# JD JOURNAL

Nothing But the Truth

February/March 2007 | Issue 1.2

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## Attorneys Freeing Modern-Day Sex Slaves

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Attorney, Author, Economist, And Dope Smoker

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# From the Publisher's Desk

Although I run 14 different companies related to the legal profession, I did not recognize the need for a truly meaningful magazine dealing with real issues lawyers face until I saw our first--and most recent--issue of JD Journal. While I hate to say this, I never had the opportunity to review our last issue (and did not know what would be in it) until after it was sent out to more than 125,000 attorneys and law students throughout the United States.

I quickly realized something was very wrong: JD Journal was just like every other legal magazine out there. The content was predictable and did not enlighten, attorneys were being portrayed as sophisticated and aloof, and the true issues that affect attorneys on a day-to-day basis were once again being ignored.

The JD Journal staff and I quickly got together, and everyone acknowledged that a grave error had been made. None of us wants to be associated with the ordinary; we are seeking the extraordinary. None of us wants to bore you; we want to wow you. And none of us wants to give you material that you will not remember three days from now; we want to give you material you might remember forever. In the span of a few short hours, our magazine was reborn. We will not look back on what it once was, and it will never be the same.

I have always disliked legal magazines. I do not like reading about general counsel who interfaced successfully with law firms on important cases. I do not like reading about new cases ruled upon by courts. I have never enjoyed rereading the same sorts of surveys year after year. In fact, I do not know anyone who actually regularly reads the majority of the content in a legal magazine. I bet you don't either. And I know lots of attorneys!

What I enjoy is reading about the ways lawyers really are and the sorts of things they deal with in their personal and professional lives that do not involve the boring details that are rehashed in one legal magazine after another. Attorneys and law students do not differ from the rest of America. We face the same problems and have the same hopes and fears as everyone else. However, for whatever reason, we have not always been allowed to be ourselves and have always had to put on our "lawyer faces" when interacting with each other and the rest of society.

More than anything, I want JD Journal to be the sort of magazine you want to read. This is something I feel I owe to the legal profession, which has given me so much, and to you. If you are looking for boring stories about ordinary lawyers and ordinary topics affecting lawyers and law students, you will never find them here. What JD Journal stands for is undeniable: lawyers are people, and they are interested in real issues that affect them.

When I practiced law, I observed most attorneys thinking and talking about the same topics on a day-to-day basis:

- the difficulties of work
- power
- sex
- self-actualization
- drugs and alcohol
- buying stuff
- money

These topics do not seem much different than what the rest of America dwells upon on a daily basis, either. However, the legal profession is much different because those in the legal profession do not seem to be able to speak publicly about these sorts of issues. In addition, these issues are never examined with the analytical eye that they should be.

These sorts of issues are also important because they tell us a lot about ourselves. JD Journal will seriously examine the intersections between our lives (and what it means to be human) and the practice of law. I want JD Journal to be the sort of magazine you are dying to get your hands on--a publication that tells you about who you are and what you are becoming.

Regards,

A. Harrison Barnes
Publisher and CEO

JD JOURNAL
Nothing But the Truth

**Publisher**
A. Harrison Barnes

**Editor-in-Chief**
Tom Horne

**Managing Editor**
Judith Earley

**Staff Writers**
Charisse Dengler
Anique Gonzalez
Melanie Lammers
Melissa Mills
Heather Newton
Mary Waldron
Amy Wong

**Contributors**
Devon Pryor
Jen Woods

**Advertising Director**
Briana Hurd

**Marketing Director**
Flora Pappas

**Art Director**
Robert Rosal

**Director of Public Relations**
Fred Godlash

**Legal Analyst**
Steve Herman

**CONTACT US**

**JD JOURNAL**
175 South Lake Avenue, Suite 200
Pasadena, CA 91101
**Fax:** (213) 895-7306
**Website:** www.jdjournal.com

**Subscription Inquiries**
(626) 243-1836

**Advertising Inquiries**
(626) 243-1857

**Public Relations**
(626) 243-1838

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## Reader Letter

Dear Judith,

The magazine with (y)our article seems actually to have been issued at last, for I received a long letter from a law student in Pennsylvania who wants himself to practice in Vermont after completing law school and who read the article in the current issue of JD Journal. Congratulations!

Kind regards,
Gleb Glinka

## PHOTO CREDITS

***"Winning Thoughts from Ben Stein"***
Comedy Central; Monique Mallory

***"Borat: Cultural Learnings of America, Part II, or Make a Sexy Time in da Courtroom?"***
Olivier Taillieu; Twentieth-Century Fox; Alex Lambrinidis; Mark Schwartzbard

***"Caught with a Crutch: Some Attorneys Use Crystal Meth to Cope"***
The Courier-Journal, Louisville, KY; Catherine Noe; Rich Merritt; The Advocate; Robin Henson; Aroon Kearney

***"Judge Judy v. Versace: Who Are the Reigning Fashion Police of the Courtroom?"***
Danielle Bilotto; Mark Hales & Sean Coletti; Mary Waldron

***"Project (Law School) Runway"***
MELISSA ANN ARGAY for pictures of two men in a suit and the girls in black
Other credits: Cathy Brewton; Michael Raab

***"Demystifying the Myths about Legal Prostitution in Nevada"***
Tom Horne; www.GirliesCam.com

***"Significant Lives versus Successful Lives: Attorneys Who Free Sex Slaves and Mandate Change"***
Ted Haddock, International Justice Mission

## CORRECTION

Credit for the cover photo for Vol.1 No.1 belongs to MELISSA ANN ARGAY

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# Borat: Cultural Learnings of America, Part II, or Make a Sexy Time in da Courtroom?

*By Mary Waldron*

The controversy surrounding the film *Borat: Cultural Learnings of America for Make Benefit Glorious Nation of Kazakhstan* has boosted the movie's popularity and income at the box office, which has surpassed $240 million worldwide, as controversy has done for most movies of a similar daring nature, such as Michael Moore's *Fahrenheit 911 and Bowling for Columbine;* however, the stream of anger from and confusion on the parts of participants is beginning to undermine the film's deeper purpose.

To expose the underlying human character flaws associated with the hodge-podge of ethnicities, beliefs, backgrounds, and religions in the United States is a valid and novel purpose for a film. Unfortunately, the overwhelming outcries of fierce allegations have generated concern that the makers of the film may have let the social experiment derail into a particularly sick version of the popular MTV show Punk'd by supposedly conducting it at the participants' expense and based on their misunderstanding. The creators of the film were aiming to communicate a strong message to a narrow-minded and corrupt cluster of society but may

have ended up making the film itself a hypocrisy contributing to the type of behavior that it bashes.

After the hit movie exploded onto the big screen with record-breaking sales grossing $26.4 million in its opening weekend in the United States and Canada (despite the fact that it was released in fewer than 1,000 cinemas), rumors of scandal and lies arose--as well as a few lawsuits. Two (now-former) fraternity brothers from the University of South Carolina, who are featured in the film traveling in an RV and picking up the hitchhiking Borat, claim that they were lied to and coaxed into signing questionable contracts after a member of the film crew took them out for a night of binge drinking.

Olivier Taillieu, a savvy Beverly Hills entertainment lawyer from Zuber & Taillieu, LLP, has taken on the case. Armed with an aggressive work ethic and extensive experience in the arena of films' contractual procedures, he believes that he can pinpoint exactly where 20th Century Fox went wrong.

With permission to block the film's DVD release and the scene featuring the frat boys having been denied by West Los Angeles Superior Court Judge Joseph S. Biderman, the heat is turning up as the plaintiffs' trial for unspecified monetary damages approaches.

So how did Taillieu, a 16-year-old high school dropout from France, end up one of the most sought-after attorneys in Los Angeles, representing the most current high-profile entertainment lawsuit? "Perseverance and determination," Taillieu said. "I think it's just part of my mentality. I don't tend to do things half-ass. If I'm going to blow off steam, I do it all the way, but if I'm going to be serious, and I'm going to be driven, then I do that all the way, as well." Perhaps Taillieu's experiences in his rowdy, rebellious teenage days will give him an advantage and insight into representing the two carousing comrades from South Carolina.

Natives of France, Taillieu and his mother picked up and left home when he was 15 years old to find a better life in Los Angeles. A large portion of Taillieu's life and career success has been derived from the superb example his mother set for him while he was growing up. "She's demonstrated what one can do when one has no fears, and that's to just believe in yourself and go for what you want, no matter what obstacles are in front of you," he said.

After getting caught up in typical teenage punk behavior, Taillieu finally decided to follow "a more intellectual pursuit," as he put it. He finished high school and enrolled at Arizona State University (ASU) at the age of 23. While working toward his Bachelor of Arts in Communications, Taillieu began looking into graduate school programs and considering law because of its wide array of career options.

"I thought that a law degree would give me the most options, whether or not I actually decided to become a lawyer," he said in an interview with *Communication Matters,* a communications department newsletter published by ASU.

