

2024

Volunteer Recognition & Awards Event



September 12, 2024
5:00 – 8:00 p.m.

Martin Luther King, Jr. Memorial Library
Washington, DC



AMERICANBARASSOCIATION

Death Penalty
Representation Project

ABOUT THE PROJECT

The American Bar Association created the Death Penalty Representation Project in 1986 with a single goal: **to ensure that every person facing a possible death sentence has the assistance of a competent, effective lawyer.**

Over the past 38 years, the Project has raised awareness about the lack of representation available to death row prisoners, addressed this urgent need by recruiting and training volunteer attorneys, and worked for systemic changes to capital counsel systems. The Project has recruited the country's top law firms to work on more than 400 pro bono death penalty cases, **114 of which have now been finalized with a sentence of less than death.** Our volunteers have contributed their skills, more than one million pro bono hours, and many hundreds of thousands of dollars to this cause. Regardless of the outcome, every pro bono matter taken on by our volunteers represents a critical victory for fairness and due process.

Together, we have changed the lives of countless men and women.

PROJECT STAFF

Emily Olson-Gault
Director & Chief Counsel

Laura Berg
Senior Staff Attorney

Abigail Crick
Senior Staff Attorney

Alexandra Campbell
Program Associate



WELCOME

Emily Olson-Gault, Director, *ABA Death Penalty Representation Project*

William R. Bay, President, *American Bar Association*

EXCEPTIONAL SERVICE AWARD

Arnold & Porter

Accepted by **Jeffrey H. Horowitz**, Partner, *Arnold & Porter*

Introduced by **Lindsey C. Boney IV**, Partner, *Bradley*

Bryan Cave Leighton Paisner

Accepted by Partners **Jean-Claude André**, **J. Bennett Clark**, **Scott Greene**, **Jonathan B. Potts**, and **Charles A. Weiss**

Introduced by **Theodore A. Howard**, Chair, *ABA Death Penalty Representation Project Steering Committee*

JOHN PAUL STEVENS GUIDING HAND OF COUNSEL AWARD

Cliff Sloan

Introduced by **Kelley J. Henry**, Chief, Capital Habeas Unit, *Federal Public Defender's Office for the Middle District of Tennessee*

KEYNOTE REMARKS

The Honorable Elsa R. Alcalá

Judge of the Texas Court of Criminal Appeals, 2011-2018

WELCOME REMARKS



William R. Bay

President, American Bar Association

William R. “Bill” Bay, a partner with the St. Louis office of national law firm Thompson Coburn LLP, is president of the American Bar Association, the world’s largest voluntary association of lawyers, judges, and other legal professionals.

A longtime leader in the ABA, Bay co-chaired the Practice Forward initiative, which addressed member concerns regarding the COVID-19 pandemic and the future of the profession. Bay also served as chair of the House of Delegates from 2018 to 2020 and, from 2012 to 2013, chaired the Section of Litigation. He chaired the ABA Day Planning Committee in both 2021 and 2022.

Bay’s leadership has extended to other ABA entities, including its Standing Committee on Bar Activities and Services (chair, 2009 to 2012); Commission on Racial and Ethnic Diversity in the Profession; Commission on Governance; Legal Opportunity Scholarship Fundraising Committee; Death Penalty Representation Project; and Young Lawyers Division.

Beyond the ABA, Bay is active in several local and state bar associations. He is a past president of the Bar Association of Metropolitan St. Louis and a past member of The Missouri Bar Board of Governors, where he chaired several committees. He is a Fellow of The Missouri Bar Foundation.

Notably, Bay has been selected to co-chair several statewide commissions focused on increasing access and opportunities for women attorneys; achieving equal access to justice for litigants, regardless of race or ethnicity; and exploring the future of the legal profession in Missouri. He currently co-chairs the Supreme Court of Missouri’s Commission on Racial and Ethnic Fairness.

Bay is a highly experienced litigator who has represented major corporations in high-stakes litigation for more than 30 years. His clients vary from major financial institutions to manufacturers to post-secondary institutions, and he regularly helps organizations manage and respond to large portfolios of litigation.

