

ADVANCING ECONOMIC JUSTICE

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



Formerly Welfare Law Center

Fall 2006

Settlement Reached in Landmark Suit against FEMA

On September 26, 2006, the federal district court in the Eastern District of Louisiana approved a settlement in *Brou v. FEMA* – a class action lawsuit on which the National Center for Law and Economic Justice serves as co-counsel – that will ensure that Hurricanes Katrina and Rita evacuees with disabilities will receive accessible FEMA trailers. The lawsuit was filed on behalf of eleven Katrina and Rita evacuees with disabilities who lived in Louisiana or Mississippi before they were displaced (five additional plaintiffs were added later).

Why the Suit was Needed

According to FEMA's estimates, approximately 25% of Katrina evacuees have some type of disability, and approximately 8% need accessible trailers. But, at the time the suit was filed, only 1 to 2% of evacuees from Louisiana and Mississippi were provided with accessible trailers. Under the settlement, 10% of trailers purchased by FEMA for Katrina and Rita evacuees after June 1, 2006 must meet Uniform Federal Accessibility Standards.

All of the named plaintiffs needed accessible trailers from FEMA, but all were provided with inaccessible trailers, no trailers, or were still waiting for simple modifications to make their trailers accessible. As

a result, the plaintiffs faced a variety of difficulties, including the inability to cook, bathe, move



Photo: Keith Riggs/FEMA. Courtesy FEMA Photo Library

around in the trailer, and sometimes even enter the trailer. Depending upon their needs, individuals may be entitled to a trailer with a ramp; wider doorways; more turn space for wheelchairs; lower appliances, sinks, and cabinets; accessible showers; shower chairs; grab bars near toilets, showers, and tubs; and other accessibility features.

Requirements of the Settlement

Plaintiffs' counsel estimates that thousands of evacuees with disabilities may have needed, but did not

FEMA has created special toll-free numbers for evacuees who still need accessible trailers from FEMA: 866-496-4297 (for evacuees from Louisiana) and 888-294-2820 (for evacuees from Mississippi). FEMA will send a letter to the last known address of evacuees who have applied for and are eligible for temporary housing and have requested or received a FEMA trailer, informing them of the toll-free numbers, and will send press releases and public service announcements to media outlets in Louisiana, Mississippi, Texas, and other states where many evacuees live.

The other detailed provisions of the settlement can be viewed on our website (www.nclej.org).

Our Allies in this Case

In addition to the National Center for Law and Economic Justice, plaintiffs are represented by the Advocacy Center (Louisiana), the Mississippi Justice Center, the Public Interest Law Project (California), and the New York City offices of Kirkland and Ellis LLP.

Nell Hahn, Director of Systems Advocacy and Litigation at the Advocacy Center, said: "FEMA trailers are still the only housing available to thousands of people whose homes were damaged or destroyed by the hurricanes. Now, finally, people with disabili-

ties will have equal access to this program."

"We are pleased that FEMA has decided to meet its legal obligation to give evacuees with disabilities accessible temporary housing,"

**— Cary LaCheen,
Senior Attorney, National Center for Law and Economic Justice**

get, accessible trailers from FEMA. Thus, as a result of the settlement,

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275 Seventh Avenue, Suite 1506
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FROM THE EXECUTIVE DIRECTOR



I am haunted, every day, by new threats to snatch opportunities from low-income families.

- Opportunities for single mothers to get the education they need to earn enough to provide for their children.
- Opportunities for persons with disabilities to receive needed accommodations to be able to participate in training that will lead to economic advancement.
- Opportunities for working mothers to maintain child care subsidies so they can keep working.
- Opportunities for children to get medical and dental care so they can achieve their full potential.

In my nearly 40 years here at the Center, we have secured these opportunities for hundreds of thousands of families across America.

We must now take action to preserve these critical opportunities for the neediest in our midst. The Deficit Reduction Act signed by the President earlier this year confronts states with utterly unrealistic and unwise mandates – mandates that are expected to result in widespread denials of opportunities for education and training, for accommodations for persons with disabilities, and for child care for low-income working families.

As described elsewhere in this newsletter, we are working closely with advocates around the country to persuade states to act bravely and creatively to avoid these harsh outcomes.

