

## Contents

Beyond Watergate . . . . .	1
Lawyers for the Creative Arts . . . . .	2
Art's Siren Call . . . . .	3
Quasi-Communism . . . . .	4
Micro-Finance . . . . .	7
Houston Pro Bono . . . . .	8
Letter from the Balkans . . . . .	9
"A Wink and a Nod" . . . . .	10
Letter from Kadish . . . . .	13
Union Dues . . . . .	14
Tax Tandem . . . . .	15

## Beyond Watergate

Philip Lacovara unseated a U.S. President at an age when most lawyers haven't yet sat first chair. As Counsel to Watergate Special Prosecutor Leon Jaworski, Philip rose to prominence at the age of 30 when he successfully pled his office's case for the so-called Nixon Tapes—secret White House recordings of conversations that would finally prove President Nixon's involvement in the Watergate cover-up. It was an ironic accomplishment for a life-long Republican.

Philip Lacovara is this year's featured speaker at the Annual Pro Bono Luncheon. The luncheon honors all Chicago lawyers and staff who have participated in pro bono work in the past year. The luncheon is scheduled for Noon, June 20.

### Varied Early Experience

In a career of public service law, many would say his work on Watergate was his greatest public service. Many others would disagree. It wasn't even his first brush with high-profile law. As a young associate at Hughes & Hubbard, he worked on criminal appeals and served as a special consultant to the Attorney General authoring the federal government's amicus curiae brief in the first cases coming before the Supreme Court on the constitutionality of the system of capital punishment.

Not long after this, he took a leave of absence to work as Special Counsel to the new NYPD "reform" Police Commissioner brought in to deal with the police corruption scandal exposed by the famous Knapp Commission and launched as a result of the Serpico reports on police corruption. From there it was on to the U.S. Solicitor General's Office and, eventually, the Special Prosecutor's job.

Among his early pro bono cases after he left the Watergate Office and returned to private practice with Hughes Hubbard, was his work on a pro bono case for migrant farm workers involving huge wage adjustments. Such a range of constituencies—the death penalty, police corruption, migrant workers, White House abuses—suggests the non-categorical approach Philip has taken in public service law.

### Human Rights

If there is one area he's tended to favor it would probably be human rights law. As Chair of the ABA's Section of Individual Rights and Responsibilities, he encouraged the organization to use its influence to get

# Lawyers for the Creative Arts

**M**ayer, Brown attorney Katherine E. Lloyd has had a love of music since childhood. She has sung in operatic companies in Florida, Los Angeles and New York. Her artistic experience also earned her a law scholarship named after jazz legend Fats Waller.

## Wicker Park Project

So she says it should come as no surprise that she feels a duty to give something back to the arts community. That opportunity came recently in working with Lawyers for the Creative Arts, a Chicago not-for-profit organization, which provides pro bono services to artistic groups throughout the area.

Katherine worked with the Wicker Park Project (WPP), a civic arts project, in forming a tax-exempt entity to raise funds towards building a life-size statue of Charles Wicker in the city park that bears his name.

## Workers' Village

Wicker was a Chicago alderman, state legislator, railroad builder, and developer, who with his brother, Joel, donated the four-acre Wicker Park to Chicago in 1870. It was part of an 80-acre site of varying lot sizes that Wicker helped plan. Wicker's goal was to create a community of laborers, merchants, and factory workers living and working together.

Wicker Park resident Nancy Deborah Wicker, an award-winning sculptor and the only direct surviving descendant of Wicker, submitted a proposal to the Chicago Park District of a free-standing, life-size bronze statue of

Wicker. The artist is donating her time in creating the sculpture. It is estimated the costs of casting and installing the statue will be \$59,000 plus \$10,000 for the Chicago Park District to maintain the site.

## Civic Art

The community group is working with the nearby A.N. Pritzker Elementary School, a public regional fine and performing arts school to involve children in the sculpture project. Students will study the community's history, visit the artist's studio, and develop a video on the project to be streamed onto an Internet web site they are developing.

For Katherine, this was an opportunity she could not pass up. "Artists do really important work and lawyers can be helpful in so many ways and get a lot of personal satisfaction from the experience," said Katherine. "It's also exciting that kids are getting involved in the project."

The Wicker Park Project is typical of the kind of work done through Lawyers for the Creative Arts. Since its formation in 1972 it has done work for virtually every artistic group in Chicago, according to Executive Director William Rattner. The organization is involved



**Arts Luncheon** More than 40 people attended a Mayer, Brown luncheon focusing on pro bono work for artistic groups. (From left) Jeff Kosky, Development Director, Redmoon Theater; MBP attorney Alvin Katz; Jim Lasko, Creative Director, Redmoon Theater; MBP attorney Katherine E. Lloyd; William Rattner, Executive Director, Lawyers for the Creative Arts; MBP attorney Bennett Lasko; Howard Arnette, formerly Director of Legal Services, Lawyers for the Creative Arts.

in several hundred projects this year covering the gamut of visual, performing, and literary arts. It also puts on legal workshops and training programs.