In recent years Bay has been honored with the Spurgeon Smithson award, a top honor given by The Missouri Bar; the Distinguished Lawyer Award, the highest honor awarded by the Bar Association of Metropolitan St. Louis; an Excellence in Law Award from St. Louis Magazine; and Missouri Lawyers Weekly’s Influential Lawyer Award. He has appeared in The Best Lawyers in America since 2012 and has been recognized by Best Lawyers multiple times as the St. Louis Lawyer of the Year for Litigation-Banking and Finance.

BUILDING RELATIONSHIPS.

BCLP is proud to sponsor the **ABA Death Penalty Project Volunteer Recognition & Awards Program**. At BCLP we are committed to making a real and lasting difference to the communities where we work.

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Arnold & Porter is honored to support the **ABA Death Penalty Representation Project** and all of our pro bono clients throughout the years.

We are grateful for this important recognition and congratulate tonight's other award recipients.

Arnold & Porter

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Our client, Henry Daniels, embracing his sister on his first day home after 36 years in prison—33 of them spent in isolation on Death Row.



EXCEPTIONAL SERVICE AWARD

Arnold & Porter



Members of Kenny Smith's legal team

Arnold & Porter is a national law firm with a longstanding commitment to pro bono capital representation. The firm's legacy of pro bono death penalty work includes numerous high-profile cases, such as Troy Anthony Davis, Zacarias Moussaoui, Roger Coleman, James Briley, and Dennis Stockton. In 2011, Arnold & Porter received the

ABA Death Penalty Representation Project's Exceptional Service Award for the first time. Since then, the firm has continued to zealously advocate for capital defendants across the country.

Within the last six years, Arnold & Porter has secured release for three of its capital clients. In 2018, Clemente Javier Aguirre was exonerated after spending ten years on Florida's death row. The firm represented both Jimmy Dennis and Henry Daniels for over fifteen years in Pennsylvania state courts and federal courts. In 2017, Mr. Dennis was released, and Mr. Daniels was released a few months ago.

Since 2012, Arnold & Porter has also represented Rob Will in his Texas post-conviction proceedings. After uncovering exculpatory evidence, his team filed a successive habeas petition, raising a *Brady* claim alongside additional proof of his innocence. A Fifth Circuit Court of Appeals panel concluded that Mr. Will had made a prima facie case of innocence by "clear and convincing" evidence and authorized his *Brady* claim to proceed in the district court.

Arnold & Porter has represented Darryl Stinski in Georgia state and federal court for over a decade. Mr. Stinski's trial counsel failed to obtain and present expert testimony to explain how his traumatic childhood impacted his cerebral development and his culpability. His team presented this evidence during a four-day state court habeas hearing. Unfortunately, both the state courts and federal courts denied Mr. Stinski habeas relief, but Arnold & Porter remains committed to his case and is continuing to seek relief for its client.

In recent years, a significant part of Arnold & Porter's pro bono death penalty work has focused on issues related to the execution protocols. A team represented *Ray*

v. Dunn amici, arguing it was error to allow the execution of a Muslim individual to proceed without the presence of his imam. Arnold & Porter subsequently brought lawsuits on behalf of two additional individuals on Alabama's death row. The team prevailed in one case in the U.S. Supreme Court, and the State settled the second case. As part of the settlement, Alabama amended its execution protocol to allow a spiritual advisor of an individual's choosing at his execution.

Another Arnold & Porter pro bono team represented Kenneth Smith for almost twenty years, from state post-conviction proceedings through his execution. A jury voted 11-1 in favor of life for Mr. Smith, but an elected state court judge overrode that decision and imposed a death sentence. In 2023, Alabama announced its intention to make Mr. Smith the first person executed by forced inhalation of nitrogen gas. Alabama had attempted to execute Mr. Smith in 2022 but was unable to establish two IV lines. His legal team litigated to enjoin this second execution attempt as a violation of Mr. Smith's constitutional rights. Despite their heroic efforts, Alabama executed Mr. Smith, but not without drawing significant national attention and facing harsh public criticism of its experimental method of execution. Dissenting from the U.S. Supreme Court's denial of a stay of execution for Mr. Smith, Justice Sotomayor wrote, "The world is watching."



