NATIONAL LAWYERS GUILD

New York City News

NATIONAL LAWYERS GUILD – NYC CHAPTER

FALL 2010

Civil Rights Lawsuits against Former Governor George Pataki Survive Summary Judgment

BY JEFFREY ROTHMAN

A team of civil rights lawyers, including NLG-NYC Executive Committee member Jeff Rothman, survived a summary judgment motion filed by former Governor George Pataki and his Corrections' ("DOCS") and Office of Mental Hygiene ("OMH") Commissioners, in six consolidated lawsuits brought on behalf of convicted sex offenders who were civilly committed without due process in 2005 under Pataki's "Sexually Violent Predator" ("SVP") Initiative. Lead counsel in the action is Ameer Benno, Esq.

Pataki and the other defendants have filed an interlocutory appeal with the United States Court of Appeals for the Second Circuit, seeking to overturn District Judge Jed Rakoff's determination that they are not entitled to qualified immunity from suit in this case.

In 2005, impatient after years of inaction by the New York State Legislature concerning his repeated requests for legislation on the civil commitment of sex offenders, Pataki decided to act unilaterally, and directed his DOCS and OMH Commissioners to use New York State's existing general civil commitment statute to civilly commit inmates who had been convicted of certain crimes of sexual violence as well as non-sexual crimes he deemed to have been "sexually motivated." Although Pataki knew that New York's general civil commitment statute was not designed to apply to incarcerated individuals, he nevertheless decided to "push the envelope" by directing DOCS and OMH to use that statute to civilly confine these inmates because "he couldn't wait any longer" for a civil commitment law to be passed by the State legislature. Despite the fact that this was one of the largest State initiatives over the last thirty years, Pataki, through his executive team, gave OMH and DOCS just days to implement it.

Consequently, these inmates were provided with a hollow mockery of due process, that Judge Rakoff ruled a jury could conclude did not come close to meeting the necessary, and clearly established requirements for lawful civil commitment of prisoners that was set forth by the U.S. Supreme Court in *Vitek v. Jones*, 445 U.S. 480 (1980).

If the Second Circuit upholds Judge Rakoff's decision, the case will proceed to trial.

INSIDE THIS ISSUE:

Photo by Diana Scholl

Housing Works staffer Gina Arias arrested while protesting the Mayor's cuts to AIDS services

Housing Works 7 Mass Defense Trial Concludes Successfully

BY PHILIP SEGAL

Marty Stolar and Phil Segal have a lot in common. Both are members of the NYC Chapter of the National Lawyer's Guild. And both are dedicated to defending the First Amendment rights of political activists.

Their latest case involved a two-day trial over a demonstration by Housing Works activists inside City Hall over budget cuts for AIDS housing services in May 2009. Originally charged with two misdemeanors, obstructing governmental administration and unlawful assembly, as well as two counts of disorderly conduct, the trial went forward on only the disorderly conduct counts because the misdemeanors were dismissed based on a facial deficiency motion filed by the defense.

The trial was conducted before Judge Herb Adlerberg in Manhattan Criminal Court. He acquitted all seven of the defendants on the first disorderly conduct count, which was based on a claim that defendants had failed to comply with a lawful police order to disperse. However, he did convict them on the second disorderly conduct count of "obstructing pedestrian traffic" at the entrance to Mayor Bloomberg's office on the second floor of City Hall.

Defendants were satisfied with the sentence, which was "time served"

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Dhoruba Bin Wahad Urges Multi-Gen Action on Behalf of New York State Political Prisoners

BY PAUL L. MILLS

At an NLG NextGen/ARC Multigenerational Mash Up event Thursday, October 14, 2010, at the 350 Broadway nest of certain trouble-making NLG attorneys, former Black Panther leader Dhoruba Bin Wahad urged those attending to move together to free men and women who remain, as he was himself for nearly two decades, New York State political prisoners.

Dhoruba was locked up for 19 years after his 1971 wrongful conviction on fabricated evidence of gunning down NYPD officers in a machine-gun drive-by. Two of the NLG lawyers who helped free him, Bob Boyle and Liz Fink, were present at the mashup.

At first delayed by rainy Thursday night traffic, youthful and calmly impassioned in a black leather jacket and sunglasses, Dhoruba's quiet and closely-reasoned talk underlined sharp ideological distinctions in the current political dialogue.

He pointed out that the application of "truth and reconciliation" policies, such as those adopted by post-atrocity administrations in Africa or Central America, is a mistake when it comes to the victims of the notorious FBI/NYPD COINTELPRO campaign to liquidate Black activists in the 60s and 70s.

Dhoruba urged the audience of several dozen young and less-young NLG attorneys, paralegals, and staff, to join him in creating "our own independent political club," noting the present-day barrier to activism created by the myth of US exceptionality – the idea that the US is different and better, because it does not engage in such conduct as assassination and torture.

The right-wing consolidation of the last 12 years, he warned, "makes it impossible to unravel the matrix of control. We're all potential suspects," because Americans are led to believe that non-right-wing "solidarity supports terrorism."

For further information about the NLG Anti-Racism Committee (ARC) contact Garrett Wright at garrettwright1@gmail.com.

Photo by Paul L. Mills

Dhoruba Bin Wahad speaks at NextGen/ARC event.

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The Sentencing of Lynne Stewart

BY MICHAEL STEVEN SMITH

"At all times throughout history the ideology of the ruling class is the ruling ideology."—Karl Marx

Lynne Stewart is a friend. She used to practice law in New York City. I still do. I was in the courtroom with my wife Debby the afternoon of July 19th for her re-sentencing. Judge John Koeltl buried her alive.

We should have seen it coming when he told her to take all the time she needed at the start when she spoke before the sentence was read. It didn't matter what she said. He had already written his decision, which he read out loud to a courtroom packed with supporters. It was well crafted. Bulletproof on appeal. He is smart and cautious.

After about an hour into his pronouncement, he came to the buried alive part. He prefaced it by citing the unprecedented 400 letters of support people had sent him, all of which he said he read. He noted Lynne's three decades of service to the poor and the outcast. He stressed that she is a seventy-year-old breast cancer survivor with high blood pressure and other serious health problems. And then he laid it on her: 120 months.

Everyone in the courthouse divided 120 by 12. He had given her a death sentence, we all thought. She'll never get out. He almost quadrupled the 28 month sentence he had originally pronounced. She had told him that 28 months was a horizon, that she had hope. But no more.

Lynne's granddaughter gasped. Then started sobbing. She kept crying even as Judge John Koeltl kept reading. And reading. And reading. It was awful. The sentence was pitiless and cruel. How to understand it? Lynne's lawyer Jill Shellow Levine rose after the judge finished. She asked him why. He was candid. He was told to do it by his supervisors, the judges on the Court of Appeals for the Second Circuit. This court is an institution of the elite. It is considered the second highest court in America next to the Supreme Court because it presides over the financial center of the empire, not its capital, that is in D.C., but its real capital. This court makes policy and Lynne Stewart was to be made an example of in "the war against terrorism" just as a half a century before, in the same court, Ethel and Julius Rosenberg were condemned to death in the war against communism, told that they had caused the deaths of 50,000 U.S. soldiers in the Korean War, and found guilty of the ridiculous charge of "stealing the secret" of the atomic bomb, when there was no secret, it was only a matter of technology. The sentencing Judge Kaufman knew they would leave behind two orphan children, Robert and Michael, ages six and three.

In 1947 George Kennan, the ideological father of the cold war, wrote that the United States had but six per cent of the world's population and fifty per cent of its wealth. The problem was to keep it. Anti-communism served as the ideological cover the U.S. ruling classes used. But communism ceased to exist after capitalism was restored in the Soviet Union in 1991. A new ideological cover has been constructed in the wake of the September 11th criminal attack on the World Tread Center and the Pentagon: the War against Terror. Nationalist opposition to U.S. economic and foreign policy in parts of the Arab world is no longer led by communists but by fundamentalist Muslims.

The seemingly kindly boyish-looking jurist about whom it was said that he walks to work and looks after an elderly mother—not exactly a sadistic old lady killer—then reversed himself and on the same evidence nearly quadruped the sentence, putting a seventy-year-old grandmother on chemotherapy away for ten years and two years' probation after that for good measure. This is much more than meanness. It is ideology.

Lynne Stewart represented one of them, Sheik Abdel Rahman, who was the leading oppositionist to the U.S.-sponsored Mubarak dictatorship in Egypt, which gets more money from America than any other country in the world except Israel. In 1993, at the behest of the Egyptian government, Sheik Rahman was criminally indicted and later convicted of the crime of "sedition" for suggesting to a government informer that rather than blow up New York City landmarks he choose "a military target." It was on the occasion of a post-conviction prison visit that Lynne helped her client. She released his statement to Reuters press service announcing his withdrawal of support for a ceasefire between his group and the Egyptian government. This was in violation of a Special Administrative Measure (SAMs) that Lynne had agreed to with the U.S. Government. She wasn't supposed to be a medium for communication between her client and the outside world. She should have challenged the constitutionality of the SAMs, she now realizes, and not just have violated them.