During his last semester at ASU, Taillieu served as a legislative intern on the Arizona State Senate Judiciary Committee, having worked under retired State Senator Patricia Nolan. Writing and presenting analyses of legislation propositions to various committees, drafting legislation alongside state government agencies and committee members, and researching issues related to pending bills gave Taillieu a legal foundation that reinforced his decision to attend law school after completing his undergraduate education.

As an extraordinary student and member of the Golden Key National Honor Society and the Phi Kappa Phi National Honor Society, Taillieu graduated *summa cum laude* from ASU in 1996.

Following graduation, Taillieu was accepted into The George Washington University Law School, where he

excelled as managing editor for the school's law review as well as a straight-A law student. He graduated *summa cum laude* and first in his class, later becoming a member of the Order of the Coif, a national honor society for law students who have attended one of the society's affiliated schools.

Taillieu's phenomenal transformation into a true scholar and professional did not stop there. He obtained some of the most competitive clerkships available after college, breaking ground for his legal career as a judicial clerk for the Honorable Lourdes G. Baird in the U.S. District Court for the Central District of California and then for the Honorable A. Wallace Tashima on the U.S. Court of Appeals for the Ninth Circuit, one of the most distinguished clerkships in the country.

Following his clerkships, he entered into practice as a litigator in the intellectual property and technology department of the Los Angeles office of O'Melveny & Myers, LLP, one of the top law firms in the world. While practicing there, he met Tom Zuber, who frequently joined him for coffee breaks at "ungodly hours" while working on extensive intellectual property litigation cases. Deciding that "there had to be a better way," the two joined Zuber's brother and fellow lawyer, Jeff, and embarked on the task of starting up their own firm. "The math no longer made sense [at O'Melveny & Myers]. Plus, I saw that I was sacrificing my quality of life for work," he said in an interview with *Communication Matters.*

Currently leading as a partner at his own firm in Beverly Hills, CA, Zuber & Taillieu, LLP, Taillieu has primarily focused his law career on litigation. His litigation experience includes work on cases in the areas of patents, trademarks, unfair competition, unfair business practices, copyrights, entertainment, breach of contract, antitrust, and torts.

Because of Taillieu's extensive litigation skills and experience, high-profile national and international television shows, including *Good Morning America, Nightline, NBC Nightly News, The O'Reilly Factor, and many others, frequently contact him* and feature him as a guest.
Taillieu has also had the opportunity to meet and collaborate with some of Hollywood's up-and-coming creative talents in film, giving him an edge on this case. As co-producer of the 2005 film *Little Athens* and producer of the 2004 film *Fear Within,* Taillieu handled the legal background for the films and their production, including matters pertaining to their legal contracts.

"Your typical reality contract is about 50 pages. It covers every angle. It tells the participants everything they're going to be involved in, and it even goes beyond that and creates no expectation whatsoever. They're pretty broad. But that's how you protect yourself. That's how the production company protects itself," he explained.

Speaking of reality TV shows and films, Taillieu was also a member of the cast of the short-lived 2005 reality show *The Law Firm.* Although NBC pulled the plug on the *Apprentice*-like legal reality show after two unsuccessful airings,

the show's six remaining episodes were handed over to the network's affiliate, Bravo. True to his rebellious nature, Taillieu has been noted as one of the show's more memorable contestants; one reporter from the online magazine *TalkLeft* said, "The contestants were entirely forgettable, except for Olivier [Taillieu], who cursed the judge when he lost the hearing."

Taillieu's *Borat* clients, who go by "John Doe 1" and "John Doe 2" in the lawsuit that was filed on November 9, 2006, struck gold when they tracked him down to represent them in their case; they will definitely benefit from his hands-on experience and tenacity.

It all started last year in late October when members of the film's production team interviewed brothers from the Chi Psi fraternity at the University of South Carolina. Three of the brothers were chosen to appear in an upcoming "documentary." According to participants, they were told that the

film was *only* going to be distributed in Europe and that their names, the name of their school, and their fraternity affiliations would not be disclosed to the public.

All of the alleged promises were broken. On the day of the shoot, the three frat brothers were taken by a member of the film crew to a local restaurant, The Flying Saucer, to drink and "loosen up" before filming. A few drink rounds later, they were allegedly taken to an RV and presented with "standard consent agreements," which they signed. As the production team prepared to call "action," the fraternity members were all encouraged to act as outrageously as possible and, of course, continue drinking.

"The way you legitimize is by getting your waiver *after* the fact--you shoot, then sign--because then the person who signs the waiver knows exactly what they're signing; they've seen it, they've just lived it. The question now becomes 'Do I want to publicize this all over the airwaves?' My guys didn't get that opportunity," Taillieu said.

The film's field supervisor, who was with the three frat boys, claims that he had them sign the releases at the restaurant *before* they drank anything. A field department coordinator for the film supports this allegation in her court declaration, saying that she picked up the contracts when the group was on their second round of drinks. Even if they had given the frat brothers the chance to sign afterwards, it is obvious that they could not have signed coherently directly after the shoot.

One of the three frat boys, David Corcoran, who is not pressing charges, summed up the experience in a phone interview with ABC, saying, "They brought us to a bar, got us wasted, and the rest is history."

Once the contracts were signed and the cameras started rolling, the frat boys, who were all apparently drunk during the filming, improvised the scene in which they pick up and befriend the hitchhiking Borat, played by actor Sacha Baron Cohen, while traveling across the country in an RV. In the film, as they all sit around and drink with Borat, the guys are clearly "loosened up" and begin spouting insulting comments about women and minorities.

The repercussions of the frat brothers' comments stirred turmoil within their work and school lives. The lawsuit outlines the aftermath, saying that the film's release has caused the two plaintiffs "to suffer humiliation, mental anguish, and emotional and physical distress, loss of reputation, goodwill, and standing in the community in which [they] live, work, and learn."

Many critics of the lawsuit fail to realize that although the frat brothers' obscene comments were disgraceful and immature, they are not suing for appearing to be a couple of Southern bigots. The real issue lies within the misconceptions made by and the lies allegedly told to participants, as well as the contract's attempt at waiving any possibilities of fraud accusations.

The contract states that the participant agrees not to bring forth any claims against the producer or its affiliates that include various assertions, including "breach of any alleged contract (whether the alleged contract is verbal or in writing)."

"One of the interesting elements of the contracts is that they attempt to waive fraudulent representations, which is interesting because we're claiming that fraudulent representations were made, and I think that the contracts themselves support that. Otherwise, why would you waive it?" commented

Taillieu. "Even though it tries to waive fraud, you just can't do that. It's against the law."

Oh, yeah, and one of the frat boys was only 19 years old when the movie was filmed. According to 20th Century Fox, the underage frat boy used fake identification when he was carded by the restaurant and by production.

Encompassed with fraudulent representation, the fact that the producers got participants, including a minor, drunk before signing contracts, if proven, can diminish any validity that the contracts may hold, no matter what they say. These two pieces of evidence could work together in the execution of the case, further supporting the claims regarding the film crew's negligence and duplicity.

"They go hand in hand--we're telling a story. From a purely legal standpoint, if I had to choose, the misrepresentation is far more powerful; it has far-reaching consequences from a legal standpoint, and I do think that we have a fairly good case," said Taillieu. "The fact that they were drunk provides context to the underlying cause of action, which is the fraudulent inducement cause of action. I think when you put those two in combination and you look at the conduct of the producers, it is not only that they lied, but then they got my guys drunk to get them to sign a contract. In the totality, we find that

that's pretty egregious," he said.

The two students from the University of South Carolina are not the only ones who are pressing charges and spreading bad press about the movie's supposed deceptions. Throughout the film, Borat encounters a variety of colorful characters, including a group of feminists, a Jewish couple who run a bed-and-breakfast, gay pride parade participants, politicians, and many others. While conducting his investigation, Taillieu has come into contact with many people who appeared in the film.

"Since I've filed the lawsuit, I've had the opportunity to talk to *a lot* of participants in the film who've chosen to remain anonymous at this point. It is a consistent message that I get, which is: 'I was lied to, and had I known the truth, I wouldn't have done what they asked me to do.' One of the predominant lies that they have used throughout is the fact that this would not be shown in the United States, period," he said.

Although 20th Century Fox may have broken verbal contracts with numerous people, the written contract uniquely states that the producer has the right to use "the film and any recorded material that includes the Participant without restriction in any media throughout the universe." Would it not have sufficed to say "internationally"? Even though only a few participants have filed lawsuits, many claim they were unclear of the parameters and upset by the film's outcome.

Which will hold up in court? The slew of verbal agreements or the possibly corrupt written contract?

Two villagers of Glod, Romania, where the opening scenes of the movie were filmed, are also attempting to sue for misrepresentations of their community--but for a whopping $30 million. In the opening scenes of the film, Borat tours the city, pointing out the town rapist and abortionist, among others, targeting individual villagers. Members of the village claim that they were originally told that the film's purpose was to depict their country's "extreme poverty" in a factual documentary about their conditions, heritage, and beliefs; they were allegedly only compensated the equivalent of $6 each per day.

20th Century Fox claims that the production team and star Sacha Baron Cohen each donated $5,000 to the town, paid a location fee, and bought computers as well as school and office supplies for the residents. It also claims that all participants were fully aware that they were extras in a satirical movie set in Kazakhstan, having signed consent forms and been compensated fairly.