A&P client Henry Daniels embracing his sister on his first day home after 36 years in prison, 33 of those on death row

The Death Penalty Representation Project is proud to honor Arnold & Porter with this year's Exceptional Service Award in recognition of its outstanding and sustained commitment to pro bono death penalty representation.

"The Arnold & Porter team led with their hearts, while exhibiting a professionalism, collegiality, skill, tact, and expertise that was exquisitely unique. Not because they were conjuring it up—that wasn't possible, not at this level. It's because their team was made up not just of terrific, immensely talented lawyers—but also of great people." – Lindsey C. Boney IV, Partner, Bradley

EXCEPTIONAL SERVICE AWARD

Bryan Cave Leighton Paisner




Top (L-R): Jonathan Potts and Charlie Weiss
Bottom (L-R): J.C. André, Ben Clark, and Scott Greene

Bryan Cave Leighton Paisner (“BCLP”) is a 150-year-old international law firm headquartered in St. Louis, Missouri, with 1,200 attorneys and 31 offices worldwide. BCLP strives to address the needs of the underserved and to advocate for the protection of human rights. It has demonstrated an exceptional commitment to representing prisoners facing the death penalty in Missouri and throughout the United States.

Since 2016, BCLP has assisted Louisiana death row prisoner Jimmie Duncan in challenging his 1998 capital conviction in state post-conviction proceedings for the drowning death of his girlfriend’s daughter. In 2022, after Louisiana enacted a new provision allowing a motion for new trial on the basis of new factual evidence of innocence, BCLP filed a petition alleging that Mr. Duncan’s conviction was based on the fraudulent forensic science of two notorious doctors who built a lucrative business as prosecution witnesses routinely “finding” evidence of deliberate homicide in cases in which the cause of death was actually accidental. A full hearing has been granted on that petition, set for September of this year.

In 2021, BCLP began partnering with Arizona federal defenders to represent death row prisoner Danny Jones after the Ninth Circuit Court of Appeals granted Mr. Jones’ claim of ineffective assistance of sentencing counsel. After the state’s petition for a writ of certiorari was granted, BCLP represented Mr. Jones in briefing and argument at the U.S. Supreme Court to defend the grant of relief. Although the Court reversed the Ninth Circuit’s relief last May, finding that the new mitigation evidence did not outweigh the aggravated nature of the crime, BCLP continues to represent Mr. Jones on remand to the Ninth Circuit.



In Missouri, BCLP has partnered with the Midwest Innocence Project and federal defenders to represent Marcellus Williams, who remains on death row despite DNA evidence that proves his innocence. In 2017, Mr. Williams' execution was stayed by then-governor Eric Greitens pursuant to his authority to convene a Board to investigate clemency requests and to issue a written report and recommendation. However, in 2023, the current governor, Mike Parson, dissolved the Board by executive order before it had completed its report and recommendation, and the State immediately moved to execute Mr. Williams.

BCLP filed suit for a declaratory judgment arguing that Governor Parson had no authority to dissolve the Board before its work was completed. BCLP is currently fighting to stop Mr. Williams' execution, which is now scheduled for September 24, 2024. The St. Louis County Prosecuting Attorney previously filed a motion to vacate Mr. Williams' conviction based on the new DNA evidence, and over the State's objection, a hearing on that motion was held on August 28, 2024. A decision from the court is due on or before September 13, 2024.

In addition to its work challenging unconstitutional death sentences and convictions, BCLP recently brought a novel challenge to the state of Missouri's failure to confirm a director of the Department of Corrections to oversee executions, as required by state law. The lawsuit and subsequent hearing, which was brought under the extraordinary time pressure created by the pending execution of Brian Dorsey, shone a spotlight on the state's rush to carry out executions without proper protocols or safeguards in place. BCLP also supports fellowship programs that serve the needs of death-sentenced prisoners, including the Midwest Innocence Project and Reprieve, a human rights non-profit in the UK. In recognition of the firm's extraordinary commitment to its death-sentenced clients and to improving the administration of justice, the Project is proud to present Bryan Cave Leighton Paisner with the 2024 Exceptional Service Award.

