

# Pro Bono News

SPRING 2024

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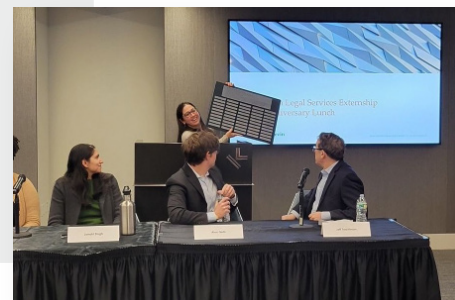
## Pro Bono Events

### Kramer Levin Celebrates the 25th Anniversary of Brooklyn Legal Services Externship

In January, Kramer Levin celebrated the 25th anniversary of its Brooklyn Legal Services (BLS) externship. Since 1998, the firm has maintained an **Attorney Service Program** in which attorneys are assigned to staff a full-time legal services position representing low-income clients for a period of four months.

More than 50 Kramer Levin externs have represented hundreds of low-income families and individuals in housing, immigration and family law matters, making an important contribution to meeting their legal needs while gaining terrific hands-on experience.

In celebration of the 25th anniversary, Director of Professional Development and Pro Bono Programs **Jamie Porco** organized a panel moderated by partner **Aaron Frankel** during which former externs spoke about the impact their experiences at BLS had on their careers. Panelists included partner **Jeffrey Trachtman** and associates **Genevieve Burger-Weiser**, **Alex Gelb**, **Danielle Moody**, **Jonaki Singh** and **Shaked Sivan**.



# Honors and Awards

## Brooklyn Defender Services to Honor Kramer Levin at 2024 Family Defense Benefit

### Brooklyn <sup>(BDS)</sup> Defenders



Our pro bono partner **Brooklyn Defender Services** has selected Kramer Levin as an honoree at its upcoming 2024 Family Defense Benefit on June 10.

This recognition is based in large part on the brief **Karen Steinberg Kennedy** and **Drew Zagami** filed and Drew's excellent oral argument on behalf of a pro bono client in a child neglect case in the Appellate Division. This work resulted in what Brooklyn Defenders considers **an important victory and excellent new authority**. The honor also recognizes the work the firm has done with Brooklyn Defender Services over the years, our dedication to their clients, and our commitment to the organization's mission of keeping families together.

# Pro Bono Highlights

## Kramer Levin Wins Appeal of Child Neglect Finding

On March 20, Kramer Levin secured a victory in the New York Supreme Court, Appellate Division, Second Department, for a pro bono client in a child neglect case. Together, Litigation associate **Drew Zagami** and Litigation special counsel **Karen Steinberg Kennedy** obtained reversal of a summary judgment decision finding that the client had derivatively neglected her two children.

In New York, a Family Court may find that a parent's past neglect of one of their children also constitutes neglect of their other children; this is known as derivative neglect. However, the previous neglect finding must be sufficiently "proximate in time" to the derivative proceeding to support a presumption that the condition contributing to the parent's previous neglect still exists. Here, the client had prior neglect findings from 2007 and 2009.

Kramer Levin and our co-counsel, **Brooklyn Defender Services**, successfully argued that these findings were far too remote in time to support a derivative finding of neglect of the client's two other children, who were born in 2020 and 2021. Litigation associate Drew Zagami argued the appeal in the Second Department, which agreed. The court issued a decision that further held, as Kramer Levin argued, that ACS had failed to establish its prima facie entitlement to summary judgment because its motion "relied solely on the prior neglect findings" and was utterly devoid of "any ... evidentiary material." The court reversed the Family Court's decision and remanded the matter for a full fact-finding hearing.

