization's general outside counsel and have assisted the organization with such general corporate matters as advising on patent and trademark issues, structuring a sponsorship agreement with a large cable channel, and advising the board of directors on corporate governance issues.

A Street-Smart Way to Reach Hungary's Homeless

Weil Budapest assists City is for All, an organization that helps homeless people with its "Street Lawyer" initiative, through which the homeless receive free legal advice at one of the main metro stations in Budapest. Weil's role consists principally of providing telephone backup for lawyers fielding questions at the metro station as well as conducting legal research on complex legal matters. We also advise City is for All in various individual cases, helping to prevent the foreclosures and enforcement proceedings that would add to the ranks of the homeless in Hungary.

Building Walls Against Homelessness

Weil advised Habitat for Humanity in Budapest with its effort to provide inexpensive housing to the disadvantaged in Hungary. We provided advice on employment-related matters and also negotiated the complete documentation prepared by ERSTE Bank for an initiative to grant loans to people who lacked the resources to repair – and thereby remain in – their homes.

Preserving a Lifetime of Scholarly Work

Weil represented a well regarded independent art scholar and assisted in the return of extensive research files relating to her work on a catalogue raisonné of the oeuvre of the French artist Gustave Courbet. The files were being held by the trustee in the Salander-O'Reilly art gallery bankruptcy filed in the fall of 2007. The gallery was shuttered, and the research files seized, following the arrest of the gallery's owner, a prominent New York art broker, amid allegations of fraud and conversion involving many millions of dollars' worth of artworks.

The Weil team used its expertise in bankruptcy law to navigate a strategically complex case on behalf of our client, who was an innocent bystander. She had simply been using gallery office space offered to her to complete the catalogue, which represented the culmination of her life's work on Courbet. The team prevented any inadvertent discarding of scholarly material as it worked for more than three and a half years to persuade the various parties to release the files, which included more than 20 cartons of catalogue records, notes, photographs, slides, and books relating to her research. Weil successfully negotiated the return of the files in early 2011, thereby allowing our client to resume her valuable scholarly work.



A4ID and the Battle Against Poverty

Weil took on two projects – one for Kubaru and the other for Shared Interest Society – referred to us by Advocates for International Development, or A4ID, a group that provides legal support for development organizations and lawyers engaged in the fight to eradicate poverty globally.

Channeling Microfinance Loans More Efficiently

Weil's London office has advised Kubaru Microfinance on the establishment of an innovative small-loan program. The Kubaru program facilitates the delivery and proliferation of microfinance funding from individuals and organizations in the West to entrepreneurs in the developing world, enabling direct lending to those who would typically not have access to traditional financing. It does so via a peer-to-peer-lending website on which the individual lenders typically select an entrepreneur to support with small loans, starting at £10. These partial amounts are collected until the target for that entrepreneur is reached.

The Weil team advised on the structuring and drafting of two key loan agreements. The first, for use on Kubaru's website, sets the terms of the online loans made by members of the public to Kubaru. The second governs Kubaru's transfer of the aggregate loans made via the website to microfinance institutions in Pakistan and Lebanon that support the entrepreneurs in the field and deliver the loans to them. Weil has also provided ongoing advice to Kubaru over the last two years on a full range of issues, including intellectual property rights and money laundering risks. By facilitating the work of this new microfinance charity, the Weil team is enabling donors to make a significant and direct impact on poverty in the developing world.

Using Legal Skills to Help Developing Economies

Weil collaborated with HSBC lawyers to advise Shared Interest Society Limited, a UK-based ethical investment cooperative, on a new funding arrangement with leading UK charity Comic Relief that will increase resources for African programs. Shared Interest's founding vision in 1990 was to combat poverty using a financial cooperative to pool money from interested social investors. The resulting funds are lent to fair trade buyer and producer organizations with the latter group including farmers and handicraft makers in the developing world. This helps them to build their businesses and provide fair economic opportunities and jobs. Today, Shared Interest lends more than £33 million annually, works in 36 countries, and has overseas offices in Kenya, Peru, and Ghana, helping to identify fair finance lending opportunities for poor communities in the developing world. Weil's and HSBC's use of core legal skills to draft and negotiate an innovative loan agreement with Comic Relief will allow Shared Interest to expand its funding and provide further lending to some very disadvantaged communities in Africa.



Criminal Justice Reform

"Mere access to the courthouse doors does not by itself assure a proper functioning of the adversary process."

— Thurgood Marshall

Since 2005, Weil has been proud to work on a wide variety of matters for the **Innocence Project**, a national litigation and public policy organization dedicated to obtaining acquittals for wrongfully convicted people who remain incarcerated. The Innocence Project focuses on obtaining DNA testing to exonerate these convicts and reforming the criminal justice system to prevent such injustices in the future.