“While it has been a privilege to work with Bryan Cave, it was a greater honor to see the dedication and breadth of their effort to further fairness in the criminal justice system. They exemplify a dedication to the highest ideals for their clients and a commitment to the pursuit of justice.” – Laurence E. Komp, Supervisor, Capital Habeas Unit, Federal Public Defender for the Western District of Missouri

JOHN PAUL STEVENS GUIDING HAND OF COUNSEL AWARD

Cliff Sloan




Cliff Sloan's wide-ranging career spans academia, government, and private practice, all while he continues to dedicate himself to pro bono service. After graduating from Harvard Law School, Cliff clerked for Judge J. Skelly Wright on the U.S. Court of Appeals for the D.C. Circuit and for Justice John Paul Stevens on the U.S. Supreme Court. Cliff then spent two years investigating the Iran-Contra matter as Associate Counsel in the Office of the Independent Counsel. Cliff went on to serve as Assistant to the Solicitor General, and then served as Associate Counsel to the President. Eventually, Cliff became a partner in the litigation group

of Skadden, Arps, Slate, Meagher & Flom, focusing on a wide range of commercial and appellate litigation. Cliff took a leave from Skadden in 2013 and 2014 to serve as Special Envoy for Guantanamo Closure, a position in which his efforts led to transfers and releases from Guantanamo for several dozen detainees.

At Skadden, Cliff took on numerous pro bono matters, including twice achieving a victory at the U.S. Supreme Court in the landmark case of *Moore v. Texas*. In 2015, Cliff began representing Bobby Moore, a prisoner with intellectual disability who had been on death row in Texas for 20 years. Although execution of those with intellectual disability had been declared unconstitutional more than a decade earlier, Texas continued to use its own unscientific criteria known as the "Briseno factors" which were based on outdated, flawed and stereotyped misconceptions about persons with intellectual disability. The Supreme Court had denied review in cases challenging the use of the Briseno factors for many years, but Cliff penned the petition for a writ of certiorari that finally caught the Court's attention.

Cliff argued the case before the Supreme Court, and in a 5-3 decision, it reversed the decision of the Texas Court of Criminal Appeals, rejecting its use of the Briseno factors and reaffirming that intellectual disability must be assessed based on prevailing scientific standards. On remand, the state court continued to apply outdated stereotypes to judge Mr. Moore's disability, and less than two years after his initial victory, Cliff won a remarkable second grant of relief on the same issue in the same case at the Supreme Court. The Court's holdings in *Moore* have had a dramatic impact on intellectual disability claims in Texas and across the country, with numerous death-sentenced prisoners receiving new hearings. Cliff continued to represent Mr. Moore, ultimately obtaining a life sentence and then parole in



2020. Cliff was subsequently asked to co-chair a legal advisory panel whose aim is to improve the recognition and accommodation of individuals with intellectual disability throughout the criminal justice system.

Cliff has also made significant legal contributions by representing numerous amici, including the ABA, in the Supreme Court and other courts. For example, Cliff represented the ABA in an amicus brief in *Ayestas v. Davis*, in which the Court ruled unanimously that the Fifth Circuit had applied an improper standard in determining what resources were “reasonably necessary” to litigate a federal habeas petition. Cliff also filed the sole amicus brief on behalf of prominent individuals in support of certiorari in *Buck v. Davis*. Ultimately, the Court found that petitioner Duane Buck’s due process rights were violated when his attorney called an expert who testified that Mr. Buck’s race as a Black man predisposed him to future violence.