Glod's villagers disagree and are angry that their footage was manipulated in ways that made them appear ignorant and sick. Two residents of Glod, Nicolae Todorache and Spiridon Ciorbea, hired Edward Fagan, a reparations attorney from Texas, to sue the producers of the film. The lawsuit was thrown out by U.S. District Judge Loretta Preska in early December 2006 because the claims were too vague to stand up in court. Fagan plans to continue pursuing the case.
The frat brothers' case is exactly the type of challenge that Taillieu likes to have on his plate. He has a strong interest in fighting for the rights of individuals against large affiliations, like 20th Century Fox, who tend to bully low-profile opposition. "I'm a litigator, so I tend to be driven by what moves me," Taillieu said. "I like to represent individual rights just as a general rule. To some extent, I like to be the guy with the white hat. I like to be the guy who has the 'moral right.'"

Taillieu is a sensible guy. His matter-of-fact attitude spills over from his younger years onto his current professional life. As one can see from his turn toward law as a young man, when he wants something, he goes after it. This drive has solidified his mission in the frat brothers' case. "I do feel that there's something bigger at stake here," he explained, "and that is that you can't go around and take advantage of people and then make millions on their backs. That's just not fair."

Based on the defense evidence, Gregg Brilliant, a spokesman for 20th Century Fox, has called the lawsuit's claims "ridiculous on so many levels."

Statements issued on December 12, 2006, confirm that a trial date for the frat boys' lawsuit for monetary compensation has yet to be set.

# And the Winner Is...

With Sacha Baron Cohen's win for "Best Performance by an Actor in a Motion Picture - Comedy or Musical" and a nomination for "Best Motion Picture - Comedy or Musical," *Borat: Cultural Learnings of America for Make Benefit Glorious Nation of Kazakhstan* proved that it wasn't such an industry pariah on January 15, 2007, at the 64th Annual Golden Globe Awards in Los Angeles. In his acceptance speech, Baron Cohen thanked every American who did not sue him.

The Hollywood Foreign Press Association chose Baron Cohen's performance over those of Johnny Depp in *Pirates of the Caribbean: Dead Man's Chest,* Aaron Eckhart in *Thank You for Smoking,* Chiwetel Ejiofor in *Kinky Boots,* and Will Ferrell in *Stranger Than Fiction.*

Among the film's fellow nominees for "Best Motion Picture" were *The Devil Wears Prada, Little Miss Sunshine, Thank You for Smoking,* and category winner *Dreamgirls.*

## Best Screenplay Oscar Nomination...But No Script

Shockingly enough, on January 23, 2007, the predominantly improvised script of *Borat: Cultural Learnings of America for Make Benefit Glorious Nation of Kazakhstan* was nominated for a Best Adapted Screenplay Oscar. Despite what critics say, the Writers Guild of America (WGA) confirmed that the makers of the film did submit an actual script--even though it was composed of "reality" or "documentary" writing. The film will battle it out with fellow nominees *Children of Men, The Departed, Little Children,* and *Notes on a Scandal* for the Best Adapted Screenplay title at the 79th Academy Awards on February 25, 2007, at 5:00 p.m. (PST)/8:00 p.m. (EST) on ABC.

## The Village of Glod, Romania

With a population of only 1,500 and a name that literally translates to "mud," the Gypsy village of Glod in Moreni Municipality, Dâmbovița County, Romania, epitomizes poverty. The village's residents live in broken-down huts near the Carpathian Mountains. Many of them depend on the country's meager welfare wages and live most of their lives as impoverished scavengers. Fewer than five villagers have steady jobs in the nearby towns of Pucioasa and Fieni.

Since the village has few to no luxuries--not even running water--the villagers' toilets are basically holes in the ground, and horses and donkeys are their only means of travel. According to *Daily Mail,* not a single villager that it spoke with had ever been able to afford a trip to the nearest cinema, which is 20 miles away--a circumstance that makes the residents of Glod perfect potential targets for exploitation by filmmakers.

# Those Who Choose the Royce, We Salute You

Your head will spin (and maybe even fall off) when you get a load of the newest embodiment of the Royce legacy, the Rollsiest of the Rolls, the Phantom Drophead Coupé. Expected to sport a price tag of more than $400,000 when it reaches the United States in September, this vehicle is the grand-opera-on-wheels in state-of-the-art driving luxury.

A more informal interpretation of the traditional Rolls-Royce archetype, this two-door, four-seat convertible seamlessly combines Information Age technology with the elegant and distinguished body one expects from a Rolls. Its light yet durable aluminum frame supports its classic exterior featuring high-diameter wheels, an impressive hood, short front and long rear overhangs, and an exemplary impacting line that determinedly and gracefully skirts its flanks. The outwardly perfect aesthetic engineering of the Drophead supports a distinct design reminiscent of the boundless sense of freedom induced by the thrill of top-down joyriding.

The new Phantom Drophead Coupé incorporates a number of features from the 100EX, the experimental coupé of 2004. The brushed-steel hood is machine-finished and then given a laborious hand polishing to ensure an ideal sheen. The teak decking is treated with a perfect blend of oils to preserve its lustrous finish.

In order to facilitate access to the rear seats, front coach doors have been approved for this new model, enhancing its overall aesthetic and contributing to a profile that brings to mind the swinging sports cars of the 1960s. The rear-hinged doors also reinforce the fortress-like body and permit a sleek A-pillar windshield.

The Drophead's rear compartment is divided into two sections, each of which can be opened separately, allowing convenient access to its 315 liters of space. When lowered, the tailgate seats two, and the cashmere-lined, noise-canceling folding roof

*CONTINUED ON PAGE 80*

# Significant Lives versus Successful Lives: Attorneys Who Free Sex Slaves and Mandate Change

*By Melissa M. Mills*

*Safehouse - Phnom Penh - March 2003 BLUR*

Jyoti, an impoverished 14-year-old girl, worked as a day laborer in a brick kiln in order to help her family out financially. However, the family's debts were growing, and in order to help pay off the moneylenders, Jyoti's struggling father agreed to marry her to a 30-something man in exchange for a large dowry. Jyoti refused and ran away to another village to work as a domestic servant. After earning a bit of money, she decided it was time to return to her family.

Traveling alone, Jyoti was approached and befriended by four women who convinced her to board a train with them that would take her back to her home. When the train did not stop at the scheduled time, Jyoti grew agitated. The women assured her that everything was fine and gave her tea to calm her. Three days later, Jyoti woke up in a brothel far from home, where she was told that she was owned by a brothel keeper and would be forced to have sex with customers. Jyoti, who was a virgin, refused; she faced more than 50 separate assaults with sticks, plastic water pipes, and electrical cords.

Jyoti managed to resist for two months--until the brothel keeper had had enough. Eager to get a "high price" for her virginity, the brothel keeper sold Jyoti to her first customer for $200. After being beaten for refusing the customer's sexual advances, the terrified young girl was pushed into a mirror, which cracked, cutting deeply into her face and chin. Jyoti continued to resist despite her injuries, but the customer demanded service. After sexually assaulting her, the customer tipped Jyoti $22, which she threw at the brothel keeper.

After this experience, Jyoti continued to hope for escape, always looking for a way out. She even went so far as to ask her customers to help, but it was to no avail. Outwardly, she was forced to comply, working every day from noon until 4:00 a.m. without a day off. Jyoti was forced to have sex with an average of 25 different men per day for three years (a total of approximately 15,000 customers), usually without condoms. When Jyoti and the

other girls didn't adhere to the brothel keeper's demands, they were injected with an unknown drug used to control them. Brutalized, scared, and imprisoned, Jyoti needed rescuing.

* * * *

Sean Litton, 38 and a graduate of Notre Dame Law School, wasn't always a professional human rights lawyer and advocate for the poor. Six years ago, he made a bold move. He decided to set aside his six-figure salary at Kirkland & Ellis and his comfortable Washington, DC, lifestyle and relocate his family to the Philippines. There, he took on a position as the head of the Southeast Asian office of the International Justice Mission (IJM), a human rights organization whose mission is to "rescue victims of violence, sexual exploitation, slavery, and oppression."

Consisting of a "multi-national team of lawyers and law enforcement professionals and legal staff," IJM works on a case-by-case basis, "conducting criminal investigations and collecting evidence to rescue victims and bring perpetrators to justice."

"The greatest irony is that everyone thought I was making an incredible sacrifice," said Litton in an article published in his alma mater's magazine. "But I can't think of a single sacrifice I've made. And we have helped so many women and children." Directing IJM's office in Southeast Asia has brought Litton a host of cases dealing with everything from bonded slavery to illegal land seizure to sex trafficking to unprosecuted rape.

Litton's first case was that of Cardela[1] , a 15-year-old girl from the Philippines who was sent to live with her aunt in order to further her education. Instead, she became a domestic slave, caring for a household made up of her aunt's children and sketchy houseguests. One night when she was in the house alone, her aunt's boyfriend, the son of a police officer, cornered Cardela and raped her. He promised to kill her if she said anything, but courageously, she told her aunt, who insisted that the police issue a warrant. Unfortunately, the warrant was never granted, and the rapist was allowed to go unpunished.

