

# Law Services News

## SAVE THE DATE!

**Meet us at The Carltun, Eisenhower Park for  
fine wine and good food!**

**Fall Wine Tasting Reception**

**September 29, 2010**

**See page 15 for more info!**



**LSC**

JUNE/JULY 2010

### INSIDE THIS ISSUE

Beware of Debt Buyers	2
Life After Incarceration	3
EJC: DSS Delays	4
Modest Means	5
Volunteer Lawyers	6
SSI/SSD Overpayments	7
Medicaid Update	8



## The Case of the Mysterious Missing “Man in the House”

**Congratulations to Regan Serlin, attorney in the Welfare Unit in Hempstead. The Empire Justice Center has recognized her work and awarded her the Fair Hearing of the Month for June 2010. Paula Velazquez, our paralegal in the Hempstead office assisted on the case. Below is a summary of the decision.**

In this case, the Department of Social Services was investigating a public assistance recipient claiming there was an unreported “man in the house”. Our client is a recipient of public assistance and Food Stamps for a household of five,

consisting of herself and her four children. The home is owned by the father of the recipient’s children who was paying the monthly expenses, including the mortgage and utilities; the mortgage payment was in arrears. Although there was no formal child support order, the father was also paying the recipient \$150 a month.

After an investigation by the DSS Worker, it was concluded that the father lived at the residence although our client stated otherwise. Although the investigator did not find evidence of

*(continued on page 4)*

### SPECIAL POINTS OF INTEREST:

- *Born in Puerto Rico?*
- *New Rule on Health Care Proxy*
- *Health Care Reform*
- *Charity Care*
- *Law Services in the Community*
- *Autism Epidemic*
- *Calling all Wine Tasting Sponsors!*
- *Law Services Attorneys Honored*

We’d like to know what you think! Did you complete our short survey emailed to you on June 10, 2010?

## Beware of “Debt Buyers”

We get numerous calls from clients and advocates who are plagued with debt issues. It almost seems like everywhere one turns, there is another tale or news story on the subject.

A particularly aggressive group of debt collectors, are debt buyers. These are collectors who have often “purchased” the debt for a fraction of the value and are pursuing a debt for which they have little or no supporting documentation. Debt buyers often fail to notify people of the lawsuits filed against them and file lawsuits without having proof of their claims.



A recent survey in New York City estimated that only 1% of people sued by debt buyers were represented. Almost 69% of people sued by debt buyers were black or Latino. The defendants are frequently very low-income, disabled or uneducated consumers, but anyone can be affected by the debt buyer “experience” and most of the debtors are not represented by attorneys. This is no big surprise since it is difficult to retain an attorney when one is struggling to manage even the regular monthly expenses. With few or no free legal resources, debtors are often on their own\*

Debt buyers often win court judgments that may result from defaults where a defendant does not answer the complaint. With a default judgment in hand the collectors seize assets, freeze bank accounts, or garnish wages to collect the debts. Judgments which are enforceable for 20 years can have a serious effect on a client’s credit reports and can interfere with their obtaining

credit or refinancing to prevent a foreclosure.

Some judges in New York State would appear to agree that debt buyers are a problem. Judges are growing impatient with these matters and have scolded debt collectors and their attorneys for abusive practices ranging from interest rates as high as 30% a year to making false statements.

In Nassau County District Court, Judge Michael A. Ciaffa, said that dealing with this category of debt collectors “regrettably, involves a veritable ‘perfect storm’ of mistakes, errors, misdeeds and improper litigation practices.” Judge Ciaffa cited ignored court orders and “demonstrably false” assertions including a claim that a defendant was personally served at an address she had vacated back in 1998. “Like the Land of Oz, run by a Wizard who no one has ever seen,” Staten Island Judge Straniere wrote, “the Land of Credit Cards permits consumers to be bound by agreements they never sign, agreements they may never have received, subject to change without notice and the laws of a state other than those existing where they reside.”\*\*

\*With the recent closing of Law Services’ Consumer Debt Project due to funding constraints, there are few other free legal services on Long Island to represent clients in consumer debt cases. Advocates can call the **Legal Support Center for Advocates** at 631 232-2400 x 3369 or 3324. We will try to facilitate a referral to our Pro bono Project. Also [Law Help](#) can assist with information and self help assistance.

\*\*NY Judges Resist Claims by Debt Collectors, NY Times, May 8, 2010

---

## Life After Incarceration

Nassau/Suffolk Law Services receives questions from advocates involving the rights of clients with a criminal history. Although Law Services does not represent in criminal cases, many of the problems that arise are civil legal issues involving transitioning back into the community.

A common question is how a client can get a copy of a rap sheet. A “rap sheet” is a record of arrests and convictions. For those who have been arrested in New York State, the New York State Division of Criminal Justice Services (“DCJS”) maintains the New York State rap sheet. If a client requests his own DCJS rap sheet, the copy will include sealed criminal history information so it is not a good idea to share this rap sheet version with a potential employer. If an employer needs a copy of a rap sheet, he must submit his own request.

A client can request a copy of his own New York rap sheet by requesting and completing a Record Review Packet from DCJS, and following the directions for the completion and submission of a fingerprint card to DCJS along with a fee of \$50. There is no fee for the application packet itself, but the fee must accompany the completed materials when the packet is sent to DCJS. The fee may be waived if:

- The person is currently incarcerated OR
- Proof of Public Assistance or Medicaid is forwarded

A Record Review Packet can be requested either by email, standard mail, or phone.