Michael Steven Smith

She wasn't prosecuted for what she did, not under the Clinton administration, nor during the first years of George W. Bush. Then came 9.11. Bush's Attorney General John Ashcroft flew into New York City in 2003 and announced Lynne's indictment on the David Letterman show. The crime? A novel one. Conspiracy to provide material aid to a terrorist organization. What was the material aid? Her client. When Ashcroft did that, as the nation's highest law enforcement officer, he committed an ethical violation for which any other attorney would have been sanctioned. He made sure that from the very beginning of her ordeal Lynne Stewart never had a chance. Not with the level of fear the government was able to generate and the scare they put into her jury.

In 2006 she was convicted and sentenced. The maximum was 30 years, but thanks to the superb legal work of National Lawyers Guild attorneys Elizabeth Fink and Sarah Kunstler and the outpouring of public support Judge Koeltl gave her 28 months. The government appealed the sentence to their U.S. Court of Appeals. Game over. The selective prosecution of Lynne Stewart was accomplished.

Judge John Walker, George W. Bush's first cousin, sits on that court. His family made their fortune selling munitions during WWI. He wrote that the 28 months was "shockingly low." Judge Koeltl was given his orders. The seemingly kindly boyish-looking jurist about whom it was said that he walks to work and looks after an elderly mother—not exactly a sadistic old lady killer—then reversed himself and on the same evidence nearly quadruped the sentence, putting a seventy-year-old grandmother on chemotherapy away for ten years and two years' probation after that for good measure. This is much more than meanness. It is ideology.

Michael Steven Smith is the co-host of the WBAI radio show Law and Disorder and sits on the Board of the Center for Constitutional Rights.

Rhonda Copelon

A multi-generational, heavily-female overflow crowd filled the Riverside Memorial Chapel on May 21st for Rhonda Copelon's memorial service. The service featured Nancy Stearn's singing, as well as the traditional Kaddish. As guests filed out, eyes full of tears, the strains of Chris Williamson came through: "Love of my life, I am crying, I am not dying, I am dancing..."

Rhonda Copelon, born Sept 15, 1944, passed away on May 6, 2010, a victim of ovarian cancer. A Vice-President of the Center for Constitutional Rights, Copelon also directed the International Women's Human Rights Law Clinic at CUNY Law School. In 1980, she won in the Second Circuit a precedent for using the 1789 Alien Torts Claims Act on behalf of torture victims to sue their abusers who were present in the US for damages (Filartiga v. Pena-Irala). In Harris v. McCrae, the Court rejected her arguments that the Equal Protection Clause was a source of substantive rights and that poverty should be a "suspect classification." Therefore, there was no constitutional flaw to the Hyde Amendment, which cut off federal funding for Medicaid abortion. Subsequently, she argued that rape should be considered torture and trained a generation of judges of the International Criminal Court on gender-based violence. A memorial was held Sunday September 19 at Hunter College. A Rhonda Copelon Fund for Gender Justice has been established at CCR.

A glimpse of her impact may be gleaned from the remembrances posted at rhondacopelon.blogspot.com. A recording of her argument before the US Supreme Court may be heard on the CUNY Law memoriam webpage.

Susan Dworkin Levering

The Chapter extends our condolences and support to Beth Baltimore, one of the Chapter Vice-Presidents, and her family on the death of her mother on October 13, 2010. Susan was a lawyer who practiced primarily in Nassau County Family Court defending the rights of children. A celebration of her life will take place on Saturday, November 6th, from 2-5 P.M. at the Adelphi University's Alumni House, 154 Cambridge Avenue, Garden City, NY.

Don't let 2010 come to a close without renewing your membership in the Guild!

You can now pay your dues
or make a contribution
online by going to www.nlgnyc.org/paypal.html

Anti-Racism Committee Raises Money for TUPOCC Travel Stipend

BY NORA CARROLL

On July 28, 2010, the New York City Chapter's newest committee, the Anti-Racism Committee (ARC) held a fundraiser at Berry Park, a bar in Williamsburg.

ARC was—and still is—raising money for scholarships to send people of color to the National Lawyers Guild convention. Each year, The United People of Color Caucus (TUPOCC) distributes travel stipends to help Guild-affiliated people of color attend the convention, and ARC wanted to facilitate and expand TUPOCC's efforts by adding cash to the pot.

In the words of TUPOCC, the student of color stipends are based on "the understanding that anti-racism work must start by promoting the legal education, viewpoints, and work of people of color within the progressive legal community, including in our own membership and in programs. The travel stipend is designed to help economically-disadvantaged students, recent attorney graduates, and legal workers of color participate in our 5-day National Convention."

At the ARC fundraiser, several individuals made generous contributions to the TUPOCC stipend fund, and many folks – including the broke law students – bought raffle tickets. The fundraiser featured beautiful artwork by Brooklyn artist Patrick May, which was raffled off. In total, ARC exceeded its goal and raised over $2,000.

ARC members are forthright in articulating the importance of the committee, and the role they hope to play. Jeff Senter, ARC member, noted that "the struggle to combat all forms of prejudice, and in particular internalized or unconscious prejudice, is unending. The ARC helps facilitate this struggle for the NLG."

Natasha Bannan, also an ARC member, echoed Senter's sentiments. She said, "in New York City, the ARC has openly discussed how to support local communities of color and their struggles, as well as how we as an organization can examine our own institutional racism by doing the important and difficult work of deconstructing our own privilege."

Bannan believes that the work of the ARC helps "to hold NLG accountable to the communities we claim we represent and speak on behalf of." A natural outgrowth of that mission is bringing more people of color to the Guild convention through scholarships.

Photo by Nora Carroll

ARC members Garrett Wright and Alexandra Goncalves

Donations are still being accepted; email carroll.nora@gmail.com for a link to a Paypal site where you can donate securely.

ARC continues to meet bimonthly, and is open to all Guild members. To stay abreast of developments in the NLG-NYC ARC, join the Google group by emailing nlg-nyc-anti-racism-committee@googlegroups.com and requesting to be added to the group. In addition to raising money for TUPOCC, ARC conducts ongoing internal Guild analysis and considers ways to make the organization more anti-racist. ARC also supports local campaigns against racist trends in society at large, such as the Arizona immigration law SB 1070 and the Fahad Hashmi case.

NLG's Arn Kawano Targets Crappy Wines

BY PAUL L. MILLS

NLG attorney and oenologic wine connoisseur Arn Kawano lashed out at an NYC NLG NextGen multigenerational evening Mash Up October 14, 2010, against low-grade wines foisted on the American public by corrupt wine merchants.

Denouncing such "Kangaroo piss" as the shamelessly-advertised "Yellowtail" excretions, Kawano quietly thundered that "there is no Yellowtail winery!" revealing that to counterfeit the flavor of oak-barrel vintage, such rogue venders of massive surplus wine product will use "oak barrel teabags" to deceive the unsuspecting.

Mr. Kawano also warned against drinking white wine that was too cold, or red wine that was too warm. "Room temperature," he explained, means the room temperature to be found in a European stone fortress.

Those blundering around in a package store without extensive wine training were instructed to seek unfiltered wines, which are as much more flavorful as cider is when compared to mere apple juice. Also, the best solution for red wine stains on shirts (or sheets) is a 50-50 mixture of hydrogen peroxide antiseptic and common laundry detergent.

Kawano offered a number of samples of worthy wines from Sonoma County, California wineries. NLG attorneys in attendance eagerly partook without incident.

Photo by Paul L. Mills

Arn Kawano shares wine wisdom at Mash Up.

"What I Did *Last* Summer"

BY NORA CARROLL

Along with free outdoor concerts, Coney Island, and barbecuing in the park, internships are a recurring and integral part of summer in New York City. For most lawyers-in-training, these summer jobs will help them focus on how they wish to put their legal skills to work. For those who consider themselves radical law students, summer internships are also a call to action, a glimpse and a reminder of the deep and persistent injustices that public interest lawyers work to correct.

A good summer internship can serve as fuel for committed law students, providing – hopefully – a large enough dose of inspiration to take them through the next semester or two. And, in the ongoing debate as to the most effective model of radical lawyering – for example, direct advocacy, impact litigation, or community empowerment lawyering – internships give law students the chance to weigh in with considerably greater authority.

Many Guild-affiliated law students choose to spend their summers working for legal services and public defender organizations, as well as government agencies, labor law organizations, and non-profits. I asked a few Guild members about their summer internships. Their responses highlighted victories and defeats in fighting the unrelenting legal subjugation of the poor, immigrants, and people of color.

Amanda Jack (CUNY, 3L) spent the summer at Brooklyn Defender Services, and had difficulty pointing to a single defining moment of the summer. She noted that,

"The felonies are perhaps more interesting from a legal standpoint, but seeing the misdemeanors and violations that are handed out like candy by New York's finest has really struck me." Jack noted that for undocumented immigrants, a public defender's bail argument makes all the difference because if a defendant can avoid having bail set and getting sent to Rikers Island, they can avoid ICE.

Given last year's housing market crash, it may come as no surprise that many law students are working in the area of housing law.

