



ADVANCING ECONOMIC JUSTICE

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



Spring 2010

Total Victory Won in Maryland Benefits Delay Case

In December 2009, after a four-day trial, low-income Marylanders won a permanent injunction to speed the applications process for food stamps, Medicaid, and cash public assistance.

The Baltimore City Circuit Court Judge granted plaintiffs' motion for a permanent injunction requiring the State of Maryland to come into full compliance with timely processing requirements in the food stamp, Medicaid, and cash public assistance programs in one year. The State must also begin providing monthly data to plaintiffs concerning processing times and the extent of delays.

When the lawsuit, *Thompson v. Donald*, was filed in April 2009, plaintiffs claimed that each month thousands of Maryland residents had to wait for their

food stamps, Medicaid, and cash assistance well beyond the federal and state time limits set by statute and regulation.

Data submitted at the trial showed that almost one out of every five applications was delayed. For many needy families, delays in receiving assistance mean going hungry, foregoing medical care, or being rendered homeless. Many turn to already strapped food pantries, some of which cannot provide appropriate

food for certain dietary and health concerns.

NCLEJ, the Public Justice Center, the Homeless Persons Representation Project, and the law firm of

Kirkland & Ellis represented the plaintiffs at trial. Jennifer Selendy, a partner at Kirkland & Ellis and an NCLEJ Board member, played a key role in the litigation.



Marc Cohan, NCLEJ Director of Litigation; Laura Redman, NCLEJ Staff Attorney; and Philippa Scarlett, Partner at Kirkland & Ellis' Washington, DC, office.

"Data submitted at the trial showed that almost one out of every five applications was delayed."

More Good News for Ending Application Delays

Steuben County, New York

NCLEJ, the Western New York Law Center, and the Empire Justice Center have achieved a settlement in a federal class action case challenging Steuben County's unlawful practice of delaying food stamp, Medicaid, and cash public assistance applications. The settlement provides relief to the hundreds of Steuben County residents who apply for food stamps, Medicaid and/or cash public assistance each month.

Indiana

Hungry Hoosiers should get their food stamps faster as Indiana implements a preliminary injunction agreed upon in October 2009. The State is required to improve its compliance with federal time frames, provide monitoring data to demonstrate the extent of its compliance, and create a mechanism for certain applicants to have individual problems resolved. Plaintiffs in this federal lawsuit were represented by NCLEJ, Bryan Cave LLP and Friedman & Associates, P.C.

Rhode Island

In October, a U.S. District Court judge signed off on a settlement in which Rhode Island agrees to meet federal deadlines for processing food stamp applications. The case was filed by NCLEJ and the Rhode Island affiliate of the American Civil Liberties Union.

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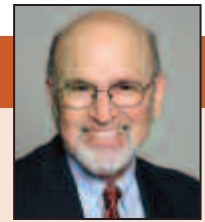
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FROM THE EXECUTIVE DIRECTOR



The media buzzes with speculation about where the economy will be in November, and how that will affect the mid-term elections. Sadly, there is general agreement that tens of millions of people in or near poverty – our clients – will still face unemployment, desperation, and long-term harm.

We have responded by increasing our efforts to ensure that government programs funded to address crushing need actually do what they were created to do. When appeals to reason do not succeed, we invoke the hammer we can use – the hammer of the law – enforced by court orders.

These government programs are created with public money. Laws mandate how that money is to be used and who is eligible. Yet all too often, agencies violate the law and turn away people who should be helped.

We wish it were not so. But we have seen over the past 45 years that often it is not enough to have a good program on the law books. To get benefits to those who are eligible for them and need them, we simply must go to court.

We have been speeding up our pace over the past few months – winning a major case in Maryland, and securing comprehensive settlements in Indiana, Rhode Island, and Suffolk and Steuben Counties, New York. As a result, benefits such as food stamps, Medicaid, and cash public assistance are being, and in the future will be, provided far more promptly to eligible families.

I congratulate our valiant staff on these accomplishments. I thank the law firms who have allowed their associates (whose starting dates at their firms have been deferred) to work for us, and the firms who have donated invaluable lawyer and paralegal pro bono services.

The *New York Times* recently reported that food stamps are the only source of income for six million Americans. Food stamps alone will not pay for rent, transportation, clothing, soap, or toothpaste. We must do so much better. A special thank you to all our donors who are helping NCLEJ do its share to assure that at least these meager benefits get to those in need.

Henry A. Freedman
Executive Director

HELP US WIN THE FIGHT FOR ECONOMIC JUSTICE

Support NCLEJ Online

Just click on the **"Donate Now"** button on our homepage (www.nclej.org) to make a credit card donation through NYCharities.org.

It's quick, easy, and secure!



We've Been Busy!

OCTOBER 2009

Gina Mannix and Marc Cohan met with senior officials of the US Department of Agriculture's Food and Nutrition Service agency in Washington, DC.

NOVEMBER 2009

Henry Freedman represented NCLEJ at the National Legal Aid and Defender Association Annual Conference in Denver.

Cary LaCheen conducted a training for the Westchester Peer Support Network on ADA issues.

