



ADVANCING ECONOMIC JUSTICE

Advancing the cause of economic justice for low-income families, individuals, and communities across the country



Summer 2012

NCLEJ Sues New York and Missouri to Protect the Rights of the Sick, the Elderly, or People with Disabilities

NCLEJ staff and colleagues have taken on two cases focused on protecting the rights of people who have pressing medical needs, mobility problems, or disabilities.

New York

In recent months, NCLEJ staff have been asked to join *Varshavsky v. Perales*, a class action protecting the rights of elderly and disabled homebound public benefits recipients and applicants seeking to challenge the loss of Medicaid, food stamps, and other critical benefits.

Under the terms of the *Varshavsky* preliminary injunction, the New York State Office of Temporary and Disability Assistance (OTDA) must provide fair hearings in the homes of appellants for whom travel to a central hearing location would constitute a hardship. However, OTDA can attempt to conduct a hearing by telephone, but if the telephone hearing is unsuccessful, the appellant is entitled to an in-home hearing.

We believe that OTDA has failed to comply with several key elements of the preliminary injunction: it has not provided full monitoring, discourages certain appellants from requesting home hearings, and is very delayed in providing home hearings to other appellants.

NCLEJ submitted a demand letter to the State and will work closely with co-counsel as necessary to do everything possible to ensure that this particularly vulnerable class of New Yorkers has its rights protected.

Missouri

NCLEJ, Legal Services of Eastern Missouri, the Saint Louis Legal Clinic, Bazelon Center for Mental Health Law, and two private attorneys have filed a federal lawsuit to challenge a new Medicaid policy that will cause Medicaid recipients who live in the community to move to nursing homes to continue necessary kidney dialysis treatment. Plaintiffs are five Medicaid recipients who live in their homes and get Medicaid transportation to dialysis and a grassroots organization serving people with disabilities.

The case, *Talton v. Kinkade*, was filed on June 19, 2012, in the Western District of Missouri. The

lawsuit claims that the new Medicaid policy, as applied to plaintiffs, violates the Americans with Disabilities Act and Section 504 of the Rehabilitation Act, which prohibit states from designing and operating the Medicaid program in a way that forces people with disabilities to move into nursing homes to get needed services. Nursing home care would be far more expensive for the State than continuing to serve the plaintiffs in the community.

Plaintiffs have asked the court to require the State to continue providing transportation to dialysis for the plaintiffs and to declare that the failure to do so violates federal disability rights laws.

Quick Take: Implications of the ACA Decision

Now that the Supreme Court has upheld most of the Affordable Care Act, health care insurance should become available to millions of low and moderate-income Americans who would not have it otherwise. Unfortunately, the Court weakened the critical portion of the Act for those most in need, saying that the requirement that states participating in the Medicaid program cover virtually everyone below 133% of the poverty line could not be enforced, in effect making it voluntary.

Ideally, each state will decide to expand its Medicaid coverage in light of the generous federal funding. If they do not, millions of their lowest-income residents will lose out entirely since they are not eligible for subsidies to purchase insurance through the new health insurance exchanges (limited to people above the poverty level).

Thankfully, the vital legal protections we have been enforcing continue in full effect for the expanded Medicaid program. Through our ambitious litigation docket, with cases in many states and New York counties, we have assured that thousands have prompt access to Medicaid and have achieved tremendous gains in efficiency and administration. Those successes have been, and will continue to be, key to assuring that eligible people receive the health benefits they need promptly and in a dignified manner.

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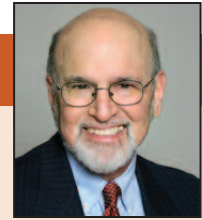
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FROM THE EXECUTIVE DIRECTOR



I am so pleased that Jenny Pelaez will join us as the first Paul M. Dodyk Fellow for Economic Justice in September.

The Fellowship was created to honor longtime NCLEJ Board Chair Paul Dodyk for his lifetime commitment to using the law to promote fair and dignified treatment for everyone in our society, regardless of their means.