At Georgetown Law, Cliff has continued his extensive pro bono activities. He has represented death row prisoners in matters ranging from Supreme Court petitions for writs of certiorari to clemency requests, and he has filed amicus briefs for clients ranging from Sister Helen Prejean and the U.S. Conference of Catholic Bishops to intellectual disability rights organizations. He also represented Kenneth Walker, Breonna Taylor’s boyfriend who was with her on the tragic night of her killing by police, in constitutional civil rights litigation against the city of Louisville and individual police officers.

Cliff currently teaches Criminal Justice, Constitutional Law, and Death Penalty Litigation at Georgetown Law, including a practicum in which he works on capital cases with students. He is the author of *The Court at War: FDR, His Justices, and the World They Made* (2023), which won the American Bar Association Silver Gavel Honorable Mention award. In honor of his extraordinary contributions to his pro bono clients and to the law governing the death penalty, the Project is proud to present Cliff Sloan with the Guiding Hand of Counsel Award.

“Cliff is a valued capital advocate and terrific human being. Unlike many others, he knows the American lawyer cannot look away from those in need. Cliff’s advocacy and involvement in capital cases has made all the difference for those clients.” – George H. Kendall, Counsel, Squire Patton Boggs, and 2012 recipient of the Guiding Hand of Counsel Award

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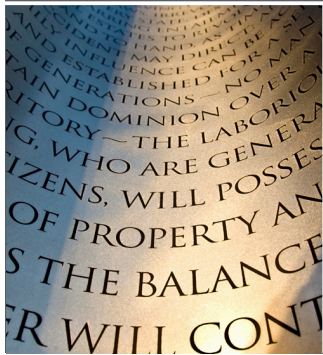
We recognize its
extraordinary efforts and
commitment to civil rights
and social justice.

We salute our friend
and retired partner

Cliff Sloan

**Recipient of the John Paul Stevens
Guiding Hand of Counsel Award**

and tonight's other honorees.



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Greenberg Traurig is proud to support the **American Bar Association's Death Penalty Representation P**

GT applauds its mission to improve the quality and availability of legal representation for persons facing possible death sentences.

Congratulations to the 2024 honorees for their service representing people on death row and advocacy to pro bono service.

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COMMITTEE MEMBER, ABA'S DEATH PENALTY REPRESENTATION PRO
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KEYNOTE SPEAKER

The Honorable Elsa R. Alcalá

The Honorable Elsa R. Alcalá has spent her entire three-decade legal career serving the citizens of Texas. She has seen the justice system from all sides.

After graduating from the University of Texas School of Law, she worked as a prosecutor in Harris County. For almost a decade, she worked her way up from litigating speeding tickets to capital punishment.



She made a career shift to the judiciary when Governor George W. Bush appointed her to become the judge of the 338th District Court. Almost four years later, Governor Rick Perry appointed her to the First Court of Appeals. There, as an intermediate appellate court justice, she presided over civil and criminal cases. Over nine years later, Perry appointed her to the Court of Criminal Appeals, the state supreme court of Texas for criminal cases.

While serving on the Court of Criminal Appeals, Alcalá saw a justice system in great need of repair in the state leading in the use of capital punishment. In her years at the court, the state of Texas executed 89 people at the average rate of one person each month. Voicing her opposition to the continuation of business as usual, her dissenting opinions tackled difficult topics including ineffective assistance of counsel, junk science, and intellectual disability.

At the end of 2018, with 20 years of service on the judiciary, she made another career shift towards criminal defense to focus on justice reform advocacy. Since then, she has worked as the Policy Director for the Texas Defender Service, a nonprofit organization that seeks death penalty reform and represents capital-charged defendants. She co-wrote bills and advocated for legislation to improve the justice system. This proposed legislation advocated for allowing an untimely motion for a new trial in the interests of justice; permitting habeas relief for junk science admitted in the penalty phase of trial; barring the execution of the individuals with severe mental illnesses; and permitting post-conviction challenges when initial habeas counsel was ineffective. She also serves as a board member for the Innocence Project of Texas and the Anthony Graves Foundation.

Outside of work, Alcalá's focus is on her three young adult children, two dogs, two cats, and her writing. She now resides in the beautiful state of Colorado when she is not traveling the globe.



