



ADVANCING ECONOMIC JUSTICE

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



Formerly the Welfare Law Center

Summer 2006

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Welfare Law Center Emerges as National Center for Law and Economic Justice

At its annual awards dinner on May 15, 2006, the Welfare Law Center announced that it had changed its name to the National Center for Law and Economic Justice.

"Our proud new name symbolizes the transformation and growth of the Center," said Henry A. Freedman, Executive Director. "For more than 40 years, using the law to promote economic justice for low-income individuals and families has been the core of our mission. Our new name captures what we have achieved for our clients: Families maintaining their dignity, putting food on the table, and getting medical care; children graduating from school, parents succeeding in the workforce and returning to school; and community groups becoming more effective advocates."

In its 41-year history, the Welfare Law Center had a long legacy of achievement:

- Our landmark 1970 Supreme Court victory in *Goldberg v. Kelly* prohibited government agencies

from arbitrarily cutting off vital income supports for impoverished persons. Lawyers throughout the country are still holding government accountable, and winning cases, based on the *Goldberg* decision.

"Our new name captures what we have achieved for our clients..."

- In recent years, we have won important victories securing the rights of welfare recipients to obtain education and training as part of the welfare-to-work requirements and ensuring that workfare workers have most of the same kinds of protections and rights on the job as other employees.
- We are currently fighting for the rights of impoverished persons displaced by Hurricanes Katrina and Rita (see article on page 7). In two separate suits, we are fighting to have FEMA provide trailers that can be used by persons

with disabilities and to continue emergency housing aid so that 50,000 people will not become homeless.

This work is completely privately funded. Because the National Center for Law and Economic Justice receives no government support, it can function independently to hold government accountable for meeting the needs of the people that the government is supposed to serve.

Building on this long history of successful work on behalf our country's poor, the National Center for Law and Economic Justice has a forward-looking program to promote systemic reform in the delivery of income support and related human services, safeguard important legal and constitutional rights of the poor, and support civic participation and self-help efforts in low-income communities. The new name will promote our national role in this work as well as our long-standing commitment to economic justice for all.

ADVANCING ECONOMIC JUSTICE

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FROM THE EXECUTIVE DIRECTOR



Welcome to the first issue of *Advancing Economic Justice*, the newsletter of the National Center for Law and Economic Justice. We will use this vehicle to communicate with you several times a year – keeping you up to date on what’s going on at the Center and in the field of economic justice. Please let us know what you think – we want to hear from you!

As described on page 1, the biggest development that has occurred recently is our name change. Our proud old name – Welfare Law Center – had grown too narrow and restricting.

“Welfare” no longer conveyed the range of work on health care, work supports, employee protections, and income supports that are at the core of our program.

“Welfare” no longer adequately described our historic mission: to advance the cause economic justice for low-income families, individuals, and communities across the country.

Our proud new name – **National Center for Law and Economic Justice** – symbolizes the progress and growth of the Center, what we have achieved for our clients, and our commitment to increase our efforts to promote law and economic justice throughout our land. I am confident that we are prepared for the Center’s next era of service to families and individuals who struggle daily to survive.

Sadly, the challenges we face in pursuing this vision continue to grow. As our society retreats from the social compact that should bind us together, and as Hurricane Katrina reminds us of how much more effort is needed to fulfill that compact, the Center will continue to do all it can to assure that everyone in our country has a fair chance of living the American dream.

We are determined to build on our past successes, extend our recent victories into more areas, and address the many new issues that are arising as states struggle with a declining federal commitment to eliminating poverty.

We are confident that we can continue to make a difference, because of the steadfast support of our generous donors, the increasing involvement of our committed Board, the incredible creativity and perseverance of our staff, and the cooperation of colleagues in law firms, public interest offices, and community-based groups in New York City and throughout the country.

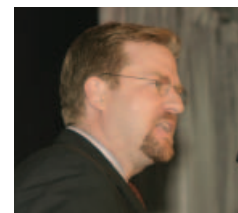
The staff and Board of the **National Center for Law and Economic Justice** look forward to continuing to serve individuals and families in New York City and nationwide for many years to come and to keeping you informed of our progress.

