



# ADVANCING ECONOMIC JUSTICE

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

Fall 2010

## Health Reform – The Promise and the Challenge

NCLEJ's 45 years of working in the trenches to ensure fair implementation of public benefits programs has given us a unique perspective on the incredible promise of health care reform and the issues states will face in implementing it. Using this perspective, we have embarked on a two-pronged strategy to ensure health care coverage for those in need.

First, we are working with advocates in the states to fight backsliding in Medicaid and the Children's Health Insurance Program to prevent low-income people from losing health benefits now. This may include new class action litigation in addition to current cases now at the enforcement stage. The problems grow increasingly severe as more and more people fall below the poverty line (see article below), greatly increasing the number of people losing health coverage and applying for safety net benefits.

Second, we are preparing to work with advocates who are pressing their states to assure that the millions of newly eligible uninsured people get access to the health care they so desperately need. Seventeen million

low-income adults without health insurance will become eligible for Medicaid in 2014, when this year's health reform legislation takes full effect. That's almost as many adults as are now receiving Medicaid benefits, with states struggling to handle their current caseloads.

Drawing these two prongs together, in early October we submitted extensive recommendations to the federal agency on how to promote meaningful access to the health insurance exchanges states will be establishing. We drew upon our experience in cases across the country, addressing issues such as assuring that the exchanges and their services are accessible to the full range of individuals who will be applying, including people with disabilities, low literacy, or limited English ability.

We also recommended that HHS set standards for the careful development and deployment of exchange technology systems to avoid implementation disasters states have encountered in the Medicaid program. We provided documents obtained or developed in

the course of our litigation in Colorado and California. Our comments are available at [www.nclej.org](http://www.nclej.org).

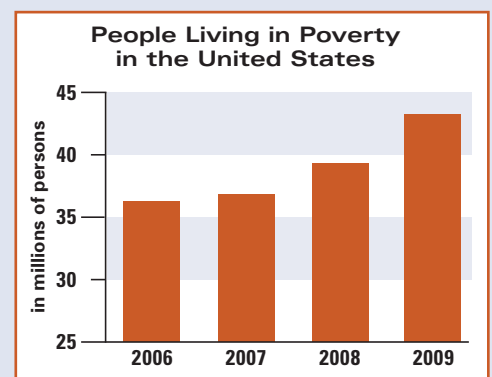
"Looking to the future, we know states face health reform challenges beyond the sheer numbers of newly eligible people," said Henry Freedman, NCLEJ Executive Director. "States will have to integrate Medicaid eligibility processing with the new insurance exchanges they will be setting up for uninsured individuals. Massive retraining of Medicaid staff will be required, since the Medicaid income-counting rules are being changed so the same information will be used to determine eligibility for Medicaid or subsidies on the exchanges."

In light of this urgency, NCLEJ has initiated a partnership with the Sargent Shriver National Center on Poverty Law to provide a full range of legal and policy advocacy services and supports to state and local advocates seeking our assistance. We are also in communication with other national players to make sure that our efforts complement each other and make the best use of the limited resources available.

## As Recession Persists, Poverty Climbs

New census data reveals the stark impact of the recession. In 2009, 43.6 million people – one out of seven people in the United States – were in poverty. This is the largest number of people in poverty in the fifty-one years poverty estimates have been published.

Almost one out of sixteen people were in deep poverty (income below half of the poverty line). Racial and ethnic minorities, women, children, and families headed by single women continue to be particularly vulnerable to poverty and deep poverty, and their status worsened over the past year.



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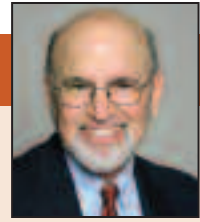
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## FROM THE EXECUTIVE DIRECTOR



I eagerly enlisted when President Johnson launched his “War on Poverty.” Sure, the rhetoric was over the top, but we felt the wind was behind us. It would take perseverance, hard work, and some luck, but we were sure we would succeed.