- EMAIL: RecordReview@dcjs.state.ny.us
- MAIL: Record Review Unit  
4 Tower Place  
Albany, New York 12203-3764
- PHONE (518) 485-7675



The person must give their complete name and mailing address in order to receive a packet asking DCJS to: “Please send a copy of the Record Review Packet to me at the address provided.”

For more information, including a step-by-step guide to fixing rap sheet errors, visit the Legal Action Center [www.lac.org](http://www.lac.org).

Look for **Employment and Housing Challenges After Incarceration** in our next issue!

## “Man in the house”

(Continued from page 1)

men's belongings at the client's residence, he concluded that they might have been hidden in preparation for a scheduled visit. The investigator did not take statements from neighbors or tenants regarding the suspected presence of a man in the residence.

DSS then discontinued the client's benefits claiming that the absent parent was residing in the household and was not included on the case as required by the filing unit regulation.

At the fair hearing, Ms. Serlin argued that DSS's action must be based on substantial evidence and that, per 76-INF-13, DSS is expected to bolster a home visit with at least two collateral sources, such as interviews with friends and neighbors and a United States postal service check.

It was further noted that, while the absent parent pays bills related to the residence, he had not lived there since he and the client experienced domestic problems in August 2008.

The Administrative Law Judge held that with no direct evidence and circumstantial evidence that was rebutted by Appellant's testimony, DSS was directed to continue our client's public assistance and Food Stamps unchanged, and to restore any lost benefits, retroactive to the date of discontinuance.

Case closed!

Douglas Ruff, Esq.  
Director of Litigation



## EJC Joins Forces to Challenge DSS Delays

On March 24, 2010, a class action lawsuit was filed against the Nassau County Department of Social Services to challenge widespread delays in processing applications for Food Stamps, Medicaid, and Public Assistance. Empire Justice Center is co-counsel with the National Center for Law and Economic Justice. Citing statistical data from the monthly WMS reports issued by the NYS Office of Temporary and Disability Assistance, the complaint alleges more than 50% of the Medicaid and Food Stamp applications and more than one third of Family Assistance and Safety Net applications submitted in each month between March and November of 2009, were not processed within the statutory time limits. As a result, thousands of needy individuals and households suffered from hunger, untreated illness, and other hardships similar to those experienced by the named plaintiffs.

A copy of the complaint entitled *Dowdell et. al. v. Imhof*, 10-cv-1332 (SJF-ARL) may be found in the Benefits Law Database of Empire Justice Center's Online Resource Center. For more information, please contact Linda Hassberg, [lhassberg@empirejustice.org](mailto:lhassberg@empirejustice.org), or Laura Redman, [redman@njlej.org](mailto:redman@njlej.org).

According to a recent article published by the Federal Reserve Bank of New York, Nassau and Suffolk contain some of the highest concentrations of distressed nonprime mortgages in the country. *Facts and Trends*, Federal Reserve Bank of NY, May 2010



## Law Services' Modest Means Panel

By Rhoda Selvin

The Suffolk County Bar Association's Pro Bono Project, which provides legal representation to the indigent, has been well publicized. Less well known is SCBA's back-up program—the Modest Means Panel, which serves prospective clients in family law related matters, whose income and assets are just above the stringent federal poverty guidelines required for basic Pro Bono Project representation.



**Miriam Pismeny**, managing attorney of the Pro Bono Project, explained the genesis of the Modest Means program: “In the first few years of the Pro Bono Project’s existence we felt sorry for the financially distressed people who just missed the federal cut-off. So thanks to the SCBA and Suffolk County Bar Pro Bono Foundation boards working together, the Modest Means Panel was born. It’s a great comfort to have a place to send clients with family law issues when the Pro Bono Project is unable to serve them.”

The route for clients to reach the Panel starts with the person’s phoning the Pro Bono Project. Based on the information provided during that conversation and recorded on the “Modest Means Panel Application and Referral Form,” PBP suggests that the person, though too well off for pro bono representation, is probably eligible for SCBA’s Modest Means Panel. The PBP staff then sends a copy of the completed form to the caller for verification. When the signed form is verified and returned, PBP forwards it to SCBA’s Lawyer Referral Service, who will refer the client to a Modest Means Panel lawyer. Having gone through these preliminary steps, the client makes an appointment with that lawyer and brings two copies of the form to the first meeting.

The MMP lawyer charges \$25 for the initial consultation and, if he or she accepts the case, executes a special retainer agreement, which requires an additional payment of a \$1,000 for defendants or \$1,450 for plaintiffs. The \$1,000 is the retainer fee, which entitles the client—defendant or plaintiff—to a minimum of five hours and a maximum of ten hours of legal services. The extra \$450 that plaintiffs pay at that time is for out-of-pocket costs and disbursements. Any legal service beyond ten hours is charged at the rate of \$100 per hour plus costs and disbursements.

**Melissa McManaman**, the Lawyers Referral and Information Services administrator, receives an average of two calls a week with Modest Means Panel requests. She reports that, although not all the clients follow through, a higher percentage of clients who ask for a Modest Means Panel referral actually retain the attorney than do clients who ask for a matrimonial attorney referral.

The Pro Bono Project and Modest Means Panel in Suffolk can be reached at 631 232-2400. Matrimonial calls are taken on Mondays and Wednesdays from 9:00-11:30.