"The bulk of the work is done by volunteer lawyers in Chicago firms. We do film deals, real estate, protecting intellectual property, licensing issues. About 90 to 95 percent of the work is transactional," says Mr. Rattner.

### The Business of Art

He says the organization provides a valuable service. "Artists traditionally are not aware of the legal and business implications of what they do. Often they can-

not afford legal services and can't otherwise get the help they need," said Mr. Rattner.

A number of Mayer, Brown & Platt attorneys have provided pro bono legal services for Lawyers for the Creative Arts through the years, and Alvin Katz serves on the board. Mayer, Brown Pro Bono Director Marc Kadish and Richard Newman coordinate work with the group.

"Richard and Marc have been very helpful to us," said Mr. Rattner. "And volunteer opportunities abound. We're continuing to look for assistance." •

## Art's Siren Call

For a decade, Redmoon Theater, based in Chicago's west side Logan Square neighborhood, has offered spectacle theater. Using masks, objects, and an international range of puppetry styles, Redmoon has garnered continuing critical acclaim since its award-winning production of *Moby Dick* in 1995.

The 1996 production of *Frankenstein* earned three Joseph Jefferson Citations, Chicago's highest award for non-equity theater. In 1997, *the Ballad of Frankie and*

*Johnny* took home six Jefferson Citations, more than any other theater nominated. The group has gone on to produce several other highly acclaimed shows. *Hunchback*, a dynamic adaptation of Victor Hugo's classic, is on national tour. The most recent production, *Unbinding Isaac*, presented in association with Steppenwolf Theatre Company, revisits the Biblical story of Abraham and Isaac.

Mayer, Brown attorney Bennett Lasko has done pro bono legal work for Redmoon and serves on the board. His brother Jim is Redmoon's artistic director. Bennett has watched the theater grow in recent years from a \$50,000 budget in 1995 to about \$750,000 this year and into a company of 30 actors.

"It's been really great fun. It brings me in contact with interesting, creative, successful people who I would not otherwise meet," said Bennett. "My main message is that attorneys should try to do these things. You have to have a life outside the office. This broadens your experience."

It is a message that resonates well throughout the firm. Jeffrey Strauss, who sings professionally, has also served as a director of artistic groups such as Orpheus Baroque Music, Inc., Early Music America, and vice president and director of Circle Theatre. Many other attorneys volunteer their times for various artistic boards.

And for some attorneys, grease paint is in the blood. Heather O'Farrell studied voice and drama for many years in New York as well as two summers studying at the Tanglewood Music Festival in Lenox, Massachusetts. She has performed roles in regional theater productions, both musicals and dramas, and is interested in getting involved in the Chicago arts community. "I miss it and it's something I intend to do in some capacity again," said Heather.

Katherine E. Lloyd, who is a lyric coloratura soprano, and who has done pro bono work for the arts community, puts it simply, "Once a musician always a musician." •



A fire performer at Redmoon's "5th Annual All Hallows' Eve Ritual Celebration" in Logan Square on October 31, 1999. Photo by Katja Heinemann.



# Quasi-Communism

*Some might say that the greatest irony of the Vietnam War is that Vietnam has come to adopt capitalism, if only in a limited form. It remains an ideologically controlled country,*

Photo: Farmer comes to market in Hanoi.

where the economy is government-managed and private competition with state-owned industries is technically illegal. But the government has generated a credit system that implicitly encourages entrepreneurship and relies on international multi-lateral lenders to help stoke the economy.

### International Team Project

Associate Magali Matarazzi spent two weeks in Vietnam studying "rural microfinance"—a system of encouraging growth in the rural economy by making small loans to rural residents, the majority of whom live in poverty. The small loans are eventually used in agriculture and animal husbandry. This approach is approved not only by the Vietnamese government but by many other developing nations fighting to preserve their rural economies.

Magali went as part of the Northwestern University School of Law's International Team Project with Professor Lisa Huestis and Professor Leigh Bienan. This is a course aimed at studying legal and economic trends in developing countries. Last year, Associate Jennifer Rakstad participated in the program, traveling

to Tanzania to study its legal system and the condition of women in that country dealing with reform. Like last year, the program began in January and consisted of weekly classes at Northwestern that introduced participants to the countries' history, culture, public issues, and legal and political systems. Last year's arrangement with the firm also applied: Magali covered her own expenses, and the firm absorbed her time spent on the project.

This year, teams chose among such countries as Australia and New Zealand, Cuba, South Africa, Tanzania, and Vietnam and from topics that included women's issues in developing countries, the development of the stock market, legal education, criminal justice, and prostitution and drug abuse prevention. "I was able to work with the women's issues team when it came to investigating women in business, particularly women in the lowest economic bracket," Magali explains. "Micro-finance happens to be in many ways a women's issue. The preponderance of micro-finance co-ops are female-run (with the assistance of the Vietnam Women's Union) and aimed at boosting financially disadvantaged groups such as women."