After her aunt disappeared, Cardela found shelter in a facility where she met the man she now calls "Uncle Sean." Thereafter, everything changed. Litton stepped in, took on Cardela's case, and became her guardian ad litem. Assisting the prosecution, Litton wrote a final memorandum to the judge that proved Cardela was indeed raped by the police officer's son. The result was more than Cardela could have hoped for. Her rapist was brought to justice, sentenced to life imprisonment, and forced to pay Cardela a large sum in civil damages.

"People ask me how I can do this without getting discouraged. I don't get discouraged because I get to see guilty people go to jail," Litton explained.

"[Sean] has this shirt that he wears around that says 'mad scientist' because what do mad scientists do [but] experiment on themselves? He said, 'I'm going to conduct this experiment, and we're going to leave this elite law firm job, comfort and security, control and wealth, and he was surprised to find that when he let go of control, wealth, comfort, and respect […] he found that what he got in return was better. That [is], he actually saw authentic miracles," said Victor Boutros, an IJM associate and University of Chicago Law School graduate who also works as a criminal litigator at Fish & Richardson in Dallas.

"That's really the story of everybody

[1]Some names were changed to protect the identities of the victims.

## IJM's Four-Fold Approach

**Victim Relief:** Relieve the victim of the abuse currently being committed.

**Perpetrator Accountability:** Bring accountability and just consequences under the law to the specific perpetrators of abuse.

**Structural Prevention:** Prevent the abuse from being committed against others who are also at risk by strengthening community factors that are less likely to deter potential oppressors, reducing the vulnerability of at-risk populations and empowering local authorities to stop such abuses.

**Victim Aftercare:** Provide access to services to help victims transition to their new lives and to encourage long-term success.

*Source: International Justice Mission*

at IJM--they could choose to have successful lives, but instead they've chosen to have significant lives," Boutros added.

The Washington, DC-based organization was founded 10 years ago by Gary Haugen, an attorney who worked for the Department of Justice, after he was loaned out to the UN to investigate the genocide in Rwanda.

"All murder investigations begin with the location of the bodies, so I was given a list of 100 mass graves and massacre sites and began my journey there," Haugen explains in his book, Terrify No More, which outlines IJM's work, focusing on an IJM-prompted brothel raid in Svay Pak, Cambodia. When Haugen realized that more than 800,000 people had been murdered without so much as an intervention by the United Nations, his life was changed forever.

"Slipping in the mud of that mass grave, I stopped wondering how I might have fared in the great moral struggles of history. It there became abundantly clear that such struggles are not matters for idle speculation; such struggles are now [...]. [W]hat have I found? Massive man-made disasters of epic proportions that are not of a distant era; they are the tragedies of history taking place on our watch," he writes.

Haugen determined, after examining a study conducted by fellow human rights workers, that the most preventable and least prosecuted of these tragedies included global sex trafficking, slavery, illegal detention, and sexual violence.

Although Americans tend to think of slavery as something of the past that was eradicated in the 19th century, it remains an active institution to this day. According to National Geographic, there are 27 million slaves in the world--more than there were during the four centuries of the transatlantic slave trade. Slavery, whether bonded or sexual, has never gone away. UNICEF cites that 8.4 million children "work in the worst forms of child labor, including prostitution and debt bondage, where [they] are exploited in slave-like conditions to pay off a debt." Humans are the third-most-trafficked commodity, just behind weapons and drugs.

After discovering these statistics, Haugen began to take words he found in Isaiah 1:17 ("Seek justice, rescue the oppressed, defend the orphan, plead for the widow") to heart and created the International Justice Mission, a faith-based, non-denominational organization that "stands in the gap for victims when they are left without an advocate." In effect, he took the fight for human rights to a new level.

The traditional human rights model took a top-down approach, in which experts would go to various countries and report back on abuses, publicizing them in order to initiate changes in public policy. IJM's model is different, in that it takes what Victor Boutros calls a "bottom-up approach."

"Rather than working on publicizing the abuses and changing the government policy regarding the victims, [IJM] just starts with the victims. [They] do what lawyers and prosecutors do routinely in the U.S., which is investigate an individual case, see what the law says, and take that case to a place of power. Then IJM seeks relief for an individual victim, and on the basis of all the concrete data that emerges from all the specific cases they've worked on, they can make suggestions for structural change," Boutros explained.

Since 1997, Haugen and his colleagues have been using this method and simultaneously bolstering their efforts to recruit top legal professionals, urging lawyers to use their skills for more than earning hefty paychecks and top partnerships at elite firms. Sharon Cohn, who earned her J.D., *cum laude*, from Harvard, is Senior Vice President of Interventions for IJM. According to Cohn, "When the poor have representation, it makes all of the difference [...] presenting a package that looks professional, that says someone looked at this and someone believed in me, [is] something we [as lawyers] can take for granted, [but it] can be the difference between a person getting what they are entitled to or not--the difference between justice and injustice and, in some cases that we work on, the difference between life and death."

Speaking at engagements across the country, Haugen and other IJM members spread the word about injustice to colleges and universities, church congregations, and prospective law students, urging their audiences to get involved. Haugen is famous for quoting Edmund Burke, who more than 200 years ago wrote, "All that is necessary for the triumph of evil is that good men do nothing."

Haugen can speak for a very short time and still propel an audience into action. Jin Chung, Director

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**What Is Sex Trafficking?**

Sex trafficking is the recruitment, harboring, provision for, or obtaining of a person so that a commercial sex act can be induced, often by force, fraud, or coercion. Traffickers sell individuals to make a profit in what has become a multibillion-dollar enterprise.

Trafficked women and girls are often tricked with the promise of a good job. Some are kidnapped and drugged, only to find upon waking that they are trapped in brothels and will be forced to have sex with customers. In some instances, victims are sold by family members in order to pay medical bills or debts. Police complicity often leaves these girls with no one to turn to for help.

**The Facts about Sex Trafficking:**

Of the 600,000 to 800,000 people trafficked across international borders every year, 80% are female, and 70% of those women and girls are trafficked for sexual exploitation (U.S. State Department).

In Cambodia, which is known for its $511-million-per-year sex trade, an estimated 50,000 to 55,000 women and girls are held as prostitutes. In the city of Phnom Penh, which has a population of approximately 1 million, there are between 10,000 and 20,000 prostitutes, and 35% are younger than 18 years old (Canada's Future Group).

It is estimated that 200,000 to 300,000 women and children are trafficked into Thailand for prostitution each year (International Labor Organization).

Every year, 35,000 women are trafficked out of Colombia for the sex trade, resulting in estimated profits of $500 million (Protection Project).

Worldwide, human trafficking generates about $9.5 billion dollars each year (Trafficking in Persons Report, 2005).

Children are at a greater risk than adults of contracting sexually transmitted diseases because their body tissues are more susceptible to damage. According to a Cambodian NGO, as many as 70% of rescued girls are infected with HIV ("Report: International Trafficking in Children: Will New U.S. Legislation Provide an Ending to This Story?," 2005).

*2005.02INM-Renuka at Orphanage1b*

**What IJM Does**

IJM investigators spend thousands of hours infiltrating brothels and uncovering the world of sexual exploitation. IJM staff then works with local authorities to lead raids and rescue victims from their horrific nightmares, placing them in safe homes where they receive aftercare and begin new lives in freedom. Thereafter, IJM lawyers work to secure the convictions and sentencings of brothel keepers and other perpetrators involved in sex trafficking. These convictions help to deter future perpetrators and change the system that traffics women and girls for sexual exploitation. In the raid on Svay Pak, Cambodia, IJM assisted in the freeing of 37 girls who were forced into sex slavery, the youngest of whom was five years old.

While it's hard to imagine how these legal professionals pose as sex tourists, think of what it must be like for the young girls who have to endure such horrific treatment day in and day out. Jamie Farrant, the head lawyer for IJM's police training programs in Latin America, noted that it is difficult to pretend to be a pedophile but that he is more worried about the experiences of the victims.

"What do we do about those girls who cry daily while they put on their masks? How much harder for them when they're only teenagers? How much harder when they recall that they were deceived into coming to this crowded but lonely and heartless place?" he asked.

Sharon Cohn, Senior Vice President of Interventions at IJM, concurred, saying, "We can't expect the children to be more courageous than we are."

For victims of slavery, especially sex slavery, time is precious. Every day that a girl is trapped in a brothel, she is forced to be away from her family and friends, and she is cut off from her childhood. Exposed to cruelties that few may ever fully comprehend, victims experience multiple types of suffering.

"If people understood that these children are not only being sexually abused but also forcibly infected with a deadly virus [HIV/AIDS], they would, I think, be seized with a greater sense of urgency to get them out and get them out now," writes Haugen in *Terrify No More*. "After serving 10 customers a day for six months, these children have experienced 1,800 sexual encounters with men who have no regard for their health or their future."