## Volunteer Attorneys Recognized for Their Work



*By Rhoda Selvin*

### Suffolk

**Harvey B. Savitt**, Pro Bono Attorney of the Month for January 2010, has spent 184 hours representing indigent citizens of Suffolk County as a member of the Pro Bono Project panel, which he joined in 1992. This is not the full extent of his pro bono service, however, since pro bono clients come to him from time to time from other sources.



He finds handling matrimonial cases for PBP a satisfying way to fulfill the lawyer's obligation to serve pro bono. A member of the Suffolk County Bar Association, Mr. Savitt belongs to three committees: Matrimonial and Family Law, Real Property, and Supreme Court. He is also a member of the New York State Bar Association, the Virginia Bar Association, and the Trial Lawyers Association. Outside of the profession, he is a Civil War buff, actively participating in the North Shore Civil War Round Table. This organization, which is based in Huntington, holds seminars and brings in lecturers. He also has a lively interest in Irish traditional folk music and "plays a little guitar here and there."

The Pro Bono Project appreciates Harvey B. Savitt's commitment to its mission and is pleased to name him Pro Bono Attorney of the Month.

### Nassau

Among the many helpful Volunteer Lawyers Project volunteers are young attorneys who are in the early phases of establishing themselves. Their enthusiasm and openness to learning from their experiences with indigent clients, working beside senior attorneys, make them a valuable resource. An excellent example of this group is **Rosanne N. Howell**, the Pro Bono Attorney of the Month for March 2010.

The most poignant case that Ms. Howell has handled so far was that of an elderly woman who had been living on the savings she counted on to support her for the rest of her life. Her rent was unaffordable and when she came to Landlord/Tenant Court she met Ms. Howell who negotiated a settlement in which the rental arrears would be waived if the client moved by a specific date. In addition, Ms. Howell spoke to the Department of Social Services so that her client would receive necessary aid to prevent a return to the unfortunate situation that brought her to court.

Ms. Howell has contributed much to help the indigent of Nassau County. The Volunteer Lawyers Project, looking forward to a long association, is delighted to name her Pro Bono Attorney of the Month.

## SSI / SSD Overpayments : What to do?

What is a Social Security Overpayment? An overpayment occurs in Supplemental Security Income (SSI) or Social Security Disability (SSD) when a person receives more benefits than the Social Security Administration determines that a person is entitled to receive. An overpayment can be due to wages, being over resource for SSI (see below), medical improvement, or a change in living arrangements.

What can a Person do when Charged with an Overpayment? First, a person should never ignore any notices received from Social Security, especially those that reduce or terminate the monthly benefit amount. The notices from SSI and SSD are slightly different, but both, in effect, say the same thing: "The Social Security Administration has overpaid you and you owe us money." The amounts owed can vary from \$12.00 to \$12,000.00 and more. The important thing to remember is that a person has a right to appeal any determination by the Social Security Administration, including that which attempts to reduce or terminate benefits.

There is a right to aid-continuing, which means the benefits will not change until the initial determination is made in the course of the appeals process. In the case of SSI, a person needs to respond, within a 10-day or 30-day period, to the "Notice of Overpayment" to keep the SSI checks at the same amount in the initial stages of the appeal. The administrative waiver tolerance amount is \$1000 so presumably overpayments under this amount should not be pursued.

SSD payments can also be recovered for overpayments, often resulting from wages earned above the Substantial Gainful Activity amount after the Trial Work Period is complete. But due to "cross recovery" provisions in the law, someone who gets both SSI and SSD may end up seeing their SSD garnished to recover an SSI overpayment.

Though SSI recoveries are limited to 10% of each check, an SSD overpayment could result in collecting all or most of the check where there is a large overpayment. This is because Social Security seeks to collect the SSD overpayment within 36 months.

In the case of either an SSI or SSD overpayment, appeal a "Notice of Overpayment," by filing a "Request for Reconsideration" (if he disagrees with the figures used, or claims he owes no money), or a Request for Waiver and Recovery Questionnaire" (if he admits that there was an overpayment but he was not at fault in causing it and he cannot afford to repay). Sometimes, it is advisable to file both a reconsideration and waiver request. A request of reconsideration must be filed within 60 days of the notice. There is no time limit to file a waiver request.

**SSI Reconsideration And Waiver:** If a person is requesting a reconsideration of an SSI overpayment decision, he has the right to either a case review, an informal conference, or a formal conference within 60 days. A case review is simply a paper review of the facts already in the file (although additional evidence can be submitted). An informal conference is where an individual (and hopefully, his advocate) and a claims representative from Social Security sit down and discuss the facts of the case, the reason for the overpayment, and why the person does not feel the overpayment is just. An informal conference is a good place to get facts and figures, as the case file is there during the conference. A formal conference means that a client can request witnesses to testify on his behalf. A summary record of the formal conference will become part of the case record.

In a waiver request, the client must show that (1) he is not at fault in causing the overpayment (e.g.

(Continued from page 7)

because he did report his wages and assumed the SSI amount he was receiving was correct) and (2) that he cannot afford to repay (he only has enough money for essential living expenses).

If a request for waiver is denied, then a reconsideration is requested on the denial of waiver (try not to confuse this reconsideration with the initial appeal stage referred to above, also called a "reconsideration"). If the waiver request is denied again on reconsideration, then a hearing is requested before an administrative law judge.