The Injustice of Unreliable Confessions

A New York State Senate Task Force has been convened to tackle criminal justice reform to reduce the risk of wrongful convictions. One critical focus is false confessions, a contributing factor to wrongful convictions in almost 30 percent of the DNA exonerations. In all the false confession cases, trial and appellate courts found that the confessions were voluntary, uncoerced, and thus admissible. Moreover, almost all the false confessions contained details about the crime that only the police and perpetrator would have known. Of course, since they were all completely innocent, the confessions were in fact unreliable. The details must have originated with the police conducting the interrogations, not the defendants. To remedy this problem, the Innocence Project advocates that pretrial suppression hearings be expanded to include an assessment of a confession's reliability and not just the narrower assessment for coercion. Further, there is no reasonable way to assess reliability without tape recording the entire custodial interrogation.

Weil worked closely with Peter Neufeld and his staff at the Innocence Project to prepare a position paper for the Task Force, including a response to prosecutors arguing for retention of the traditional, more restrictive admissibility standard. Weil's attorneys reviewed the legal and sociological literature on confessions and how they are viewed in each of the 50 states. They also examined the legal framework for assessing reliability of evidence in other contexts, including eyewitness and expert testimony. The position paper thus provides a strong theoretical and practical foundation for pretrial confession reliability hearings. The submission is currently under review by the Task Force and should provide a foundation for similar arguments in other states.

Criminal Justice Reform

Pursuing All Avenues to Stop a Wrongful Execution

For the past five years, attorneys from Weil's Washington, DC office have worked with the Ohio Innocence Project, the Office of the Ohio Public Defender, and the Office of the Arizona Federal Public Defender to represent Tyrone Noling, who was sentenced to death for the 1990 murders of an elderly Ohio couple. Our client was convicted on the testimony of three teenage co-defendants, all of whom subsequently recanted. The only physical evidence recovered from the crime scene was a cigarette butt. The Weil team has uncovered rudimentary DNA testing on that butt that excluded Mr. Noling and his co-defendants and indicated that the victims' neighbor. who police initially considered a suspect, may have been the smoker. This led to the discovery of new evidence showing that the same suspect's foster brother told police in 1990 that the suspect – not Mr. Noling – killed the elderly couple.

Based on this new evidence, the legal team petitioned the Ohio state court for leave to seek a new trial and for additional DNA testing. Although both requests were denied, in October 2011 the Ohio Supreme Court unanimously granted our client's appeal for review of the DNA evidence. Although the court has not ruled on the matter, Weil continues to pursue all possible avenues, including filing a petition for *certiorari* in the United States Supreme Court and additional appeals in Ohio state court. For over 20 years, our client has maintained his innocence. Weil continues to pursue any leads that might result in his exoneration.





Winning Full Recompense for the Falsely Imprisoned

In a matter referred to Weil by the Innocence Project, we assisted a wrongfully incarcerated Texas man in recovering approximately \$1.75 million in compensation and a substantial monthly annuity. Our client, who served nearly 20 years in prison before DNA evidence exonerated him, received a full pardon in 2007. Weil then represented our client throughout administrative proceedings under the Texas Wrongful Imprisonment Act and obtained approximately \$1 million in compensation for him.

When the Texas Legislature amended the act in 2009 to provide for additional compensation and a monthly annuity for exonerees, our client applied for the difference between what the new legislation provides and what he previously received. The Texas comptroller of public accounts agreed to provide our client the monthly annuity but determined that his request for an additional lump-sum payment was barred by his previous application for compensation. Weil continued negotiating with the comptroller on our client's behalf and filed additional papers seeking reconsideration, but the comptroller again denied his request.

In response, Weil filed a petition for a writ of *mandamus* against the comptroller in the Texas Supreme Court, the method established in the Wrongful Imprisonment Act for challenging the comptroller's decision on an exoneree's application. The Texas Supreme Court asked for a full briefing on the merits and requested oral argument on our client's petition, which is done for only a very limited number of cases pending before the court. Before oral argument was heard, the Texas Attorney General's Office agreed to tender the amount due to our client under the amendment to the act, totaling approximately \$750,000.

Enforcing a Defendant's Rights

Weil submitted an amicus curiae brief to the US Supreme Court on behalf of the Innocence Network in its support of a man convicted of first-degree murder whose appeal for a new trial had been denied by Louisiana courts. The appeal was based on the discovery that the prosecution had withheld pretrial statements by the single eyewitness in the case, statements that contradicted the witness's trial testimony and undermined confidence in the identification. Since the eyewitness testimony was the sole evidence against the defendant, any doubt cast on it would be material under the Supreme Court's ruling in Brady v. Maryland, which determined that the prosecution cannot withhold evidence that is favorable to the defense and material to the defendant's guilt or punishment. Weil's brief highlighted the social science research that has increasingly demonstrated that eyewitness identification is not only unreliable but highly malleable. The Supreme Court ruled 8-1 in favor of granting a new trial.

Making Prosecutors More Accountable

Weil assisted the Innocence Project in filing a 140-page report on behalf of our client, Michael Morton, who was wrongfully convicted of murdering his wife in 1987, served nearly 25 years in prison, and was exonerated through DNA testing in 2011. The purpose of the report was not only to obtain dismissal of the indictment against Mr. Morton but also to request that a court of inquiry be convened against former Williamson County (Texas) District Attorney Ken Anderson, now a state district judge, because there was probable cause to believe that he broke state criminal laws and ethics rules when he failed to show the trial court the complete reports and notes of the lead investigator in the case after being ordered to do so. Recent examination of the investigator's files revealed that they included several pieces of evidence that directly supported Mr. Morton's claims of innocence. Moreover, the DNA testing has led police to a man who is now awaiting trial for the murder of Christine Morton and whose DNA has been linked to the 1988 murder of another woman in the area, Debra Masters Baker. Her family supported the court of inquiry request.