For this reason, IJM works constantly to eradicate sex slavery, bonded slavery, and other injustices perpetrated against helpless people all over the world. In order to expand its operations, IJM has recently added internships for aftercare and social workers; it is also looking to place even more lawyers in positions that will allow them to make further contributions.

*Source: International Justice Mission*

of Interns and Volunteers at IJM, illustrates this, pointing to Urbana 2000, a conference for college students at which Haugen spoke for approximately 10 minutes. Three years later, Chung's office was filled with applications from law students who said that they went to law school based solely on what Haugen had said in that speech.

"Lawyers are the most cynical people about lawyers in the world. They have become cynical about this whole idea of justice and heroism. But it's this sort of stuff that re-captivates them, and it's the core things that they had a taste of when they got into law school and then got into the profession," said Victor Boutros, speaking from personal experience.

After returning from their latest IJM trip to Southeast Asia, Victor Boutros and his wife, Tricia "Trish" Steele Boutros were asked by their respective firms to conduct presentations on IJM's work and their participation in it. Trish Boutros, a University of Chicago Law School graduate who earned her B.A., *magna cum laude,* from Duke and met Victor Boutros while studying at Oxford, gave a PowerPoint presentation to legal professionals at her firm, Vinson & Elkins. Number 39 on *National Law Journal's* "Top 250" list, Vinson & Elkins employs 759 attorneys who "strive diligently to be great citizens as well as great lawyers."

As a result of their passion for these issues, the Boutroses are spreading the word to lawyers--and lawyers are taking notice and getting involved. "I've seen that just having the opportunity to talk to many lawyers about this kind of work, there's an innate and strong reaction that says, 'I want to be a part of that' because there are people suffering in the world who aren't suffering because they are hungry or homeless or because they are sick. They are suffering because they have an oppressor, a bully in the community who's stronger and who's using that strength to take away from them the good things that they have--sometimes their lives, sometimes their innocence, sometimes their dignity […]. They are taking these things away, and what these people need-- they need the rule of law. They need lawyers, and if lawyers show up, their lives can change. And if they don't, they won't. That's a tremendous opportunity for lawyers who are tremendously skilled and have these very unique gifts that these people need to have a tremendous impact in their lives," Victor Boutros said.

***"When our grandchildren ask us where we were when the weak and the voiceless and the vulnerable of our era needed a leader of compassion and purpose and hope, I hope that we can say that we showed up and that we showed up on time." -- Gary Haugen***

The thought that he consistently has opportunities to help people in real and tangible ways leaves Boutros incredibly thankful and gives his voice an enthusiastic edge as he explains what it was like for Trish and him to be involved in an IJM investigation. "We got to play a small role in the culmination of a two-year investigation with IJM and the local law enforcement which resulted in a raid of two particularly brutal rice mills," Boutros said. "And on that day, we got to meet 48 people who had been slaves, most of them all of their lives, on their first day of freedom. And that is a very, very special day."

Once she realized that her gifts could make a difference, Karis Chi, a law student at the University of California, Berkeley, refused to sit on the sidelines. Mesmerized by what Haugen said on a visit to the Bay Area, Chi followed him around to all of his speaking engagements, changing her career path as a result. Although she originally had planned to work with a public defender, Chi took a job at Bird and Marella in Los Angeles in order to save up money so that she would someday be able to work for IJM.

Chi will start her fellowship with IJM in Uganda in mid-February 2007; she will work on land-grab cases, representing widows and orphans who have been forced off their land. Although she hasn't yet begun to work with IJM, Chi, much like Sean Litton did, wonders what sacrifices she'll have to make. Nevertheless, she daydreams excitedly about the potential rewards of this decision, which she said include "knowing that you are part of an effort to mitigate suffering in the world, experiencing satisfaction and fulfillment in your work, and for many of us, living out the joy and convictions of our faith."

"Just the thought that these brilliantly talented people who really have a heart for service [are] joyfully, for free, going [to various parts of the world], serving these

people…it's beautiful. And we don't require that people have that pedigree, but we feel that, hey, if we can give some of the poorest people in the world some of the best legal talent in the world, why not? More help for the people over there," said Jin Chung, in reference to a list of international, top-educated IJM interns and fellows.

Sally Uncapher, a former IJM legal intern in Thailand, said that law school gave her the educational background to pursue her interest in the human rights field. She added, "The experience of meeting the victims after they are rescued from sexual slavery gives an organic meaning to the term 'advocate.' When an attorney chooses to work with an organization such as IJM, the issues he or she faces are not corporate, they are not financial, and they may not be real property issues. Unlike big firms, an organization like IJM enables an attorney to experience advocating on issues that embody the core of humanity: natural freedom."

"We get caught up in the idea of wanting to be successful, [thinking,] 'I want to be wealthy, I want to be well regarded by my peers, I want to be respected,' and we lose a sense, I think, of significance […]. I think it's possible to be a very successful lawyer that has very little significance in the world or a very unsuccessful lawyer in the way that it's typically understood in our country and have tremendous significance," Boutros explained.

Boutros then described the people he has met while working with IJM: "They are all so bright and so talented that they could choose to use their gifts in another capacity and make much more money, have much more fame and have much more respect and live in nicer homes, drive nicer cars, and have a nicer life, according to that definition. But they choose a life of significance, and they are all happier for it. They would all make that choice again and again and again."

In law schools throughout the country, students are given one very appealing option: get on the "power track." Young attorneys on the power track get associate jobs at big firms and command impressive starting salaries. The power track is where new recipients of J.D.s go in order to pay off their debts and begin lives in the upper echelon. Given few alternatives, many law students don't question the value of taking this path and often find themselves unfulfilled.

"The corporate path is sort of spoon-fed to you. I mean, you don't have to do anything. You get an email one day, and they say they're going to have on-campus interviewing. Then you go to the website and click a few check boxes with a bunch of law firms. The law firms come to your campus, and they want you to work for them, so they fly you there, and all of the sudden, you have an offer, and you're going to make some great money and pay off your loans. It all happens without you doing anything. You can just sit at your computer and click a few boxes, and all of the sudden, your future for the next seven years has been planned out for you," Victor Boutros said, describing the experience had by thousands of law students.

Suzanne DeBerry, a second-year law student at Notre Dame Law School, a former intern in IJM's DC office, and one of the many law students who came to work for IJM after hearing Haugen's call to join the fight, agreed with Boutros: "First, you get the best LSAT, you go to the best school, you get the best grades, and it's all kind of siphoning you toward a big law firm job where you can get the most money you can, and that becomes the end goal." She added that even if you're well compensated, working 18-hour days is difficult unless you're truly impassioned by your work.

DeBerry and many of the law students she knows "don't just want to spend those 18 hours just working, going home, and coming back." For her, and for many other lawyers who

*Kayrn Shannon Gary Talk in Street - Phenom Penh - March 2003*

have foregone the big firm life in lieu of something more, the answer is simple: "Do what you love." For human rights lawyers, that means doing work that will make a difference and help others.

"Our abundance of legal advocates is something we take for granted in North America, something many even joke about. But it is no laughing matter for victims of heinous crimes who wish someone would come to their defense, to bring justice to their tortured existence by taking legal action against their captors," Haugen observes in *Terrify No More.*

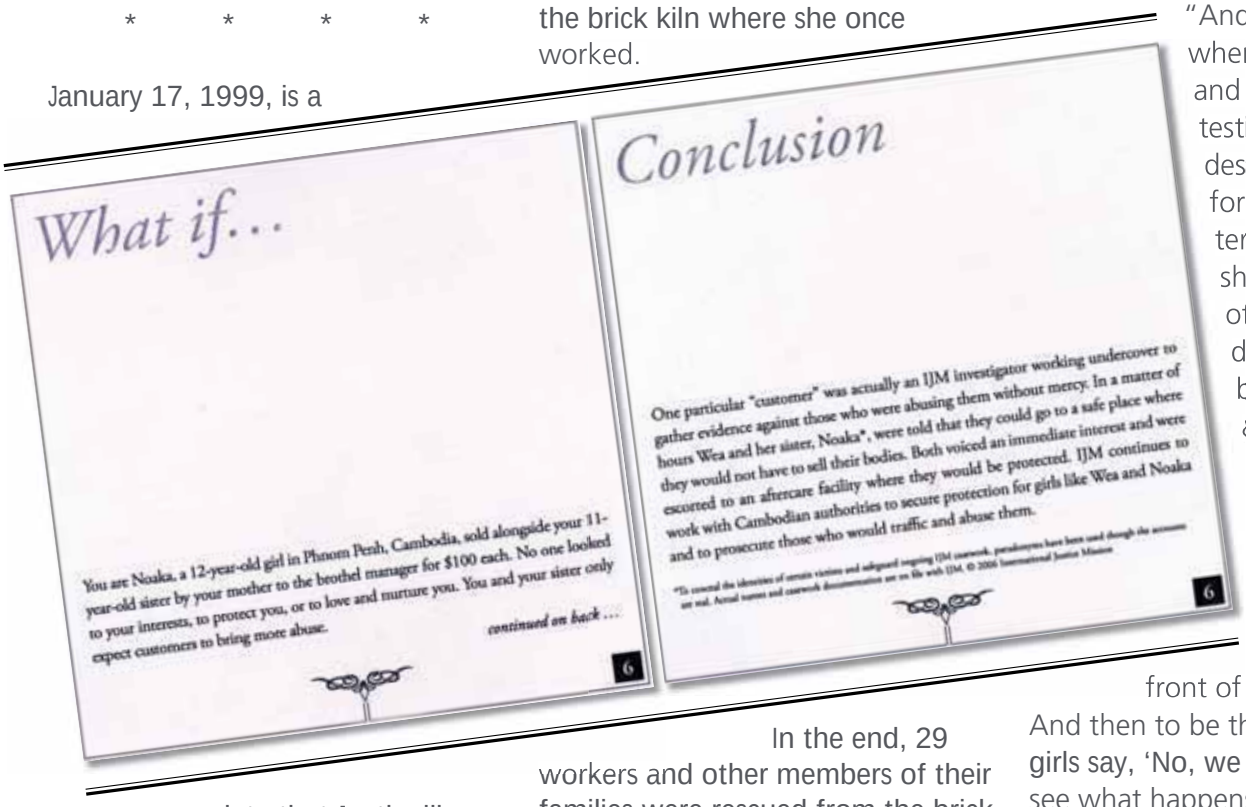
"For me, there's just nothing that compares to actually knowing the story and name of the person's life, your client's life, other than it would have been except that you were able to participate in helping them," Sharon Cohn said.