**SSD Reconsideration And Waiver:** The format is basically the same, except the client can ask for a case review to present his case. After the case review, a decision will be made; if it is unfavorable to the client, he can request a hearing.

**How Much Can Be Recovered at One Time?** If a timely appeal is not filed in response to an overpayment notice, or an appeal of the overpayment is unsuccessful, SSI will recover the overpayment at a rate of 10% of unearned income (for example, if someone is living alone, \$76.00 which is 10% of his monthly check of \$761, will be withheld). This amount will be withheld monthly until the overpayment is paid. There are instances where the recovery amount can be reduced, either to \$25.00, or even \$10.00 per month. In the case of an SSI recipient, a client can apply for a supplemental Safety Net grant from DSS to cover the amount being deducted, if he otherwise meets public assistance eligibility standards.

A recipient of SSD can request a reduction in the SSD collection based on an inability to pay, demonstrating that they need the income to meet monthly expenses. If successful, the repayment amount can be dropped to as low as \$10. If the recipient gets the Medicare Part D low income subsidy (aka "extra help") they do not need to

demonstrate hardship. They should be able to request the payments as low as \$10.

A waiver will be automatically granted for overpayment amounts less than \$1000 **whenever there is a request for reconsideration and/or waiver. There is no development for fault in causing the overpayment or in the claimant's ability to repay.**

## Medicaid Update: Did you Know?

Some Medicaid rules have changed in 2010 making it easier for our clients to access the health coverage.

In addition to the recent elimination of the asset test for children under 21, non-disabled adults, and single and childless couples, \* applicants no longer required to have a face to face interview in order to complete the application.

On the downside, under a new policy directive, 10 ADM-06, as of June 1, 2010, DSS will require certain families to explain their "financial maintenance" in cases where housing costs (including rent, mortgage or property taxes) exceed 70% of their income. In DSS' efforts to explore how certain applicants and recipients are meeting their living expenses, some people may lose their Medicaid for failing to respond to the inquiry within 10 days. Furthermore if the information provided leads to a discrepancy or an explanation that is not credible as to how the person is meeting expenses, Medicaid could be in jeopardy. There is no requirement to provide proof of expenses, just an explanation. The policy does not apply to Child Health Plus or Medicare Savings.

\* Applicants over 65 and disabled individuals still have an asset threshold based on family size. Disabled applicants with children can have their eligibility considered without assets being counted if this would be a more advantageous



## Born in Puerto Rico?



Puerto Rico's legislature just passed a new law requiring anyone who was born in Puerto Rico to get a new birth certificate. This legislation came about after recent concern of identity theft in the U.S. The State Department reports that 40% of identity theft and passport fraud in the United States are related to stolen Puerto Rican birth certificates. Birth certificates in the black market can be valued at anywhere from \$5,000 to \$10,000. As of July 1, 2010 Puerto Rican birth certificates become void. After that deadline the Puerto Rican government will issue a temporary 15 day certificate for those who need a birth certificate in an emergency.

The Commonwealth of Puerto Rico will issue new birth certificates at a \$5 charge. For more information, go to the Puerto Rican government's website set up for the change over:

[prfaa.com/birthcertificates](http://prfaa.com/birthcertificates).

## NEW RULE ON HEALTH CARE PROXIES

We all know the importance of designating a health care proxy so we can choose the person who knows what our desires are about health care decisions. When we designate a health Care Proxy, we let that person know what we would want in the event we cannot make our own decisions. However, despite everything we know about how important a Health care proxy is, the reality is that most of do not designate someone to act on our behalf in the event we become incapacitated. Most likely it is because we cannot imagine ourselves in that situation. The result is the vast majority of health care proxy forms are executed during hospitalizations.

So what happens when someone suddenly becomes incapacitated and there is no health care proxy in place? Until recently, there were no clear instructions on who could make the difficult decisions regarding life sustaining treatment or Do Not Resuscitate (DNR) orders which made dire situations more so. Without a signed health care proxy in place, it was not clear who could act as surrogate for the patient and make those choices. The standard for physicians to initiate DNR orders was clear and convincing evidence of the patient's wishes. This was an unrealistic standard and often resulted in harsh out-

comes not necessarily in the patient's best interests.

There is now a new State law which provides legal authority for surrogate consent to any type of health care decision for patients who cannot make their own and do not have signed health care proxies. The Family Health Care Decisions Act (FHCDA) went into effect on June 1, 2010.

According to Richard Daines, Commissioner of the NYS Dept. of Health, the legal presumption that all patients can make their own decisions and desire life-sustaining treatment remains in effect with this new act. It also leaves in place current laws that allow for the appointment of legal guardians as well as the health care proxy law, which allows a patient to appoint a health care agent to make health care decisions in the event that patients loses the capacity to do so. In cases where patients cannot make their own decisions and do not have a legal guardian or health care proxy, there was a need to have a law specifying who has legal authority to make health care decisions. FHCDA contains such a surrogate list.

Under the surrogate list, the spouse (if not legally separated from the patient) or the domestic partner makes the decisions. If there is no spouse or domestic partner, an adult child can make health care decisions. Next of the list is a parent, then an adult sibling, and finally a close friend. The terms "domestic partner" and "close friend" are defined in the law.