This rare request for a court of inquiry was granted and affirmed by the chief justice of the Texas Supreme Court. A state district court judge and special prosecutor have been appointed, and proceedings are set to begin this fall. Among other publicity, the case was featured on 60 Minutes in March.

Improving Eyewitness Identifications

On behalf of the Innocence Project, Weil conducted a statewide survey of eyewitness identification procedures and policies in 510 police departments across New York State. After filing New York State Freedom of Information Law (FOIL) requests with the departments for the policies they have in place, Weil attorneys catalogued specific features of each department's policy for methods of potentially identifying suspects: photo identification, physical lineups, and show-ups (where a witness is taken to and then asked whether the particular individual is the perpetrator). The Innocence Project utilized this data to advocate for stronger and more uniform protections against potential bias in identification procedures.





Civil & Constitutional Rights

"From the equality of rights springs identity of our highest interests; you cannot subvert your neighbor's rights without striking a dangerous blow at your own."

— Carl Schurz

Protecting the Rights of Journalists

Weil obtained a \$100,000 settlement for *Democracy Now!* journalists Amy Goodman, Nicole Salazar, and Sharif Abdel Kouddous in their case against municipal and federal law enforcement officers and agencies involved in the journalists' wrongful arrests while covering the 2008 Republican National Convention in Minneapolis-St. Paul.

Ms. Salazar and Mr. Abdel Kouddous were arrested while filming the police response to protests in downtown St. Paul on the first day of the convention. Upon hearing of her colleagues' arrests, Ms. Goodman went to the scene of the arrests, hoping to secure their release. When she arrived and asked to speak to a commanding officer, police arrested her as well. All three were injured while being arrested, held in jail for hours, and had their media equipment and press credentials confiscated, thus preventing them from providing critical coverage of a national news event.

As co-counsel with the Center for Constitutional Rights, Weil pursued claims in the District of Minnesota for violations of the journalists' First and Fourth Amendment rights. The September 29, 2011 settlement included a \$100,000 payment to the three plaintiffs and an agreement by the St. Paul Police Department to implement a program that would train officers in the First Amendment rights of the press and public with respect to police operations – including police handling of media coverage of mass demonstrations. The department also agreed to pursue implementation of the training program in Minneapolis and statewide.

Closing the Door on Housing Discrimination

Acting on behalf of Westchester Residential Opportunities, Inc. (WRO), a not-for-profit fair housing agency, Weil successfully resolved complaints of race-based housing discrimination against three rental agencies in the Lower Hudson Valley, New York. WRO had filed complaints against the agencies after conducting extensive "paired testing" that revealed disparate treatment of potential clients based on their race. After demonstrating a clear willingness to take each case to trial, the Weil team negotiated settlements with all three agencies, recovering damages for WRO and the Rockland County Commission of Human Rights and requiring the agencies to provide employees with ongoing training in and education about fair housing laws. In recognition of these efforts, the WRO Board of Directors honored the Weil team with the Harriet Goldberg Fair Housing Award in November 2011.

Restoring Confidence in State Government

Weil's Boston office represents the Massachusetts House of Representatives and Senate in connection with an ongoing federal grand jury probe concerning alleged corruption and patronage in the Massachusetts Department of Probation. The investigation was initiated following the issuance of a report by an independent counsel appointed by the Massachusetts Supreme Judicial Court. The independent counsel's report alleged that "the hiring and promotion [within the Department of Probation] has been thoroughly compromised by a systemic rigging of the interview and selection process in favor of candidates who have political or other personal connections." In response, the Supreme Judicial Court appointed a Task Force to review hiring and promotion practices in the judicial branch. The Task Force's work led to a much-heralded reform of the Massachusetts court system. As a result of the investigation, a federal grand jury indicted the former commissioner of probation and two of his senior deputies on federal racketeering and public corruption charges. The indictment alleges that the commissioner of probation oversaw a "rigged hiring system that catered to requests from state legislators and others to employ and promote candidates for employment."

This investigation is one of the most significant public corruption cases in Massachusetts history. It has raised important constitutional concerns involving the proper balance and separation of powers between the legislative and judicial branches of state government as well as the role of federal prosecutors in state legislative decision making. As outside counsel to the Legislature, Weil has worked closely with senior legislators and staff members to defend the Legislature as the investigation unfolds. Weil's representation in this case is providing valuable, high-quality legal services to the Massachusetts Legislature in a high-stakes matter.