Antonia Pereira (Brooklyn, 2L) worked at Brooklyn Legal Services Corporation A in the predatory lending and foreclosure prevention unit. She worked on one case where "the homeowner's signature was forged on all of the loan application documents. She was therefore put into a mortgage which she would never be able to afford. She came to us once the bank foreclosed on her." As an intern, Pereira worked on the pro se answer that Corporation A helped the homeowner file. She is still waiting to find out the outcome.

Another Corporation A intern, **Cristina Lee (Brooklyn 3L)** described a case in which a client was being sued for rent on an NYCHA (public housing) apartment due to an administrative mix-up. "The housing manager's office basically ignored her requests for repairs because they were upset about the rent arrears," said Lee, "it was probably one of the worst living situations I'd ever seen."

In working to extract her client from this bureaucratic entanglement, Lee expressed frustration with the limits of the law. "We all wished that the housing managers could be forced to stay in her [the client's] house for just one night. Or for someone higher up in NYCHA to stay there, just so they see how their organization is (not) working," she confessed. However, "The best we could do was sort out the budget, re-issue checks and push for repairs to be made."

A good summer internship can serve as fuel for committed law students, providing – hopefully – a large enough dose of inspiration to take them through the next semester or two. And, in the ongoing debate as to the most effective model of radical lawyering – for example, direct advocacy, impact litigation, or community empowerment lawyering – internships give law students the chance to weigh in with considerably greater authority.

The experience presents Guild law students with the opportunity to form their own outlook on radical lawyering and to consider their own path as radical lawyers.

Photo by Nora Carroll

Antonia Pereira

Amanda Jack believes that at her summer internship at Brooklyn Defenders she engaged in radical lawyering.

"Public Defense work, like Legal Services work, is at the forefront [fighting] what is destroying communities," she said, "I want to be part of preventing the continued growth of the prison-industrial complex. I want to keep people out of prisons at all costs."

Cristina Lee was more measured, stating that she wants to try other areas of law besides housing.

"Housing court attorneys are definitely needed, but you have to be really tough, I think. The outcomes are rarely empowering for clients, even if they are favorable," she said. Expressing reservations about the limits of legal action, she stated,

"I think a person can be a radical lawyer without actually doing radical lawyering. Sometimes the law really only allows you so many avenues."

And so it goes.

SIGN UP TO BE A MENTOR!

If you have not done so already, please consider signing up to mentor a law student or young lawyer! So far there are over 25 active mentor-mentee matches, and demand for mentors is growing! This is a relatively small time commitment, and has generated a lot of interest among new Guild members.

You can sign up here at http://nlgnyc.org/nextgenmentorapplication.html, or email beth.baltimore@gmail.com or rebecca.heinegg@gmail.com with questions or comments.

Partners Not Wage Earners

BY URSULA LEVELT

The banner in the arrivals hall of the Tripoli airport reads "PARTNERS NOT WAGE EARNERS." I first think this refers to a separate passport control line for foreign investors, to distinguish them from ordinary immigrant guest workers, but I could not be more wrong. The banner is a reference to Part 2 of the Green Book by Qaddafi which sets out a vision of an economy in which wage labor is abolished and each producer becomes the owner of what he produces. According to the Green Book, wages and other benefits gained by unions are more of a charity than a recognition of the rights of workers. In the end, "Wage workers are a type of slave, however improved their wages may be." The better approach is that the worker has a right to a share in what they produce and that is how we all become partners.

Day laborers waiting for work in the center of Tripoli.

Workers' rights were on the minds of the young officers who staged the coup that brought Qadaffi to power in 1969. Very soon thereafter, a new employment law was passed with the aim to "establish social justice." The law also contains familiar minimum wage, eight-hour day, meal break, overtime and safety and health regulations, as well as a 16 day vacation and paid holidays. No longer familiar in the West is the extensive protective legislation for women: 48 hour maximum work week, no night work, no hazardous or arduous work, and a 50 day maternity leave at half pay. Equally unfamiliar to us in the U.S. is that no one can be fired without just cause.

As the above examples show, the law is fully premised on the existence of wage labor. And, in spite of the aspirations of the Green Book which was adopted by the People's Congress in 1979, it is still the law of the land. Or is it also not more than an aspirational text? Let's look at Libya's immigrant labor force. With a small population and yet plenty of oil revenue, the country is a natural magnet for surplus labor from the surrounding countries. There are many such countries: Tunisia and Algeria to the West, Egypt to the East, and Sudan, Chad, and Niger to the South. In addition, many Moroccans, Malians, and Nigerians have made their way as well. And then, Libya has a long coastline along the Mediterranean from which it is only a few hours to Malta or Italian islands like Sicily or Lampedusa.

For a long time, Qadaffi prided himself on an 'open door policy' towards immigrants, in particular those from the South. There were no visa requirements for sub-Saharan immigrants. This may have been a policy of necessity as there simply are no border controls in the middle of the Sahara (and if there were, they would be futile), but the policy is also supported by Qadaffi's conscious efforts to seek rapprochement with sub-Saharan Africa and make Libya the "Gateway to Africa." The twenty dinar bill proudly shows Qadaffi hosting the leaders of African nations at the 1999 Meeting of the Organization of African Unity. Throughout Tripoli hang banners with slogans like Long Live Africa, Africa for the Africans, Africa is Hope, and Africa is Strong. As these were the only Qadaffi banners sporting translations in English and French, the government was clearly sending a message of solidarity to those in Tripoli who would know these languages.

The wind turned against the immigrant workers, when Libya started a rapprochement towards the West in 2004 after sanctions were lifted. Talks about a "framework agreement" for cooperation between Libya and the European Union seem to focus most of all on migration if it was up to the EU alone. A concern about Libya as "Gateway to Europe?" Visa requirements were implemented in 2007 for all non-Arab nationals. Italy and Libya started patrolling the Mediterranean together. As a result, more immigrants remain stranded in Libya and those picked up at sea end up in miserable detention camps. Clearly, these immigrants are not welcome in Libya, African or not.

A new round of talks between the EU and Libya in June this year appears to have set yet another chain of events in motion. First Qadaffi closed the UNHCR office in Tripoli alleging "illegal operations." It is said that the EU did not protest this action because the office "attracted" asylum seekers. A few days after the closure, Libya and the EU signed an agreement for financial and technical cooperation, worth 60 million to Libya, among other things, to tighten border controls. Then Libya signed an MOU with Egypt that required Egyptian immigrants to obtain their work permits in Egypt.

With all this commotion, the English-language newspaper Tripoli Post needed to address the issue. After estimating the number of "illegal migrants" at one point as high as three million in a country of five and a half million, the paper described the nature of the problem vaguely as "demographic, security, health dangers as well as a heavy economic burden." A more concrete symptom of what many see as a problem is the abundance of day laborers at pick up sites. At eleven o'clock in the morning there would still be some 40 hopefuls sitting in patches of shade, when chances for a day's work must have become rather dim.

Although the Tripoli Post, a last believer in partnership, argued forcefully for a human approach to solve the immigrant problem by addressing the root cause of migration in the countries of origin, rumors of a crackdown on immigrants without work permits started to go around.

From personal observation it is clear to me that Libyans are not available to pick up garbage, landscape parks, or clean offices. I only saw sub-Saharan African men perform this work.

A friend reported how her cleaning lady disappeared without an explanation (partially because of the lack of a common language between them) and how then her replacement also reported that she might not come back unless she had $100 and her employer would get a work permit for her from the

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Spring Fling 2010
Friday, April 16, 2010

Honoring the People's Lawyers: Myron Beldock, James Meyerson, Lynne Stewart, and Michael Tarif and Evelyn Warren

We celebrated once again at the beautiful Angel Orensanz Arts Foundation with a night of music, food, and fun.

Angel Orensanz Arts Foundation

Michael Tarif and Evelyn Warren

(Left to right) Myron Beldock, James Meyerson, Brenna Stewart and Geoffrey Stewart, accepting for Lynne

James Meyerson's family and friends (left to right) Nona Aronowitz, Collier Meyerson, Sayde Vassil, Zoila Sylvester, Deidre Meyerson

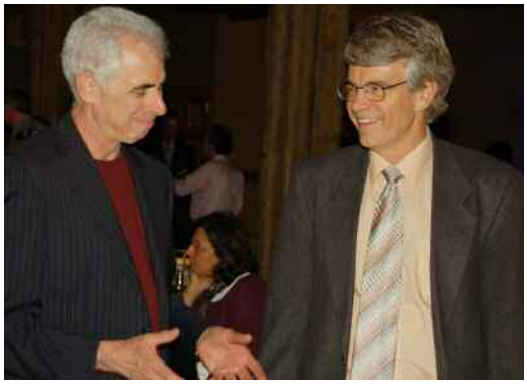
The crew of Beldock Levine & Hoffman LLP: (First row, left to right) Vera Scanlon, Julie Russell, Sofia Yakren, Myron Beldock, Karen Dippold, Rachel Kleinman, Elizabeth Shura; (second row, left to right) Cynthia Rollings, Jonathan Moore, Marc Cannan, Anna Dojka, Janice Badalutz and Jason Mohabir

Ralph Poynter, Geoffrey Stewart, accepting for Lynne Stewart

Gideon Orion Oliver and Helen Morin Taylor

Incoming President Susan Tipograph and outgoing President Daniel Meyers

Laura Whitehorn and Susie Day



Frank Handelman and Bruce Bentley

(left to right) Abdeen Jabara, Holly Maguigan and a friend

Joyce Ravitz and Frances Goldin

Ann Schneider, Mary Lou Greenberg

Emily Jane Goodman and Steve Sandler

Carmen Zepeda and Jeff Rothman team up with Hillary Exter for t-shirt sales

David Rankin and Antonia Cedrone

Tin Pan Blues Band frontman Jesse Selengut

Photos by Tom Altfather Good

You Got the Documents. Now What?