Now there is no talk of a war on poverty. As middle-income families reel from the worst recession in their lifetimes, Washington is consumed with debate over whether to extend tax breaks to the wealthiest among us. Those at the bottom of the economic ladder are ignored, or even demonized.

Whether ignored, or demonized, their numbers are growing at an alarming rate. Last month’s Census report confirmed that destitution is swamping more and more of our people. Over a third of all children of color, and almost a third of all single female-headed families, are mired in poverty. These children, their families, are our country’s future. What will become of them?

At NCLEJ, we are waging our own war on poverty. We are assuring that agencies provide vital benefits to eligible families – and we learn, over and over, how we are making a real difference in the lives of thousands of people, every day. And now we are stepping up our efforts to assure that the new health care reform works for people at the bottom of the income scale.

We are able to wage this war on poverty thanks to our many supporters, including an extraordinary Board of Directors. I cannot begin to express my appreciation for Paul Dodyk’s decade of leadership. We could not have made it through without him – he has more than earned the right to turn over the reins. Thanks also to John DeWitt Gregory, our Vice Chair for many years. I am happy to add that both Paul and John have agreed to stay on the Board.

I look forward eagerly to working with our new leadership team. Jennifer Selendy, our new Board Chair, has worked with us in the trenches in our successful Maryland litigation. Doug Curtis has headed our Dinner Committee, which has gone from success to success. And Cassandra Barham has brought to us the wisdom gained from many effective years fighting for people in her community.

They, and I, are grateful to all who have supported us in our work. We need you now more than ever.

Henry A. Freedman  
Executive Director

# NCLEJ Board Elects Jennifer Selendy, Doug Curtis, and Cassandra Barham to Leadership Positions



L to R. Jennifer Selendy, Doug Curtis, Cassandra Barham

**Jennifer Selendy**, a partner at Kirkland & Ellis LLP; **Doug Curtis**, a partner at WilmerHale, and **Cassandra Barham**, a respected advocate from Ohio, have been chosen to serve as Chair and Vice-Chairs, respectively, of NCLEJ's Board of Directors.

Jennifer also serves on the Board of the Institute for Global Leadership at her undergraduate alma mater, Tufts University. She earned her law degree from Harvard University and has a Masters of Philosophy from Oxford University. Prior to joining Kirkland & Ellis, she was a litigation associate at Cravath, Swaine & Moore.

In accepting the appointment, Jennifer said, "I am extremely honored to take up the post as

NCLEJ Board chair and humbled to follow in the shoes of Paul Dodyk. I am very much looking forward to continuing to support the critical mission of the Center in this new role."

Doug also serves as Vice Chair of the Board of the Legal Aid Society. He graduated from Harvard University and Harvard Law School. Prior to joining WilmerHale, he served as a senior legal executive at Reuters.

Cassandra works with the Benefits Rights Advocacy Group in Cincinnati. A former welfare recipient, she now helps to overcome barriers for people on public benefits.

Outgoing Chair **Paul Dodyk**, who had served in the post for 11 years and remains on the Board,

said, "I am delighted that Jennifer Selendy and Doug Curtis, both talented and distinguished lawyers, have been chosen to serve as Chair and Vice-Chair of NCLEJ. They are both highly accomplished lawyers and valued partners in two of the most significant law firms in the United States. They are joined by Cassandra Barham, one of the most respected lay advocates in the nation for the poor, as Vice-Chair. I am sure that under their guidance, NCLEJ's dedicated lawyers will be able to continue making their unique contribution to ensure that all members of our nation – even those who are the least fortunate – will have the support that we all need to become fully productive and contributing members of our society."

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## Hot Off the Presses:

**Briefing Paper on FEMA's Housing Policies in the Event of a Disaster.** More than five years after Hurricane Katrina, FEMA is unprepared to meet the temporary housing needs of people with disabilities, and others, following a disaster. NCLEJ Senior Attorney Cary LaCheen prepared this paper for a Congressional Briefing convened by the National Low Income Housing Coalition on September 29.

**Modernizing Public Benefits Programs: What the Law Says State Agencies Must Do to Serve People with Disabilities.** NCLEJ and Maximus recently issued this easy-to-use booklet that discusses the wide variety of obligations agencies must meet to serve people with disabilities.