Kirkland & Ellis is proud to support ABA's
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The Firm commends the work of all the
volunteers to improve the quality and
availability of legal representation for
persons facing possible death sentences.

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LIVES, COMMUNITIES and OUR PROFESSION**

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Thank you to
the 2024 Awards
Committee!

Jill Benton
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Ron Tabak

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We are proud to support the ABA Death Penalty Representation Project.

We applaud the American Bar Association's dedication to defending liberty and delivering justice as the national representative of the legal profession. Congratulations to this year's honorees for their heroic efforts on behalf of death row prisoners.

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ABOUT THE AWARDS

Exceptional Service Award

Volunteer firms that have made an extraordinary commitment to pro bono capital representation are nominated by their colleagues and selected by an Awards Committee of volunteer lawyers to be honored with our Exceptional Service Award. These firms have gone above and beyond in service to their clients.

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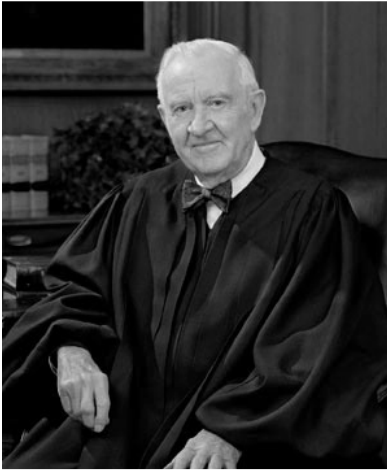
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John Paul Stevens

Guiding Hand of Counsel Award



The Death Penalty Representation Project and its thousands of volunteer attorneys were inspired and sustained by Justice John Paul Stevens throughout his distinguished tenure at the U.S. Supreme Court. After his retirement, Justice Stevens continued to be an influential voice for the most vulnerable members of our society and for changes that will give meaning to our constitutional protections. The

Guiding Hand of Counsel Award recognizes individual lawyers who have demonstrated the kind of courage and commitment we associate with Justice Stevens.

PAST HONOREES:

2011 Hon. John Paul Stevens

2012 George H. Kendall

2013 Denny LeBoeuf

2014 Mark J. MacDougall

2015 Megan McCracken &
Jennifer Moreno

2016 Sylvia H. Walbolt

2017 Arkansas Capital Habeas Unit

2018 Gwendolyn C. Payton

2019 Kelley J. Henry

2020 Meaghan VerGow

2021 Sandra Babcock

2022 Norman C. Hile

2023 Mark E. Olive

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Our financial supporters provide critical funding that enables the work of the Death Penalty Representation Project year-round. New and unforeseen challenges threaten due process and fairness in capital cases. **Now more than ever, we need your support** to meet the growing needs for pro bono representation, training, and technical assistance. We are deeply grateful to all of our donors, including the sponsors of this year's Volunteer Recognition & Awards Event, for their partnership in our mission to ensure that no person faces a death sentence alone.



To make a contribution, please visit our website at ambar.org/dprp-donate. Financial contributions to the Project, a 501(c)(3) organization, are tax deductible to the fullest extent allowed by law.

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There is no constitutional right to counsel for prisoners on death row. You have the power to ensure that every person facing the death penalty has the assistance of a skilled advocate. You can assist our efforts by volunteering to represent a prisoner in need of counsel. We have a variety of pro bono opportunities available, including post-conviction representation, retrials/resentencings, clemency, research projects, amicus briefs, and petitions for certiorari. Your assistance is essential to the Project's success and to the lives of the men and women on death row.

Visit americanbar.org/deathpenalty and click Get Involved to learn more!



We proudly support the ABA
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Project and its Volunteer
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Congratulations to the 2024 honorees!

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King & Spalding proudly supports the
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Thank you to the ABA

for your leadership through the
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Rachel Shalev
Senior Associate

At Orrick, we are innovating to provide equitable access to justice through our Racial Justice Fellowship Program.

Rachel Shalev spent her fellowship helping the MacArthur Justice Center work to make the justice system accessible, fair and accountable to all.

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Weil, Gotshal & Manges
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