Fishermen off Nha Trang mask their faces against sunburn. Their small, basket-like boat functions as a dinghy for harvesting catches that are then brought back to the larger fishing boat seen in the background. Now that Nha Trang is also a tourist destination, the fishermen supplement their incomes by offering boat rides to visitors.



Homeless family in Hanoi. The collapse of rural economies in third world countries has driven the poor into urban areas that cannot support them.

### Outsider Money

Magali was interested in seeing not only how this system worked in rural areas, but in evaluating its rehabilitative capacity under Vietnamese law and communist policies. Her research took her chiefly to Hanoi and Ho Chi Minh City (formerly Saigon), where she interviewed a variety of micro-finance providers. She met with NGOs (non-governmental organizations) from Canada and Belgium that establish micro-finance institutions and officers of the Asian Development Bank, which funds state cooperatives. She met with officials from the State Bank, Vietnam's central bank, which regulates and helps develop the state banking cooperative system. She also talked with academics from the National Economic University, which has a masters program in micro-finance and also sought out the local chapter of the Vietnam Women's Union, a quasi-governmental group that directly manages and advises the government on the rural economy.

Officially, Vietnam is as communist as ever. It promotes economic planning and preaches state control over most phases of daily life. It also keeps a close eye

on foreigners. Nevertheless, it permits an informal foreign lending system operated by the NGOs within its borders. They are unlicensed and therefore unregulated and can accept no deposits, but they are far from black marketeers. In fact, they are among the most recognized names in third world development assistance, including OXFAM, Action Aid, and CIDSE.

### Hybrid Reality

Vietnam operated a co-op financing system for a number of years after the introduction of its "doi moi," or renovation, policies that opened the economy to privatization and foreign investment for the first time since the "American War." Government mismanagement caused the system to go bust in the early 1990s, resulting in the complete loss of savings to a majority of the depositors. The Vietnamese population was wary of the government's attempt to revive it, and it wasn't until changes in the Cooperative Law, which allowed for self-management and democratized decision-making without government interference, that individuals ventured back into a state-sponsored system—to the point where the state system finally took off. The state system also had the help of the Asian Development Bank (a sort of regional World Bank), which injected \$20 million in seed money in 1993 along with technical training. The government seems to have chosen not to question—or acknowledge—the NGOs that do micro-financing but simply to live in peaceful coexistence with them.

This hybrid economy reflected a national mentality, to a great extent. In a class meeting at the American Consulate in Ho Chi Minh City, consular officials esti-

The entire Northwestern group (minus Magali, who took the picture) posed for a photo at their farewell dinner with Professor Lisa Huestis (extreme left) at a Ho Chi Minh City restaurant.



mated that "Eighty-percent of the Vietnamese population is under 40." They are as politically apathetic as your average American. In fact, the parallels with our culture are striking. Their ambitions are fairly similar: having a steady job and acquiring a home, and supporting a family.

### The Unending Dialectic

There is a love of country and a pride in its durability, if largely an indifference to its more doctrinaire traits. In Hanoi, Ho Chi Minh's Mausoleum, like Lenin's in Moscow, displays his embalmed body for public view. In Ho Chi Minh City, the War Museum (formerly, the "American and Chinese War Crimes Museum") displays captured American tanks and artillery, a photo gallery of western anti-war protesters, and a graphic photogallery of American casualties and a depiction of the apparent after-effects of Agent Orange. The so-called Hanoi Hilton, the infamous POW compound, now stresses its earlier history as a Bastille-like tool of French colonialism and goes light on its role in more recent decades. There is also a dedication to preserving the treasures of the pre-colonial era—for example, the National Art Museums and the Temple of Literature with sculptures, painting, and written texts depicting

Asian and Buddhist culture indigenous to the whole region, irrespective of political boundaries.

From Hanoi, Magali flew to Ho Chi Minh City, whose vibrancy contrasts strongly with the capital city. "The Western influence is still strong in Ho Chi Minh City. It looks more prosperous and modern with newer buildings, better-dressed people, livelier commerce; it is the point of entry for foreign investment and foreign business."

### East Facing West

Ho Chi Minh City is the country's center of commerce and its strongest link to the international community. In the meeting, consular officials explained that Vietnam operates under quasi-capitalism, attempts to lure investors as evidenced by the trade pact negotiations with the United States, and has relaxed ownership and currency exchange regulations. However, they are "maniacal," according to consular officials, about control over most other areas of society.

In a comparison with members of the class going to Cuba, Magali notes, "Their restrictiveness is nothing

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**M**icro-finance holds great hope for many emerging economies. One of the most consistent and potentially destabilizing trends in developing nations is the steady flood of rural populations deserting their stagnant rural sector and economy for jobs in urban centers; more often than not, they merely swell overcrowded and unsanitary shanty towns and never find work. The risks of agriculture as a business prevents already impoverished subsistence farmers from saving and investing what little they have in capital improvements (which can be something as primitive-seeming as an ox to till a field), even if they could get the loan.