Henry A. Freedman
Executive Director

...And Justice for All

THE NCLEJ 2006 AWARDS DINNER

Friends and supporters of the Center gathered on May 15 at the Puck Building in Manhattan for our annual gala awards dinner, ...And Justice For All. The event, chaired by Paul Dodyk and John Hall, along with co-chairs Richard Beattie, Richard Cotton, and Donna Wilson, celebrated the work of the Center and its allies in advancing the cause of economic justice across the country. Attendees on this special evening were also privileged to be present as our new name and logo were unveiled and the Welfare Law Center became the National Center for Law and Economic Justice.



Board Dinner Chair Doug Curtis announcing the name change.

At the dinner, we were pleased to recognize the achievements in the area of economic justice of three outstanding individuals and one deserving corporation:

Adoption Recruitment Specialist and former Miss Nevada **Teresa Benitez-Thompson**, founder and former President of the Nevada Empowered Women's Project, a grassroots low-income-women-led organization that advocated for the rights of women and children living in or near poverty. Ms. Benitez-Thompson was introduced by the Center's Board Chair, Paul Dodyk.

Nell Hahn, Director of Systems Advocacy and Litigation at the Advocacy Center in Louisiana, a long-time advocate for people with physical disabilities. Ms. Hahn is co-counsel with the Center in litigation challenging FEMA's failure to provide accessible housing to Katrina evacuees with disabilities. Ms. Hahn was introduced by Center Executive Director Henry Freedman.

2001 Nobel Laureate in economics **Joseph Stiglitz**, former Chairman of the Council of Economic Advisers, former Chief Economist and Senior Vice President of the World Bank, and author of the books *Globalization and its Discontents* and the forthcoming *Making Globalization Work*. Mr. Stiglitz's award was presented by George Soros.

Google, Inc., which was accepted by **Sheryl Sandberg**, Vice President of Global Online Sales and Operations, who has run the online sales and operations of Google's AdWords program since 2002. She led the creation of google.org and the Google Grants Program, which has donated over \$50 million of advertising to non-profits worldwide. Google's award was presented by co-chair Rick Cotton.



Top left: (l. to r.) Sheryl Sandberg, accepting the award for Google, Inc., and Teresa Benitez-Thompson, economic justice advocate.

Top 2nd from left: Honoree Nell Hahn, co-counsel with NCLEJ in the FEMA litigation.

Top 3rd from left: (l. to r.) George Soros presenting the award to Joseph Stiglitz.

Top right: Executive Director Henry Freedman.

Bottom: Honorees and dinner officers commemorate the occasion. (l. to r.) Henry Freedman, Teresa Benitez-Thompson, Paul Dodyk, George Soros, Joseph Stiglitz, Sheryl Sandberg, Nell Hahn, Doug Curtis, and John Hall.

We wish to thank everyone who made the evening such a success, both as a fundraiser and as a "friendraiser" for the Center. If you would like information on supporting next year's awards dinner or our programs generally, please contact Director of Development Vicki Henderson at 212-633-6967.

We've Been Busy!

Court Restores Benefits to Thousands of New York Families of Children with Disabilities

Under New York law, needy families that include children receiving federal SSI benefits because of the child's disabilities may be eligible for public assistance benefits for the family. Thousands of these families suffered a dramatic loss of income which they had been using to meet the higher costs of caring for a child with profound disabilities after the state agency changed its formula for calculating

benefits – even though there had been no change in the law. Working with a broad team of advocates and the firm of Dewey Ballantine, we won a resounding victory in the trial court and on appeal. The State now has to provide retroactive assistance to thousands of families harmed by the State's illegal action. (*Doe v. Doar*)

Center Secures Relief for Thousands in Colorado After Months of Suffering from Computer System Meltdown

Colorado converted its statewide databases for all of its public benefit programs to one system even though it knew from a trial run that the system was flawed. As a result, applications for benefits from thousands of people were hopelessly delayed or denied, benefits already awarded were not delivered, and blizzards of contradictory and confusing notices descended upon desperate families. We were brought in by local advocates and played a key role in securing court orders and negotiations that have resulted in significant improvements. (*Hawthorne-Bey v. Reinertson*)

Suit Challenging Benefit Delays Off to Good Start in Erie County, New York

We recently filed a federal class action in Buffalo against the county services commissioner challenging the county's policies and practices of failing to process applications and provide food stamps, Medicaid, and cash assistance in a timely manner and of failing to provide food stamps on an expedited basis, all in violation of federal and state law. We also sued the state social services commissioner for failure to properly oversee and supervise the county. The Court has awarded relief to the named plaintiffs, and the case is proceeding. We are co-counsel with the Western New York Law Center. (*Martin v. Weiner*)

Center Safeguards Critical Rights of Medicaid Recipients in Missouri

To protect the rights of Medicaid recipients in Missouri, the Center filed a federal class action lawsuit in the Western District of Missouri challenging the implementation of cuts in the

Editorial praise from the *Denver Post*: **"Sometimes nothing ge**

Center Launches National Project to Address Privatization of Public Benefit Programs

A new Center project is addressing the complex issues that arise as welfare and related programs are increasingly privatized. This shift to the delivery of welfare services by private contractors from public agencies represents a major sea change in the way that these crucial programs have been delivered for 70 years.

