Welcome to the Women in Communications Law (WICL) Fall 2018 Newsletter. It is my honor to chair WICL this year, along with my co-chair Jenn Dukarski and chair-elect Kristen Rodriguez. We have been busy planning upcoming events and we hope to see you at many (if not all) of them. We also hope that you will read our quarterly (more or less) newsletters, as well as our occasional emails and our website materials and get involved with WICL and all that it has to offer. Please let us know if you would like to get more involved or if you have any suggestions or comments on things we could be doing (or doing better). And, please invite your friends and colleagues to join, if they have not already. In case you hadn’t noticed, there are a lot of really great women involved in WICL—and we always welcome more. I know that I, personally, have made many contacts and, more importantly, friends through WICL and look forward to making even more.

We have a number of great events planned in the next few months, including a theater night at Mean Girls (with post-theater drinks/dinner/dessert at Café Un Deux Trois) and luncheon at Natsumi, both in November, and a WICL meeting at the Annual Conference in late January/early February where we will reconnect with our fellow WICL members after the holidays and also engage in a book club discussion and meeting. We look forward to seeing you at those and other events and to connecting with you in the next few months.
Bad Ass Woman Lawyer: Karlene Goller

By Nikki Moore

Whether up against the Catholic Church or the state’s police departments, Goller is known as one of California toughest and hardest working First Amendment lawyers. She spent more than two decades as newsroom lawyer for the Los Angeles Times. The First Amendment Coalition called her the consummate reporters’ lawyer, and she is the only non-editorial employee to receive the L.A. Times’ Top of The Times award. In an email about her departure from The Times, then-Publisher Eddy Hartenstein wrote, “Some lawyers obstruct. Karlene publishes.”

That maxim bears out throughout Goller’s career, but the fight to publish e-mails between Los Angeles Cardinal Roger Mahony and his inner circle of advisors including his lawyers, about the sexual misconduct of priests—against the vehement protests of the Los Angeles Archdiocese—stands out.

It was spring 2002. Around 10 p.m. The Times city desk got a call from someone saying the Archdiocese would be appearing in court at 10:30 to convince a judge to restrain The Times from publishing sensitive emails. Everyone assumed 10:30 the next day, but a subsequent call made clear—the appearance would be at 10:30 that night. It was unheard of to hold night court in L.A. Superior Court. And in a case of dramatic irony, The Times had yet to authenticate the documents and was not planning to publish information from the emails that night or the next morning.

Goller showed up at the downtown Stanley Mosk Courthouse with a Times editor, reporter and outside counsel. They banged on the glass doors, locked tight, to get security’s attention and to get up to Judge Yaffe’s courtroom.
The guts Goller exhibits in her work extends not just to her clients. Shortly after becoming The Times’ legal counsel, Goller moved the paper’s First Amendment legal work from its longtime firm to Davis Wright Tremaine and its new partner, Kelli Sager.

It was around the time O.J. Simpson was accused of murdering his wife and Ron Goldman. Grand jury proceedings immediately brought court-access issues to the forefront. “They opened the doors to the hearing. That’s all because of Karlene,” Sager said.

For more than a year, as that case was tried, media issues arose on a weekly basis, at least, and every week, big law firms were calling to convince The Times that it should hire their firm to handle the case instead. Goller said “No, we’ve got the best representation we could ever wish for.” Sager represented the newspaper and all of the media joined in with The Times for the whole trial. “I was very lucky. She was fearless,” Sager said.

You might describe Karlene Goller as a potent combination of resistance and toughness, contained in a cordial package. She is the rare lawyer who can vigorously advocate for her position “in such a nice way,” Sager says. “At first you’re not even sure you’re getting called out.”
Tom Newton, executive director of the California News Publishers Association, a board on which Goller served as Government Affairs Chair for many years, lauded her commitment to justice, feminism and media law. “She has a tremendous amount of passion for civil rights, especially when the goals are the white hat goals that the newspaper industry has long championed, like transparent government and prying information from folks who don’t want to give it up.”

On top of that, she is wickedly funny. Friends and colleagues say they love her wit; she is always ready to lighten the mood and is a master of timing. But she shirks the spotlight to champion others. “She’s pushing everyone else to the front,” Sager said.

Despite the sense of humor, Sager says that Goller is never intimidated when facing a difficult decision, recalling their work together on *NBC Subsidiary (KNBC-TV), Inc. v. Superior Court*. The case was a huge victory. It was the first court decision in the nation to recognize the public’s constitutional right of access to civil court proceedings, and spurred a court rule to codify the case law.

But it could have turned out very differently.

Prior to the hearing, the California Supreme Court indicated that it would ask whether it needed to reach the First Amendment right of access, or whether a statute (which had not been briefed) afforded the basis for relief, eliminating the need to reach the constitutional issue.

Goller had to choose: take the easier win with the statutory argument, or bypass it and make the riskier, more consequential constitutional argument. “Karlene decided we had to go for the First Amendment win,” Sager recalled.