* * * *

January 17, 1999, is a date that Jyoti will remember forever. A slave in every sense of the word, Jyoti finally found her freedom. In the middle of the afternoon, IJM, along with local officials, rescued Jyoti from her brothel. When she first stepped outside into the light, she wasn't sure what had happened. Later, she understood that she could trust IJM workers, and the healing process began.

Jyoti was sent to a community where she was provided with love, care, and a kind of support she had never known. Several years later, she was married and had a baby girl, whom she asked Gary Haugen to name.

The relationship that Jyoti began with IJM in January of 1999 continued, and she led IJM and the police to her old brothel, where they rescued several more girls. This raid led to others in the area that freed even more girls who had been forced into sex slavery. Jyoti even helped IJM free bonded slaves from the brick kiln where she once worked.




In the end, 29 workers and other members of their families were rescued from the brick kiln, released from lives of slavery.

* * * *

"I've been on a few brothel raids in my time in IJM […] the experience is difficult to describe, but you do get to see collected evidence given to the authorities and then to go with to see the faces of the girls who, that night, will not be raped because the police were persuaded and then raided the brothel. Then to see the faces of the girls and hear their stories as they describe what life was like in the brothel and what it was to be brought there and what it was when they discovered that they weren't being taken to a restaurant or a noodle shop but, in fact, were going to have to be exploited day in and day out for a debt that wasn't real or true and could never be repaid and what it was like to have them get up the next day and have that realization still be true--it's an incredible experience," Cohn explained.

"And to be with kids when they are in court and when they have to testify, our directors describe what it is like for the girls […]. It's terrifying to testify," she continued. "In other countries, it's difficult to testify because there aren't procedures in place to protect the identity of the victims or separate them from the perpetrators […] so they testify in front of the accused […]. And then to be there and hear the girls say, 'No, we want to stay to see what happens.' They need to hear that yes, someone agreed with them, that what was done to them

*CONTINUED ON PAGE 80*

**What Can I Do?**

**Learn about the issues and spread the word!**

Kristin Ross, a film director, decided to get involved by making a film about human trafficking in the U.S. *Human Trafficking: Our Problem,* funded in part by Women Make Movies, is currently shooting in various states across the U.S.

"I've done projects in the past [because] I feel like they are stories that must be told, or I feel compelled to tell them. I feel like this is just one of those stories […]. We just want to raise awareness to stop the violence. I believe there is a way in our communities and individually to contribute to that. You know, there was one time when there was slavery in our country, and people rose up and they abolished slavery, something that had been going on for some time. And I think that the problem is overwhelming on a large scale, but on a personal one-on-one scale, if we contribute, we can make a huge difference," Ross said.

**Intern with a human rights organization or NGO.**

IJM has fall, spring, and summer internships at its DC office for college students, recent graduates, graduate students, law students, and lawyers. It also has positions in social work and public policy.

IJM's international field offices offer six- to 12-month legal fellowships and internships that allow more experienced lawyers to go overseas to work in offices in Thailand, Cambodia, the Philippines, Africa (Zambia, Uganda, and Kenya), Guatemala (with partnerships in Peru and Honduras), and Bolivia.

**Do pro bono work.**

Sharon Cohn feels lawyers will miss out if they don't take opportunities to get involved in pro bono work, noting that doing so prepares lawyers to have better one-on-one interactions with clients in the human rights field.

"In certain ways, it's an enormous joy and an incredible privilege to do this type of work, but it ought to be approached with a little bit of solemnity when you think about what it is we're doing. In many cases, it has much more power to impact the consequences in a person's life than a lawyer who may take the time. So I would encourage people to consider what they have in a law degree. The access they have to getting a law degree that we take for granted imparts an obligation to return back to a community some of what they have been given and use it well. Use it with a certain amount of sobriety. And make it count," Cohn advised. "When I am in a country, doing work in that country, and a slave in tears is just begging to be helped and saying 'No one else can help me, please help me'…in many cases, that just may be true."

**Google these organizations to find out about post-graduate opportunities:**

- Center for International Legal Studies
- Peace Corps
- Rotary Foundation
- Rhodes Scholarship Program
- Fulbright
- Teach for America
- Habitat for Humanity
- U.S./China Links
- Cross-Cultural Solutions
- Amnesty International
- World Vision
- YMCA World Ambassadors

For a complete list, go to www.ijm.org/NETCOMMUNITY/Page.aspx?&pid=338&srcid=184.

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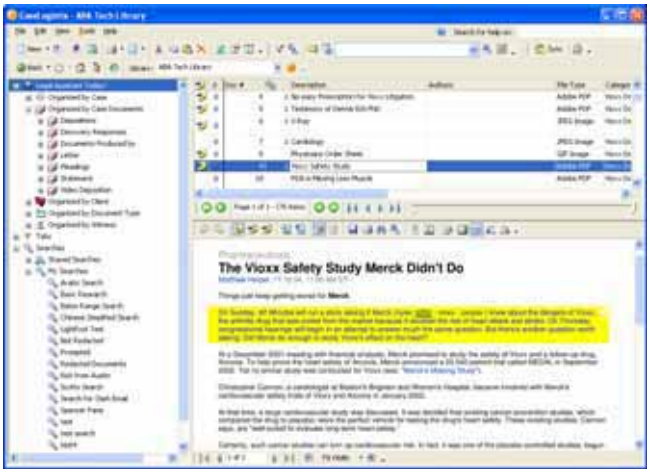

# ENOUGH TALK ABOUT THE NEW RULES; LET'S PUT IT ALL IN CONTEXT AND GET TO THE NITTY-GRITTY...

Since the FRCP rules took effect December 1st, formally recognizing ESI, the legal landscape has been virtually blanketed with educational materials, press releases, and e-promotions from hundreds of vendors marketing software and other e-discovery solutions. The truth is, when it comes down to it, when you have projects stacked on your desk, deadlines to meet, and a staff to manage, you want to cut to the chase and just get something in place that is reliable, performs what you need, and doesn't cost you an arm and a leg. Wave Software understands, because we've been in your shoes and to make it even easier, we are going to focus on EMAILS—PSTS AND NSF FILES. Let's give you a scenario in a typical litigation matter under the new rules:

Discovery has begun. Both parties have to develop a plan as a part of the pretrial process on the format that ESI has to be preserved and produced, while taking into account claims of privilege and work product. The case deals with multiple custodians across multiple departments with sets of backup tapes at issue. After considering undue burden, cost, and reasonable accessibility, it is agreed that the ESI will be produced in any format that is searchable and manageable, whether in its native format or in TIFF.

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Reduce the scope of information that is to be produced or reviewed for production. I know what you're asking: Is this allowed? Aren't I manipulating the data? The answer is, it depends on how you are reducing your scope. If you are opening up emails in Outlook to review and parse out, then yes…spoliation has occurred within the metadata. You could certainly Tiff the entire set of PSTs for all the custodians, but remember 1 gig printed out equals 30 boxes of documents…you got time? DEDUPLICATE. Just take all the PSTs for all of your custodians and deduplicate (globally or per-custodian) all at the same time. And don't worry, deduplication is based on a defendable algorithm that takes into consideration all the necessary fields to make sure that just the duplicates are removed, but if you want to be sure…a report with all the duplicates found can be
available for your review. On average, deduplication can reduce your data set by at least 60%!

