



ADVANCING ECONOMIC JUSTICE

Fighting for fairness for people in need

Summer 2013

Helping Low-Income New Yorkers Survive the Bureaucracy

It is truly Kafkaesque. More than 1.8 million people in New York City, and 1.3 million upstate, have to battle a vast and uncaring bureaucracy to get and then keep their desperately needed food stamp benefits.

We're here to make the system work the way it should. During the past few months we and our colleagues achieved major victories in two cases that will help our most vulnerable neighbors secure the assistance to which they are unquestionably entitled, and we have just filed a third case.

These cases show how easy it is for benefits to be cut off when they should not – and how important our efforts are for hundreds of thousands of people.

Tens of thousands of low-income New York City families had been going without desperately needed food stamps and cash assistance while they waited for fair hearings to challenge unlawful benefit terminations – a clear violation of our landmark 1970 Supreme Court victory in *Goldberg v. Kelly*. In April 2013, a federal court approved a comprehensive final settle-

ment in *Morel v. Giuliani* to eliminate this practice.

Meanwhile, as much as \$60 million will be distributed to as many as 200,000 people who lost their food stamps because they were not told they could cure an alleged violation of a work requirement. In addition, fair hearing processing will be speeded up to legal requirements, and future sanction notices will make clear that sanctions can be cured before benefits are cut. This is all the result of the June 2013 federal approval of a settlement in *Richard C. v. Proud*.

“We can only hope that these cases serve as a wake-up call...”

**— Marc Cohan
Director of Litigation**

The third case, *Juan v. Doar*, filed in federal court in late June, seeks to protect New York City residents who are 60 years old or older and often have a disability and receive cash benefits. The law provides that these

recipients do not have to take part in employment-related activities. But the agency schedules work assessment appointments and then cuts benefits when these people – many thousands of them, we believe – do not show up. We hope to stop this elder abuse.

“Poor families, older persons, children, and people with disabilities all suffer cruelly and needlessly when assistance to which they are entitled is wrongly terminated,” said Marc Cohan, NCLEJ Director of Litigation. “While we are gratified that the courts still provide a last opportunity for redress against governmental excess, we are dismayed that we are forced to sue. We can only hope that these cases serve as a wake-up call to all levels of government to ensure that poor people are not forced to go to court to obtain subsistence benefits to which they are entitled.”

We thank the Legal Aid Society, New York Legal Assistance Group, Empire Justice Center, Urban Justice Center, and Cooley LLP, who have served as co-counsel in one or more of these cases, for the opportunity to partner with them and for their great work.

We're Tackling Bureaucracy in Other States Too

Thousands of low-income **Connecticut** families have had to wait months before getting the food stamps they urgently needed to feed themselves and their families. In May, NCLEJ and Greater Hartford Legal Aid secured a federal court order requiring the state to eliminate these egregious delays in processing food stamp applications.



In **Maryland**, as a result of a lawsuit filed in January by NCLEJ, the Public Justice Center, and the Homeless Persons Representation Project, thousands of Marylanders with disabilities are finally receiving eligibility determinations on their Medicaid applications. In February, the backlog was more than 9,000 cases. A June report shows the backlog has been reduced to just under 3,000.



ADVANCING ECONOMIC JUSTICE

Published by

National Center for Law and Economic Justice

HENRY A. FREEDMAN
Executive Director

BOARD OF DIRECTORS

Jennifer M. Selendy, Chair
Kirkland & Ellis LLP

Cassandra Barham, Vice-Chair
Benefits Rights Advocacy Group

Douglas F. Curtis, Vice-Chair
WilmerHale

Sandra D. Hauser, Secretary
Dentons US LLP

Steven M. Edwards, Treasurer
Hogan Lovells US LLP

Mary Lu Bilek
*University of Massachusetts
School of Law-Dartmouth*

Carmen Beauchamp Ciparick
Greenberg Traurig, LLP

Paul M. Dodyk
Cravath, Swaine & Moore LLP (retired)