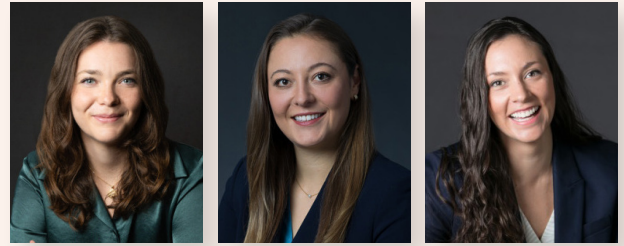
In addition to **Karen Steinberg Kennedy** and **Drew Zagami**, the Kramer Levin team included paralegal **Angela Chan**.



## Pro Bono Highlights (Cont')

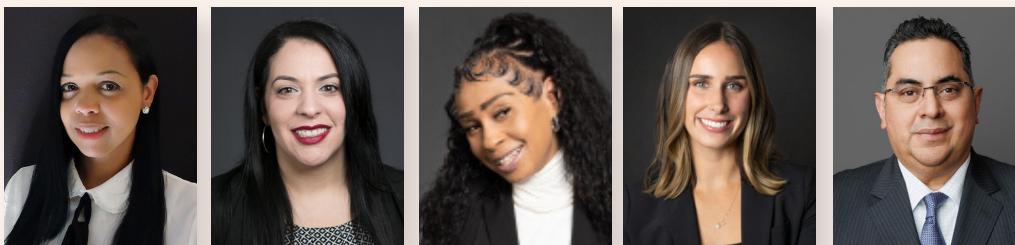
### Asylum Victory for Peruvian Woman and Her Son

On March 5, at an individual hearing before a U.S. Immigration Court in New York, Kramer Levin obtained asylum for Ms. P and her son, both of whom fled Peru to escape ongoing abuse perpetrated by Ms. P's former partner, the father of her son. Ms. P was determined to live her life as an independent single mother and spent approximately 17 years attempting to evade her former partner within Peru. Ms. P's former partner continually tracked her down and inflicted horrific acts of violence upon her because he viewed her as his property and because he was angered by the actions Ms. P took that manifested her beliefs that women and men are equal. This case highlights the unfortunate prevalence of domestic violence in Peru, along with the vulnerability and lack of support that are the reality for Peruvian women who are victims of such crimes.



Ahead of the individual hearing, the Kramer Levin team prepared a substantive brief and gathered documentary evidence in support of their case, including Peruvian and U.S. medical records, an affidavit from one of Ms. P's family members in Peru, and Peruvian police reports. Kramer Levin also retained a country conditions expert who was able to provide an expert declaration, which substantially corroborated and added credibility to Ms. P's account of her experiences in Peru. Leading up to the hearing, the Kramer Levin team prepared to examine three fact witnesses and one expert witness. However, the day of the hearing, the immigration judge surprised the Kramer Levin team by ruling from the bench, on the papers, prior to hearing any live testimony. The government subsequently waived its right to appeal.

The Kramer Levin team consisted of associates **Celeste Williams** and **Jane Tomic** and special counsel **Rita Celebrezze D'Souza**, along with **Gisselle Sabala**, **Ines Dominguez**, **Marisol Casilla**, **Natali Rey** and **Luis Villanueva**, whose invaluable work translating and communicating directly with the clients made an incredible difference in the case.



### Amicus Brief Supporting Congestion Pricing for New York City

On April 1, 2024, Kramer Levin filed a motion for leave to submit an amicus brief on behalf of nine environmental, transportation, real estate and public interest groups, including the **Environmental Defense Fund**, the **New York League of Conservation Voters** and **Transportation Alternatives**, supporting the congestion pricing plan for New York City that the MTA hopes to launch in 2024 (the Plan). The motion and proposed brief were filed in the U.S. District Court for the Southern District of New York in *Chan et al. v. United States Department of Transportation, et al.*, No. 23-cv-10365.

## Pro Bono Highlights (Cont’)

Plaintiffs, principally New York City residents, have filed suit to block the Plan from going into effect, arguing that the U.S. Department of Transportation and the Federal Highway Administration within the Department of Transportation should have undertaken a more thorough environmental review, including the preparation of a full environmental impact statement, before approving congestion pricing for New York City.

