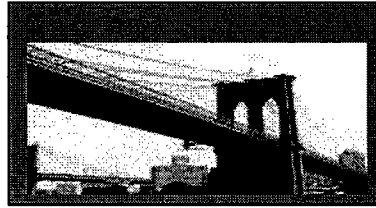


# ***EASTERN DISTRICT ASSOCIATION NEWSLETTER***



***SPRING 2009***

## **MARCH MADNESS AT THE EDNY**

Significant Cases Brought as Office Assumes Even  
More Prominent National Role

Under the leadership of **U.S. Attorney Benton J. Campbell**, Eastern District prosecutors have been working feverishly -- and scoring important victories and national recognition -- on many recent cases. Significant cases have been brought by almost every unit, including:

- **BSF: AUSAs Jonathan Green and Daniel Spector** secured a 97-month term of imprisonment against **Lieb Pinter**, a former executive of **Olympia Mortgage**, after his conviction of a \$43 million dollar scheme to defraud **Fannie Mae**.
- **BSF: AUSAs Kelly Currie, Winston Chan, and Winston Paes** secured a conviction after trial against **Darren DeMizio**, a former executive director at **Morgan Stanley**, for his role in a kickback scheme that cost **Morgan Stanley** almost \$2 million.
- **Civil Division: AUSAs Paul Kaufman and Denise McGinn** secured a significant False Claims Act settlement against **Victory Memorial Hospital** of claims that the hospital submitted false claims to the Medicare Program.
- **Civil Rights: AUSAs Pam Chen and Margo Brodie** secured convictions against three defendants for racially motivated assaults in the wake of President Obama's election victory.
- **Environmental: AUSA Kelly Horan Florio** secured a major settlement against **Spectrum Finishing Corporation** for EPA's costs associated with the clean up of a Superfund site in Suffolk County.
- **Gangs: AUSA Jason Jones** is prosecuting a newly filed case against two members of **MS-13**, who are charged with, among other crimes, the 2007 murder of 21-year-old **Maurice Parker**.
- **Organized Crime: AUSAs John Buretta, Deborah Mayer, and Jeffrey Goldberg** secured a life sentence against **Jackie DeRoss**, Boss of the **Colombo** family, for, among other crimes, the murder of **Colombo Underboss "Wild Bill" Cutolo**.
- **Organized Crime: AUSAs Robert Henoch and Daniel Wenner** (with a special appearance from former **AUSA Mitra Hormozi**, who now serves in the **NYS AG's** office) secured life sentences against **Louis Eppolito** and **Stephen Caracappa**, the so-called "Mafia Cops," for their long and treacherous career as henchmen to the **Luchese** family.
- **Organized Crime: AUSAs Roger Burlingame, Evan Norris, and Marisa Megur Seifan** secured the conviction after trial of **Gambino** soldier **Charles Carneglia**, a trusted confidant of and hitman for former **Gambino** family boss **John Gotti**.
- **Public Integrity: AUSAs Sarah Coyne and Rob Radick** obtained a conviction of Manhattan attorney **Steven Coren** who, three days into his jury trial, pleaded guilty to defrauding the government out of millions of dollars intended to pay for construction workers' fringe benefits.
- **Special Prosecutions: AUSAs Andrea Goldberg and Rachel Nash** secured the conviction of **Israel Weingarten** for sexually abusing his daughter, after a hard-fought trial in which the defendant (representing himself) cross-examined his own daughter.
- **Terrorism: AUSAs Greg Andres, Marshall Miller, Andrew Goldsmith, and Jeffrey Knox** secured convictions against two members of the **Tamil Tigers** for attempting to acquire guided anti-aircraft missiles. The defendants pled guilty during jury selection.

## **Member News**

**Miriam Best** was appointed last fall to serve as an Acting Supreme Court Justice in Bronx County, joining EDA Members **Judith Lieb** and **Seth Marvin**.

**David Bitkower** and **Jason Jones** have been appointed to be Deputy Chiefs of the Violent Crimes and Terrorism Section.

**Laura Brevetti** joined **K&L Gates** as a partner, where she will continue handling a broad range of complex criminal and civil matters.

She recently spoke as a panelist at a New York Bar Association CLE entitled, "The False Defense - How Far May A Defense Lawyer Go?" Laura can be reached at [laura.brevetti@klgates.com](mailto:laura.brevetti@klgates.com).

Leslie Caldwell, a partner of Morgan Lewis, and Eric Friedberg, the President and CEO of Stroz Friedberg, hosted another successful Eastern District Dinner at this year's ABA White Collar Crime Conference in San Francisco, California. Leslie and Eric have hosted the dinner together for a number of years, and this year saw the event's highest attendance. We thank Leslie and Eric for being so generous in their funding of this popular event.