**Economic Justice and Access to Health Care are LGBT Issues.** NCLEJ Staff Attorney Laura Redman describes the barriers low income LGBT individuals and families confront in seeking access to Medicaid and Children's Health Programs in an article in the Summer 2010 *Georgetown Journal on Poverty Law and Policy*.

**The Closed Digital Door: State Public Benefits Agencies' Failure to Make Websites Accessible to People with Disabilities and Usable for Everyone.** Cary LaCheen's report describes a host of problems that make it difficult for people with disabilities to use public benefit agency websites, and offers solutions.

**Legal Services Corporation Annual Report with Column by Henry Freedman.** Henry was asked to share his reminiscences as a member of the first-year (1967) class of Reginald Heber Fellows in the Legal Services Corporation Report, which celebrated the 35th Anniversary of the Legal Service Corporation Act.

## We've Been **Busy**— and Still Are!

**Henry Freedman** will participate on an Economic Justice panel at a conference convened by the UNC Center for Civil Rights, the NAACP Legal Defense Fund and others entitled "*The Unfinished Work: Advancing New Strategies in the Struggle for Civil Rights*." The conference will be held in early November in Chapel Hill, NC.

Also in November, Henry and NCLEJ Board member **Cassandra Barham** will attend the National Legal Aid and Defenders Association (NLADA) Annual Conference in Atlanta.

In October, Henry had the honor of presenting the Exemplar Award to **Rick Cotton**, Executive Vice President and General Counsel, NBC Universal, at NLADA's Exemplar Award Dinner in Washington, DC. Rick was honored by NCLEJ at our annual awards dinner in 2008. His long history with legal services extends back to the 1970s, when he was a managing attorney for New Hampshire's Legal Assistance. In the 1980s, he represented NCLEJ in successful litigation against the Legal Services Corporation.

Also in October, **Cary LaCheen** presented at the session "ADA Advocacy with Local Departments of Social Services" at the New York Association on Independent Living's Statewide Conference in Troy.

**Marc Cohan** played several key roles in NLADA's "A New Era of Advocacy: Substantive Law Conference and Litigation and Advocacy Directors Conference," in July in Chicago. He led and presented in two panels on e-discovery/electronic evidence and in a session on drafting and enforcing consent decrees.

**Laura Redman** participated in Columbia Law School Human Rights Institute's "Ethics and Domestic Human Rights Lawyering" conference in June, which was co-sponsored by the National Economic and Social Rights Initiative, Center for Constitutional Rights, and Center for Reproductive Rights.

## New Mexico Court Allows Farm Workers to Challenge Denial of Workers' Compensation

In *Griego v. New Mexico Workers' Compensation Commission*, the State trial court denied a motion to dismiss and ruled that a severely injured New Mexico farmworker and two groups that represent farm and ranch laborers may pursue their claim that the exclusion of farm and ranch laborers from the state's workers' compensation program violates the state constitution's equal protection clause. If this case is successful, thousands of agricultural workers, many of whom are recent immigrants will, for the first time, be able to access the workers' compensation program if injured while at work. Organizational plaintiffs are Sin Fronteras Organizing Project and HELP-New Mexico, Inc. Co-counsel are the New Mexico Center on Law and Poverty and the Sargent Shriver National Center on Poverty Law.

## Farewell to Four Deferred Associates and a Volunteer!

Deferred Associates **Stephen Miller**, **Adam Young**, **Pierre Ciric**, and **Young Lee**, along with volunteer **Jacob Meyer**, all worked with NCLEJ during the past year and are now starting the next chapter of their lives. We miss them and wish them well!