A solution was created in Bangladesh in the mid-1980s, when university professor and economist Mohammad Yunus encouraged a small group of village

### Micro-Finance

women to establish a lending circle to which he would loan money if they as a group managed the use of the money and paid it back with interest. The experiment eventually became the Grameen Bank, and members were required to make a monthly contribution, with the goal of one of their members' borrowing the money to start a business that would then help finance the co-op through interest payments. Persistent group management seemed to be the key to its success. They were able to monitor each other's investments closely and exert effective peer pressure to ensure that each member kept up her monthly payments. Its financial viability could best be measured in its extraordinary 2-3% default rate. The concept has spread into countries with similar economic circumstances, including Vietnam. •



Among the many experts Magali met with were Ms. Le Minh Nguyet, a Micro-finance Trainer for the Cooperation Internationale pour le Developpement et le Solidarité (CIDSE) in Hanoi.

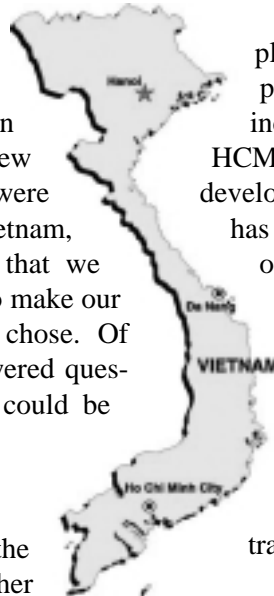
## Vietnam

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like Cuba's, for example. The team that went there had their entire program dictated by the government: they were given 'approved' topics of research, their interview subjects were selected for them, and they were accompanied wherever they went. In Vietnam, although we were told by U.S. officials that we would probably be watched, we were free to make our own schedules and interview whomever we chose. Of course," she adds, "most interviewees answered questions by reiterating the party line, which could be found in government publications."

### Generation Bridge

Magali's uncle was a U.S. Army surgeon in the Vietnam War. When she told him of her



planned visit to Vietnam, he urged her to visit places he had seen in and around Saigon, including Nha Trang, a coastal city north of HCMC. It is now a booming tourist area far more developed than when he was there. "But Vietnam has an abundance of cultural and national points of interest for any tourist, though the majority of American visitors at this time are veterans. The cities boast museums and a prosperous art industry, and there are regions I was unable to travel due to time constraints. I can see myself returning to Vietnam to see the indigenous hill tribes in the Northern Sapa region, the Mekong Delta and the central pre-colonial cities of Hue and Hoi An. •

**Houston Pro Bono**  
Terri Truitt Griffiths, partner in charge of our Houston office pro bono program, was pictured on the cover of *The Houston Lawyer* (January/February 2001) honoring those Houston-area law firms and corporate legal departments that have signed commitments to handle pro bono cases through the Houston Volunteer Lawyers Program.



# LETTER FROM THE BALKANS

When we reported on Tom Jersild's CEELI activities in Macedonia last fall, that country was not making headlines in the Balkan wars. The spotlight shifted to Macedonia only in late February 2001, when Kosovar rebels began attacking Macedonia's northwest border to lay claim to parts of Macedonia they contend are majority Kosovar. Tom Jersild's activities on behalf of CEELI have continued, if under increased stress at times. He recently wrote Trent Anderson with an update of his activities in a country that seems to have more history than territory.

Hi Trent --

Actually, we are in the thick of it and unfortunately it has been serious stuff. But it is much better than two weeks ago. Then one of my three-person staff cancelled her delivery of a new car, a second wouldn't take his car out of his locked garage, and the third had brought relatives who live in Tetovo to stay here for the duration. The streets in Skopje were empty too, but now they are back to normal which is about like rush hour in the [Chicago] Loop.

Tetovo is about a 20-minute drive west from here -- I have driven by it maybe 30 times, twice with Colleen when she was here -- it climbs a low mountain alongside the highway. We have been warned not to go near it now and I wouldn't. One of my ex-CEELI colleagues, Eileen Simpson, is now working for OSCE monitoring things in the hills and hears gunfire continuously.

Yesterday in our office we could hear bombardment all afternoon -- but it was in the towns more straight north from Skopje, Tanusvesci, Brest, etc. It sounds like lightning or Fourth of July fireworks.

The thing about this country is that the Macedonians and Albanians have been getting along relatively well especially for this part of the World; for example, the Government is run by a two-party coalition in which one party is Albanian, and I work regularly with two cabinet ministers (of Justice and Economy) who are Albanian. In that it is very unlike Serbia and it should be supported and helped. These "rebels" are mostly

Kosovars and other outsiders who intend no good for Macedonia but obviously they have some local support.

The President, Boris Trajkovski, is a very good man. He sings in the choir of the Methodist church that I attend and on one Sunday he came forward and preached a good short sermon from the pulpit, on the Resurrection. The Prime Minister, Ljubco Georgievski, is also a good person and very supportive of our activities here, including my company law rewrite.