This project is forging new trails as we reach out to advocates across the country to help them become actively engaged in every aspect of privatization – from making the whole process transparent and

accountable, to monitoring the performance of private contractors, to ensuring that the safety net remains in place as privatization moves hand-in-hand with the stringent mandates of the federal Deficit Reduction Act, which go into effect in October 2006.

With welfare privatization at an early stage in most states, there are still numerous opportunities to help advocates better understand and address this growing phenomenon to prevent our country's most needy and vulnerable people from losing the benefits they need to

survive. Key states in which we have been providing assistance include Texas and New York.

*...prevent our
country's most needy
and vulnerable people
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TEXAS INTEGRATED ELIGIBILITY AND ENROLLMENT SYSTEM.

The Texas Integrated Eligibility and Enrollment System is a major cost-cutting initiative that is intended to change the way that low-income people access public benefits, including Food Stamps, Medicaid, cash assis-

tance and the Children's Health Insurance Program.

Individuals apply for benefits primarily by phone, over the internet, or by fax. Staff at privately operated call centers handle application processing. The system relies on a massive new computer system, TIERS, that is not yet fully operational. The Texas model is based on the untested assumption that community organizations will donate staff time to help people navigate this new system. As part of the initiative, the state will ultimately close up to one third of the local welfare offices where people have typically applied for benefits and will significantly reduce agency staff.

Earlier this year, Center staff met with federal Food Stamp officials to urge them to require Texas to examine

state's Medicaid program. The cuts dis-enrolled more than 24,000 parents and caretaker relatives due to a reduction in income limits from 75% of the federal poverty level to an unbelievable 23% of the federal poverty level. Our challenge alleged that Missouri's disenrollment caused eligible persons to lose Medicaid and that Missouri had failed to provide adequate notice and opportunities for fair hearings. We secured a settlement that enabled

those whose benefits were taken away to have their case reviewed, and, if they are eligible for reinstatement, to be reimbursed for out-of-pocket health care costs. Pursuant to the settlement, more than 2,000 families have had their benefits reinstated. (*Wilson V. Sherman*)

A Favorable Settlement is Reached in Arizona Food Stamp Application Delay Case

The Center reached a very favorable settlement agreement in our federal class action challenging the Arizona welfare agency's failure to act on food stamp applications within the time required by federal law. To end the lengthy delays, which kept food off of the tables of thousands of needy Arizona families, the state agency has agreed to process applications in compliance with federal law, to have the case certified as a class action, to maintain an 800 number for individuals to call if their application has not been acted on promptly, to provide information to applicants about the timely processing requirements, and to provide plaintiffs with extensive monitoring data. (*Brancatelli v. Berns*)

New York State Adopts Disability and Language Policy at Center's Urging

After years of urging from a coalition in which the Center played a leading role, New York State has adopted a policy requiring local agencies to modify policies and procedures to provide equal access and opportunity to people with disabilities, including accommodating people with disabilities in both work and non-work program requirements (such as attending appointments), and otherwise address language access and disability-related issues.



ts a bureaucrat to take notice better than a court order."

the project's effect on those with disabilities and limited English proficiency. After numerous problems persisted in the first two "pilot" counties, federal officials raised strong concerns and the state has delayed further roll-out of the system until problems can be fixed.

NEW YORK CITY CONTRACTS FOR WELFARE-TO-WORK (education and training) and WeCARE (for persons with disabilities). New York City has greatly expanded the role of private contractors in (1) assessing the need for, and delivering, education and training services for people entering the workforce, and (2) screening for disabilities, determining accommodations to be made, and providing appropriate services for persons

with disabilities. In each of these areas, the Center continues to play a major role in protecting people in need of services.