Jenny graduated magna cum laude from the Benjamin N. Cardozo School of Law in 2011, where she was an Associate Editor of the Cardozo Law Review and a Public Service and Dean's Distinguished Scholar. She received her B.A., with distinction, from the University of Pennsylvania, and now serves as a law clerk for the Honorable Frank Maas in the Southern District of New York.

While in law school, Jenny participated in the Immigration Justice Clinic and spent summers interning with an organization in Gujarat, India, and the American Civil Liberties Union's Center for Democracy. As a Debevoise & Plimpton Fellow at New York Lawyers for Public Interest in her third year, she promoted equal access to services for people with disabilities and addressed barriers to quality health care in low-income communities.



Jenny Pelaez with intern Chanell Johnson.

Jenny's commitment to social justice stems in large part from experiences growing up in a primarily immigrant and working-class community after emigrating from the Philippines in 1994. She remains keenly aware that the public benefits her family received enabled her to pursue goals that otherwise may have been unattainable.

Jenny joins us at a critical turning point, as we gear up to meet the new challenges created by the Supreme Court's health care reform decision noted on the cover page. With your support we will do all we can to assure that low-income families get desperately needed health care in a speedy and dignified manner.

Henry A. Freedman
Executive Director

Goodbye, Clarion and Zahire

Clarion Johnson, a senior associate at WilmerHale, has completed a six-month, full-time Pickering Fellowship at NCLEJ. Clarion has now returned to work at WilmerHale with our sincere thanks and best wishes!

Zahire Estrella, a volunteer attorney and former University of Miami School of Law Legal Corps Fellow at NCLEJ, has accepted a position with the Law Department of Jersey City as Assistant Corporation Counsel. All the best, Zahire!



Left to right: Zahire Estrella, Peter Kendall, Brenda Munoz Furnish, and Clarion Johnson at NCLEJ's Awards Dinner on June 5.

NCLEJ 2012 AWARDS DINNER

NCLEJ Dinner on June 5th Honored Michele Coleman Mayes, Kathleen Sebelius, Robert Greenstein, and Weil, Gotshal & Manges LLP

Michele Coleman Mayes, then-Executive Vice President and General Counsel, Allstate Insurance Company; **Kathleen Sebelius**, Secretary, United States Department of Health and Human Services; and **Robert Greenstein**, Founder and President, Center on Budget and Policy Priorities were honored at NCLEJ's annual Awards Dinner on June 5th at Chelsea Piers in New York City.

The law firm of **Weil, Gotshal & Manges** was also honored with the inaugural Pro Bono Leadership Award, which was accepted by partner **Steven A. Reiss**. "Weil's outstanding pro bono representation has made a huge difference to our clients," said NCLEJ Executive Director Henry Freedman in announcing the award in April.

Through this annual event, NCLEJ celebrates the accomplishments of remarkable individuals and firms such as those honored this year, while raising much needed funds to support our programs.

Writer and legal analyst **Jeffrey Toobin** served as emcee for the dinner, which was attended by nearly 300 people. Benefit Chairs included **Stacey R. Friedman**, **Ben W. Heineman, Jr.**, **Robert D. Resichauer**, **Adam L. Rosman**, and **Philippe Z. Selendy**.



Left to right: Jeffrey Toobin, Robert Greenstein, Steven Reiss, Michele Coleman Mayes, and Henry Freedman



Doug Curtis introducing Kathleen Sebelius's video.



Henry Freedman presenting the Economic Justice award to Robert Greenstein.



H. Rodgin Cohen presenting the Economic Justice award to Michele Coleman Mayes.



Steve Reiss accepting the Pro Bono Leadership award from Jennifer Selendy.

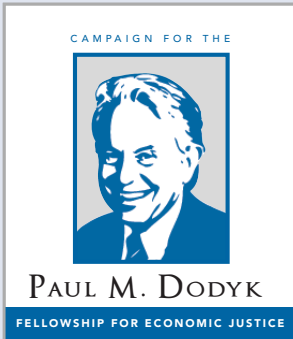


Guests watching Secretary Sebelius accept the Public Service award by video.



Ed Krugman, John Bouman, Marc Cohan, and Tedde Tasheff enjoying the reception.