Surrogates can make any type of health care decision, including a decision to withhold or withdraw life-sustaining treatment. Decisions must always be made based on the patient's wishes or based on the patient's best interests if the patient's wishes are not known. The law specifies the clinical criteria under which decisions to withhold or withdraw life sustaining treatment may be made.

In the event that no one on the surrogate list is available, FHCDA allows physicians at facilities to make any types of health care decisions without going to court. The required procedures and clinical criteria vary depending upon whether the treatment is routine medical treatment, major medical treatment, or a decision to withhold or withdraw life-sustaining treatment.

The significant change made by the FHCDA is that it empowers family members or a close friend to direct the withdrawal of life-sustaining treatment in the absence of clear and convincing evidence of a patient's wishes. It requires the surrogate to make non-clinical findings such as the burden of treatment and to make decisions based on the patient's best interest (or wishes if known). This new law is expected to enhance the quality of decision making for incapable patients. (Robert N. Swidler, *New Yorks Family Health Care Decision Act*, NYSBA Journal June 2010.)

Since the FHCDA is new and is lengthy and detailed, it will take advocates, lawyers and medical teams to familiarize themselves with all aspects of the act.

*Denise Snow*, Esq, PLAN Project (read more about Denise on p. 17)

## Health Care Reform Affects Medicaid & Medicare

With a new Health Care reform plan in place as of March 23, 2010, the Patient Protection and Affordable Care Act will be implemented in stages over the next decade. The law is complicated and comprehensive aiming to expand Medicaid, create state health insurance exchanges with subsidized coverage, and institute insurance market reforms. The following presents a more limited view of how we expect Medicaid and Medicare programs to be affected by the Affordable Care Act in New York.

### Medicare

- Almost immediately, a \$250 rebate was instituted to Medicare Part D beneficiaries who are affected by the infamous “donut hole” (gap in insurance) in 2010. This gap will eventually be totally eliminated by 2010.
- Improved coordination of benefits for Medicare/Medicaid dual eligibles
- In 2011 increase in Medicare payments for certain preventive services to 100% of actual charges.
- By 2014, Part D will cover barbiturates and benzodiazepines (which treat mental illness, epilepsy and cancer) which are currently not included in Part D.

### Medicaid

- Improve the percentage of brand name drug coverage and increase Medicaid payments for primary care services for 2013-14 to be closer to the Medicare rate of reimbursement (75%). This should increase Medicaid provider participation
- Expand Medicaid to those non disabled adults under 65 without children and those who are disabled awaiting Medicare coverage\*, with incomes up to 133% of the Federal Poverty level, according to state option. Single and childless couples who are not disabled must currently have income under 100% of FPL to get health coverage under Family Health Plus, so this will be an improvement.
- Simplify the way income is counted for non-disabled adults by using the tax-defined *adjusted gross income* amount. (Understanding tax rules for those clients who have not filed a tax return, will become more important for community advocates!) less a 5% disregard. No other deductions and no asset test.

- Coordinated, streamlined application and recertification process will be required by 2014. Must be able to apply for Medicaid, Medicare, or other health insurance exchange programs with one application. Options for applying will include online, in person, or mail options. New York has already begun by eliminating the in person interview. See p.8. In New York, Maximus will handle statewide enrollment.
- \$9.5 billion is being dedicated to Community Health Centers.
- In NY where more than 50% of health expenditures go to institutional care, new incentives to balance home and institutional services promise to bring some change. The new state plan will emphasize attendant services and deemphasize waiver services. The focus will be back to basic Medicaid benefits to stay in the community.
- Greater attention to health care disparities by requiring collection and reporting of data by race, ethnicity, language, gender and disability. The data will be publicly analyzed to detect and monitor trends in health disparities.
- Private enforcement of the law will be available
- Undocumented residents continue to be excluded from the health care system.

It is generally estimated that one million New York residents will be new beneficiaries of public coverage. Although 2.7 million in New York are currently uninsured, it is estimated that about one half are eligible but not covered due to misinformation or other processing complications. From a statewide fiscal perspective, New York expects to enjoy greater federal reimbursement by 2020 bringing us from a current 50% match-state to closer to 90%.

\*Remember that those who are eligible for Social Security Disability must currently wait 24-months before being eligible for Medicare in most cases.

## Don't forget about Charity Care!

Although health care reform promises to bring a whole new constituency of covered individuals and families to health care coverage, there are still those who are and will continue to be uninsured, including the undocumented.

Charity care is available for hospital care when a person is uninsured or underinsured. Since 2007 hospitals have been required to provide this assistance under NY Public Health law Section 2807-k(9-a). The law established a sliding fee scale for those under 300% of FPL (about \$4500 for a family of 3). Hospital patients have to apply for the discount and the proportional discounts should be calculated according to a schedule eg. Between \$0 to 100% of the rate paid by Medicaid and Medicare. Also charity care is available to qualified patients regardless of immigration status.



Hospitals can limit financial assistance for non emergency care such as elective surgery or outpatient surgery. The medical institutions are required to notify patients about financial assistance upon request, in emergency waiting rooms, and with all billing statements. Patients have 90 days from the date of service to ask for financial assistance or 20 days from the receipt of an application .

The law also clarifies:

- The hospital cannot commence collection against a patient who was eligible for Medicaid at the time of service
- If the hospital contracts with a collector, the collection agency must comply with the hospital's financial assistance policy.
- Collections may not proceed if an application for financial assistance through charity care is

pending.

- Hospitals may not force the sale of a house in order to collect on a hospital debt.