Welfare-to-Work. As a result of the comprehensive settlement the Welfare Law Center negotiated in *Davila v. Eggleston* (2003), New York City can no longer assign welfare recipients,



regardless of needs and abilities, just to workfare. Instead, individual differences and divergent needs must be recognized and met. Recipients can perform a variety of tasks, including education, training, job search, resume building, and job preparation.

WeCARE. The City has entered into multi-year, multi-million dollar contracts with two private contractors to administer the WeCARE program intended to serve more than 135,000 individuals with disabilities in the welfare system over a three-year period. The contractors are to provide a wide range of services, including biopsychosocial assessments, case management, rehabilitation services, and the drafting and monitoring of wellness plans (written plans requiring individuals

with disabilities to participate in medical or mental health treatment as a condition of receiving welfare benefits).

Throughout the contracting process, the Center played a critical role in shaping the language of these contracts. We wanted to make sure that the contracts (1) *increased* protections for clients and (2) *minimized* the broad discretion given to contractors and subcontractors to design and operate these programs as they choose without regard to the constraints of the Americans with Disability Act or the reasonable modifications that need to be made. Because of our extensive comments on the draft contracts and testimony (as the only witness) at three rounds of hearings, the City improved the final contracts.

Kirkland & Ellis Attorney Keeps on Giving

Kirkland & Ellis' generous support of the Center recently took on a new dimension. Ryan Morettini, one of K&E's star associates, received the firm's Pro Bono Award. Upon learning of this important recognition, Ryan donated the award proceeds to the Center.

But this was only Ryan's most recent gift. In 2005, Ryan, along with several other K&E lawyers, legal assistants and staff members, donated thousands of hours to litigation designed to save Tennessee's Medicaid program from draconian cuts. Ryan played a pivotal role in this effort, which brought together the Center, K&E, and the Tennessee Justice Center. Ryan's natural gifts as a trial lawyer were put to good use as he cross-examined a key medical expert and prepared and directed the examination of one of our own medical experts. Ryan also wrote sections of briefs on key issues at the district court and at the Sixth Circuit. All this, and yet Ryan still found the time to locate the best chicken restaurants in Nashville.

The Center appreciates Ryan's support, and looks forward to future opportunities to work with him. Thanks, Ryan!

Center Staff Continue Leadership Role at the National Litigation and Advocacy Directors Conference

Marc Cohan, Gina Mannix, and Tedde Tasheff were active participants in the 2006 national Directors of Litigation and Advocacy Conference, sponsored by the National Legal Aid and Defenders Association, held in Utah in early June. This biennial multi-day conference, the premiere event for senior lawyers and policy advocates in the legal services and public interest communities, attracted more than 100 participants from around the country. Marc was on the conference planning team and presented at sessions addressing disaster relief, welfare privatization and modernization, and the rights of those with disabilities in transitioning from welfare to work. Gina organized and presented at the welfare privatization and modernization session and was a panelist at the session on the new federal welfare work requirements.

Recognition for Our Disability Rights Work

Cary LaCheen, Senior Attorney at the Center and a long-time disability rights advocate, was honored with a Legal Services Award from the Association of the Bar of the City of New York on May 16 at a reception at the Association's offices (see photo below). These annual awards recognize the exemplary efforts of attorneys working in the public-interest arena. Cary was recognized for her tireless work on behalf of low-income people with disabilities in New York City and nationally.

On March 31st, Cary represented the Center on a panel on welfare law and disability at the Liman Colloquium at Yale University School of Law. Approximately 125 people attended the annual event (see photo at right).

Cary is well qualified for these honors. One of the nation's foremost experts on the intersection of welfare and disability law, she joined the Center in 2000 after three years as an Instructor of Law in the Lawyering Program at NYU School of Law. Prior to that, she spent several



**Cary LaCheen addressing
the Liman Colloquium
at Yale.**

years as an attorney at New York Lawyers for the Public Interest, and as an attorney in the Civil Division of the Legal Aid Society of New York. Among her groundbreaking cases were the first case filed in the country under the Americans with Disabilities Act (ADA); the first successful lawsuit under the ADA against a health plan that excluded coverage for HIV and AIDS; and enforcement of the permanent injunction in the Willowbrook case, a class action brought on behalf of 5,000 developmentally disabled New Yorkers. She is a graduate of Brown University and New York University School of Law.



**Cary LaCheen, third from left, is honored by
the New York City Bar.**

Promising New Welfare Advocate!