Safeguarding Prisoners and Their Speech

Weil represented an inmate who sued four New York Department of Corrections officers for retaliating against him in violation of the First Amendment while he was incarcerated at the Green Haven Correctional Facility. Our client alleged that, in February 2007, in response to complaints by him and his wife about mistreatment by some of the officers, all four officers conspired to forge an "anonymous" note stating that he had a "gun in his shoes" and planted a metal shank inside one of the boots in his cell. As a result of the subsequent cell search and false misbehavior report filed by the officers, our client was sent to solitary confinement for six months. Chief Judge Loretta A. Preska of the US District Court for the Southern District of New York presided over the four-day jury trial, at which Weil's client prevailed and was awarded damages, and some attorneys' fees and costs. Weil received the case through the Southern District of New York trial advocacy training program for pro bono lawyers.

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Civil & Constitutional Rights

Assuring Prisoners' Safety

Appointed by Judge Claudia Wilken of the US District Court for the Northern District of California, a team from Weil's Silicon Valley office represented a prisoner at Solano State Prison who alleged that a few years earlier several prison guards at the San Francisco County Jail had assaulted him, thereby subjecting him to "unreasonable force" and violating his constitutional rights. After settlement discussions at the prison proved unsuccessful, Judge Wilken presided at a four-day trial in April 2011 that resulted in a jury verdict favorable to the accused prison guards. The judge subsequently wrote personally to the Weil team, thanking its members for their "excellent representation" and "vigorous" advocacy, despite the "difficult nature" of the case. The matter was referred by the Federal Pro Bono Project.

Protecting the Rights of Public Housing Tenants

Weil won an important victory for the Highland Dwellings Together We Stand Legal Action Group and several individual tenants, who are residents of a public housing project in Washington, DC. These tenants are being displaced by the DC Housing Authority in violation of a number of DC and federal laws, allegedly to allow renovations. Weil was invited to help in this case by the Neighborhood Legal Services Program (NLSP), a pro bono law firm that originally filed suit in the DC Superior Court, where our clients obtained some favorable preliminary results. However, the DC Housing Authority removed to federal court, alleging that federal claims predominated. Because the DC courts are more familiar with issues facing public housing residents like our clients in DC, Weil, with client approval and authorization from NLSP, took responsibility for filing a motion for remand. Ruling in our clients' favor from the bench, the federal judge accepted Weil's argument that the original removal notice had technical defects that could not be cured and that state-law (DC law) issues predominated.



Securing Equal Justice for Needy Defendants

Attorneys from Weil's Miami office collaborated with the Miami Dade Public Defender's Office to represent two wrongfully accused indigent clients as special assistant public defenders through the Ensuring Equal Justice Pro Bono Initiative.

In the first case, Weil's investigation into police claims that our client had attempted to break into an auto-parts store and volunteered a confession revealed numerous inconsistencies in the officers' account. Our client maintained his innocence throughout, and our team prevailed on a pretrial motion to suppress the confession, which led to the prosecution dropping all charges. However, because his arrest, though false, violated the terms of his conditional release from an earlier, unrelated conviction, our client's imprisonment continued pending an independent revocation hearing by the Florida Parole Commission. The team's public-defender mandate had ended, but Weil continued to represent the client on a pro bono basis, expediting the hearing date, prevailing at the hearing, and securing his freedom several months after the false arrest.

In the second matter, another Weil team took on the defense, only a week before trial, of a client accused of nonviolently resisting arrest by running from the police. Learning that the client suffered from an injury that made him incapable of the alleged flight, and hence that the police had arrested the wrong individual, the Weil team ramped up discovery to secure the relevant medical records and identify additional deficiencies in the State's case against the client. The Weil team also informed the prosecution that the wrong person had been arrested and they would defend on that basis at trial. Eventually, the State dropped all charges on the day of the trial.

Safeguarding the Rights of the Near-Homeless

In two New York City housing cases, Weil and The Legal Aid Society joined forces to help low-income tenants in danger of falling back into homelessness from being unfairly forced out of vital housing assistance programs.

Defending Due Process for Low-Income Tenants

Weil has been working with The Legal Aid Society and Part of the Solution (POTS) to challenge a New York City Housing Authority (NYCHA) practice that denied Section 8 recipients – low-income families receiving rent subsidies – their due process rights. NYCHA removed Section 8 recipients who had allegedly failed to permit inspections of their apartments from the program without an opportunity for a pre-termination hearing. Weil, Legal Aid, and POTS considered challenging this practice through class action litigation but were able to reach an out-of-court resolution with NYCHA. As a result of its discussions with Weil, Legal Aid, and POTS, NYCHA has reversed its practice, and identified and restored more than 90 households wrongfully terminated from the Section 8 program.



Helping the Formerly Homeless

Through the Advantage program, the City of New York relocated homeless individuals and families out of the municipal shelter system and into privately owned apartments. Because the tenants could not have afforded the rents on their own, the City guaranteed payment of a portion of their monthly rents directly to their landlords for one to two years. After a budget dispute with New York State, the City announced in March 2011 that it would no longer make the monthly Advantage payments on behalf of the tenants, leaving thousands of formerly homeless individuals and families to face eviction proceedings and a return to homelessness. To prevent the City from going back on its guarantees, Weil and The Legal Aid Society filed a class action on behalf of approximately 16,000 formerly homeless individuals and families who were tenants under Advantage.