When Chief Justice George’s first question was whether the court would have to reach the constitutional issue at all, Sager replied, “You absolutely do” and explained why.

“It takes guts to make that kind of call,” Sager said, but Goller’s conviction carried the day.

Today, Goller has her own shop and advises a broad range of clients, from newspapers to burgeoning nonprofit media companies, including Southern California Public Radio, Kaiser Health News and CALmatters, to name a few. She describes it as outside counsel with an inside touch. “Everything I did for The Times, I do for all of these other clients now.”

She says she feels extremely fortunate to get to work with top-quality journalists, no matter the platform. She’s actively lobbying her digital media clients to help ensure that protections for the press stand strong through the tumultuous disruption of the news industry.

“We need to work together. And the new journalistic enterprises publishing on these new platforms must pick up the mantle.”

In the meantime, Karlene carries it well.
Tell us a little bit about yourself; your pre-law experience/path and what you currently practice.

I graduated from Brown University in 2007 and spent four years working before starting law school. I held a number of different jobs during those four years – I worked as a paralegal for a plaintiff’s firm in South Carolina, a field organizer for Barack Obama’s 2008 presidential campaign, a Fulbright Scholar in Kuwait, and an editorial fellow at the Atlantic Magazine. I valued all of these experiences, and I always encourage students to try out a variety of jobs and career paths before committing to law school, or to any graduate school for that matter.

I currently serve as the First Amendment Fellow at the New York Times, where I work on a variety of newsroom legal issues. I assist with pre-publication review, advising on newsgathering and investigations, and libel and copyright litigation. But my central role is to help manage our access docket of FOIA and New York FOIL cases. That includes both litigating cases and advising reporters on state and federal public records requests at the administrative stages.

What is your favorite part of working in the media/entertainment sector?

I love coming to work every day and feeling like what we do here matters. There is a real sense of mission and purpose here at the Times – especially given the current political climate. I enjoy working closely with reporters and watching a story take shape. I especially enjoy seeing a story through from inception to publication. For some stories, I will advise on the language of a public records request, help negotiate with an agency for the records, and then assist with pre-
of that team. The work is also so interesting and varied. I’ve assisted with everything from negotiating the return of 15,000 ISIS documents to the Iraqi government to helping with the prepublication review of #metoo stories. It’s an incredibly exciting and rewarding job.

It’s hard to pick just one great thing that I’ve learned this year. But one important lesson is that a successful newsroom lawyer always works as an ally to their reporters. I’ve learned that the job is not about eliminating risk but managing it – it’s about giving our reporters an accurate sense for the potential implications of various scenarios rather than just saying no. The reporters here very much feel like David McCraw, the primary newsroom lawyer for the Times, is their ally – someone who will make their reporting efforts more successful rather than someone who will stand in their way. And that has been a powerful lesson.

What is one thing you wish you knew about this field before you started?

During law school, I was involved with a clinic that does pro bono access litigation on behalf of media organizations. So I was familiar with FOIA and other access-related issues, but much less familiar with other traditional areas of media law. When I started at the Times, I had very little background on issues like libel and copyright. And I’ve found that I’ve really enjoyed those areas. I wish I had been exposed to a wider array of media law issues earlier in my career.

You were a recipient of the NY Times fellowship program. How did you find that opportunity and what was one great thing you learned from that experience?

I’ve absolutely loved the fellowship, and I would strongly encourage any young lawyer with an interest in media law to apply. We have a very small in-house legal team, and the First Amendment Fellow is an integral part of that team. The work is also so interesting and varied. I’ve assisted with everything from negotiating the return of 15,000 ISIS documents to the Iraqi government to helping with the prepublication review of #metoo stories. It’s an incredibly exciting and rewarding job.
Supporting Workers Who Speak Out Against Workplace Sexual Harassment

Guest Column - TIME’S UP Legal Defense Fund

The TIME’S UP Legal Defense Fund is the first-ever network of attorneys stepping up to combat workplace sexual harassment and related retaliation. Administered by the National Women’s Law Center Fund, the TIME’S UP Legal Defense Fund connects those who experience workplace sexual misconduct, including assault, harassment, abuse, and related retaliation, with legal and public relations assistance. Since it launched on January 1st, more than 3,500 people—from all 50 states and D.C.—have sought legal assistance. That number grows every day.

We are reaching out to you because many of the workers who contact us would like to come forward and publicly share their story.

Some are considering coming forward or have been contacted by the press seeking interviews. Others, such as Pamela Lopez, disclosed the harassment or assault they faced and have been sued for defamation by the perpetrator. We do not have enough attorneys in our Network to meet this need. So we are looking for attorneys like you—ones with experience in defamation law—who can help these workers tell their stories safely.

If you join, you agree to do a first initial consultation with workers we send you for free. If you take the individual on as a client, you can do so pro bono, low bono, or using your normal fee structure. You may also apply for funding through the TIME’S UP Legal Defense Fund which offers grants to defray legal and public relations costs. Not all funding requests will be granted.