Evelyn Dortch
Direct Action Welfare Group

Stacey R. Friedman
*Corporate and Investment Bank
JPMorgan Chase & Co.*

Mary E. Gerisch
Vermont Workers Center

Melissa Gilberg
*Coalition for Social Justice
Education Fund*

Anita Graham
Community Voices Heard

John D. Gregory
*Maurice A. Deane School of Law
at Hofstra University (retired)*

David Gruenstein
Wachtell, Lipton, Rosen & Katz

Henry B. Gutman
Simpson Thacher & Bartlett LLP

Stephen L. Kass
Carter Ledyard & Milburn LLP

Mark A. Kirsch
Gibson, Dunn & Crutcher LLP

Edward P. Krugman
Cahill Gordon & Reindel LLP

Nancy A. Lieberman
*Skadden, Arps, Slate, Meagher
& Flom LLP*

Bruce Rabb
PLLnet

Jonathan D. Schwartz
Univision Communications Inc.

Shannon Rose Selden
Debevoise & Plimpton LLP

Jill Shinn
*Northeast Missouri Clients Council
for Human Needs*

John A. Shutkin
CliftonLarsonAllen LLP

Jonathan D. Siegfried
DLA Piper LLP (US)

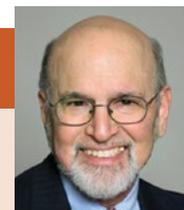
Brian S. Weinstein
Davis Polk & Wardwell LLP

Steven M. Witzel
*Fried, Frank, Harris, Shriver
& Jacobson LLP*

George B. Yankwitt

Ofelia Zapata
Texas Clients Council

FROM THE EXECUTIVE DIRECTOR



Should we be discouraged? When this office opened its doors in 1965 as part of the “War on Poverty” there were fewer people in poverty than there are now.

No, we are not discouraged – we are outraged! Outraged that we are sacrificing our future, allowing over one out of every five children in America to live in poverty. And as I write these words, we have the sorry spectacle of Congress debating whether to cut food stamps a lot, or a whole lot more, taking nutrition away from those most in need.

This makes our work all the more critical. Our cover story describes recent successes in getting food stamp benefits to those eligible for them, and we must increase those efforts. We’re also working hard on cases to speed up the granting of Medicaid benefits in Connecticut, Maryland, and New York to add to our earlier victories in other states, because when people are sick or injured they should get health care right away. This work will benefit even more people as Medicaid is expanded in 2014 under the Affordable Care Act.

Our disability rights work is moving in new directions. We recently sued New York City and State agencies that do not make food stamp and cash assistance notices accessible to people who are blind. We continue to persuade upstate counties to assure that accommodations are provided to people with disabilities so they can get the benefits they are entitled to.

As we seek to expand our horizons and collaborate with fellow advocates, we are gratified that we have been invited by the Ford Foundation to participate in its Women’s Legal Roundtable.

In all of this work we are looking to the future, to improving life chances for the most vulnerable among us. We celebrated this work at our recent awards dinner where I was thrilled to honor Nan Aron, Neal Katyal, and Marc Lawrence-Apfelbaum and to thank everyone who made the dinner such a success.

I continue to be gratified to have such a great staff and supportive Board, now enhanced by the addition of Judge Carmen Ciparick, and look forward to working with them – and you – to assure that NCLEJ continues to fight for adequate income and health care for all in our society.

Henry A. Freedman
Executive Director

We've Been **Busy** –

On June 10, the 50th Anniversary of the Equal Pay Act of 1963, **NCLEJ joined 15 national and state women's rights organizations in launching the Equal Pay Today! Campaign**, which calls for action to close the gender wage gap that persists in nearly every occupation in the country.

Also in June, more than 120 people from federal and state food stamp agencies signed up for a **webinar conducted by NCLEJ Senior Attorney Cary LaCheen**. The webinar focused on complying with disability rights laws in the administration of food stamp benefits.