Basic Primer for Document Organization and Analysis

BY SUSAN Y. KUNSTLER

Everyone complains about the weather, but does anyone do anything about it? This does not have to be your response to document discovery, organization and analysis. If you have developed less than stellar habits in this critical area of legal work, it is time to let them go. You may have drafted a superb and all encompassing Notice or Demand for Discovery and Inspection of Documents, have received substantial compliance from your adversary, and done what many attorneys do with the extensive documents received: you piled them in a corner of your office, promised yourself to review them as soon as the press of another case or cases lets up, and found yourself on the eve of a settlement meeting or the deposition of the adverse party without a clue as to what you have. This disastrous situation can be compounded if you receive several sets of document responses from your adversary and documents from non-parties (through non-party discovery or otherwise) and added those to the growing pile in the corner.

Although this article is written from my perspective as a matrimonial practitioner and does not deal with discovery in federal actions, the suggestions which follow can be applied to any type of federal or state litigation.

Document organization and analysis takes a lot of time and effort, but it's important because you want to win your case. Once you thoroughly review what you have received in response to your first request for documents, you will be able to determine the need for further discovery, and how much and from whom. (This includes discovery from non-parties, especially when the adverse party is not cooperative or may not have what you need. This might include tax returns for business entities in which he or she has an interest or pension plan documents.). You need to determine as early as possible whether to retain experts. If you have conducted your own thorough analysis of documents as they are received, and compared them to what you already have or know, you can limit the experts' fees. You can also control your own fees and expenses and keep your client well informed of what you have discovered and of likely fees going forward.

You want to be thoroughly prepared for the first and subsequent settlement meetings in those cases where settlement is possible. The only way to do this is to know your case – and that means documents – inside and out. You want to be thoroughly prepared for depositions. You want to not only make, but to win, a motion to preclude the other side from introducing evidence at trial for failure to comply with discovery demands, and you certainly want to achieve the best possible result at trial if settlement is unavailing.

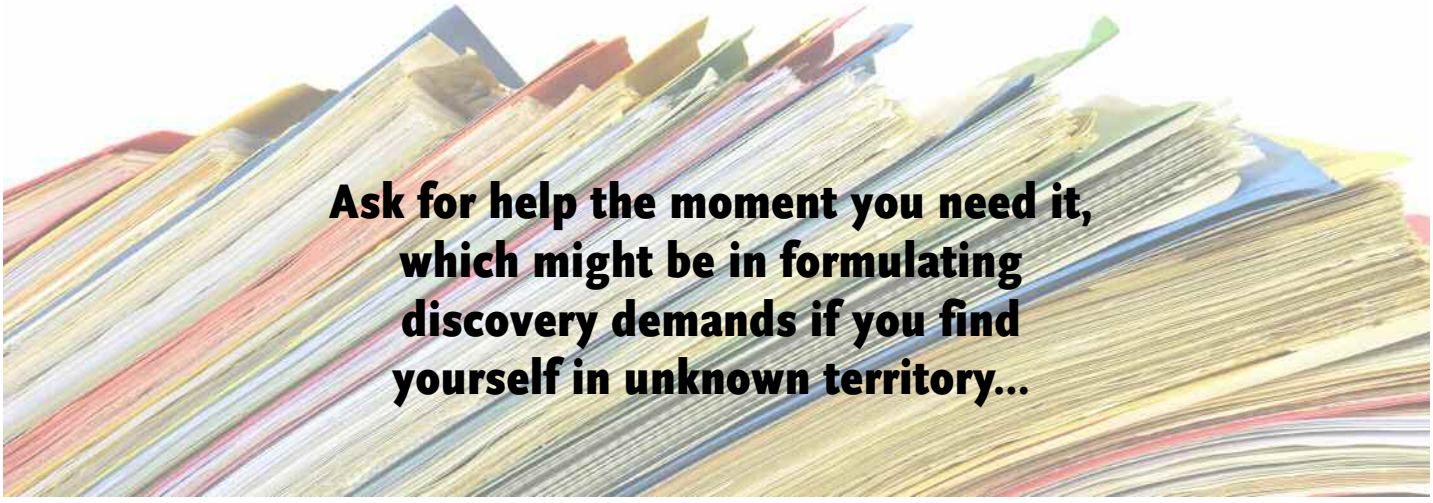
You cannot accomplish any of these goals without a method of organization and thorough analysis of documents you already have from your own client and those you receive in the discovery process.

What follow are some basic principles:

- Perhaps most important is to come up with a plan of organizing documents which works for you, your client's financial and other resources, the size of your staff, your or your staff's computer expertise (especially in the use of Excel Spreadsheets), the use of temporary or part time employees, and the experts you need for the particular case.
- Always indicate the date each document was received, and separate documents into separate file folders, whether physical or computer folders.
- Keep documents received from your client, those received from the adverse party and those received from non-parties completely separate. Use Bates Stamping if appropriate.
- Ask your experts early and often how they would like you to organize the documents or data synthesized from documents to make their job easier and save your client money.
- Make use of your client throughout the case. Your client can alert you to things you might otherwise miss, such as that her spouse rents a floor of a two family house they own to his brother but that there is no lease and rent is paid in cash. Your client can provide you with financial data in Quickbooks or similar format or do something as simple as use a highlighter to mark suspicious entries on credit card statements.
- Understand your case and your goals from the beginning, and regularly review your case and your strategy.

continued on page 11

Susan Y. Kunstler



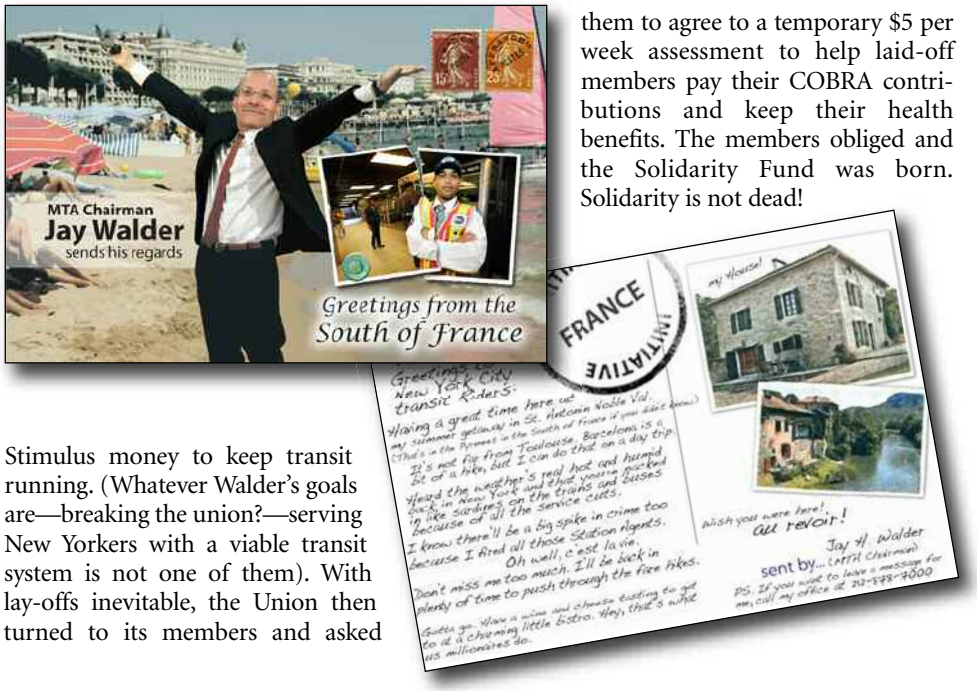
Transport Workers Establish Fund for Laid Off Workers

BY URSULA LEVELT

Transport Workers Union Local 100 (yes, those of the transit strike) broke new ground this summer by establishing a Solidarity Fund for laid off workers. Just like other public sector unions, the Union had been under intense pressure to reopen its collective bargaining agreement and forego scheduled raises to stave off lay-offs.

In this case, reopening the contract was even more painful than usual because it had taken the Union several trips to the Court House to get the MTA to, at least, partially abide by a so-called binding arbitration award. In a creative move, Union President John Samuelsen made a counterproposal and offered to have its members pay a temporary "rebate" from their paychecks to the MTA in a sufficient amount to prevent the lay-offs.