Robert Capers and Walter Norkin have been appointed to be Deputy Chiefs of the Narcotics Section

Sean Casey has joined the law firm of Mayer Brown LLP as a partner, and a co-leader of the firm's Securities Enforcement and Investigations group. Sean can be reached at [scasey@mayerbrown.com](mailto:scasey@mayerbrown.com).

Pamela Chen has been appointed to be Chief of the Civil Rights Section.

Susan Corkery and Jo Ann Navickas have been appointed to be Deputy Chiefs of the Appeals Division.

Rich Faughnan, a 14-year veteran of the Office who served most recently as the Chief of the Public Integrity Section, has joined Navigant Consulting, Inc. as a Director. At Navigant, he joins Geoffrey Kaiser, the former Chief of Healthcare Fraud Prosecutions. Rich can be reached at [rich.faughnan@navigantconsulting.com](mailto:rich.faughnan@navigantconsulting.com).

Moe Fodeman was appointed the Chief of the Public Integrity Section, having served for several years as the Deputy Chief of Violent Crimes and Terrorism.

Andrew Frisch left LeClair Ryan to start his own firm, focusing on White Collar criminal defense. Andy can be reached at [Frischlaw@aol.com](mailto:Frischlaw@aol.com).

Sean Haran has joined the Paul Hastings firm as a Senior Counsel. He joins EDA Member Kenneth Breen. Sean served most recently as the Deputy Chief of the Business & Securities Fraud unit, where he prosecuted several high-profile cases, including the stock finders case

profiled in the "March Madness" Column. Sean can be reached at [seanharan@paulhastings.com](mailto:seanharan@paulhastings.com).

Scott Klugman and James McGovern have been appointed Deputy Chiefs of the Business and Securities Fraud Section.

Jeffrey Knox has been appointed to be Chief of the Violent Crimes and Terrorism Section.

Mark Lesko has left the office and is now running to become the Town Supervisor of Brookhaven in Suffolk County.

Matthew Levine, a partner of Fish & Richardson, published an article in the New York Law Journal on March 12, 2009, entitled "When Breaching A Web Site's Terms of Service is a Crime." A copy of the article is attached.

### **Captain America Goes to the ICC**

Jack Smith is serving as the Senior Investigations Coordinator for the International Criminal Court in the Hague, Netherlands. As the supervisor of all the investigative teams, Jack works on all the ICC's cases, but he has been intensely focused this year on some extremely important matters:

- Thomas Lubanga - case currently on trial (first in history of the court) . Leader of UPC militia in Democratic Republic of Congo (DRC) charged with recruiting and enlisting child soldiers
- Omar Bashir - President of Sudan recently charged with war crimes and crimes against humanity, including extermination for his campaign of violence against the people of Darfur.
- Germain Katanga and Matthew Ndugjolo-Lendu Ngiti - militia leaders charged with massacre of civilians and related crimes in the town of Bogoro, DRC.
- Jean Pierre Bemba - Millionaire leader of MLC militia charged for massive rapes, looting and murder committed by his troops in the Central African Republic in 2002-2003.

Jack can be reached at [jacksmith097@gmail.com](mailto:jacksmith097@gmail.com).

Marshall Miller has been appointed to be Deputy Chief of the Criminal Division.

Jim Miskiewicz and Nicole Boeckmann have been appointed to be Deputy Chiefs of the Long Island Criminal Division.

Timothy Macht has started a boutique litigation and appellate law firm called Macht, Shaprio, Arato & Isserles, LLP. You can visit their site at [www.machtshapiro.com](http://www.machtshapiro.com).

Taryn Merkl has been appointed to be Deputy Chief of the Organized Crime and Racketeering Section.

John Nathanson has joined the law firm of Shearman & Sterling as counsel. He can be reached at [john.nathanson@shearman.com](mailto:john.nathanson@shearman.com).

Patricia Pileggi has joined Schiff Hardin as a partner, where she is helping to expand their White Collar practice and also handling a range of civil matters. Pat can be reached at [PPileggi@schiffhardin.com](mailto:PPileggi@schiffhardin.com).

Craig Warkol has been elected as a partner of Bracewell & Giuliani, where he is a member of the Litigation Department. Craig served as a Special Assistant U.S. Attorney in the Business & Securities Fraud. Before that, he served as Senior Counsel in the Enforcement Division of the SEC.

Lawrence Zweifach, the former Chief of the Criminal Division, has joined the law firm of Gibson, Dunn & Crutcher, where he will continue his civil and criminal defense practice, and will serve as Co-Chair of the Firm's Securities Litigation practice. Larry can be reached at [lzweifach@gibsondunn.com](mailto:lzweifach@gibsondunn.com).