Complaints about a hospital's charity care program may be made to the Department of Health Centralized Complaint Unit at 800 804-5447. Penalties up to \$10,000 for each failure to comply with the law may be imposed by the Dept of Health.

## DSS COMPUTER's "AUTO TERMINATE" CAUSES HARDSHIP

In recent months we began receiving calls about public assistance cases that were discontinued without notice in both Nassau and Suffolk. These were incidents where, despite clients' timely recertifications, the public assistance cases were being closed. Upon further investigation it appeared that due to a computer issue, where a DSS worker did not recertify by the due date, the case was "timed out" and automatically closed. Of course, this has created considerable hardship for those families and individuals affected.

Douglas Ruff, our Director of Litigation reached out to both Nassau and Suffolk DSS Commissioners in hopes of resolving the issue on a systemic level. Suffolk Commissioner Blass quickly responded to the problem by re-dedicating staff resources to overdue recertification cases and initiating a policy of monitoring cases that were soon due to be timed out so that DSS workers could prioritize and complete the process before the case was closed.

If you encounter a problem with a case being closed without a notice, an overdue recertification may be the problem. Please call the **Legal Support Center for Advocates** to review and assess the problem. 631 232-2400 x 3369, 3324



Law Services continues its strong ties within the community in an effort to collaborate with various agencies and insure that low income Long Islanders receive the services they so desperately need. If you happen to see any of our Law Services' staff at a community event, please stop by to introduce yourself and say hello. We'd love to meet you, and as always we thank you for your support!

**Jane Reinhardt**, Senior Staff Attorney of our Nassau Mental Health Law Project was one of the guest speakers forum entitled "Family Forum: Legal and Advocacy Services Available in Nassau County" held on June 23, 2010. The event was sponsored by The **Mental Health Association of Nassau County** and held at their office in Hempstead. Jane discussed the types of legal issues facing individuals who have a mental illness diagnosis. She also discussed the types of legal cases handled by the Mental Health Law Project of Law Services. See p. 17 for more on Jane.

**Michael Wigutow** spoke to the St. Aloysius' Chapter of **St. Vincent de Paul** in Great Neck on June 3, 2010, giving an overview of the services provided by Nassau Suffolk Law Services.

Mike, the senior staff attorney for the Foreclosure Project, also presented at a Foreclosure Seminar held on May 5, 2010 and sponsored by **The Suffolk County Bar Association**.

**Liz Wolf**, Director of Social Work participated in the Job Resource Expo held on April 29, 2010 at the invitation of **Senator Charles J Fuschillo**. She provided many attendees with information regarding the type of services provided by Law Services.

**Sheila Johnson**, Director of Government Affairs and Development attended The Library Advocacy Day at **Touro Law Center** on March 2, 2010.

**Jeffrey Seigel**, Executive Director and Sheila and attended a breakfast at the invitation of **Congressman Steve Israel**, honoring not for profit organizations in his district.

On April 13, 2010, **Rose Caputo**, Attorney in the Nassau Senior Citizens Project staffed an information table at the Cesar Trunzo Center in Brentwood. The Expo was sponsored by Congressman **Steve Israel** in effort to bring information and resources to seniors.

**Cathy Lucidi**, Paralegal in the Legal Support Center attended a Senior Expo on June 3, 2010, sponsored by **Congressman Tim Bishop**. She staffed an information table tabled this expo and handout Law Service brochures including brochures for our specialized unit.

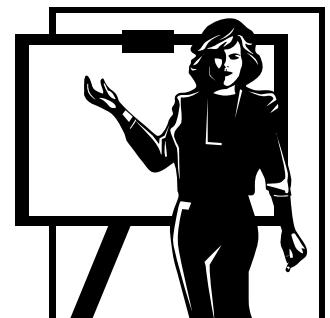
Cathy also staffed an information table at the **Anti-Hunger Forum** held on April 23, 2010.

**Carolyn McQuade**, Staff Attorney in the Adult Home Project gave two Residential Rights trainings at the following adult homes on Long Island:  
**New Brookhaven Town House**—March 15, 2010  
**Elmore Adult Home**—March 25, 2010



Staff of the PADD Unit tabled at **Adelphi's** "Issues in Independent Living for Adolescents and Adults on the Autism Spectrum." sponsored by AHA (Assoc of High Functioning Autism), the Cody Center and Fay Lindner Ctr for Autism and Developmental Disabilities.

**Lisa Levy**, staff attorney in the Mental Health Law Project, presented on the subject of Trusts to a group of FEGS case managers and advocates on April 19, 2010.





**LAW SERVICES'  
WINE TASTING 2010  
SEPTEMBER 29, 2010  
AT THE CARLTUN  
EISENHOWER PARK**  
James Dunne returns  
with his famous wine  
instruction! See page  
15 for more info.



Participants in Dunne's wine class are never disappointed!



Wine experts representing Palm Bay enthrall guests with their knowledge of wine. Palm Bay is the generous sponsor donating the fine wines enjoyed by all!



An evening of fine wine and good food is not complete without classy entertainment by Robert Leply and an impromptu performance by Jim Denson, one of our own!



Cathy Lucidi made the basket raffle more exciting than any game show!



The Bourne Castle's exquisite ambiance made it a very special occasion. The Wine Tasting in 2010 at the Carltun promises to rival 2009 and exceed all expectations.