DECEMBER 2009

Cary LaCheen met with the new head of the US Department of Health and Human Service's (HHS's) Office of Civil Rights (OCR), the head of HHS's Office on Disability, and the Senior Advisor to the HHS Secretary on improvements needed to the HHS OCR complaint and compliance review process.

Cary LaCheen conducted a training for the Onondaga and Oswego Independent Living Centers, Legal Services of Central New York, and other local advocates and service providers on the intersection of ADA and public benefits issues. She also spoke at a meeting of the Westchester Disability Advocacy Partnership.

JANUARY 2010

Henry Freedman participated in meetings of the New York State Bar Legal Aid Committee and New York Legal Services Project Directors.

Laura Redman represented NCLEJ at the Economic Justice and Social Welfare Network (EJSWN) Steering Committee meeting; Cary LaCheen, Adam Young, and Steve Miller attended the EJSWN Policy and Advocacy Committee meeting; and Jacob Meyer and Adam Young participated in a meeting on child care with policymakers from the Administration for Children's Services as part of the EJSWN Child Care Committee.

Laura Redman and Steve Miller attended the American Constitution Society for Law and Policy's Access to Justice in Federal Courts symposium at New York University School of Law.

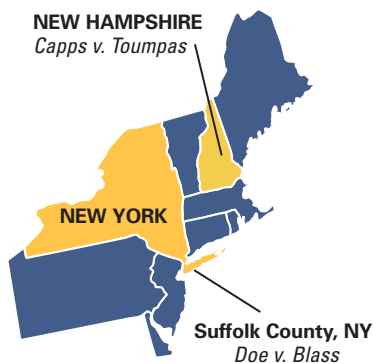
NCLEJ and Colleagues File New Cases in New Hampshire and Suffolk County, New York

In recent months, NCLEJ attorneys have worked with legal services colleagues to file new cases in New Hampshire and Suffolk County, New York.

In the class action *Capps v. Toumpas*, NCLEJ and New Hampshire Legal Assistance sued New Hampshire for its refusal to fully reimburse prescription drug expenses incurred after an application for Medicaid is filed and before eligibility is determined on appeal. The class action was filed in November 2009 in the United States District Court in New Hampshire.

Doe v. Blass, a class action filed in September 2009, challenged Suffolk County's delays in providing emergency assistance for costs such as rent arrears, security deposits, broker fees, and avoiding utility shutoff. People are losing their housing as the result of such delays, and are often forced into homelessness. NCLEJ and the Empire Justice Center, co-counsel in this action in the Supreme Court of the State of New York, Suffolk County, allege that these delays are widespread.

"While focused on different issues, these cases have the capacity to achieve needed fixes in key benefits



programs for thousands of low-income people," said Laura Redman, NCLEJ Staff Attorney who is working on both cases.

Staff and Board News

Caitlin Halligan, formerly a partner at Weil Gotshal & Manges, has been named the new General Counsel in the Manhattan District Attorney's office. Although it means she has left our Board, NCLEJ is excited for this opportunity for Caitlin. Congratulations!

NCLEJ Board Member **Jonathan D. Schwartz** is now the General Counsel of the Investment Bank of JPMorgan Chase.

Pierre Ciric, a Deferred Associate from Proskauer Rose, began work at NCLEJ in early November. Welcome, Pierre!

Deferred Associate **Robert Trisotto** completed his tenure at NCLEJ in January. We wish him well as he begins his new job at Cahill Gordon & Reindel.

Jessica Grant, a third-year law student at the University of Ottawa, and **Katelyn Beaudette**, a second-year law student from Harvard Law School, served as full-time interns for the month of January.

Ryan Nelson, a second-year law student from Cardozo Law School, is interning at NCLEJ during the spring semester.

Mark Your Calendars!

NCLEJ's ANNUAL AWARDS DINNER

will be

June 9, 2010

at Chelsea Piers –
The Lighthouse.

Distinguished honorees
will include

Amy W. Schulman

Senior Vice President and
General Counsel
Pfizer Inc.

For more information, please
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Lawsuit Causes FEMA to Reveal Progress Made in Responding to People with Disabilities

After Hurricanes Katrina and Rita, the Federal Emergency Management Agency (FEMA) placed thousands of persons with disabilities in inaccessible temporary housing. NCLEJ filed *Brou v. FEMA* and secured a major settlement under which more than 2,000 people were provided accessible emergency housing. We now have evidence of further progress.

After the case was over, we asked FEMA for its current trailer accessibility policies, so that we could see whether FEMA has taken the necessary steps to prevent the same problem from occurring in future disasters. FEMA ignored our Freedom of Information Act request.



Photo: Keith Riggs/FEMA.
Courtesy FEMA Photo Library

In October 2009, NCLEJ and Hogan & Hartson LLP sued FEMA in federal district court. Three months later, FEMA relented and provided 700 pages of materials. Our review of FEMA's materials reveals that FEMA did make changes in response to our lawsuit, including:

- FEMA's inventory of ready-to-be-installed trailers is to include at least 2,500 accessible trailers.
- FEMA's policy requires staff to screen people seeking assistance to determine whether anyone in the household has a disability and needs an accessible trailer.

While there are further improvements needed in the policy, *Brou* has both benefited the Katrina and Rita class members and has led to longer-term improvements that will benefit many other people.