This reasonable proposal was rejected by Jay Walder of the MTA just like he rejected the City Council proposal to use some Stimulus money to keep transit running. (Whatever Walder's goals are—breaking the union?—serving New Yorkers with a viable transit system is not one of them). With lay-offs inevitable, the Union then turned to its members and asked them to agree to a temporary $5 per week assessment to help laid-off members pay their COBRA contributions and keep their health benefits. The members obliged and the Solidarity Fund was born. Solidarity is not dead!



Documents

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- Do not delay in serving document discovery demands on the adverse party and on as many non-parties as may be necessary – more on this later.

Ask for help the moment you need it, which might be in formulating discovery demands if you find yourself in unknown territory, such as a divorce action which involves one or more pass-through entities (Subchapter S Corporations, LLC's and LLP's), including those that own real estate, or the valuation of a personal injury law practice where two levels of valuation may be necessary – that of the practice and that of open contingency matters begun during the marriage. Ask for help as you continue if, for example, you receive the tax returns for the pass through entities and don't really know how to read and analyze them. You will find colleagues and experts happy to help. Do not delay looking at documents as soon as they are received, even if it is a cursory review to be followed by a more in-depth review later. Don't delay the in-depth review, however, as you may not have received what you asked for, or what you've received tells you need to dig deeper and serve other discovery demands.

Compare the documents you have with those you receive in response to your discovery demand to determine compliance or lack of compliance. You are likely to find anomalies that require further investigation and provide help in settlement negotiations, depositions, and at trial. In a matrimonial action both parties are required to complete sworn Statements of Net Worth that list expenses, income, assets and liabilities. If you get tax returns that show income patently insufficient to meet listed expenses, you know you will have to dig deeper. Certainly, you will want to look at bank and credit card statements for documentation of the expenses. This does not always mean there is "hidden cash." It may be that reported income on personal returns is low because one or both parties are members of pass-through entities that had large losses. This tells you that merely looking at the K-1s attached to the personal returns is insufficient. K-1s provide virtually no information anyway, and you need the returns for all pass-through entities. You probably should also be asking for balance sheets, financial statements, leases, and loan documents, especially for loans to or from other members or shareholders, which is often a way to disguise income. Another anomaly might be unusually large "General Sales Taxes" on Schedule A, Line 5(b) of a federal tax return (Itemized Deductions). You can only claim a deduction for either State and Local Income taxes or General Sales Taxes, but not both. If the latter, smaller amounts are computed based on the particular state and on income levels in accordance with IRS tables. If there is an unusually large amount, start digging for "major purchases" (the Internal Revenue Code term, not mine). This is also important to investigate when a party shows little or no income.

Space limitations prevent much discussion here of non-party discovery, but it can be a valuable tool. Take a look at §§ 3120 and 3122-a of the Civil Practice Law and Rules if the action is in state court. If you follow the requirements of § 3122-a, you may be able to introduce documents received from non-parties in discovery without the need for trial subpoenas.

Be organized, do not delay, compare, compare, and compare again, ask for help when you need it, and know your documents inside and out. Not only will you provide your clients with the best possible service, but you will also save yourself the unnecessary stress of seeing that pile of documents in the corner each day, including the day before the big deposition.

Susan Kunstler has been a member of the NLG NYC Chapter since 1971 and has been practicing, primarily in the matrimonial field, for over 30 years. She now serves as a consultant to other attorneys organizing and analyzing financial documents and data and assisting them with discovery, deposition and trial preparation and in the drafting of divorce agreements and pre- and post-nuptial agreements, which latter service she also provides to private clients. She is a frequent lecturer on both substantive matrimonial and family law and the organization and analysis of financial documents and data.

Last spring while he was acting as defense counsel for would-be Rwandan presidential candidate Victoire Ingabire, former NLG National President Peter Erlinder was detained for 3 weeks by the Rwanda government. International political pressure forced his release.

In October, Rwanda indicted both Peter and Ms. Ingabire on charges of "genocide denial". Peter's indictment is based on articles that he wrote in the U.S. and published on the internet. Ms. Ingabire is now confined in the very same cell where Peter was held.

Peter says, "My prosecution has larger implications, as well. If UN immunity does not apply to any prosecution of defense counsel by the Kagame government, a government that the former Chief Prosecutor for the UN Tribunal for Rwanda and the UN itself, both confirm is led by criminals and has been committing mass crimes for decades, meaningful representation of any UN Tribunal defendants will be impossible."

The following are edited excerpts from an article by Peter that reveals that massive crimes were caused by both sides of the conflict in Rwanda, and describes the government's Orwellian manipulation of the term "genocide denial." For Peter's complete article, go to www.nlgnyc.org.

White House to Kagame: Democracy is More Than Elections

The Politics of "Rwanda-Genocide Denial"

BY PETER ERLINDER
EDITED BY BRUCE BENTLEY

St. Paul, MN - August 16 – Not surprisingly, Rwanda's President Kagame was re-elected last week with 93% of the vote, about the same percentage he received in 2003 in an election that was accompanied by arrests of opponents, outlawing of political parties, closing of newspapers, mysterious murders and disappearances, just like the one last week.

What was very different was the White House reaction, which did not congratulate Kagame this time around, but noted:

"…a series of disturbing events prior to the election including the suspension of two newspapers, the expulsion of a human rights activists, the barring of two opposition parties from taking part in the election, and the arrest of journalists…[S]tability and prosperity will be difficult to sustain without broad political debate and open political participation…" Democracy is about more than holding elections…"

Photo by Sarah Erlinder

Peter Erlinder

STABILITY, PROSPERITY AND DEMOCRACY: KAGAME-STYLE

The White House statement was welcome and long overdue, but left out other "disturbing events" like the murder of a leading journalist investigating the attempted assassination of a former Kagame supporter; the beheading of the vice-chair of an opposition party; the arrest of would-be Presidential candidate Victoire Ingabire for "genocide denial," and my own arrest for "genocide denial," despite Rwanda's treaty with the UN promising immunity from prosecution to UN lawyers like me.

In light of my arrest, the White House statement 's reference to "stability" did have the ring of irony, given the ubiquity of AK-47's in the hands of the ruling RPF party, and CIA reports that Rwanda's army of 6,000 troops, pre-Kagame, is at least 65,000 now (plus uncounted para-militaries and militias). Rwanda's RPF-imposed stability rivals Myanmar under the Junta.

Rwandan "prosperity", according to State Department Africa experts (NYT, Herman Cohen, Dec. 16, 2008) and confirmed by UN reports (2001, 2002, 2003 and 2008) comes from the theft of natural resources from military-occupied areas of the Congo 10-15 times the size of Rwanda (estimated at $250 million per year) at the cost more than 5-million lives, and counting. To resource-theft Kagame's Rwanda added $1 billion in U.S. aid over the last decade, $250 million for 2010-11, Pentagon aid, off-the-books aid, NATO aid, payments for troops on UN and AU missions in Darfur, etc. The Rwandan army is a serious profit center.

The White House also statement about the lack of democracy in Rwanda also sheds some welcome light on why I was jailed as a "genocide denier" in the run-up to the sham election.

THE VICTORS TELL THE STORY OF THE WAR….AT LEAST INITIALLY

The Oscar-winning documentary, The Fog of War, opens with newsreel footage of Tokyo ablaze from the U.S. gasoline bombs that incinerated some 250,000 civilians before Hiroshima and Nagasaki, as former Secretary of State Robert McNamara's somberly observes:

"if the Japanese had won the war, those of us who planned the firebombing of Tokyo would have been the war criminals…."

The mea culpa is dramatic, but not surprising because everyone knows the victors have always told the story of the war.….don't they?

I learned this is apparently not the case with respect to much of the American media, when I returned from 3-weeks in Rwandan prisons, after having been accused of "genocide denial" by the victors of 1990-1994 Rwanda War. As I found out later, the slander had been repeated over and over again in print an electronic media, simply because the victors in the Rwanda War said so, without any serious attempt by any media outlet to explain what I had done to deserve the accusation!

The White House statement about the real political conditions in Rwanda provides a

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"Rwanda-Genocide Denial"

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good opportunity to help put the record straight!

Just for the record, I am NOT a "genocide denier" but I am also not willing to accept the "victor's version" of any war…wholesale, any more than any respectable historian would ignore the fact that crimes were committed by the Allies in WW-II; crimes were committed by Union forces during American Civil War; and, crimes were committed by the by U.S. in the planned genocide conspiracy against Native Americans, even if it could not be admitted by the victors at the time.

THE "GENOCIDE DENIAL:" A RWANDAN POLITICAL INK-BLOT TEST

But, I can't blame the media too much because even when the UN asked the Rwanda government to spell out my supposed crime, they refused. Instead, they provided a list of articles I had written, and articles that others had written, as well as documents I had filed in court. (ICTR Appeals Chamber, Registrar's Submission, July 14, 2010, Case No. 98-41-A). They never actually explained how my writings and the court documents added up to "genocide denial."