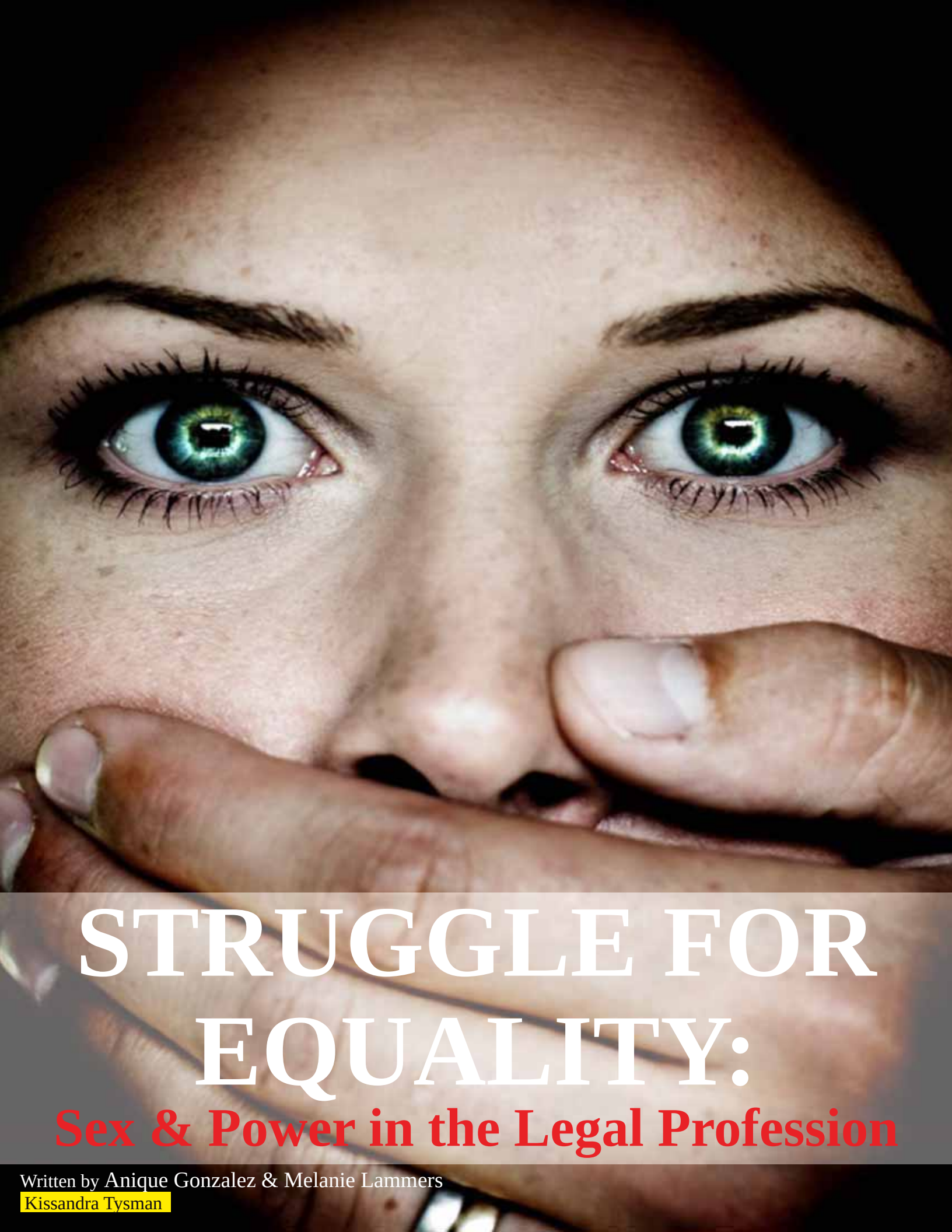
**I'VE DEDUPED; WHAT NOW?**
Take the deduped set and import it into your review software to tag the emails for privilege, confidentiality, relevancy, etc., and determine what responsive emails can be produced. Remember, the deduped set of PSTs does not mean you have lost your original set of PSTs; you've simply created a deduplicated set that is organized either by custodian, by PST, or just lumped into one PST so that you can review!

**I'VE DETERMINED WHAT IS RESPONSIVE; NOW WHAT?**
Create a PST with just what you've tagged. Just like you parsed out the duplicates, take out the emails that are not part of the responsive set so that your PST is now just the set you need to produce. GENERATE A NEW PST. Simply creating a load file of the entry IDs that you tagged as responsive can process against the set from which you tagged to create a unique PST—the culled down PST with just the emails you want to produce all the while preserving it in its native format. No spoliation. This unique PST can be organized by custodian or by source PST, or it can all be put into one PST.

**OKAY, SO I'VE GOT THIS RESPONSIVE PST; WHAT NOW?**
That is up to you: TIFF it out, keep it in its native format, or do both! Really, it is up to you. What you can be assured of is that you've parsed out what you need while preserving native format, and you've got all the records, logs, and reports detailing the entire process from start to finish.

**WITH SO MANY APPLICATIONS ON THE MARKET, WHY YOURS?**
All we can tell you is the facts:
Trident generates at a speed of 1 gig every 10 minutes. What this means to you is that you don't have to babysit your projects because, honestly, you have better things to do. You don't have to dedup and generate one custodian at a time…just put all the psts in, and the software does the rest. Trident does not require training. The interface is so easy to understand that you see it once and you've been taught. $100/gig with $500/year maintenance. Just buy the gigs, we cut you a key, and you're ready to go. Need more gigs? Give us a call at any time, and we'll give a key for more. Experience and Support. Each member of Wave has worked in the legal space from attorney to litigation support, and we work the hours you work. You will always be able to reach us.

*Visit Wave Software at www.discoverthewave.com or give us a call at 888-225-6913 and as for Rick Clark x87 or Lindsay Couch, J.D. x81 and they will be more than happy to set up a free webex demonstration or at LegalTech NYC 07 Booth #622*



# STRUGGLE FOR EQUALITY:

## Sex & Power in the Legal Profession

Written by Anique Gonzalez & Melanie Lammers
Kissandra Tysman

# The Struggle for Equality: Sex and Power in the Legal Profession

By Anique Gonzalez & Melanie Lammers

Kissandra Tysman, formerly Kissandra Cohen, was a child genius. She attended UCLA and took calculus courses at the age of 10, graduating from Duke University with a double major in economics and sociology, as well as a minor in markets and management, at the age of 17. After receiving her bachelor's degree, she attended Loyola Law School in Los Angeles while concurrently working on her MBA. She was on the fast track to success.

During her third year in law school, Tysman began working for Masry & Vititoe, the law firm made famous by the movie *Erin Brockovich*. Tysman's initial excitement subsided as time progressed and she became aware of Edward Masry's far-reaching power and penchant for sex.

Tysman would later allege that during her tenure with the firm, Masry, partner and co-founder of Masry & Vititoe, nuzzled her, grabbed her butt, and tried to kiss her, among other inappropriate behaviors. The atmosphere at the firm, she said, was extremely sexual. Masry's personal assistant was a former *Playboy* model who maintained various pornographic websites while employed by the firm--websites she would openly modify while at work. Additionally, Masry would often take his personal assistant, as well as Brockovich and Tysman, along with him to lunch and on personal errands so that, as Tysman explained, he would "have his

blonde babes with him."

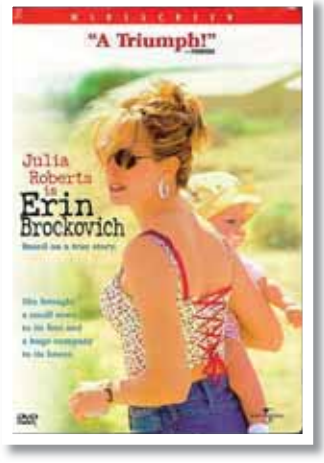
Education, wealth, and power can lead to exclusion. The legal field, which is still 70% male, is comprised of highly educated, well-paid, powerful men who make up an old boys' network of sorts. When a group is homogenous, it can become a closed system to which outsiders pose a threat. Membership in the closed system provides access to valuable information and bestows the power to make critical business decisions. This type of closed system creates two distinct groups: those who have power and those who do not. Moreover, the system functions to ensure that those who have power are able to preserve it and that those who do not have power can never gain it.

The legal profession is unique in that an individual's billable hours directly relate to his or her personal income as well as the amount of money generated by the firm. Individuals who bring in great numbers of clients and bill excessive numbers of hours become their firms' rainmakers and, in many ways, the lifelines of their organizations. As a result, they are more apt to be given considerable power that is not afforded to others--and ample opportunity to abuse it. Thus, individuals who already are afforded power and authority as a result of the closed system are given even more power and authority when they reach certain levels of success within firms. Historically, this power has been given to men.[1]

Tysman also claimed that during her time with the firm, Masry's power was all-encompassing. "He's head honcho. He used to say, 'I am the big cheese.' He's *Mr. Masry*. You do not disagree with Mr. Masry. That was a given," she said. Yet Masry was not the sole perpetrator of the offensive behavior she observed in the firm; other associates, such as James Joseph Brown, III, allegedly acted in similar manners. Ironically, it was most likely Masry's power and misbehavior that allowed other individuals in the firm to misbehave, as well. Masry's actions sent signals to other males that such behavior was acceptable; if the highest-ranking individual in the firm could and did do it, others could as well.