Kramer Levin’s proposed amicus brief makes three arguments in favor of the environmental, health, transportation, equity and accessibility, environmental justice, and positive economic and financial benefits of establishing a large-scale congestion pricing program:

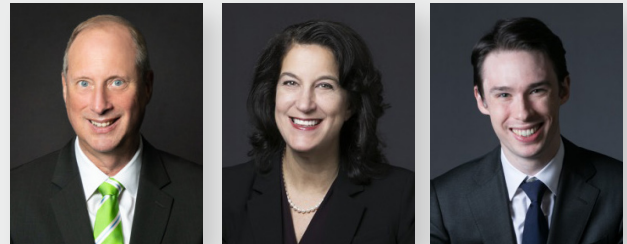
**First**, implementing the Plan would improve the quality of life for millions of people in the New York/New Jersey/Connecticut region.

**Second**, after extensive outreach and analysis of the potential environmental justice impacts of the Plan, the MTA has committed to the mitigation of adverse impacts on communities affected by predicted traffic increases.

And **third**, the success of similar congestion pricing programs in other cities and their surrounding areas around the world provides compelling support for the proposed Plan in Manhattan.

The **motion** and the **brief** are available online. Partner **Andrew Otis**, special counsel **Karen Steinberg Kennedy** and associate **Ryan Gander** comprised the Kramer Levin team.

Kramer Levin previously filed an amicus brief on behalf of the Environmental Defense Fund and other groups in *State of New Jersey v. United States Department of Transportation, et al.*, No. 23 Civ. 038835, another congestion pricing case pending in the U.S. District Court for the District of New Jersey.



### Kramer Levin Obtains Approval of Client’s VAWA Petition and Application to Adjust Status

In 2020, Kramer Levin filed a VAWA petition and adjustment of status application on behalf of a pro bono client. In June 2023, we responded to USCIS’s request for evidence in connection with the VAWA petition and shortly thereafter received notice that our client’s VAWA petition was approved. Associates **Kelly Porcelli** and **Natali Rey** attended the client’s adjustment of status interview in January 2024. Shortly after the interview, USCIS granted the client her green card.

In addition to **Kelly Porcelli** and **Natali Rey**, the Kramer Levin team also included associates **Daniel DePasquale** and **Laura Perdomo Diaz**. **Marisol Casilla** provided translation assistance.



## Pro Bono Highlights (Cont')

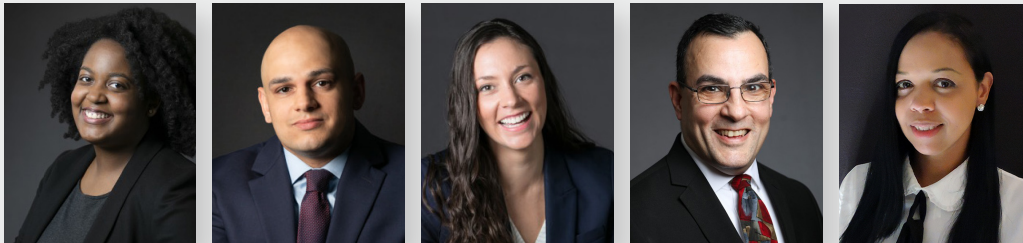
### Asylum Victory for Peruvian Woman and Her Five Children

On Feb. 7, a Kramer Levin team obtained a grant of asylum in Immigration Court for Ms. G, a woman who fled Peru in 2022, as well as for each of her five children, who range in age from 4 to 19. Ms. G endured years of sexual, physical and psychological abuse by the father of her children. He knowingly transmitted HIV to Ms. G. To avoid the strong stigma against HIV-positive individuals in Peru, Ms. G kept her diagnosis a secret and struggled to receive adequate medical care. In Peru, Ms. G owned a small business. A gang called Tren de Aragua extorted Ms. G for money. Upon threats of violence and death, Ms. G was forced to pay the gang for years and feared violent retaliation were she to return to Peru.