The week before last I was in Serbia. I lectured at the University of Nis on "Structuring and Negotiating International Project Finance Transactions" and then spent three days in Belgrade just looking around. It is interesting. To get there I drove through the Presevo Valley and past the Village of Presevo, which is in Serbia alongside the Kosovo border and is where NATO (KFOR) gave up on trying to control the Albanians and has now let the Yugoslav Army back in to occupy the area. There is fighting there but it was quiet when I went through. In Belgrade there are still a lot of destroyed buildings from our 1999 bombing (including a hospital), and in Nis there is a very moving memorial to the civilians killed by our bombing, with their names carved in stone. Another major sight in Nis is the Tower of Skulls, which the Turks built out of the skulls of Serbians who they killed in a great battle in 1809. These things are remembered.

How is it there?

Tom

## “A Wink and a Nod”

On July 24, 1974, Philip Lacovara won a unanimous decision by the U.S. Supreme Court ordering President Richard Nixon to surrender all tapes requested by the Special Prosecutor's Office for its Watergate investigation. In so doing, the President relinquished the so-called "smoking gun" tape of June 23, 1972, that recorded him conspiring to obstruct the investigation into the recent break-in into Democratic National Headquarters to plant, of all things, electronic eavesdropping equipment. Within a week of handing over the tapes, Richard Nixon resigned.

### Privilege

Philip had been working as Deputy Solicitor General for Criminal Matters when he was invited to join the newly established Office of the Special Prosecutor in 1973. When the White House Tapes came to light in the course of the Watergate hearings in the summer of 1973, the Special Prosecutor sought possession of them as important evidence. This began a year-long struggle over the principle of Executive Privilege. Philip had the interesting task of serving the first subpoena on the White House, ordering the President to show cause why

his refusal to surrender the tapes did not put him in contempt of court. The animosity continued to build until October 1973 when President Nixon ordered the Attorney General to fire the Special Prosecutor. The AG and the Deputy AG both resigned rather than do it, and it fell to the Solicitor General, Robert Bork, to carry out the firing.

### Massacre

It is known to history as the "Saturday Night Massacre," and Philip remembers it as a night of confusion for his office. "It wasn't clear to us if our entire office had been dissolved that night. Bob Bork told me, though, that the President's order did not include instructions to fire the staff, so as far as he was concerned we were still in business. But many of us questioned whether we should resign in protest of the action, which most of us felt was a naked betrayal of the Independent Prosecutor's charter. We all came into the office that very night—lawyers, staff, secretaries—and after a lot of soul-searching, we agreed that the best course of action was to continue the investigation."



(AP Photo)

Philip Lacovara (center), Deputy Special Prosecutor Henry Ruth (left), and Executive Assistant to the Special Prosecutor Peter Kreindler enter the District Court immediately after the Saturday Night Massacre to seek from Chief Judge Sirica protection of their office's files.

The sense of political crisis was undeniable. The FBI showed up quickly to impound all records of the office, but the surviving members of Cox's staff were able to get an order from Judge John Sirica to call off the FBI. "At one point, it was an ominous stand-off between the FBI and the GSA Police over who would take possession of the records." A short while later, Philip returned to the White House with a show-cause order for President Nixon requiring him to explain why he wasn't in contempt, "but this time I took the precaution of bringing a U.S. Marshal along with me. The mood was pretty hostile. They actually disarmed him before they let us in."

### Showdown

Eventually the battle over executive privilege and the White House tapes did reach the Supreme Court, in July 1974. "We had carefully postured the case to present it as 'the United States versus Richard Nixon,' because we wanted to suggest to the Court that we represented the people of the United States and President Nixon was simply a recalcitrant witness who was refusing to produce relevant evidence.

"We did a lot of things to reenforce that gestalt. For example, we printed our brief in the color only the U.S. Government uses before the Supreme Court. I told Special Prosecutor Jaworski that we had to get to court early, so that we could take the counsel table at which the Solicitor General normally sits when appearing for 'the United States.' I also told Leon that we should both wear formal gray cut-aways, just as the SG and his staff do—and still do—when appearing before the Court. But that's where he drew the line, telling me with his twinkling Texas drawl that I should be satisfied that he wasn't going to wear his cowboy boots."

Philip and Leon Jaworski had equal time—about 45 minutes each—before the Court. Jaworski presented the opening arguments, and Philip handled the rebuttal portion. That was July 8. Two weeks later, on July 24, the Supreme Court handed down a unanimous opinion against the President, and two weeks and a day after that, Richard Nixon resigned.

### Pardon

"Although Nixon partisans never believed it, the special prosecutor's office was established to investigate the Watergate

matter, not to lynch Richard Nixon. We ultimately obtained indictments of his highest aides, John Mitchell, Bob Haldeman, and John Ehrlichman, and the White House Tapes were simply evidence against those parties. The fact that they also incriminated President Nixon was—almost—beside the point. His resignation was not really directly relevant to our case. We came into the office the next day and worked to prepare our case against those already indicted. I thought Nixon was open to indictment—he wasn't beyond the scope of our investigation—but at that time, he was not a direct factor.

"It was only when President Ford pardoned him a month later that we had cause to object to our authority being abridged. Nixon's culpability should have stayed in play, and the revered 'system' that everyone claimed had worked so well up to that point should have been allowed to function."