According to Tysman, Brown sexually harassed her and made numerous anti-Semitic remarks to her. He asked her on numerous dates, and on one occasion, Tysman said, he "gave me a penis lollipop with a handwritten note. [The note read,] 'If you ever get the urge to smoke, suck on this instead.' And he signed it."

## Erin Brockovich




In the year 2000, a movie entitled Erin Brockovich depicting the story of Masry & Vititoe's upward climb to win a polluted-groundwater case for underdog Hinkley residents was released on DVD. Starring Albert Finney as Edward Masry and Julia Roberts as Erin Brockovich, the film portrays the characters' ventures through the toxic tort process with the assistance of a larger firm as heroic and daring. The film's theater release coincided closely with the date Tysman's sexual harassment charges came to light.

## Masry and Brockovich

During the course of her suit, Tysman alleged that Masry and Brockovich were sexually involved with one another. As a result, they sued her for slander, saying that they were falsely accused. This was not the first time, however, that there were allegations of an affair between the colleagues. Brockovich's ex-boyfriend, Jorg Halaby, ex-husband, Shawn Brown, and their lawyer, John Reiner, were charged with attempting to extort $500,000 from her in 2000. The trio informed Brockovich that if they did not receive the money, they would inform the media that she and Masry were sexually involved. The charges against Brown and Halaby were later dropped; Reiner was convicted and lost his appeal.

In Tysman's estimation, "the culture of the firm was a very sexually charged atmosphere […]. There were sexual things discussed in the office all the time […] words that I'd never even heard put together: 'c-rag,' 'c' for other women attorneys, 'those f'in c's.' […] I think the whole general atmosphere there was very sexually charged and permissive of this sort of sexual conduct."

While men of the law should know better, particularly because they are more aware of possible fiscal and legal consequences of sexual harassment and discrimination, they often do not behave accordingly. "Law firms often think they're above the law," said Freada Klein[2], founder of the Level Playing Field Institute, a nonprofit organization seeking fairness in education and the workplace.

"I think it was because I was so young he [Masry] thought that he would be able to get away with it and either I wouldn't know what to do about it or I wouldn't fight back because I would be too scared of him and his power," Tysman explained.

After nearly 10 months at the firm, Tysman was fired. The reason offered for the termination was hotly disputed; Masry claimed it was due to poor work product, while Tysman alleged that it was because she refused to accept his advances.

After multiple unsuccessful attempts to find employment elsewhere--"As soon as they'd call [Masry] for a reference, suddenly the offer was taken off the table," Tysman said--she filed a sexual harassment and discrimination suit in 2000.

Yet discrimination and harassment do not always reveal themselves in such obvious manners as they did in Kissandra Tysman's case. Kate Thomas[3] began working in the Minneapolis office of a large multinational law firm as a summer associate in 2001. After being hired as a full-time transactional lawyer in the group's real estate department following graduation, she became friends with a married male associate named Mark Johnson.

Soon, Johnson made partner and began generating a large amount of work, often assigning a significant portion of it to Thomas. Nearly 25% to 40% of her workload came directly from him. After working on numerous projects together, their relationship turned from platonic to romantic.

"One night, we were out--it was some firm event or something--and we were out with a group of people, and he basically grabbed me and kissed me […]. We had been friends before, and it was becoming more of a flirtatious kind of relationship, but I don't think I ever would've grabbed him and kissed him."

Thomas attributes the development of her relationship with Johnson to his position within the firm. "If the roles had been reversed, it would've never happened," she said. The affair continued off and on for two years.

"Finally, last spring, we […] did have sex for the first time, and he flipped out," she said.

## Tysman, Masry, and Anthony Pellicano

In 2004, Tysman filed suit against Masry, his lawyers, Brockovich, Pellicano (a private investigator), and Pellicano's associates, alleging that, among other illegal activities, they illegally tapped her phone during the course of the sexual harassment/discrimination trial. She believes this is why she lost the case.

Tysman explained, "I really do feel that the fact that he tapped my phones made a huge difference in the outcome of the case. He knew every step I was going to be making before I made it." Since Masry's death in 2005, Tysman's lawsuit against him has been resolved; the suit against Pellicano is ongoing.

After informing his wife about the affair, Johnson subsequently cut off all contact with Thomas. "I haven't gotten a single piece of work from him since. I got fired on the big project I had going with him."

Financially, this created a massive burden for Thomas. She searched for jobs elsewhere but was unsuccessful. "It's really hard to match salary and the quality of work. So instead of leaving, I told this partner who was a good friend. It really came down to that for me, where either I talk to somebody in a higher position who had the ability to funnel work to me or I had to leave."

While Thomas does acknowledge that both parties were responsible, she feels as though she has been forced, at least professionally, to bear the brunt of the consequences. For instance, even though Johnson inappropriately utilized his power to begin his relationship with Thomas, as well as financially penalize her, he has not and will not encounter any negative after-effects. Furthermore, Johnson still wields significant power because Thomas has not and will not report his behavior. "I don't want to hurt him. I don't want to disrupt their lives [Johnson's and his wife's] in any other way," she said.

As was the case with Kissandra Tysman, one of the most obvious examples of the abuse of power and apparent difficulties associated with accepting women in the profession is the rampant sexual harassment currently found in the legal arena. According to an American Bar Association survey, 66% of women surveyed had either encountered or witnessed sexual harassment in their law firms. Barbara Rosen, in the article "Sexual Harassment: What if It Happened at Your Firm?" explains why this occurs: "Most harassers are men chasing after female underlings. Often, harassers are flaunting their power. The faster women break into a profession (such as law), the more quickly harassers try to 'put them in their place.'"

Recently, abuses of power related to the increasing presence of women in the legal field allegedly occurred

in the Tampa office of Holland & Knight. A massive investigation was undertaken when numerous women complained about a partner, Doug Wright, and his alleged inappropriate behaviors toward many of the female employees. These behaviors included making sexually suggestive comments, engaging in physical altercations, and threatening termination, among others.

Many of the women involved were dissatisfied with the outcome of the investigation; as a result, the internal committee's report was intentionally leaked to the media. While the initial inquiry was initiated because of Wright's alleged behavior, during the course of the investigation, many women made reference to Wright's all-encompassing power and authority within the organization. In her testimony, one female accuser recalled, "In early fall of 2003, I got fed up and talked to several people about Doug Wright's power and pervasive influence [...] I am upset that no one at the firm stood up for me to stop Doug Wright's harassment."

A second accuser went on to say, "The worst part of the situation, however, is that there is a feeling in this office that everyone knows about his behavior and that it is accepted [...] that Doug Wright is very powerful and untouchable."

In the eyes of his accusers, Wright not only abused his power by sexually harassing them but was supported by the males around him, as well as the closed system, when he was minimally reprimanded for his actions. It should be noted that Wright denied the majority of the allegations.

In another instance, Derrick Grey had a supervisor who was having an affair with his paralegal. This affair had far-reaching implications.

"There's not a doubt in my mind that

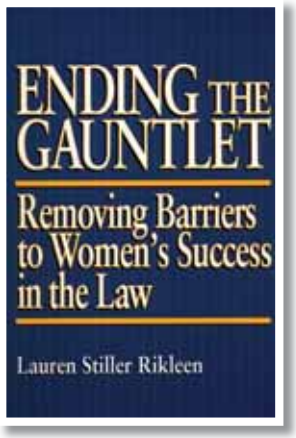
the individual used his office to, first of all, perpetuate the relationship, second of all to kind of keep it quiet--keep others from disclosing it--and then, in the third instance, he kind of used the perks of his office to give some benefit, I think financially but certainly in terms of work schedule and workload, to the individual--the paralegal--with whom he was involved."

The supervisor also used his position to discriminate against the female workers in the office. Grey can recall at least two occasions on which this individual made derogatory references to women who had just returned from maternity leave. In one instance, he remarked to a client, in front of a female attorney, "We don't want to give her too many cases because we think she's still got pregnant brain."

Grey said this individual also used his position to limit female attorneys' caseloads. "I'm not saying he actually said this, but that was the implication created based on what he said in the past: 'Women aren't capable of handling the harder cases.' […] Of course, behind their back, he was complaining about them 'bitching' all the time and that sort of stuff."

The situation in the office became almost unbearable; all of the employees suffered as a result of the uneven caseloads, as well as their inability to criticize the inferior work product of the paralegal. In fact, when individuals brought the latter issue up with the supervisor, they were punished. "He [had] […] a pair of legal assistants transferred out of the office, transferred to other attorneys, because they had made comments that [the paralegal's] work

## Ending the Gauntlet: Removing Barriers to Women's Success in the Law




Ending the Gauntlet: Removing Barriers to Women's Success in the Law was written by Lauren Stiller Rikleen as a response to the impediments she continually observed blocking women in the legal workplace. Taking into consideration "firm management, the assignment process, billable-hour demands, business generation, compensation, mentoring, attrition, and work/family issues," the author attempts to discuss a range of troubling points relating to the current and centuries-old structure of the traditional law firm. Rikleen proposes personal adjustments and managerial decisions that could potentially pave the way for a smoother transition for women into the legal profession; her proposals are based on compiled data and the stories of women already in the field.