To join, please visit https://nwlc.org/join-the-legal-network/ or contact Ellie Driscoll at edriscoll@nwlc.org.

We hope that you will consider joining us to support the brave individuals who have come forward and work to end the pervasive culture of workplace sexual harassment.
ICYMI (In Case You Missed It)
What’s hot and what’s not in media, First Amendment and privacy


Another in a long string of decisions holding that a social media provider is not liable for “materially supporting terrorists.” Plaintiffs alleged that Twitter, Google (via YouTube), and Facebook aided in international terrorism by allowing recruiting, fundraising and propaganda supporting ISIS. Applying Fields v. Twitter, Inc., 881 F.3d 739 (9th Cir. 2018), the Northern District of California held that mere allegations without supporting evidence could not support proximate causation and the link between a platform and the alleged attack. The opinion did not address Section 230 or the First Amendment.

Breitbart vs. Sleeping Giants

Many online publications use programmatic advertising to raise revenues by displaying a variety of ads on their websites without requiring negotiation for individual ad placements. Normally, an advertising company is unaware of where their content will appear.

One such user is Breitbart. Starting in 2016, a Twitter campaign called “Sleeping Giants” urged its followers to take screenshots of online advertisements next to polarizing headlines and “report” these ads placements, asking companies to drop ads from those publications. As a result of this campaign, hundreds of companies “blacklisted” Breitbart from their programmatic advertising campaigns, resulting in a loss of 90% of advertisers.

On October 24, 2018, Breitbart sent a litigation hold letter to Sleeping Giants claiming that Sleeping Giants engaged in unfair, fraudulent and deceptive practices intended to cause Breitbart economic harm. As this matter edges closer and closer to litigation, it will be an interesting one to watch as it sits at the intersection of online activism, first amendment, and commercial speech. Stay tuned!
A Leadership Minute

In his 2011 book, The 5 Levels of Leadership: Proven Steps to Maximize Your Potential, John Maxwell points to the leadership journey that all of us take, regardless of our position, title and role. As budding leaders, at any point in our careers, it is worth taking inventory on where you stand in your leadership journey and what the potential next steps may be.

Maxwell identifies five levels of leadership: position, permission, production, people development and pinnacle. He describes each as:

**Position**: Leadership at this phase is dependent on the rank you obtain and the title you’re granted. It’s a place to start, but you are often followed merely because you must be followed.

**Permission**: In this stage of leadership, followers flock to a leader based on relationships. This stage is connecting and building rapport to create solid and lasting long term relationships.

**Production**: When relationships turn from connections to groups that execute, you have moved into the production phase. You remain connected, but the team is has synergy and positive dynamics that lead to enhanced execution.

**People Development**: In this stage, it’s a matter of leaders building leaders. As the team continues to have strong relationships and outstanding production, the leader turns to replicate and reproduce the success with future leaders.

**Pinnacle**: Although it’s hard to see a position better than developing the next generation, leadership at its pinnacle demonstrates the longevity of the leader and their developed leaders. This phase is all about legacy.

Where is your team on the leadership journey and how can you achieve the next step? Are you at the beginning of your career and seeking to jump from positional leadership into the next phase of relationship building? Or are you someone who has successfully developed teams and achieved the goal of being an exemplar of pinnacle leadership in the Media Bar? Either way, we hope you share your experiences and stories of growth in future editions of the WICL Newsletter!
Upcoming Events

**November in New York City: November 7-10, 2018**

We are thrilled to be meeting in New York for two special social events: a Dinner & a Show event and after theater meal at Café Un Deux Trois; and a networking and educational luncheon.

**Annual Forum Meeting: January 31-February 2, 2019**

Mark your calendar and save the date for the 24th Forum Annual Conference! We’re staying on the beach at the Nobu Eden Roc and WICL will host a program and reception that will provide an opportunity for education and networking with outstanding women in the profession. Yes, the Super Bowl is Sunday, February 3, 2019, and we suggest you book your flights early if you’re flying from or connecting through Atlanta, Georgia, which is where the Super Bowl is being held.

**Spring in Las Vegas: April 6-7, 2019**

In connection with the 38th Representing Your Local Broadcaster continuing legal education seminar at the NAB Show at the Encore Hotel in Las Vegas, WICL hosts a Dinner & Show event. Keep an eye out for updates on the show and dinner.

Get Involved!

**Newsletter Subcommittee**

Responsible for putting together three newsletters each year, the one you are reading now in the fall/winter and one in the spring. Please consider contributing articles, news items about your successes and career, or help in putting the newsletter together.

**Web Subcommittee**

Responsible for overseeing and updating the content on the WICL section of the Forum Committee’s website. We hope this subcommittee will be in close contact with the newsletter subcommittee.

**Speaker’s Bureau Subcommittee**

Responsible for recruiting candidates from our membership and establishing a list of WICL members who would be willing to speak/present on media/communications-related topics. These candidates would develop presentations on their own field of expertise and could be called upon to speak at WICL and Forum events.

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