Weil and Legal Aid obtained a temporary restraining order from New York Supreme Court prohibiting the City from discontinuing Advantage payments for April 2011. Subsequently, despite several setbacks in the trial court, including denial of the tenants' bid for a preliminary injunction and a bench-trial decision in the City's favor in September 2011, Weil and Legal Aid obtained an appellate injunction and pursued appeals at each juncture, forcing the City to continue making Advantage payments from April 2011 through January 2012. Because of these efforts, the formerly homeless individuals and families were able to stay in their homes.

After the appellate injunction was dissolved in February 2012 and the First Department found in favor of the City in March 2012, Weil and Legal Aid obtained leave to appeal from the Court of Appeals. The Court of Appeals agreed to hear the case on an expedited basis, and oral arguments were heard in May 2012. In June 2012, a split Court of Appeals affirmed the First Department's decision, with four judges voting to affirm and three judges dissenting from that decision. In recognition of Weil's contributions to the case, team members received The Legal Aid Society's 2011 Pro Bono Publico Award and the New York State Bar Association's 2012 President's Pro Bono Service Award.



Environmental

"It is a curious situation that the sea, from which life first arose, should now be threatened by the activities of one form of that life."

- Rachel Carson

Assuring Environmentally Safe Schools

The New York State Appellate Division unanimously affirmed Weil's complete victory with New York Lawyers for the Public Interest on behalf of a coalition of community members in their challenge to a final environmental impact statement for a new school campus constructed on a contaminated former industrial site in the Mott Haven section of the Bronx. The community members were particularly concerned about soil and groundwater contamination at the Mott Haven campus, where heavy metals and volatile organic compounds far in excess of regulations have been identified.

The case presented a number of complex environmental justice and legal issues arising from the intersection of the New York Brownfields Cleanup Program (BCP) and the State Environmental Quality Review Act (SEQRA). In a decision with potentially far-reaching ramifications for future new school construction in New York City, the Appellate Division adopted all of Weil's arguments, including that SEQRA imposes maintenance and monitoring obligations in addition to those included in the BCP. Thus it was improper for the City to approve a final impact statement that did not take a "hard look" at how it would maintain and monitor the engineering and institutional controls over the lifetime of the Mott Haven campus.

Designing the Green Investment Bank

Weil is advising ClientEarth, a not-for-profit group specializing in environmental law and policy, on the appropriate structure and governance of the UK's proposed Green Investment Bank (GIB), about whose design ClientEarth has been in close consultation with the government. The GIB is intended to be a groundbreaking institution and would make the UK the first country to create a bank dedicated to greening the economy. The bank will build the expertise and capital required to unlock significant new private investment in green infrastructure projects, which, because of the perceived risks, has so far been slow to emerge.

The government has already allocated £3 billion for the initial capitalization of the bank. To make the transition from a fossil-fuel-based economy to a low-carbon one, vital in combating the threat of climate change, the UK will need at least £200 billion in energy infrastructure investment by 2020, with additional vast sums required in other sectors of the economy.

Given the size of the task, the importance of designing the bank so that it can achieve its critical environmental objective is clear. Weil's advice on the text of its proposed draft legislation for the creation of the bank is enabling ClientEarth to influence government policy. The Weil team has also advised the group on EU State Aid rules and assisted as it developed proposals on key issues such as the terms for any ultimate privatization and the ability of stakeholders to hold the bank's board to account on its low-carbon goals.

Environmental

Facilitating Clean Energy Investments

Weil is working on the Clean Energy Investment-US/India Project in partnership with the Center for Climate Change Law at Columbia Law School. The project is seeking to foster investment in clean energy initiatives in India by addressing some of the cost barriers working against them. Specifically, it will provide the contract and legal tools needed to facilitate these clean energy investments. In consultation with Indian attorneys and experts, a Weil team of attorneys in New York, Washington, and London will develop contract templates that will be made available to project participants. Through the creation and sharing of these templates, the team will contribute to the overall project aim: lowering the cost of shifting from coal to alternative energy production for the private sector, including solar and wind turbine technologies. This will facilitate a reduction of from 2.8 billion to 3.6 billion tons of CO₂ per year in India.

Assisting Local Waterway Conservation Efforts

Along with the Potomac and Shenandoah Riverkeepers, two local members of The Waterkeeper Alliance, a national environmental advocacy network, Weil is working to improve Virginia regulations governing the use of sewage sludge, or biosolids, as fertilizer. Pollution stemming from the high nutrient content of biosolids, as well as toxins such as arsenic, could be damaging to aquatic life and water quality without the imposition of appropriate safeguards governing its land application. After assisting them during the notice and comment periods for the proposed Virginia biosolids regulations, Weil continues to help the Riverkeepers avail themselves of other avenues to effectuate changes that will protect the Potomac and Shenandoah Rivers.