## EDA Dinner

EDA would like to thank Christopher Jensen, Gregory O'Connell, and Alan Vinegrad for their tireless efforts in organizing another outstanding EDA Dinner, which was held on February 5 at the New York Athletic Club. 266 people attended - our largest event to date. The EDA honored Magistrate Judge Steven Gold with the Eastern District Association Award, and Richard Donoghue with the Charles Rose Award. A photographer on the scene (Margie Berman, wife of EDA Member Larry Krantz) took a few candid, which she shared with us (and we share with you).

## EDA Web Site

The EDA would like to thank Lauren Resnick and Eric Friedberg for their substantial efforts to improve and enhance the Eastern District Website, which you can access at [www.easterndistrictassociation.org](http://www.easterndistrictassociation.org).

## Featured Case

### Victory Across the River

**Pitofsky's First Defense Trial  
Ends In Acquittal**

On December 17, 2008, David Pitofsky secured the acquittal of his client, David Greenberg, in *United States v. Larsen, et al.* Commonly referred to as the *Stein* case, in reference to the former lead defendant who headed the Tax Department at KPMG LLP, Southern District Judge Lewis Kaplan dismissed the indictment against Stein and 12 other former KPMG employees based on a finding that the government had pressured KPMG not to pay the legal fees of its former employees, in violation of the Fifth and Sixth Amendments. After those dismissals, which were upheld by the Second Circuit, the case proceeded to trial with David's client and three other defendants.

In his opening statement, David launched an aggressive defense strategy to establish that Mr. Greenberg was not part of the alleged conspiracy, and that he had created legitimate tax shelters. The trial was exceedingly complicated, as it involved, from the defense perspective, using lay witnesses to set the groundwork for a complicated, tax law defense - and in an area of the tax law which is challenging even for experts. In one of his cross-examinations, David was able to illustrate for the jury that what the government had presented on direct examination as proof of illegality and obfuscation, when properly understood, was in fact evidence that his client had recommended a transparent and conservative approach to his client. This pattern of turning government witnesses into defense witnesses was repeated throughout the 10-week trial. At the end of the presentation of evidence, David's team persuaded Judge Kaplan to dismiss five counts of the indictment, and a jury rendered a verdict of acquittal on the remaining counts.

Congratulations, David, on an impressive start to your defense career.

### **Kroger Elected as Oregon's Attorney General**

On January 5, 2009, John Kroger was sworn in at Oregon's 16<sup>th</sup> Attorney General. According to John's Website, which you can find at [www.doj.state.or.us](http://www.doj.state.or.us), John won the race by "winning the nominations of both the Democratic and Republican parties." He lists his office's goals as:

- Fight crime and protect crime victims
- Improve child welfare
- Protect the Environment
- Fight for Oregon's consumers, workers, investors, and taxpayers
- Promote a positive business climate
- Provide great legal services to Oregon's state government, and
- Defend the rights of all Oregonians

Congratulations to John. We wish him continuing success in his public service career.

### **News to Report**

This Newsletter will be distributed regularly to EDA members. Please convey news about our members to any Steering Committee member:

Paul Bergman: [berglaw@mindspring.com](mailto:berglaw@mindspring.com)

Robert Begleiter: [rbegleiter@cpny.com](mailto:rbegleiter@cpny.com)

Laura Brevetti: [laura.brevetti@klgates.com](mailto:laura.brevetti@klgates.com)

Jason Brown: [jabrown@ropesgray.com](mailto:jabrown@ropesgray.com)

Zachary Carter: [carter.zachary@dorseylaw.com](mailto:carter.zachary@dorseylaw.com)

Valerie Caproni: [valerie.caproni@ic.fbi.gov](mailto:valerie.caproni@ic.fbi.gov)

Charles Clayman: [clayman@clayro.com](mailto:clayman@clayro.com)

Matthew Fishbein: [mefishbein@debevoise.com](mailto:mefishbein@debevoise.com)

Chris Jensen: [jcj@cll.com](mailto:jcj@cll.com)

Robert Katzberg: [rkatzberg@aol.com](mailto:rkatzberg@aol.com)

Greg O'Connell: [gjo@dorlaw.com](mailto:gjo@dorlaw.com)

Patricia Pileggi: [PPileggi@schiffhardin.com](mailto:PPileggi@schiffhardin.com)

Lauren Resnick: [lresnick@bakerlaw.com](mailto:lresnick@bakerlaw.com)

Sung-Hee Suh: [sung-hee.suh@srz.com](mailto:sung-hee.suh@srz.com)

Alan Vinegrad: [avinegrad@cov.com](mailto:avinegrad@cov.com)

Jim Walden: [jwalden@gibsondunn.com](mailto:jwalden@gibsondunn.com)

### **Painting the Fence Can be So Much Fun**

The EDA Steering Committee welcomes contributors to this Newsletter, which will help us maintain a more regular publication schedule. If you would like to take over the "Member News" section, or would like to write a side bar about any EDA member's cases or accomplishments (or even write about a timely issue), please contact a member of the Steering Committee.