## Thanks to Our Summer and Fall Interns, Externs, and Fellow!

### INTERNS

**Lauren Almquist**  
*Harvard Law School*

**Tiffany Femiano**  
*Touro College, Jacob D. Fuchsberg  
Law Center*

**Daris Isbell**  
*Brooklyn Law School*

**Courtney Libon**  
*Fordham University School of Law*

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*Benjamin N. Cardozo School  
of Law*

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*Brooklyn Law School*

**Megan Shipley**  
*Indiana University Maurer School  
of Law*

### EXTERNS

**Andrew Giering**  
*Sullivan & Cromwell LLP*

**Alex Ginsberg**  
*Debevoise & Plimpton LLP*

### FELLOW

**Ashley Graham**  
*Fordham Public Service Fellow  
(Fordham University School of  
Law '10)*

## NCLEJ 2010 AWARDS DINNER

### NCLEJ Dinner Honored Amy Schulman, Mark Greenberg, and Partners in Maryland Court Victory

Pfizer Senior Vice President and General Counsel **Amy Schulman**; HHS Administration for Children and Families Deputy Assistant Secretary for Policy **Mark Greenberg**; and the **Homeless Persons Representation Project, Public Justice Center, and Kirkland & Ellis LLP**

(partners in NCLEJ's Maryland court victory, represented by Carolyn Johnson, Debra Gardner, and Jennifer Selendy, respectively) were honored at NCLEJ's annual awards dinner on June 9 at The Lighthouse at Chelsea Piers in New York City. Jeff Johnson reprised his role as emcee for the dinner, which was attended by approximately 350 people.

Through its annual awards dinner, NCLEJ celebrates the accomplishments of remarkable individuals and organizations, while raising much needed funds to support our programs. Dinner Co-Chairs included **Jeffrey B. Kindler, Kenneth R. Feinberg, Aaron R. Marcu, and Jonathan D. Schwartz**. **Doug Curtis** chaired NCLEJ's Board Dinner Committee.



L to R: Jeff Johnson, Henry Freedman, Amy Schulman, Carolyn Johnson, Mark Greenberg, Jennifer Selendy, Debra Gardner.



**Above left:**

L to R: Gina Mannix, NCLEJ Staff; Michaeline Curtis; Cassandra Barham, NCLEJ Board

**Above right:**

L to R: Honoree Amy Schulman, Co-Chair and Award Presenter Jeffrey Kindler, Board Member Mary Lu Bilek, Co-Chair Aaron Marcu

**Bottom right:**

Emcee Jeff Johnson



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THE FIGHT FOR  
ECONOMIC JUSTICE**

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275 Seventh Avenue  
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New York, NY 10001-6860  
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## Low-Income People with Disabilities Continue to Benefit from NCLEJ's Advocacy

NCLEJ Senior Attorney **Cary LaCheen**, who heads NCLEJ's work on behalf of people with disabilities, has been extremely active during the past six months on efforts at the national, state, and local levels.

In late August, Cary convened and addressed meetings in Washington, DC, with high-ranking officials at the U.S. Department of Agriculture/Food and Nutrition Service and the U.S. Department of Health and Human Services. She secured the meetings to press these agencies to take steps to require state Medicaid and food stamp agencies to make their websites accessible to people with disabilities.

In New York State, at the request of the Division of Criminal Justice Services, Cary is preparing a curriculum for training agency security officers to ensure that those in need are not turned away for anxious behaviors and other issues that characterize their disabilities. Since security guards are often the first contact with a government agency, such training is greatly needed.

In Westchester, she met with the Acting Commissioner of the Department of Social Services

(DSS), the Director of the County Office for the Disabled, and members of the Westchester Disability Advocacy Partnership in September. She is working with these agencies to provide suggestions about what their ADA policies/instructions should say. In August, she met with the DSS Commissioner and DSS attorney in Wayne County and will be following up with them.

In New York City, Cary addressed a meeting of advocates at Community Voices Heard in August about WeCARE, the City's work program intended to serve more than 45,000 people a year with disabilities. She is seeking to ensure that people who are not employable will not be sent to work activities they cannot perform and that accommodations will be made for people who need assistance in attending appointments and overcoming bureaucratic hurdles. New York City recently issued an RFP for a new round of WeCARE contracts, so her efforts are very timely.

In September, Cary conducted a training for MFY Legal Services' Mental Health Law Project on challenges faced by low-income people with mental health problems.