Supporting LDCs in the UN Climate Talks

Weil lawyers are involved in the Legal Response Initiative (LRI), a charity providing access to a broad international network of lawyers who give pro bono advice to least developed countries (LDCs) at the ongoing United Nations climate talks. The service, which addresses a significant resource gap, has operated at all the major climate conferences since Copenhagen in 2009, including the recent ones in Durban in December 2011 and Bonn in June 2012. The LDCs have excellent lawyers, but funding constraints present obstacles to their participation in the talks. The LRI network provides advice ranging from basic issues, such as the meaning of commonly used treaty terms, to complex issues concerning, for example, the provisional application of treaties pending their entry into force, a mechanism that may be necessary to keep the Kyoto Protocol alive. The parties in Durban created a process for reaching a new climate agreement by 2015 that would enter into force by 2020 and be applicable to all, including the US and China. The content of this crucial new agreement remains to be mapped out, and its exact legal nature is already a bone of contention. Support for LDCs on these issues is likely to be needed for the foreseeable future.

WEILGREEN

WEILGREEN, the firm-wide initiative to identify and implement greener business practices, extended its reach in 2011-2012 by raising the green consciousness of firm employees and by providing them with more opportunities to Go Green. During Earth Week 2012, for instance, WeilGreen NY sponsored daily screenings of films, such as CNN's *Planet in Peril*; directed "Jeans Fridays" donations and electronics-recycling-drive proceeds to the Hudson River Sloop Clearwater organization; and sponsored employee participation in New York Cares – a volunteer effort to clean, paint, and revitalize the city's parks, gardens, and playgrounds. Other offices took similar steps, with Washington hosting a talk by a representative from our pro bono client Appleseed; Silicon Valley hosting its 3rd Annual Recycled Art contest for students; and Houston screening the film *No Impact Man: The Documentary*.

The firm's green initiative goes well beyond Earth Week. Weil's large London office relocated this past year to a building that is state of the art in energy efficiency; all Weil offices have ramped up their focus on reducing resource consumption; the firm joined the Law Firm Sustainability Network, which provides networking opportunities to share best green practices and experiences; and, as noted above, the London office is continuing, on a pro bono basis, to support the Legal Response Initiative, which offers "world class legal support for all participants in the climate change negotiations."



Children

"In the little world in which children have their existence, whosoever brings them up, there is nothing so finely perceived and so finely felt, as injustice."

— Charles Dickens

Obtaining Appropriate Education for a Special-Needs Child

Weil represented the parents of a special-needs child in their dispute with the New York City Department of Education over their child's lack of access to appropriate public school education. Weil argued that the child's needs were not being met through public school and that he was entitled to immediate placement in a state-approved private school at the City's expense.

In a settlement reached just prior to the impartial hearing, the New York City Department of Education agreed to pay tuition at a state-approved private school for the 2011-2012 school year. It also agreed to pay compensatory damages in the form of private tutoring to remediate any regression in the child's educational development while he was not receiving an appropriate education. This is one of the many successful matters handled as part of Weil's ongoing Special Education Pro Bono Project, an initiative with New York Lawyers in the Public Interest, in which the firm represents special-needs children in New York City who require additional educational services or private schooling because of their disabilities.

Protecting Children with HIV from Discrimination

Weil has achieved a significant victory on behalf of a pro bono client, a minor child, who was asked to leave the private boarding school in which she was enrolled when it became known that she was infected with the human immunodeficiency virus (HIV). The action taken by the school violated the state law that prohibits discrimination against a person on the basis of HIV status. Weil and our co-counsel, the HIV Law Project in New York, negotiated for several months with the school's attorneys to achieve a favorable settlement, which included a substantial monetary payment and a requirement that the school undergo comprehensive sensitivity training. The New York Supreme Court has approved the settlement.

Winning Safe Haven for the Abused

In a very difficult asylum case referred by Kids In Need of Defense (KIND), Weil achieved a successful outcome for a 19-year-old who fled El Salvador to avoid extremely abusive conditions. Despite a delay that made the application untimely and other negative facts that arose before our involvement, Weil's team assembled comprehensive affidavits, strong psychological testimony documenting the abuse, and a compelling brief that caused the government lawyer to agree on the eve of the hearing not to oppose asylum on humanitarian grounds. On the record, the judge complimented the efforts of the Weil team on assembling and presenting a persuasive set of materials.



Not-for-Profits

"How wonderful it is that nobody need wait a single moment before starting to improve the world."

— Anne Frank

Not-for-Profit Practice Group

Weil's commitment to the not-for-profit sector is supported by the firm's Not-for-Profit Practice Group. Founded in 2006, the group comprises lawyers from a wide array of practice specialties. It works to marshal and align the vast spectrum of Weil's not-for-profit efforts, while also providing a source of collective experience and expertise in the not-for-profit arena. As a result of the group's efforts, the firm's pro bono transactional practice has emerged as an industry leader, recognized as a premier provider of legal services for the not-for-profit sector.

The group, in cooperation with the firm's Pro Bono Committee, hosted its seventh annual Not-for-Profit Board Governance Symposium in May 2012. The symposium focused on good governance and practical solutions in an era of enhanced challenges, financial stress, heightened expectations, and rigorous regulatory scrutiny in the not-for-profit, foundation, and charitable communities.