Senior Attorney/Program Director **Gina Mannix participated in Women's Rights Legal Roundtables convened by the Ford Foundation** in January and June 2013. The Roundtables bring together a small group of leading scholars, activists, and legal practitioners to discuss innovative and compelling ways to use legal strategies to advance economic justice opportunities for low-income women and women of color.

Gina Mannix and Henry Freedman have **just completed an article on TANF and racial justice** for the forthcoming September 2013 issue of the *Clearinghouse Review*, which is devoting this entire issue to racial justice. NCLEJ's earlier article on this subject appeared in the *Review* in 2002. And, this spring, Henry completed his portion of the chapter on **protecting human rights through international and national law** in the second edition of *Social Injustice and Public Health*, to be published in August by Oxford University Press. Peter Weiss, co-author of the chapter, wrote the materials on international law.

In April, the U.S. District Court for the Southern District of New York **approved a critical class action settlement** between New York City recipients of Supplemental Security Income who are HIV-positive or living with AIDS and the City of New York. The case challenged the City's unlawful recovery of federal housing benefits provided to class members. Prior to the settlement, the City mailed payments of nearly \$800,000 to 264 class members. NCLEJ, the HIV Law Project, and African Services Committee are co-counsel.

NCLEJ and Drinker Biddle & Reath **filed a lawsuit in March on behalf of 4,000 blind and seriously visually impaired New Yorkers** who cannot read the print applications, notices and other materials regarding their food stamp and Medicaid benefits. We asked the court to order the City and State agencies to provide information in alternative formats appropriate to each person, develop a system to identify people who may need such materials, and inform them of their right to obtain them.

On Being a Black Lawyer announced this spring that **Henry Freedman was selected as one of the Power 100 Advocates**, non-black attorneys who have been strong advocates for diversity in the legal profession. Henry was honored to be nominated by former Board member Penelope Andrews.

Judge Carmen Ciparick Elected to NCLEJ's Board

At its March 8th meeting, NCLEJ's Board of Directors elected Judge Carmen Beauchamp Ciparick to serve as a Board member. Judge Ciparick, now of counsel to Greenberg Traurig, LLP, recently retired after serving for 19 years as an Associate Judge of the Court of Appeals of the State of New York.



"We are delighted and honored that Judge Ciparick, a thoughtful and inspiring jurist for so many years, a proponent of effective civil legal services for those unable to afford a lawyer, and a wonderful human being, will be joining our Board of Directors," said Henry Freedman, NCLEJ Executive Director, upon announcing her election.

Calling All Fellowship Applicants!

Spread the word! NCLEJ is looking to sponsor candidates for fall 2014 fellowships. We are interested in promoting new projects that address such issues as unfair treatment of people with disabilities, the enforcement of critical civil rights and due process protections in public benefits programs, and the protection of low-wage workers. Past Fellows have helped get similar projects off the ground in recent years.

If interested, please visit our website at www.nclej.org/FellowshipCandidates.php.

In a major outreach effort, Dodyk Fellow **Jenny Pelaez** spoke to NYU Law School students in April about fellowship opportunities at NCLEJ. Also on the panel was Susan Butler Plum, Director of the Skadden Fellowship Program.

Thanks and Best Wishes to Two Longtime Board Members

NCLEJ bids a fond and reluctant farewell to **John Hall** and **Adam Rosman**, whose combined service to NCLEJ's Board of Directors totals nearly 25 years.

John, of counsel to Debevoise & Plimpton, joined the Board in 1999 and served diligently in a variety of capacities, including chairing the Fundraising Committee and, most recently, chairing the Nominating Committee.

Adam, Executive Vice President and Group General Counsel at the Willis Group, joined the Board in 2004 and was an active member of the Compliance Committee and the Dinner Committee, including serving as a dinner co-chair for the past few years.