On reviewing Kramer Levin's brief, the affidavits and other accompanying evidence, the U.S. Department of Homeland Security agreed not to oppose the case and deferred to Immigration Judge Themistoklis Aliferis' determination. Judge Aliferis then granted asylum based on the documentary submissions alone.

The Kramer Levin team consisted of Litigation associate **Danielle Moody**, Corporate associate **Daniel DePasquale**, Tax special counsel **Rita Celebrezze D'Souza**, Litigation paralegal **Santo Cipolla**, and legal assistant **Gisselle Sabala** (who provided translation throughout the representation). Former associates Aaron Jacobs, Martin McSherry and former summer associates Laszlo Herwitz and Morgan Visoso were also part of the team.



### Kramer Levin Files Amicus Brief in Support of Transgender Veterans

On Jan. 29, Kramer Levin filed an amicus brief on behalf of seven former generals, admirals and surgeons general urging the Department of Veterans Affairs (VA) to respond promptly to a seven-year-old rulemaking petition asking the VA to repeal regulations that exclude gender-affirming surgery from VA health care. The brief was filed in the U.S. Court of Appeals for the Federal Circuit in *In re Transgender American Veterans Association*, No. 24-108.

In 2016, the **Transgender American Veterans Association** (TAVA) petitioned the VA to repeal regulations that deny gender-affirming surgery to veterans even when VA physicians deem that surgery medically necessary. Despite acknowledging the importance of providing that care to transgender veterans, the VA has not formally responded to the rulemaking petition. On Jan. 25, TAVA filed a petition for a writ of mandamus with the Federal Circuit, asking the court to compel the VA to respond promptly.

## Pro Bono Highlights (Cont’)

Kramer Levin’s amicus brief highlights the importance of providing health care benefits equally to transgender veterans. Speaking on behalf of military and medical leaders who have served at the very highest levels and drawing on their experiences as well as research sources, the brief explains that denying transgender veterans gender-affirming surgery undermines commitments the government makes to service members at the time of enlistment and weakens military recruitment and retention. The brief further argues that discriminating against transgender veterans by denying them this essential care violates the military’s and the VA’s core values.

Signatories to the brief include Vice Admiral Donald Arthur, former Navy surgeon general; Vice Admiral M. Joycelyn Elders, former U.S. surgeon general; Major General Gale Pollock, former Army acting surgeon general; and Rear Admiral Alan Steinman, former Coast Guard director of health and safety.

The Kramer Levin team included partners **Roy Englert** and **Jeffrey Trachtman**, associate **Shikha Garg**, paralegals **Joanna Lee** and **Kate Miller**, and administrative assistant **Maria Marden**.



### Win for Consumer Debtors in Fifth Circuit Pro Bono Bankruptcy Appeal

On March 18, 2024, Kramer Levin prevailed in a pro bono bankruptcy appeal to the U.S. Court of Appeals for the Fifth Circuit, winning a victory that should help thousands of consumer debtors.

Our client, Maria Christina Morgan, is a nurse who borrowed from a hedge fund, Ovation Services, to pay \$17,000 in real estate taxes she owed to Nueces County, Texas. The \$17,000 was secured by an assignment of Nueces County’s super-senior tax lien on Ms. Morgan’s condominium unit, valued at \$89,000.

The fund charged Ms. Morgan 17.5% interest plus legal fees. Ms. Morgan lost her job during the pandemic, fell behind on her payments, faced foreclosure on her debt (now \$24,000, including legal fees) and in 2022 filed for bankruptcy with a Chapter 13 plan that paid the fund in full, including legal fees as allowed by the court, over five years.

The Southern District of Texas has a local rule and Local Form Chapter 13 Plan that require all secured creditors to report their legal fees every 180 days in order to give Chapter 13 debtors the ability to pay those fees over the five-year plan period. In the absence of the rule, a tax lien assignee could delay reporting its legal fees until the end of the Chapter 13 plan, when the debtor had no ability to pay them. Given the super-senior nature of a tax lien — prior even to mortgages in Texas and in other states — a tax lien assignee is virtually certain to collect everything it is owed.