Do you think there was some kind of deal made?

"I think there had been a wink and a nod between General Haig and Vice President Ford," Philip says simply. •

## Watergate

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involved in human rights matters, both abroad and at home, launching the ABA's international human rights trial observer program. As Chairman of the ABA's Advisory Committee on International Trial Observers he monitored trials in politically repressive countries. They seek to intervene through letter-writing, publicity campaigns, and on-site monitoring. He continues that work as a board member of the Lawyers Committee for Human Rights (LCHR), a UN-sanctioned Non-Governmental Organization.

In 1986, he attended his first such trial in post-Tito Belgrade, where six political dissidents, ranging from Democratic European Socialists to Trotskyites, were accused of political agitation. (Philip remembers one of the accused calling for greater autonomy for some region called Kosovo, a place he'd never heard of

before.) Four were ultimately acquitted and two convicted but given light sentences for their "agitation."

### Political Waters

More recently, he traveled to Turkey to monitor the opening of the trial of a local bar leader, Turgat Inal, being prosecuted for criticizing Turkish law. Mr. Inal wrote an article published by the Human Rights Foundation of Turkey entitled, "We Protect Human Rights with Imperfect Constitution and Laws," which was viewed as a pro-Kurd position in a country where the minority Kurdish population is considered a serious threat to stability. He and nine members of the local Human Rights Foundation were charged with "insulting the laws of the Turkish republic."

As part of monitoring the trials, Philip met personally with prosecutors and judges to discuss Yugoslav and Turkish law and politics. "And it was not a one-way

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conversation," he recalls. When he focused the discussion on Turkey's repressive political policies, especially as regarded the Kurds, Turkish justice officials were quick to question the United States' own record on human rights, citing the predominance of African-Americans and other minorities in our prisons and the widespread use of the death penalty. "I couldn't deny it when they argued that the United States executes more people than does Turkey – at least officially," Philip admitted.

His work with the LCHR, has involved legal and political struggles in a variety of countries. It was through Philip that, with Washington associates Peter Choharis and Julie McConnell, we joined in the case re-examining the murder of four missionary women in El Salvador in 1980 and the culpability of the commanding officers of the soldiers who raped and murdered them (discussed in May 2000 *Update*). Those commanding officers, the former Defense Minister and the former commander of the National Guard, are now residents of Miami. LCHR argues, on behalf of their families, that they are subject to civil liability under U.S. law, the Torture Victims Protection Act, and must bear "command responsibility" for outrages like this.



Julie McConnell

### Here at Home

Domestic human rights issues are an equal concern. Philip has been helping the ACLU try to get restitution for victims in a criminal case involving slavery and abuse of deaf Mexicans forced to peddle trinkets in the streets of New York. In another case, he filed a brief in the U.S. Supreme Court concerning the rights of states to set up separate procedures for indefinitely confining sexually violent predators.

As Vice President and Trustee of the D.C. Bar Foundation, he helps direct the allocation of more than half a million dollars a year in IOLTA funds to a number of legal service providers, including the Legal Aid Society of D.C., Ayuda, Inc., which represents members of the Latino community, and the D.C. Prisoners Legal Services Project, which represents prisoners and their families in civil law matters such as medical claims and Aid to Dependent Children.

He is also currently working with the Asian-American Defense Fund in a case defending a set-aside program. "We argued that a race-based preferential program can be justified as long as a clear pattern of discrimination can be established. We were able to show such a pattern regarding Asian-Americans has left them economically behind." The practical effect of the case was to establish a 10% premium for Asian-American bidders in governmental contract proposals.

### Corporate Law

How does such work mesh with the corporate experience? As Managing Director and General Counsel at



Peter Choharis

Morgan Stanley, Philip supervised court cases and arbitrations in forums around the world, and dealt with financial regulations in the United States, Europe and East Asia. As Vice President and Senior Counsel for Litigation & Legal Policy of the General Electric Company at GE's world headquarters, he oversaw litigation in the United States and abroad in everything from product liability, nuclear energy, power generation and construction to environmental pollution and international joint ventures.

Yet it was during these very years of heavy corporate work that Philip was also most involved with the ABA's Individual Rights Committee. He helped establish the ABA's Thurgood Marshall Award, which goes to the person who has contributed the most to civil rights in a given year or over a career.

### Thurgood Marshall Award

Establishing the award was not as uncomplicated as one might have expected, however, for the award's first recipient was Thurgood Marshall himself. As a young civil rights attorney, Thurgood Marshall had not been allowed to join the all-white ABA, and even after it integrated he disdained joining it. "It took a lot of persuading to change his mind," Philip recalls. "He was certainly entitled to his resentment, and I considered the award a kind of apology for the ABA's past blindness." After an exhausting lobbying effort, they were able to change Justice Marshall's mind, and he attended the award ceremony in San Francisco, the last time he traveled outside Washington before his death in 1993. "He never did join the ABA, either," Philip remembers.