But that is only the beginning. Based on our many years of experience, we can safely predict that some government agencies and over-worked staff will try to meet goals and achieve savings by denying aid to eligible, and truly desperate, families – in clear violation of the law and constitutional rights to due process. In those cases, we will swing into action, working with local groups and advocates to secure fair treatment by negotiation if possible or, when all else fails, going into court.

When I came to the Center as a young attorney in the late 1960s, I worked on *Goldberg v. Kelly*, the landmark Supreme Court case that established the constitutional due process right to fair procedures before aid is cut off. I never imagined then that in the 21st Century we would still have to have our (wonderful) team of lawyers going around the country to compel government agencies to treat people fairly.

I am proud that we are here to do that job, and thank all of our partners, colleagues, and supporters for their efforts. We could not do it without you.

Henry A. Freedman
Executive Director

New York Bar Foundation Presents Grant to Center



Kay Crawford Murray of the New York Bar Foundation Board presents a \$7,500 check to Executive Director Henry Freedman and Board Vice Chair John DeWitt Gregory in the presence of Center staff and summer interns. The grant supports the Center's efforts around New York State to ensure that eligible poor individuals and families receive – in a timely manner – the food stamps, medical assistance, and other services to which they are entitled under state and federal law.

The New York Bar Foundation joins other recent supporters of the Center, including the Robert Sterling Clark Foundation, Herman Goldman Foundation, Horace W. Goldsmith Foundation, New York Community Trust, New York Times Company Foundation, Rhodebeck Charitable Trust, Helena Rubinstein Foundation, Scherman Foundation, Charles and Mildred Schnurmacher Foundation, Joseph LeRoy and Ann C. Warner Fund, and Washington Mutual Foundation.

Support the Center Online, at Work, and in the Future



Go Online to Support the Center

- Just click on the "Give Online" button on our homepage (www.ncej.org) to make a credit card donation through NYCharities.org. It's quick, easy, and secure!

Support the Center through the Combined Federal Campaign

- Are you a federal employee? Look for us – #2209 – in your CFC campaign materials this year.

Make a Planned Gift

- Let us know if you want information about planned giving.

Welcome Pfizer/Equal Justice Works Fellow!

Laura Redman has joined the Center's staff as our newest Equal Justice Works Fellow. Her *Access to Medicaid* project will promote the Center as a clearinghouse on the most effective means of ensuring access to Medicaid as a source of strategic assistance to local groups and a resource for access to health care class action litigation.



After graduation from Northeastern University School of Law in 2003, Laura clerked in the U.S. Court of Appeals for the Second Circuit and was an attorney at the Commission for Racial Equality in London, England. During law school, Laura worked with Equal Rights Advocates in San Francisco, the National Council for Civil Liberties in London, and the Fair Housing Center in Boston. Laura also holds a master's degree in gender studies and serves on the board of the Albert Kennedy Trust, an organization that provides services for homeless lesbian, gay, bisexual and transgender young people in the United Kingdom.

We are most grateful to Pfizer, which has provided the funding for this fellowship.

Court Upholds Challenge to Missouri Medicaid Cuts

In *Lankford v. Sherman*, the Center is challenging a new Missouri state regulation that eliminates Medicaid coverage for many items of durable medical equipment, including oxygen machines, feeding tubes, canes, walkers, and catheters, to 370,000 Medicaid recipients in Missouri.

In fall 2005, the Federal District Court denied plaintiffs' motion for a temporary restraining order and preliminary injunction. This summer, the Eighth Circuit Court of Appeals vacated and remanded the District Court's decision denying the plaintiffs' motion for a preliminary injunction. The court held that the lawsuit was not moot, even though the state had decided to pay for coverage of a more generous package of durable medical equipment to the blind through state-only funds that are not a part of the Medicaid program.

"We are gratified by the Eighth Circuit's decision and applaud the great work of our co-counsel," said Marc Cohan, the Center's Director of Litigation.

We are co-counseling this case with the National Health Law Program, Legal Services of Eastern Missouri, AARP Foundation, the National Senior Citizens Law Center, Missouri Protection and Advocacy, the law clinic at St. Louis University School of Law, and other local counsel.