Defending a Church Beset by Threats of Secession

Since 2005, Weil has advised and represented the Presbyterian Church (U.S.A.), a national Presbyterian denomination, on church-property matters arising from lawsuits filed by churches seeking to leave the national denomination over the PCUSA's ordination standards regarding clergy in same-gender relationships. Rather than following the PCUSA's process for dismissal, these churches have attempted to sever ties with the denomination and keep the local church property by filing suit to quiet title. State trial courts have applied the U.S. Supreme Court precedent in this area inconsistently, and Weil has counseled the PCUSA to develop and maintain a consistent approach to these disputes throughout the country. As these cases reached state appellate and supreme courts – such as those of California, Georgia, Oregon, and New York – Weil has represented the PCUSA as a party or as an amicus. The client has noted that Weil's team "dramatically altered the National Debate surrounding Church Property legal issues" and "forced the courts to develop a unified body of work." The client has praised Weil's intervention as an "unqualified success."



Serving the September 11 Memorial & Museum

Weil has represented the Board of Directors of the National September 11 Memorial and Museum at the World Trade Center Foundation since its formation in 2005. The Memorial and Museum, chaired by New York City Mayor Michael Bloomberg, has been established to bear solemn witness to the terrorist attacks of September 11, 2001 at the World Trade Center in New York, the Pentagon in Washington, DC, and the Shanksville, Pennsylvania site, as well as the February 26, 1993 attack at the World Trade Center. The Memorial Plaza opened on the tenth anniversary of the 2001 attacks, and the organization is building exhibitions and preparing for the opening of the Museum. A Weil partner serves on the board of the Memorial and, during 2011, Weil attorneys counseled the Memorial on numerous corporate governance matters and on sensitive issues leading up to the opening of the Plaza. Weil advised the Memorial on lease agreements for office and visitor spaces. We also provided advice on agreements relating to the procurement of exhibitions that explore the background leading up to the terrorist attacks and examine their aftermath and continuing implications.

Reshaping the Charitable Financing Model

Weil advised Scope, one of the UK's most recognized charities, on the establishment of an innovative £20 million bond program and its listing on Luxembourg's Euro MTF market. This landmark development for Scope made it one of the first UK charities to enter the capital markets, potentially revolutionizing the way Scope and other large charities finance their charitable work in the future.

Scope supports disabled people and their families in England and Wales through the provision of expert advice, education and learning facilities, employment and training services, and residential care and support services. Historically, Scope has derived its funding from local authorities and health organizations through revenue generated from contracts to deliver services for disabled people, as well as from sales from its network of 235 charity shops, voluntary donations, and traditional bank financing. A key priority for Scope is diversifying its financial support, especially in the current economic climate. The issuance of bonds has created another way for people to support the work of Scope alongside traditional donations and philanthropic loans.

Weil also advised Scope on the first issuance of bonds under its £20 million bond program in May 2012. The £2 million issue will be used by Scope to invest in its income generation activities, including fundraising programs to expand its supporter base and network of charity shops, both of which generate long-term sustainable sources of income for its work with disabled people. Investors in the bonds included wealth managers, unit funds, and private investors, as well as charitable trusts and foundations.

Weil helped draft the prospectus and underlying program documentation, advised Scope's board of trustees, and provided ongoing advice to Scope on a full range of issues, including how it could market and publicize the program. Weil played an important role in guiding this well-respected charity through a milestone in its own development, and potentially in the development of sustainable funding for the charitable sector as a whole.

Weil was shortlisted for the CSR Programme of the Year Award at the UK's Legal Business Awards 2011 in connection with advising Scope on the establishment of its £20 million bond program.



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Not-for-Profits

Deferred Associates Wo

Defending a Benefactor of Returning Veterans

In a matter referred to Weil by New York Lawyers in the Public Interest, the firm obtained dismissal for its client, Dianova USA, Inc., in a personal injury action in New York Supreme Court. Dianova is a not-for-profit organization that provides educational and skill development programs for vulnerable populations, including homeless veterans and urban and rural youth. Dianova also provides services to other social agencies to increase capacity and enables additional programs such as urban gardens and farm-to-table initiatives. The plaintiff allegedly tripped and fell on the sidewalk abutting a brownstone owned by Dianova and brought suit. After discovery, Weil moved for summary judgment. Plaintiff's counsel did not respond to Weil's motion and asked to be relieved. When the plaintiff failed to obtain substitute counsel within the required period, Weil successfully argued that the case should be dismissed.

Helping to Preserve the Memory of the Holocaust

Weil has maintained a close relationship with the Museum of Jewish Heritage: A Living Memorial to the Holocaust since its inception in 1983 and opening in 1997. Weil represents the Museum and continues to provide it with legal services that span nearly all of the firm's practice areas. A Weil partner serves on the Board of the Museum and as its Secretary. In 2011 Weil attorneys counseled it on various corporate governance issues and advised it in connection with new and traveling exhibitions and the rental of the Museum's event space. In its most significant transaction for the Museum in 2011, Weil lawyers helped the Museum negotiate an amendment to the loan agreement with its lender and coordinate new security for the loan with the Museum's landlord, the Battery Park City Authority. Created as a living memorial to the Holocaust, and weaving together personal testimony and artifacts, the Museum, located in Battery Park City in New York, honors those who died and those who struggled to survive the Holocaust by celebrating their lives and legacies.