## Why You Become a Lawyer

"Our effort to recruit members of the ABA Individual Rights Section – traditionally its smallest section – featured what we hoped would be a provocative question: 'Remember why you wanted to become a lawyer?' We all

bring different motives and aspirations into this profession, but I hope that young lawyers especially make room in their crowded careers to use their skills to help people who need a lawyer's help but otherwise can't get it." •

Philip Lacovara is pictured with Thurgood Marshall at the original Thurgood Marshall Award ceremony in 1993. The award is given by the ABA to the person believed to have contributed the most to civil rights in a given year or over a career. Presenting the award is Karen Hastie Williams, the daughter of Marshall's civil rights colleague. Philip Lacovara stands behind Ms. Williams.



## Letter from Kadish

This issue is timed to remind all Chicago professionals about The Annual Chicago Pro Bono Luncheon on June 20, from Noon to 1:30 p.m. in 1-5 West on the 39th floor.

Like our *Update*, the luncheon is aimed at creating interest in pro bono as much as in honoring those who have done such work already. All Chicago lawyers, paralegals, and summer associates are invited to attend. We've had a very successful year of pro bono work with 206 lawyers and more than 34,049 hours of pro bono service. These projects have involved lawyers in the United States and Europe. A number of our attorneys

have been recognized by pro bono and civic organizations for their outstanding pro bono work.

Our featured speaker this year will be New York partner, Philip Lacovara, whose career is detailed in our lead article. Philip will discuss his experiences as a principal Watergate prosecutor and human rights advocate and how young associates in today's megafirms can strike a balance in their careers between their billable work and their pro bono work.

We will pay special honor to John Halbleib for his pro bono work in the Hershey Trust case, a story that made

continued on next page

## Union Dues

In 1997, U.S. District Judge Paul Plunkett appointed Mike Feagley counsel for William Ford, a former union officer who had sued his union in 1976, settled his suit in 1978, and then repeatedly petitioned pro se to reopen his case to complain that the union was not complying with the settlement.

Mike and MBP associate Jeff Bakker evaluated Mr. Ford's complaints (which were related to the union's promise to pay him specified health and life insurance bene-

fits during his lifetime), prepared and filed motion papers seeking (and obtaining) further relief, and in 1998 agreed to another dismissal of the case.

When Mr. Ford died in January 2000, the union and its group life insurance carriers refused to pay his widow the group life insurance death benefit, and gave the 78-year old widow the run-around. The Fords were told that the union couldn't help them, that one insurer would not pay because it had been replaced just before

Mr. Ford's death, and that the second insurer would not pay because Mr. Ford was not a union member when he died. The Ford family came back to Mayer Brown earlier this year and asked if we could help them. Mike agreed, and after conferring with the family and reviewing their correspondence with the union and its group life insurers, we filed a petition with Judge Plunkett requesting that the 1976 case be reopened, and that the union be held in contempt and be ordered to pay the widow the death benefit with interest.

On May 30, 2001, Mike and the union's lawyer reported to Judge Plunkett that they had settled the case. The union had agreed to pay the widow the highest death benefit now available to union members, plus interest on that benefit amount since January 2000, and attorneys' fees. The union tendered checks to Mike, and the case was dismissed once again.

Later that day, the Fords came to our Chicago office to receive the checks and related papers, and to thank Mike for his help. Pictured at left are Mike Feagley, Mrs. Dolores Ford (right) and her daughter-in-law, Mary Ford. •



## Kadish

continued from previous page

headlines in *The Wall Street Journal*, *The American Lawyer*, and even *People Magazine*. Our Environmental Practice Area—which won both trial and appellate decisions that dismissed an EPA Superfund suit that would have empowered the agency to destroy a 74-year-old man's property—will also be honored. And our 7th Circuit project, which has compiled an extensive docket of work in its two years will also be singled out for acclaim.

Luncheon guests will also include representatives from legal public interest groups with whom we have worked

Daniel Johnson, a teenaged client whom Gary Isaac, Dan Ring, and Susan Nystrom represented at the request of Wally Winter, a Supervisory Attorney with the Legal Assistance Foundation's Disability Project. Daniel, his Aunt Juanita Johnson, and Wally Winter will be our special guests at the luncheon.

We hope to see many new faces this year for what promises to be a very interesting program.

RSVP to extension 8011. •

- Marc Kadish

# Tax Tandem

**R**ussell Young and Neville Hedley are Mayer, Brown & Platt tax attorneys who have chosen different routes in doing pro bono work. Russell is handling a tax case raising issues that could end up soon before the U.S. Supreme Court. As part of our 7th Circuit Project, Ned argued a federal drug conspiracy case before the U.S. Court of Appeals in Chicago.

## Sexual Harassment

The Tax Court ordered Nancy Hukkanen-Campbell of Shawnee, Kansas, to pay the U.S. \$35,000 in back taxes from part of a sexual harassment jury award that went to pay her attorney fees and court costs. When Russell Young read the opinion posted on the court's web site, he wrote to the woman's attorney offering to handle the appeal on a pro bono basis.