As Lead Defense Counsel for the UN Tribunal for Rwanda (ICTR), it is my job to get the best evidence possible to show what actually happened in Rwanda in 1994 to the benefit my client, which is exactly what I have done. Because the UN Tribunal permits defense attorneys access to UN documents that would otherwise be confidential for 50-years, I was able to get UN and de-classified U.S. government documents which show what actually DID happened in Rwanda in 1994, not what the victors say happened.

But, in addition to these documents, former U.S. Ambassador to Rwanda Robert Flaten, recently of St. Olaf College in Northfield, Minnesota, testified that the former government was so porous that a conspiracy to commit mass killings would have been found out by the CIA or State Department, and never was. He also testified that the mass violence, now called the "Rwandan genocide," was not a surprise and that he had actually predicted it, in light of similar violence that swept Burundi, the country next door, after military allies of RPF had assassinated the Burundian president at the end of 1993.

On December 18, 2008, after 7-years of receiving the best evidence the RPF government could muster, three judges of UN tribunal for Rwanda unanimously concluded that the story of the Rwanda genocide told by the victor's….that there was a "long-planned conspiracy to commit a genocide of Tutsi civilians " by the top four military officers in the defeated army was not supported by the evidence. The three judges agreed that the documents and evidence I put into evidence were more credible than the RPF evidence, and the UN prosecutor did not appeal.

It was this legal victory, based on previously suppressed UN and U.S. government documents, that got me prosecuted for "genocide denial" by the RPF victors in the Rwanda War.

But, having the hard evidence that the "victor's myth" of the Rwanda War is not true is not the only way to be a "genocide denier" in Rwanda. Would-be Presidential candidate, Victoire Ingabire, was also charged with "genocide denial" for agreeing with the RPF government that there was "a genocide of Tutsi and moderate Hutus" but asking why there are no memorials to the "moderate Hutu" victims?

In Rwanda, "genocide denial" is like an ink-blot test, and can be whatever the RPF government perceives it to be. According to the RPF government, Hutus are "the perpetrators" despite recently published findings by Dr. Alan Stam of the University of Michigan and Dr. Christian Davenport of Notre Dame the that nearly twice as many Hutus were killed in 1994, as Tutsis.

IF NOT A LONG-PLANNED CONSPIRACY TO COMMIT GENOCIDE, WHAT DID HAPPEN IN RWANDA?

As many scholars and diplomats have pointed out, Rwanda and Burundi are neighboring countries with interwoven histories, like New Hampshire and Vermont, they similar ethnically and topographically, yet differ politically. Rwanda had been a relatively peaceful Hutu-majority republic from independence until 1990-94, while Burundi was a Tutsi-dominated military dictatorship that carried out several mass killings of Hutus after independence.

Burundi's first presidential election saw Hutu President Ndadaye elected by the 85% Hutu majority in August 1993. Within 90-days, Burundi's Tutsi-dominated military assassinated Ndadaye in October 1993, which was followed by an unplanned explosion of violence in which 100-200,000 were killed as Hutu peasants rose-up with hand-weapons before the Tutsi military took charge and massacred Hutus. A half-million refugees poured into Rwanda.

By the time the Burundian refugees arrived in Rwanda, some 1.2 million Hutu and Tutsi refugees already had been displaced by a war that began in 1990 when part of the Ugandan army invaded Rwanda. Led by a Ugandan officer and Rwandan ex-pat, Paul Kagame, who returned from training at Ft Leavenworth to lead the invasion, the renamed RPF grew from about 3,000 to 25,000 well-armed and well-trained troops with U.S. and U.K. military-support, and became the militarily dominant force in Rwanda by 1993.

Some 1.5 to 2 million brutalized war-displaced refugees were everywhere in the area under the control of the Rwandan government at the end of 1993. The situation was so unstable that Ambassador Flaten testified that he personally warned then-General Kagame to his face, after the Burundi blood-bath: "if he (Kagame) resumed the war….Rwanda would explode just like Burundi…and he (Kagame) would be responsible for massive killings like those that just happened in Burundi…"

The UN documents, sworn testimony at the UN tribunal, French and Spanish criminal indictments show that despite Flaten's warning, Kagame not only resumed the war but did so by assassinating the Presidents of both Rwanda and Burundi, which by any reckoning makes him primarily responsible for the mass violence Flaten told him would sweep Rwanda.

On the night the assassinations, a State Department cable warned that "both countries could explode…"because of the Burundi experience….not because of a long-planned conspiracy to commit genocide in Rwanda, as the RPF victors have long-maintained.

The UN documents also show that, once the predicted violence began, the militarily weaker Rwandan army could not defend against the RPF invasion, and put down the massacres triggered by the presidential assassinations. The defeated army repeatedly asked for a ceasefire, or to combine forces with Kagame's troops to stop the violence. But, as UN Gen. Dallaire wrote to his superiors, "Why should Kagame agree to a ceasefire, he's winning the war?…the civilian casualties are collateral damage for his (Kagame's) war plan…."

In short, the UN documents show that Kagame knowingly triggered the mass violence in Rwanda by assassinating the two Presidents, then refused to use his military superiority to help stop the mass violence he had knowingly triggered. Then, as the "victor," he was in a position to lay the responsibility

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"Rwanda-Genocide Denial"

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for the "Rwandan genocide" at the feet of the "vanquished." As Robert McNamara reminded us in the Fog of War…this is not a new story, only the details differ.

THE UN RWANDA TRIBUNAL: IMPUNITY FOR THE VICTORS, AGAIN

Despite my having been able to use UN Tribunal due process principles to get access to documents that would otherwise have been kept confidential for many decades, the performance of the Tribunal, itself, has been much less than fair or even-handed. In fact, the UN Rwanda Tribunal is the only international tribunal in history set-up to prosecute all crimes in a war, that has prosecuted only the losing side.

This means that either the four-year Rwanda War is the only war in history in which only the losing side committed crimes or, like the Nuremberg and Tokyo tribunals, the Rwanda Tribunal is actually a "victor's tribunal" in which the crimes of the victors are off-the-table for political reasons. This is a mystery that was solved in February 2009, thanks to the publication of the memoirs of former Chief UN Prosecutor Carla Del Ponte.

Del Ponte explains that she was fired from her ICTR job in the summer of 2003 by the State Department, because she had the evidence to prosecute Kagame and his RPF army and refused U.S. orders to drop the prosecutions. She writes she was informed that the U.S. had a "deal" to protect Kagame and the RPF. The UN documents I put into evidence in the UN tribunal back her up.

As early as September 1994, RPF mass crimes were reported to U.S. Secretary of State Warren Christopher and Kofi Annan. By 1997 prosecution investigative team led by former FBI agent James Lyons recommended that Kagame be prosecuted for the assassinations of the two Presidents. Files have recently come to light that have been hidden from the judges and defense lawyers detailing RPF crimes. But, to date, not one RPF-related crime has been charged at the UN Tribunal for Rwanda.

Until the White House statement last Friday, the U.S. policy of un-wavering support for Kagame has meant a U.S.-sponsored cover-up of RPF crimes at the ICTR, and a complete absence of U.S. criticism for Kagame's massive crimes in the Congo, which far exceed anything in Darfur.

THE CONSEQUENCES OF THE CONTINUING THE "LONG-PLANNED GENOCIDE CONSPIRACY" MYTH: The Impossibility Of Reconciliation And More Explosive Violence?

The cover-up of RPF crimes, and U.S. complicity in continuing "long-term genocide conspiracy" myth has real-world consequences for the people of Africa's Great Lakes Region, and is preventing any realistic possibility of reconciliation between peoples who must live together, as the White House statement recognizes. It is an open secret that the millions of deaths and resource rape in the eastern Congo by Rwandan and Ugandan troops is continuing today, with U.S. acquiescence, if not support. It is a policy that must change if there is to be anything like "stability, prosperity and democracy" in Rwanda and Central Africa.

When I was in RPF prisons, I learned that the victors' myth of a "long-planned genocide conspiracy" cannot be questioned in Kagame's Rwanda, and is an article of faith among RPF supporters so deeply engrained that they really believe their only hope for survival is a tight grip on an AK-47, and holding state power any way they can. The RPF "long-planned genocide" myth makes it easy to instill the fear that can be used to bludgeon all but the most resolute Tutsi into acquiescence with RPF strong-arm tactics, if not support. When 85% of Rwandans are considered Hutu-genocide conspirators, any movement toward real democracy makes reliance on RPF police-state repression justifiable…all in the name of self-defense!

Putting to rest the "victor's myth" of the long-planned conspiracy to commit genocide by the former Hutu government and military has the potential to open up avenues for dialogue between people who must learn to live together. In the long run, a South African-style Truth and Reconciliation process, in which both the Hutu majority and the RPF/Tutsi ruling-minority acknowledge past abuses in exchange for both forgiveness and accountability seems the only model likely to encourage reconciliation, and certainly much more likely to achieve a peaceful, positive outcome than the "victors" falsely assigning all blame to the vanquished, with the help of the U.S.

The U.S. has a very big role to play in resolving this seemingly intractable conflict. By prosecuting only the vanquished at the ICTR, while giving the victors impunity for their role in the Rwandan genocide, the U.S. is making any possibility of reconciliation more distant, and a violent reaction to "stability imposed by force" more likely, and real prosperity and democracy impossible.