NCLEJ Board Chair **Jennifer Selendy** said in acknowledging their service to the Board, "John's sage leadership on the Board will

be sorely missed. He has been a mentor and one of our most stalwart supporters over the years. We cannot thank him enough, but promise to carry on the good work he leaves behind. We also thank Adam profoundly for his contribution to NCLEJ over these last nine years. Our annual dinner has become an enviable success thanks to the work of our Dinner Committee, to which Adam has contributed so much."

Supreme Court Decides; NCLEJ Acts!

Similar to Senior Attorney Cary LaCheen's work to make sure that the rights of people with disabilities are protected in the implementation of the Affordable Care Act, Senior Attorney Laura Redman has spearheaded NCLEJ's efforts to make sure that low-income LGBT individuals understand the impact of the Supreme Court's reversal of DOMA on them.

Working with the National Center for Lesbian Rights and the Center for American Progress, Laura assisted in the drafting of fact sheets on the impact of relationship recognition in a post-DOMA universe related to Medicaid and TANF, including eligibility for the programs. These fact sheets cover access to a broad range of federal benefits and will be disseminated widely. To view the fact sheets, go to:

www.nclrights.org/site/PageServer?pagename=DOMA_FAQ_2013.

In a related effort, Laura coordinated the Economic Justice and Social Welfare Network's panel discussion in May on issues affecting LGBT individuals in poverty and organizing efforts seeking to resolve them.



Thanks to our Spring and Summer Interns, Externs, and Volunteers!



Summer Interns Farsiar Zandian, Amy Vogltanz, Jeannine Schoos, and Torie Atkinson

SPRING INTERN:
Robert Sanderman
Northeastern University School of Law

SUMMER INTERNS:
Torie Atkinson
Brooklyn Law School

Jeannine Schoos
CUNY School of Law

Amy Vogltanz
CUNY School of Law

Farsiar Zandian
Northeastern University School of Law

SUMMER EXTERNS:
Maude Paquin
Harvard Law School
(Summer Associate at Davis Polk & Wardwell)
Arthi Sridharan
Columbia Law School
(Summer Associate at Davis Polk & Wardwell)
Nicole Zito
Columbia Law School,
(Summer Associate at Morgan, Lewis & Bockius)

RECENT VOLUNTEERS:
Jackson Gerber
Touro Law School (2013)
Nisha Lakhani
Suffolk University Law School (2011)
Jared Milrad,
Northeastern University School of Law (2012)

NCLEJ 2013 AWARDS DINNER

Shining a Light on Those in Need and on Three Outstanding Honorees

On May 29th, NCLEJ's staff, Board, and more than 300 guests celebrated the accomplishments of three outstanding individuals – **Marc Lawrence-Apfelbaum** of Time Warner Cable, **Nan Aron** of the Alliance for Justice, and **Neal Katyal** of Hogan Lovells US LLP and the Georgetown University Law Center – at our annual benefit awards dinner at the Lighthouse at Chelsea Piers in New York City. The event raised more than \$550,000 to support our efforts to fight for fairness for people in need.



Executive Director **Henry Freedman**, **Neal Katyal**, Emcee **Caitlin Halligan**, **Marc Lawrence-Apfelbaum**, and **Nan Aron**

It was a great evening – led by NCLEJ's Board Chair **Jennifer Selendy**, Board Dinner Committee Chair **Doug Curtis**, and Executive Director **Henry Freedman**. Honeywell's **Kate Adams** and **Steve Witzel** from Fried Frank contributed to the evening as award presenters and co-chairs. Other co-chairs included **Richard Cotton**, **Anne Hess**, and **Adam Rosman**. **Caitlin Halligan** served as emcee.