Ovation Services, which is enforcing tax liens in 464 cases in the Southern District of Texas, objected to Ms. Morgan’s plan and the local rule, arguing that a bankruptcy plan could not compel periodic disclosure of legal fees. Ovation Services lost in bankruptcy court and on appeal to the district court, but Ms. Morgan’s Chapter 13 counsel had not been paid to represent her on appeal, leaving her without counsel when the fund appealed to the U.S. Court of Appeals for the Fifth Circuit.

In addition to Ovation Services’ pre-bankruptcy legal fees, totaling \$3,000 in connection with a \$17,000 loan, Ovation has since sought \$7,000 in additional legal fees for work during the Chapter 13 case and could have sought even more fees in connection with its appeal of Ms. Morgan’s Chapter 13 plan.

## Pro Bono Highlights (Cont’)



Ms. Morgan retained Kramer Levin as pro bono appellate counsel. Bankruptcy and Restructuring partner **Thomas Moers Mayer** filed a brief in the Fifth Circuit, after which Ovation Services moved to dismiss its appeal — agreeing, as part of the dismissal, to forgo collection of any legal fees relating to the appeals to the district and circuit courts.

The dismissal preserves as precedent the decisions of the bankruptcy and district courts upholding the Southern District of Texas’s local rule and plan form. The victory will immediately affect all Chapter 13 cases involving tax liens in the Southern District of Texas, including the 464 cases for Ovation Services alone. The dismissal also supports similar rulings in other Texas districts (where Ovation Services and other assignees are enforcing tax liens) and may have ramifications for consumer debtors nationwide in connection with enforcement of delinquent property tax liens — which the National Tax Lien Association estimates as totaling \$21 billion each year.

## Clinics and Trainings

### Pro Bono Legal Health Check Workshop with TrustLaw

During March, in honor of Black History Month and Women’s History Month, our pro bono team once again co-sponsored a virtual pro bono Legal Health Check Workshop.

For the fifth year in a row, we partnered with **TrustLaw**, Thomson Reuters Foundation’s global pro bono legal program, to provide a pro bono “health check” for NGOs and social enterprises whose missions focus on racial justice and/or empowering women and girls of color in and around New York City.

We advised **Restitution Study Group**, **Strong Minds America**, **Resolution Project**, **Strange Inc.** and **Wikitongues** on different areas of law, including tax, intellectual property, corporate and privacy, among others.

### NYC Business Solutions Virtual Small Business Clinics



Once a month, Kramer Levin holds monthly Small Business Clinics, collaborating with the Harlem and Morningside Heights offices of

**NYC Business Solutions** to help low- and lower-income entrepreneurs in Upper Manhattan and the Bronx as they restart, maintain and grow their businesses. To participate in a future small-business clinic, please contact **Colin Bumby**.

# Clinics and Trainings (Cont')

## NYLAG Clinic to Assist Guinean Asylum Seekers

Kramer Levin's **Pro Bono Committee** and **Racial Justice Initiative** teamed up with **New York Legal Assistance Group** (NYLAG) on Feb. 27 for a pro bono clinic to assist refugees from Guinea with filing asylum applications. It was a wonderful collaboration of attorneys, staff, translators and the firm's **Racial Justice Initiative Scholars!** Special thank you to Pam Badolato for all her hard work in setting up the clinic!



Views of the training room.

Malado Barro (interpreter), Luis Encinas and Natali Rey; Daniel DePasquale, RJI Scholar Mariama Campbell, Danielle Moody and Ousseynou Mbaye (interpreter), Hannah Sosland, Katy Keane, Aminata Chabi-Leke (interpreter) and Patti Green.



Linda Butler, Riley Zook and Mamadou Diallo (interpreter); participants in the training room; Jae Ellis (left) and Zach Fields (right) with one of our interpreters.