The Obama administration has taken an important first step by not granting legitimacy to the illegitimate Kagame election ….a next step should be ending U.S. protection for Kagame and his RPF forces at the UN Tribunal for the crimes they are known to have committed before, during and after the Rwandan genocide. And, once there is truth…reconciliation at least has a chance.

If THAT makes me a "genocide denier," I guess I have to accept the label.

MEMBER NEWS

On October 9, **Beth Baltimore, Nora Carroll**, and **Hillary Exter** participated in a career panel and resume workshop at NYU School of Law.

Environmental Committee chair **Joel Kupferman** is prominently featured in "City of Dust: Illness, Arrogance and 9/11", former NYT reporter Anthony DePalma's recent book on the health impacts of the WTC bombing.

Chapter Coordinator **Susan Howard**, who is a board member at ABC No Rio, reports that the LES arts collective's rebuilding project received $800,000 in August via grants from Borough President Scott Stringer, Councilmember Margaret Chin, and the NYC Department of Cultural Affairs.

On April 5, the *New York Law Journal* featured an article co-authored by **Debbie Hrbek** titled "Effectively Marketing the Small Law Practice."

Margaret Ratner Kunstler participated in a July 7 Brecht Forum panel which discussed the nomination of Elena Kagan to the Supreme Court.

Emily Kunstler and **Sarah Kunstler**'s documentary film *William Kunstler: Disturbing the Universe* was aired by PBS on June 22. Visit their new website **disturbingtheuniverse.com**.

The Cornelia Street Café hosted an exhibition of **James Fishman**'s photography during the month of June.

Sam Himmelstein's rock/blues/alt group appeared at Club Metro on East 53rd Street on August 6.

On April 1, *Crain's New York Business* reported that **Garrett Wright** and the Urban Justice Center's Community Development Project filed a lawsuit seeking appointment of an administrator for a building controlled by one of NYC's "10 Worst Landlords". The tenants were organized by the Northwest Bronx Community and Clergy Coalition.

GUILD IN ACTION

The NYC and BLS chapters have co-sponsored a three-part series at Brooklyn Law School entitled **U.S. CRIMES: AGAINST INTERNATIONAL LAW** — September 28, "The Framework of International Law - History, Mechanisms & Enforcement" (featuring **Jeanne Mirer and Peter Weiss)**; October 19, "The Evidence that US Elected Officials, Employees & Contractors Have Broken & Continue to Break International Law"; and November 9, "Options for Strengthening Accountability & Justice - Organizing Strategies".

The 2nd Annual **Brandworkers Awards Dinner** on October 28 at the Angel Orensanz Foundation (home of the Spring Fling) honored the NLG's Labor & Employment Committee.

On October 27, the chapter co-sponsored a panel at CUNY Law School titled "**Lawyering in the Age of 'Terror'**: What to Expect When Your Client Is Accused of the Unthinkable, and Why It Matters for the Rest of Us."

Bob Boyle, Margaret Ratner Kunstler, and **Marty Stolar** were panelists at a joint NLG-NYC and CCR Teach-In on October 11 at Bluestockings Bookstore: "Rights and Risks When an Agent Knocks".

The chapter co-sponsored "**False Positives - Extrajudicial Executions in Colombia**: The Personal Toll and Human Rights Response" at Fordham Law School on October 5. The title refers to the Colombian army's practice of amassing a higher body count of alleged "insurgents" by murdering civilians and intentionally misidentifying them.

The NLG - BLS chapter co-sponsored a panel/dinner at Brooklyn Law School on September 22 **"Flotilla: Fact, Fiction, and the Law"**. Other sponsors were the NYU Islamic Law Students Association at and the Muslim Law Students Association at Brooklyn Law School.

On September 16, along with American Jews for a Just Peace, Jewish Voice for Peace, Jews for Racial and Economic Justice, and Jews Say No!, the NYC Chapter co-sponsored a **NO to Islamophobia and anti-Arab racism!** rally in front of the Museum of Tolerance on 42nd Street.

On May 4, the chapter endorsed a call for solidarity with the Colegio de Abogados de Puerto Rico (**Puerto Rico Bar Association**). The Colegio, which is under attack from the right, has traditionally been a progressive force in Puerto Rico.

The chapter EC hosted the Guild NEC at a **Happy Hour** on April 9 at Common Ground on Avenue A.

On March 25, the NYU chapter co-sponsored a program entitled **"FBI Entrapment: Personal Stories of Preemptive Prosecution"**. The panel discussed the cases of The Fort Dix Five, Yassin Aref, and The Newburgh Four in light of the FBI's campaign since 9/11 that includes preemptive prosecution, the targeting of Muslim communities, and the use of agent provocateurs and informants to entrap innocent people.

The **Street Law Team**, NYC law students organized by the **CUNY NLG** chapter, is once again conducting workshops **"Know Your Rights: What to Do If You're Stopped By the Police"**. The workshops are available in English and Spanish and provide practical advice for getting through a police encounter safely and calmly. Contact streetlawteam@gmail.com to set up a workshop.

National Lawyers Guild–NYC Chapter ANNUAL MEETING

WEDNESDAY, NOVEMBER 10, 2010 • 6:30 – 9:30PM
BENJAMIN N. CARDOZO SCHOOL OF LAW
55 5TH AVE. @ 12 ST., Manhattan

- Election of Executive Committee & Officers: Slate and bios available online at www.nlgnyc.org
- Program: The Guild as Legal Arm of the Movement. Panel discussion with Elizabeth Fink and Gideon Oliver
- Refreshments provided
- Hosted by the Cardozo NLG Chapter

Libya

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Employment Office. In the same breath, she explained that this was why cleaning lady number one had disappeared.

Work permits are granted if "no Libyan element" is available to do the work. (Immigration debates are the same all over the world). This is how foreign contractors obtain permits for themselves and technical staff they want to bring in without more trouble than a certain measure of red tape. But the standard becomes an interesting challenge when it comes to cleaning people's homes. Are Libyans available to do this work? What is the meaning of available?

From personal observation it is clear to me that Libyans are not available to pick up garbage, landscape parks, or clean offices. I only saw sub-Saharan African men perform this work. As these types of work fall into the Public Works category, it is safe to assume that these workers had work permits. So why are the Libyans not available? To be crass: they are sitting in the shade drinking tea while the garbage is being picked up. There are truly men of all ages hanging out in the streets all times of the day, amiably chatting with one another, looking into the distance, and wonderfully relaxed to the eyes of a crazed New Yorker.

They are also not available to wait in restaurants or work in retail: virtually every waiter encountered was either Tunisian or Egyptian. "This is," explained one Libyan man, "because Libyan men do not like to serve." An important factor here is that the government provides all Libyans a base income, whether they work or not. This explains why a 20.7% unemployment rate is not the kind of disaster it would be in the United States.

So Tripoli is going through another cycle of disappearing cleaning ladies, until the EU is sufficiently appeased and they will start popping up again. Libya and the EU are the true partners, Libyan nationals are partnering along, and all others are not partnering at all. One more revolutionary ideal gone awry.

SOURCES:

El-Qadaffi, Muammar, *The Green Book*, 1979 (English translation by the World Center for the Study and Research of the Green Book)

The Labour Law of Arab Libyan Jamahiriya, adopted May 1, 1970.

Decision of the Minister of Labour and Social Affairs on the Employment of the Citizens of the State of the Union of Arab Republics in the Libyan Arab Republic, June 29, 1972.

European Neighborhood and Partnership Instrument Libya Strategy Paper and National Indicative Program 2011-2013. European Commission.<eeas.europa.eu/libya/index_en.htm>August 23, 2010.

Tripoli Post, July 13, 2010.

Ochai. Pita. "The Door Closes." Newswatch, June 27, 2010. Newswatchngr.com, August 19, 2010.

Ursula Levelt is a member of the NYC chapter's executive committee, and the Guild's Labor & Employment Committee. She is in-house counsel for Transit Workers Local 100, and she teaches law and political science at the CUNY Center for Worker Education. She visited Libya in July, where she witnessed the negative impact that Western pressure is having on immigrant workers.