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



NCLEJ Board Dinner Committee Chair **Doug Curtis**



NCLEJ Board member **Steve Witzel** presenting the award to **Marc Lawrence-Apfelbaum**



NCLEJ Board members **Mary Gerisch** and **Nancy Lieberman**



Henry Freedman presenting the award to **Nan Aron**

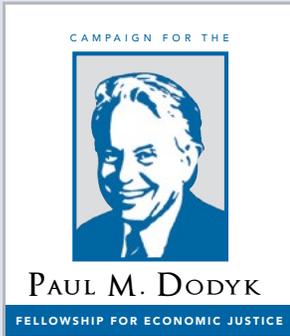


Kate Adams presenting the award to **Neal Katyal**



Manisha Sheth, **Maria Ginzburg**, NCLEJ Board Chair **Jennifer Selendy**, and **Zeb Landsman**

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.

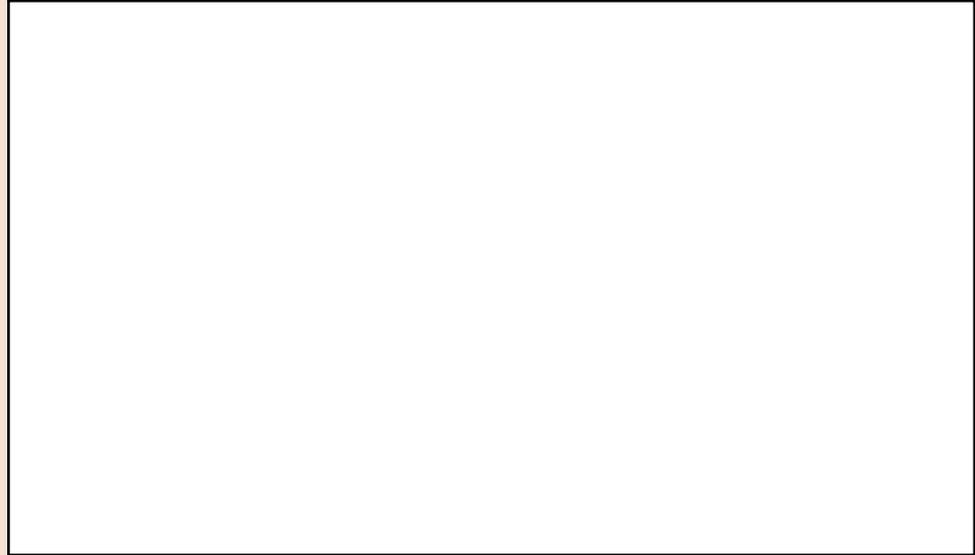


**National Center for Law
and Economic Justice**

275 Seventh Avenue, Suite 1506
New York, NY 10001-6860
212-633-6967 (ph)
212-633-6371 (f)
www.nclej.org



Nonprofit Org.
U.S. Postage
PAID
Permit No. 8263
New York, NY



Spotlight on Child Care...

Child care is an important work support that allows low-income parents to continue working knowing their children will be cared for. Yet, across New York State, counties have deprived working parents of child care by slashing budgets and through unfair practices. NCLEJ has responded quickly.

In March 2013, a federal court approved our class action settlement in *Torres v. Blass*. The case fixed unlawful practices used by Suffolk County to cut the child care of eligible parents and restored child care to hundreds of families. The settlement also forced the County to use Court-approved notices before cutting child care subsidies to Suffolk parents in the future.

In April 2013, New York State revised its model child care notices and instructed counties to use the new notices when terminating or decreasing child care and approving

or denying eligibility. NCLEJ provided extensive comments on the revised notices to the State agency, nearly all of which were incorporated into the final notice.

Similar to the notice approved in *Torres*, the state-wide notices now include information on the income level required for eligibility and how the family's income was calculated. This allows parents to know whether a county's decision was correct or whether they should appeal.

Finally, in June 2013, the New York State Assembly and Senate passed a law that would require any county planning on reducing child care eligibility to provide 60 days' warning, rather than the current 10. This law will allow families far more time

to make sure the county has their current income data on record and/or arrange for alternative child care.

Laura Redman, NCLEJ Senior Attorney, drafted the New York City Bar Association's support for the bill.