Brooke Richie, the Center's Skadden Fellow since fall 2004, was honored on May 4 at the Welfare Reform Network's Wine and Cheese Reception as this year's "Promising New Leader in Welfare Advocacy."



Brooke Richie receives her award.

The reception was held at the offices of the Federation of Protestant Welfare Agencies in Manhattan (see photo above).

At the Center, Brooke has led legal and policy advocacy efforts designed to increase low-income families' access to education and training opportunities and critical work supports. She has litigated on statewide changes in SSI regulations that decrease public assistance benefits for parents with disabled children and has developed an education and training toolkit and a childcare training curriculum.

Brooke received her J.D. degree from Harvard Law School, a Masters in Public Policy from the Kennedy School of Government, and a BA degree in History from Yale University.

Congratulations, Brooke!

Center Challenges FEMA for Failure to Meet the Housing Needs of Displaced Gulf Coast Residents

Suit Filed on Behalf of Evacuees with Disabilities

In February 2006, the Center filed *Brou v. FEMA* in federal court in Louisiana on behalf of 11 Louisiana and Mississippi evacuees of Hurricane Katrina and Hurricane Rita with disabilities who were not provided with accessible trailers. Some plaintiffs requested accessible trailers and were still waiting for trailers; others had been provided with trailers that were not accessible in a variety of ways. As a result, these individuals could not enter or exit their trailers, bathe, use the toilet, get in and out of bed, or cook safely or independently.

Consider the circumstances faced by one of our FEMA plaintiffs...

AH is an 81 year old Louisiana woman who suffers from arthritis, diabetes, osteoporosis and lumbar disc disease, and has had a knee replacement, a quadruple bypass, a brain tumor removed, and a stroke. She uses a hospital bed and a wheelchair. She was put in an inaccessible trailer that she could not enter and exit by herself and that was too small for a wheelchair. She could not use the toilet on her own, and could not use the bathtub at all.



A trailer in front of a storm-damaged home in Louisiana.

Tens of thousands of people in the Gulf region are still without permanent, or even adequate temporary, housing. One of the solutions FEMA has offered is to provide trailers and mobile homes for temporary use. Unfortunately, despite the high percentage of people with disabilities in the population of evacuees, FEMA has not made arrangements to ensure that there is an adequate supply of trailers to meet the needs of people with physical disabilities, or arranged for adequate alternative housing. Moreover, while FEMA has purchased and provided

some trailers it claims are accessible for people with disabilities, those trailers do not meet federal accessibility standards, and as a result, have inadequate turn space for wheelchairs, switches that are too low to reach from a wheelchair, tubs and showers that cannot be used safely, counters and stoves that are too high, and other inaccessible features.

Our motion for class certification was argued on April 19. The court has not yet issued a decision.

The Center represents the named plaintiff and two other plaintiffs from Mississippi with the Mississippi Center for Justice. The Louisiana plaintiffs are represented by the Louisiana-based Advocacy Center. The Public Interest Law Project (Oakland, CA) is co-counsel. Kirkland & Ellis LLP joined the case as co-counsel.



A temporary ramp that needs to be replaced.

Second Suit Filed Against FEMA

In May 2006, the Center participated in the filing of a second class action suit, *Watson v. FEMA*, challenging the Federal Emergency Management Agency's decision to terminate emergency housing assistance to 17,000 households nationwide affected by Hurricanes Katrina and Rita. Plaintiffs claim that FEMA's arbitrary and inequitable decision to eliminate certain housing payments at the end of May with no adequate notice, no clear standards for determining eligibility or making an appeal, and no timely transition to a different temporary housing assistance program violates its statutory obligation to assist hurricane evacuees.

The Center is partnering on this case with the firm of Caddell and Chapman in Houston, Texas, the organization Texas Appleeed in Austin, and the Public Interest Law Project.



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Thanks!

We are grateful for the tremendous efforts of the following interns who have worked with us this summer:

Law Students:

Katherine Hart New York University School of Law
Randi Levine New York University School of Law
William Lim Fordham University School of Law
Matthew Monroe City University of New York School of Law
Rachel Wainer Harvard Law School

Undergraduates:

Tarsi Dunlop Middlebury College
Anna Gollub Tufts University

In addition, we greatly appreciate the support of **Fried, Frank, Harris, Shriver & Jacobson LLP**, which assigned the following summer associates to join us part of this summer:

Melanie Daily Washington University School of Law
Emily Grisct New York University School of Law

Thanks to all for your good work!



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