Paul M. Dodyk Fellowship Campaign



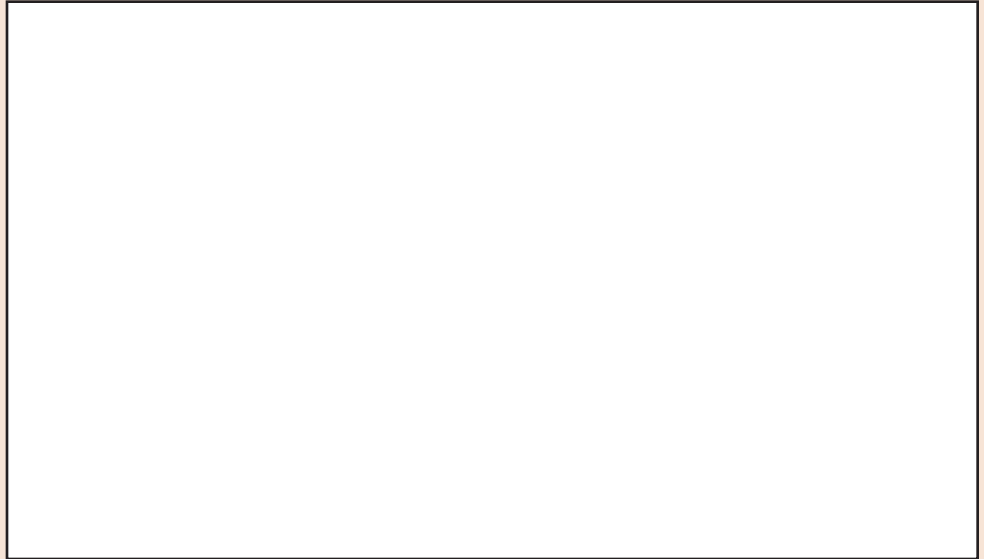
NCLEJ's Paul M. Dodyk Fellowship for Economic Justice honors longtime NCLEJ Board Chair Paul Dodyk for his lifetime commitment to using the law to promote fair and dignified treatment for everyone, regardless of their means. For more information, visit www.nclej.org/dodykfellowshipcampaign.php.



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Debevoise and Willkie Farr Partners Elected to NCLEJ's Board



Shannon Rose Selden



Keila Ravelo

New York City attorneys **Shannon Rose Selden**, a partner at Debevoise & Plimpton LLP, and **Keila Ravelo**, a partner at Willkie Farr & Gallagher LLP, were elected to NCLEJ's Board of Directors at the December 2011 and March 2012 meetings, respectively.

"We are so pleased that two such talented and enthusiastic attorneys have joined our Board of Directors to help us in our ongoing efforts to ensure that government agencies respond effectively to the critical needs of low-income families," said NCLEJ Executive Director Henry Freedman.

We've Been Busy!

In May, **Laura Redman's** article, "Outing the Invisible Poor: Why Economic Justice and Access to Health Care is an LGBT Issue," with an afterword related to health care reform and the Affordable Care Act, was published by the Barnard Center for Research on Women, in collaboration with Queers for Economic Justice, in the newest issue of *The Scholar & Feminist Online - A New Queer Agenda*.

This spring, under the leadership of **Stephane Ariot**, NCLEJ's Young Professionals Network for Economic Justice (YPN) undertook a service project for Women In Need. WIN provides shelter and support to homeless women and children, while teaching women the skills necessary to gain economic independence. YPN volunteers performed mock interviews for WIN members who were seeking either new positions or to re-enter the workforce.

Cary LaCheen's persistent efforts to get New York social services districts to adopt meaningful policies under the Americans with Disabilities Act have succeeded in Chautauqua and Oneida Counties, which have recently issued ADA policies.

In March, **NCLEJ** and **Greater Hartford Legal Aid** filed a federal class action, *Briggs v. Bremby*, challenging the state's pervasive delays in providing food stamps to needy Connecticut residents. The delays affect thousands of individuals each month, depriving them of food stamps they need to put food on the table.