"The tax issues all arose out of an egregious case of sexual harassment in the workplace," said Russell. "She was subjected to a very lengthy legal process and was vindicated. She's now facing another ordeal with the IRS."

In 1984, Ms. Hukannen-Campbell's union boss threatened at gunpoint to rape her. She sued her employer under Title VII. After an administrative review by the EEOC and subsequent litigation, she obtained a \$150,000 award in 1993.

Ms. Hukkanen-Campbell received about \$75,000 from the judgment and paid about \$15,000 in taxes on that income. The remaining \$75,000 went directly to her attorneys as fees and to cover court costs under a contingent fee arrangement. The judgment was paid jointly to her and her attorneys. The IRS claims she owes an additional \$20,000 in taxes plus about \$15,000 in interest for the portion of the award paid directly to her attorneys.

## Supreme Court-Bound?

The case raises hotly contested tax issues that may well be decided by the U.S. Supreme Court. U.S. Courts of Appeals in the 5th, 6th, and 11th Circuits have sided with taxpayers in similar cases. The Federal Circuit, 4th, and 9th Circuits have sided with the IRS. Several of these cases have been decided since Russell accepted Ms. Hukannen-Campbell's appeal. The U.S. Court of Appeals for the 10th Circuit is expected to hear oral arguments in September.

"We've had delays in the case several times. As these decisions come down we wait to see if the U.S. Supreme Court grants cert. So far the Supreme Court has said no to all the appeals. The government has won the last two cases. If there is one more taxpayer victory this could go to the Supreme Court," said Russell.

"It's rare to have an opportunity to do a tax pro bono case that addresses these kinds of issues. It's a great opportunity that I'm happy Mayer, Brown has helped me pursue."

## High Praise from the Bench

Ned's first pro bono case, though ultimately a defeat, won him and the firm high praise from the bench. At the end of Ned's appellate argument in a drug conspiracy case, Judge Easterbrook praised Ned for his work in the case and the pro bono work that Mayer, Brown &

continued on the next page



Neville Hedley, Russell Young

Platt attorneys have done in handling other recent 7th Circuit appeals.

Ned's client, Johnny Brantley, had been convicted in a crack cocaine conspiracy case in Green Bay, Wisconsin, after the first trial had ended in a hung jury. On appeal, Ned attacked some of the government's trial tactics and use of new witnesses to gain the conspiracy conviction. In an unpublished opinion, the court affirmed the conviction holding the government's actions did not constitute reversible error.

### **"Mock Trial"**

"The government had cleaned up its case and essentially used the first trial as a mock trial for the second trial,"

said Ned. "The government was relying on hard core gang members from Chicago who moved into the apartment complex where my client lived."

Ned said that he enjoyed preparing the case and arguing before the U.S. Court of Appeals but was frustrated by the outcome. "I believe my client ended up being one of the casualties in the war on drugs."

Ned says he is planning on doing additional pro bono work. He currently is exploring doing pro bono tax work for a not-for-profit legal foundation. "I definitely want to do it again. I like the way Russ is handling his case and am laying the groundwork for doing something related to tax." •

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CHARLOTTE ♦ 100 North Tryon Street ♦ Suite 2400 ♦ Charlotte, North Carolina 28202 ♦ (704) 444-3500 ❖ CHICAGO ♦ 190 South LaSalle Street ♦ Chicago, Illinois 60603-3441 ♦ (312) 782-0600 ❖ COLOGNE ♦ Kaiser-Wilhelm-Ring 27-29 ♦ 50672 Cologne, Germany ♦ 011-49-221-577-1100 ❖ FRANKFURT ♦ Bockenheimer Landstrasse 98-100 ♦ D-60323 Frankfurt am Main, Germany ♦ 011-49-69-79-41-0 ❖ HOUSTON ♦ 700 Louisiana Street ♦ Suite 3600 ♦ Houston, Texas 77002-2730 ♦ (713) 221-1651 ❖ LONDON ♦ Bucklersbury House ♦ 3 Queen Victoria Street ♦ London EC4N 8EL, England ♦ 011-44-207-246-6200 ❖ LOS ANGELES ♦ 350 South Grand Avenue ♦ 25th Floor ♦ Los Angeles, California 90071-1503 ♦ (213) 229-9500 ❖ NEW YORK ♦ 1675 Broadway ♦ New York, New York 10019-5820 ♦ (212) 506-2500 ❖ PALO ALTO ♦ 555 College Avenue ♦ Palo Alto, California ♦ (650) 331-2000 ❖ PARIS ♦ 13 Avenue Hoche ♦ 75008 Paris, France ♦ 011-33-1-53-53-43-43 ❖ WASHINGTON ♦ 1909 K Street, N.W. ♦ Washington, D.C. 20006-1101 ♦ (202) 263-3000 ❖ INDEPENDENT MEXICO CITY CORRESPONDENT ♦ Jáuregui, Navarrete, Nader y Rojas, S.C. ♦ Paseo de los Tamarindos No. 400-B ♦ 05120 Mexico, D.F. ♦ 011-525-267-45-00