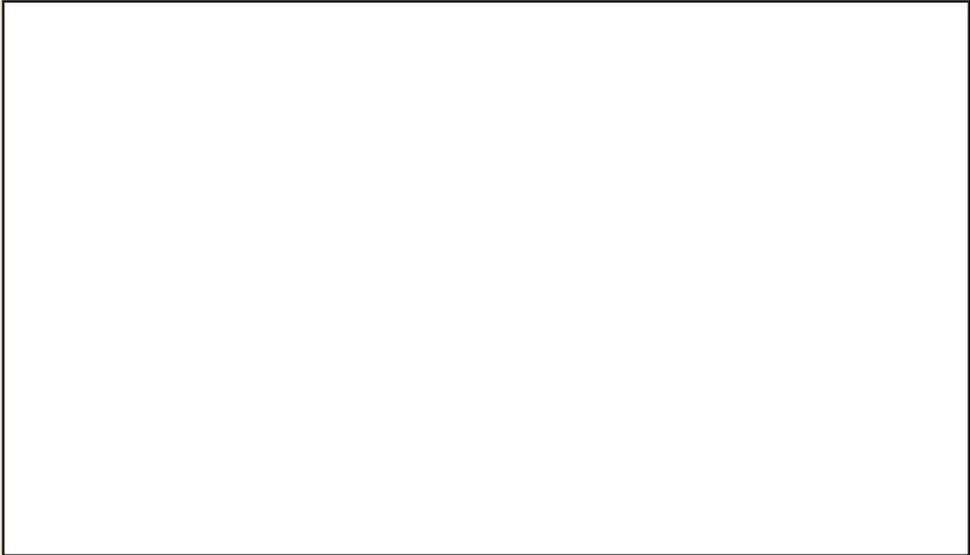


National Center for Law and Economic Justice

275 Seventh Avenue
Suite 1506
New York, NY 10001-6708
212-633-6967 (ph)
212-633-6371 (f)

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We've Been Busy!

Addressing the Implications of the Deficit Reduction Act on Low-Income People

This is a particularly perilous time for low-income people across the country. The federal Deficit Reduction Act (DRA) goes into effect this month, making major changes in the Temporary Assistance for Needy Families (TANF) block grant. Two changes of particular concern require states to sharply increase the proportion of adults in work activities and greatly narrow states' flexibility in defining these activities.

It is widely anticipated that DRA's rigorous work participation requirements, combined with inadequate federal funding, will lead many states to cut off child care for low-income working mothers and curtail participation in education and training programs that people on public assistance need to secure living-wage jobs.

We have been working with advocates in New York City and around the country to determine how best to protect low-income families.

As a national leader on the intersection of disability rights law and the DRA, the Center hosted a conference call in August on the implications of the DRA regulations on people with disabilities. Cary LaCheen, along with Liz Schott from the Center on Budget and Policy Priorities, discussed ways to use the disability rights laws to address the problems caused by the DRA. Approximately 40 legal advocacy organizations throughout the country participated in the call, and we will continue to work closely with them to promote the application of disability rights protections to people with disabilities adversely affected by the DRA.

Earlier that month, Gina Mannix and Cary LaCheen joined more than 100 lawyers and policy advocates from across the country in a two-day conference in Washington, DC, co-sponsored by the Center on Budget and Policy Priorities and the Center for Law and Social Policy, entitled *Lemonade from Lemons: Improving Family Outcomes and Increasing*

TANF Participation Rates in the DRA Era. Cary helped lead the workshop on the relationship of the Americans with Disabilities Act and TANF. We are in touch with many of these advocates around the country as they work in their states.

Back in New York, Cary LaCheen and Brooke Richie helped plan and facilitate an all-day statewide forum in Hyde Park on the implementation of the DRA. After hearing from a series of speakers, the 35 advocates in attendance met in breakout sessions to craft advocacy action plans with respect to specific issues. Cary co-facilitated a workshop with Don Friedman of the Community Service Society on meeting the needs of people with disabilities. Brooke, as a member of the New York Ad Hoc TANF Reauthorization Advocacy Committee, with whom we are working to craft advocacy strategies in response to the DRA, co-facilitated a workshop with Wendy Bach of CUNY Law School on protecting welfare recipients' access to education and training.

We are confident that these and similar efforts will result in better – or at least less harmful – policies under DRA than would have been the case without our advocacy.