Housing Works Trial

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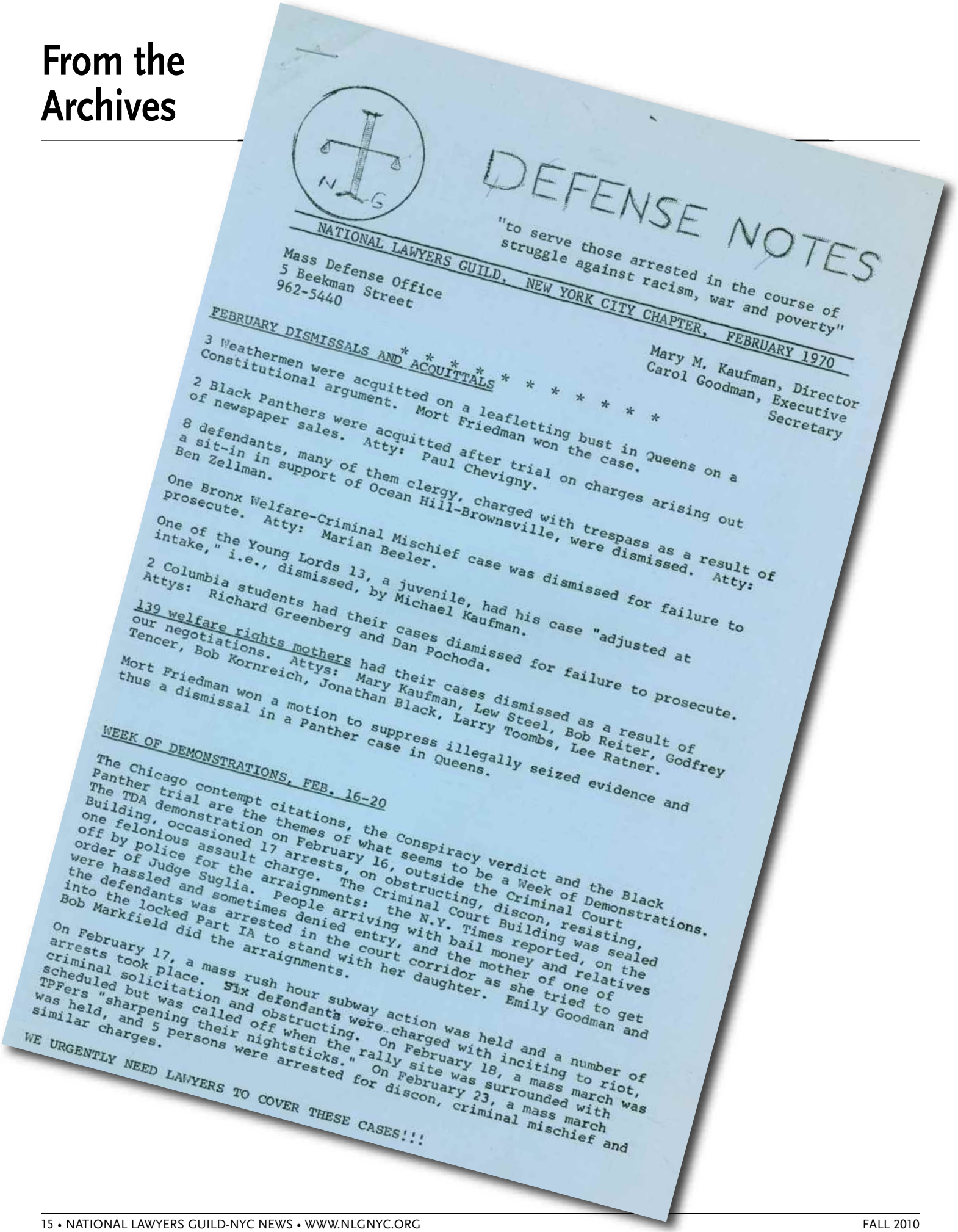
and with Judge Adlerberg's rejection of a prosecution request for community service on the grounds that community service "is what these people do every day."

The defense team included Marty Stolar's next generation mentee, Sophia Solovyova, a student at CUNY Law School, who wrote a First Amendment paper on the case that became the basis for a constitutional motion to dismiss.

Both lawyers and the defendants proclaimed the protest and the trial a victory for the First Amendment and noted that one result of the demonstration was that the proposed budget cuts for AID housing services were rejected by the City Council.

From the Archives



DEFENSE NOTES

"to serve those arrested in the course of struggle against racism, war and poverty"

NATIONAL LAWYERS GUILD, NEW YORK CITY CHAPTER, FEBRUARY 1970

Mary M. Kaufman, Director
Carol Goodman, Executive Secretary

Mass Defense Office
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FEBRUARY DISMISSALS AND ACQUITTALS

3 Weathermen were acquitted on a leafletting bust in Queens on a Constitutional argument. Mort Friedman won the case.

2 Black Panthers were acquitted after trial on charges arising out of newspaper sales. Atty: Paul Chevigny.

8 defendants, many of them clergy, charged with trespass as a result of a sit-in in support of Ocean Hill-Brownsville, were dismissed. Atty: Ben Zellman.

One Bronx Welfare-Criminal Mischief case was dismissed for failure to prosecute. Atty: Marian Beeler.

One of the Young Lords 13, a juvenile, had his case "adjusted at intake," i.e., dismissed, by Michael Kaufman.

2 Columbia students had their cases dismissed for failure to prosecute. Attys: Richard Greenberg and Dan Pochoda.

139 welfare rights mothers had their cases dismissed as a result of our negotiations. Attys: Mary Kaufman, Lew Steel, Bob Reiter, Godfrey Tencer, Bob Kornreich, Jonathan Black, Larry Toombs, Lee Ratner.

Mort Friedman won a motion to suppress illegally seized evidence and thus a dismissal in a Panther case in Queens.

WEEK OF DEMONSTRATIONS, FEB. 16-20

The Chicago contempt citations, the Conspiracy verdict and the Black Panther trial are the themes of what seems to be a Week of Demonstrations. The TDA demonstration on February 16, outside the Criminal Court Building, occasioned 17 arrests, on obstructing, discon, resisting, one felonious assault charge. The Criminal Court Building was sealed off by police for the arraignments: the N.Y. Times reported, on the order of Judge Suglia. People arriving with bail money and relatives were hassled and sometimes denied entry, and the mother of one of the defendants was arrested in the court corridor as she tried to get into the locked Part IA to stand with her daughter. Emily Goodman and Bob Markfield did the arraignments.

On February 17, a mass rush hour subway action was held and a number of arrests took place. Six defendants were charged with inciting to riot, criminal solicitation and obstructing. On February 18, a mass march was scheduled but was called off when the rally site was surrounded with TPFers "sharpening their nightsticks." On February 23, a mass march was held, and 5 persons were arrested for discon, criminal mischief and similar charges.

WE URGENTLY NEED LAWYERS TO COVER THESE CASES!!!

Civil Rights Get A Boost as NYC Jury Convicts YouTube Shove Officer

BY PAUL L. MILLS

Settlement between Critical Mass cyclists and the City of New York arising from incidents involving the NYPD totaling nearly $1 million was announced October 19, 2010 as this edition of New York City News was going to press. We should have further details by the next issue.

But in the meantime, we can report that a SDNY civil rights complaint, filed against (former) rookie NYPD officer Patrick Pogan, caught on video slamming Critical Mass cyclist Christopher Long to the pavement the night of July 25, 2008, other officers, and the City of New York, July 7, 2009, by attorneys David Rankin and Mark Taylor (Rankin & Taylor) and Jonathan Moore and Clare Norins (Beldock, Levine & Hoffman), certainly did not suffer as a result of Officer Pogan's April 29, 2010 criminal conviction." So what looked like an easy first collar for Pogan, turned out to be a stroke of luck for everyone but him.

All because of that 70-second YouTube video (2,700,000+ views and counting). ["Critical Mass Bicyclist Assaulted by NYPD" http://i4.ytimg.com/vi/oUkiyBVytRQ/default.jpg]

Plaintiff's Co-Counsel Mark Taylor, a 2007 graduate of Brooklyn Law School and avid cyclist (who worked at a firm called "Law Office of David B. Rankin" when the complaint was filed) caught the case because he already knew the victim.

Attorney Taylor, after interning at the Innocence Project, had become involved along with cyclist Christopher Long in the Free Wheels Bicycle Defense Fund, which has

provided criminal defense to NYC bicyclists since 2005.

Thereafter, Long moved into Attorney Taylor's Williamsburg warehouse space. "We were thrilled about the video," says Taylor. "It was exciting for our office," which swiftly reached out to then-Manhattan ADA Cindy Chung (now a trial attorney with the U.S. Department of Justice's Civil Rights Division). Following a "queen for a day" interview with Long, wherein defendants can talk directly to a prosecutor on a promise that nothing they say will be used against them, ADA Chung agreed to drop charges against cyclist Long. Then she took on the prosecution of Officer Pogan.

According to Taylor, rookie Pogan had attended a muster and training for the high-profile anti-Critical Mass operation, an NYPD harassment campaign ongoing since the Summer of '04 RNC. But Pogan found himself reassigned to duty in Times Square near 46th Street. Then Long cruised into view, and Pogan sprinted across 7th Avenue to make what looked like an easy arrest after all. All Pogan had to do was file the required false report, knowing it would be his word – corroborated by fellow officers – against that of a random cyclist.

This was on Friday, a night Pogan may have felt like celebrating his first arrest. The video posted Sunday. The rest is history. Pogan – who was still on probation, and not yet a member of the police union – is now himself a convicted felon, no longer affiliated with NYPD. And we're all a little safer because athletic patrol officers the world over may think twice about becoming a YouTube celebrity.

Meanwhile, the arrests of those who videotape police continue.

[See discussion at www.time.com ("Should Videotaping the Police Really Be a Crime?") http://www.time.com/time/nation/article/0,8599,2008566,00.html]

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