Supporting a Charity That Targets Childhood Cancers

Weil represented the St. Baldrick's Foundation, a volunteer-driven charity that funds research to cure childhood cancers, after a frivolous complaint was filed against the charity by one plaintiff in May 2010. After a one-day trial on all of the claims in July 2011, the Court held that none of the acts alleged were even related to the business or interests of St. Baldrick's. Accordingly, the judge found no liability on the part of St. Baldrick's and dismissed all of the plaintiff's claims against it.

This is the second successful year for Weil's first-year associate deferral program, established in 2009 to encourage incoming first years to use their time in a meaningful way. In 2010, once again, many of our associates chose to pursue pro bono and not-for-profit work or volunteer for humanitarian causes. They worked at a number of organizations that are striving to make a real impact, including:

- Sanctuary for Families, Center for Battered Women's Legal Services
- Asylum Access Tanzania, an organization that works to strengthen refugee rights
- The Innocence Project Northwest Clinic, Seattle, part of the national organization that works to exonerate wrongfully convicted prisoners
- California Clean Energy Fund, which develops new market strategies to accelerate the transition to clean energy
- Surfers Healing, a group that raises awareness about autism and helps autistic children and their parents bond through surfing
- Volunteer Lawyers for the Arts
- Bay Area Legal Aid, Housing Unit, which helps low-income families, including the elderly, in the San Jose area keep their housing subsidies and avoid eviction
- Death Penalty Resource and Defense Center
- United Nations Development Programme, Equator Initiative, which advances local sustainable development solutions, including advocating for the rights of indigenous peoples
- New York Legal Assistance Group, which provides free civil legal services to the underprivileged
- Greater Boston Legal Services, the largest pro bono services provider in the Boston metropolitan area
- Neighborhood Defender Service of Harlem
- The New York Civil Liberties Union

Weil Externships

The firm is particularly proud of its externship programs that allow full-time associates the opportunity to work exclusively on pro bono matters with leading public service and charitable organizations for a period of several months. Because of the expanded time frame of our externship assignments, associates are able to witness and appreciate the difference their efforts make, and the knowledge and skills they acquire on these assignments enhance not only their sense of social responsibility but also their legal acumen.

New to the firm's externships is The Legal Aid Society Criminal Practice Program, where volunteer attorneys assist Legal Aid in its representation of approximately 220,000 indigent defendants. Providing free legal service to the Bronx community of New York, our assignments include criminal defense work on misdemeanor cases, research and investigations, preparing witnesses, and arguing motions.

Examples of some additional externships offered at Weil include:

- Weil corporate associates work at Lawyers Alliance for New York with a wide variety of clients, advising on matters ranging from economic and community development projects and contract and lease negotiations to mergers of not-for-profits and financial reorganizations.
- Weil's externship program at the New York
 City Law Department provides Litigation
 associates the opportunity to assist the
 Corporation Counsel's Office with depositions,
 motions, and trials.
- At Legal Services NYC, Weil Litigation associates get hands-on litigation experience in areas such as housing, bankruptcy, Social Security disability, and parental and children's rights, gaining valuable experience while helping disadvantaged New Yorkers.

- Program (DVAP), a joint program of the Dallas Bar Association and Legal Aid of NorthWest Texas, work together on the Lend-A-Lawyer Program assisting low-income Dallas residents with their legal problems. While onsite at the DVAP offices, our attorneys handle civil cases, participate in weekly legal clinics, and work closely with DVAP's mentoring lawyers to assist clients. Weil's Dallas summer associates also spend a week of their clerkship at DVAP's offices, assisting staff in providing legal services to the poor.
- Trainees from Weil's London office are seconded on a rotating basis to the Bar Pro Bono Unit, a UK-based pro bono charity organization that helps members of the public access legal counsel one day a week. The trainees assist with the prioritization and allocation of cases and are an invaluable resource for the unit.
- Weil's New York summer associates are given the opportunity to participate in the firm's pro bono summer externship program by spending one or two weeks at a public interest organization. These externships afford summer associates the opportunity to attend pro bono training programs, work alongside staff attorneys, conduct administrative hearings, assist on appeals, and interview clients. Apart from externships, summer associates are also assigned pro bono cases under the supervision of attorneys in the various practice groups through which they rotate.
- Summer associates from Weil's Washington, DC office participate in the Washington Legal Clinic for the Homeless. With training and attorney supervision, each summer associate provides advice and assistance to potential clients on issues of homelessness, the shelter appeals process, income assistance, medical needs, and public benefits issues.

50-Hour Plus Performers

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Weil staff members are equally critical to our pro bono work. From the Marketing Department's creative insight for our publications and the events and technical staff who assist with the firm's trainings, to our paralegals and administrative colleagues who provide critical support to the attorneys, every member is a valuable contributor to our pro bono success.



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Justin D. Pauls

Sandra Rutova



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