## Autism—We Have an Epidemic!

The PADD unit offers legal advocacy services for individuals with developmental disabilities. Because of the prevalence of Autism, a large percentage of our clients are children and adults with Autism Spectrum conditions. Children "on the Autism Spectrum" often need our assistance to obtain or keep appropriate levels of IEP services from their school district (speech therapy, ABA therapy, occupational therapy, physical therapy, and behavioral expert consultation), or to change their educational placement to a more appropriate program. The adults we represent have a wide array of legal needs ranging from obtaining appropriate supportive housing, to improving the adult services they receive, to accessing special needs trusts, just to name a few.

This presentation was made to the Suffolk Legislature at a public hearing to focus attention on the ever-increasing numbers of children being diagnosed with an Autism Spectrum Disorder in this country and the fact that these children and adults desperately need a far greater dedication of public resources than exists today.

*My name is Ellen Krakow. I live in Suffolk County and I have a son with Autism Spectrum Disorder. My son was diagnosed 10 years ago at Stony Brook University's Cody Center. I'm here today to share with you what I've learned about families' access to Autism service, not only as a parent but also as an attorney for children and adults with Autism Disorders. I work at Nassau/Suffolk Law Services. Thanks to state funding we receive to provide free protection and advocacy services to people with developmental disabilities, I am able to help Autistic children and adults receive critical educational, therapeutic and residential services wrongly denied them.*

*While there are many things still to be discovered about Autism, this much we know—We have an epidemic! The CDC's latest national statistics show that 1 in every 100 children in the US suffers from an Autism disorder. Autism is the fastest growing children's disorder in this country, bar none. One in every 100 children, and its prevalence is even higher among boys.*

*Studies show that this prevalence is consistent across ethnic lines and at all socio-economic levels. Autism is an equal opportunity offender. I can safely assume that Autism exists in substantial numbers in each and every one of your communities.*

*We have an epidemic, and yet the medical community is just at the beginning of understanding its causes, and much more medical research is needed to develop effective treatments. But the amount of research dollars spent on Autism research pales in comparison to that spent on other conditions.*

*We have an epidemic, and yet insurance companies doing business in this state are still permitted to issue policies restricting coverage to necessary autism treatments.*

*We have an epidemic, and yet there continues to be a substantial shortage on Long Island of critical autism services and programs. Children with Autism require an array of services, including 1 to 1 ABA therapy, social skill therapy, behavior intervention services, and sometimes medication. Early diagnosis and early intervention for these children is essential and can fundamentally change a child's outcome. Diagnostic and treatment facilities on Long Island, such as the Cody Center and the Fay Lindner Center for Autism are inundated with requests for evaluations and treatment. Wait lists there are long, very long.*

*Severely impaired children are sometimes so behavioral that they reach a point when they can no longer live at home because they become a danger to themselves, their families or both, and require specialized residences. But there are not nearly enough such residences here on Long Island to meet the demand, forcing these families to send their children to far away programs out of state in order to safeguard them.*

*Adults with Autism disorders also need an array of services, from specialized housing, to habilitation services, to vocational services, to service coordination. But on Long Island, the supply for all of these adult services is outstripped by the demand, and this problem is only going to get worse as the record setting number of children being diagnosed age into adulthood.*

*It's essential that all levels of government respond to this public health crisis, including local government. I urge you to ensure that Suffolk County take part in the important Autism Coalition formed by County Executive Suozzi in Nassau and support the ADEPHI Autism Survey that Dean Cahill will be talking about this afternoon. Autism doesn't stop at the Nassau County border. This coalition needs to be a bi-county endeavor if it is to be effective for all Long Islanders struggling with Autism disorders.*



**NASSAU SUFFOLK LAW SERVICES**

INVITES YOU TO SPONSOR OUR

**2010 FALL WINE TASTING RECEPTION**TICKETS ARE \$50 AVAILABLE ONLINE STARTING  
JULY 12, 2010 AT [WWW.NSLAWSERVICES.ORG](http://WWW.NSLAWSERVICES.ORG)

We hope you will support us this year and sponsor this fun and exciting event at the Carltun, an evening of wine tasting, hors d'oeuvres/buffet, and entertainment. Consider a corporate package and treat your clients to a social evening as well as a wine seminar taught by a popular sommelier! All proceeds benefit Nassau Suffolk Law Services making it possible to continue providing free civil legal services to the Long Island community. September 29th 2010 6:00-9:00 P.M. at The Carltun, East Meadow, New York.

**\*\*CHAMPAGNE SPONSOR****\$5,000***(includes 12 tickets, 5 wine seminar admissions, and prominently featured acknowledgment on invitation and program)***\*\*PINOT NOIR SPONSOR****\$3,000***(includes 8 tickets, 2 wine seminar admissions and prominently featured acknowledgment on invitation and program)***\*CABERNET SAUVIGNON SPONSOR****\$1,500***(includes 5 tickets, 1 wine seminar admission and prominently featured acknowledgment on program)***\*CHIANTI SPONSOR****\$1,000***(includes 4 tickets and acknowledgement on program)***\*BORDEAUX SPONSOR****\$ 500***(includes 3 tickets and acknowledgement on program)***\*BEAUJOLAIS SPONSOR****\$ 250***(includes 2 tickets and acknowledgement on program)***\*CHARDONNAY SPONSOR****\$ 100***(1 ticket and acknowledgement on program)*

Featuring fine wines donated and presented by:

**\*\*Sponsorship pledge due by August 2, 2010****\*Sponsorship due by September 2, 2010****Fax form to 631 232-2489 Att: Sheila Johnson or email:  
[sjohnson@wnvlc.com](mailto:sjohnson@wnvlc.com) 631 232-2400 x 3322****Special thanks to David Taub****Wine Seminar by  
James Dunne:**

Please Print

Name: \_\_\_\_\_

Acknowledgement Name for Program: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Email Address: \_\_\_\_\_

Sponsorship Level: \_\_\_\_\_

Please mail pledge to: Nassau Suffolk Law Services One Helen Keller Way, 5th Floor Hempstead, NY 11550 Attn: Maureen Marmero





## Two Law Services "East Enders" Honored



Law Services is proud to join Long Island Housing Services in honoring **Beth M. Wickey** for her distinguished service on LIHS's Board of Directors for twenty two years, five of those years serving as President.



**Ms. Wickey is the Director of Program and Contract Administration at NSLS** and also managed to dedicate much of her time to a mission that is close to her heart: fair housing and the elimination of unlawful housing discrimination.

At the Long Island Housing event held on April 30, 2010 at Touro Law Center in Central Islip, which was chaired by Michelle Santantonio, Executive Director, Ms. Wickey was honored as the retiring President along with Harriet Spiegelman, LIHS's retiring Projects Facilitator. Distinguished speakers included Bernard Kleina, a civil right and fair housing advocate who is the Director of HOPE Fair Housing Center in Illinois. As a professional photographer he generously displayed an exhibit of a moving and powerful collection, *The Chicago Freedom Movement Exhibit*. These color photographs were taken by Kleina in 1965 depicting the activities of Martin Luther King, Jr. and other civil rights activists in Chicago during more turbulent times.

Prof. Okianer Christina Dark, Associate Professor for Academic Affairs at Howard University School of Law spoke passionately of her personal experience with housing discrimination. An audiovisual presentation featuring her story was presented during the luncheon that followed.

Ms. Wickey accepted a plaque for her service and spoke emotionally of her early days growing up on Long Island in an integrated community. "My hope is that someday my childhood experience actually will be the norm on Long Island, and if that day ever comes, it will be largely due to the work of Long Island Housing Services."

Law Services congratulates Ms. Wickey and LI Housing for their inspirational and exceptional service to our community.

Law Services is proud to congratulate **Larry Tuthill** for the recognition he received as a champion advocate for children and families living in Suffolk. On April 30, 2010, the Suffolk County Advisory Board on Child Protection and the Suffolk County Executive's Task Force to Prevent Family Violence, sponsored **Child Abuse and Neglect Family Violence Volunteer and Professional Recognition Day**. Tuthill was honored for his "special leadership in Domestic Violence Law" in a ceremony held at the H. Rogers Legislature in Hauppauge.



Mr. Tuthill has been a staff attorney at Law Services for over 19 years and staffed Law Services' Domestic Violence Project providing free legal services to Suffolk County residents. Tuthill represented hundreds of persons caught in the cycle of family violence and assisted them in obtaining orders of protection, custody, visitation and child support orders. Unfortunately, after 20 years, the Project's funding was recently eliminated and this critical, comprehensive service is no longer being provided to Suffolk residents.

Larry Tuthill is well known and respected in child protection and violence prevention circles for his dedicated and compassionate service to victims of violence in Suffolk. "It was very gratifying to be recognized for the Domestic Violence Project's work. My only regret is hearing recent reports of victims who are not seeking orders of protection if they have to proceed without counsel."

Law Services enthusiastically joins in the well deserved kudos bestowed on Tuthill and his colleagues who provide valuable services to our Suffolk families in need of protective services.

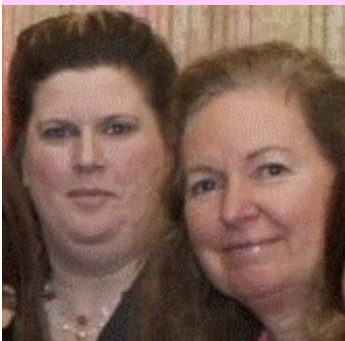


**Please forward a copy of this newsletter to your colleagues and don't forget to com-**

## MORE ACCOLADES FOR LAW SERVICES' ATTORNEYS!

Nassau Suffolk Law Services is proud to congratulate attorneys **Denise Snow** and **Kelly Murray** (for the recognition they recently received at the 2010 Annual Awards Luncheon sponsored by the Greater New York City Affiliate of Susan G. Komen for the Cure®). The attorneys work with cancer patients as part of the Permanency Legal Assistance Project's (PLAN) goal to provide free legal assistance to individuals and their families living with cancer in Nassau and Suffolk Counties. PLAN is funded by **Komen Greater NYC, the New York State Department of Health, Cancer Support Services**, and has also received critical support from **Senator Kemp Hannon** (6th Senate District, Garden City, N.Y.) and **Assemblyman Marc Allessi** (1st Assembly District, Calverton, N.Y.)

When cancer strikes, it often leads to legal, financial and medical issues which can quickly overwhelm a family. The PLAN attorneys assist with legal issues including insurance company disputes, Medicaid and Medicare issues, health care proxies and living wills, planning for the care of minor children, and wills and estate planning. The Komen Greater NYC event took place on May 12, 2010 at the Hilton New York and celebrated the accomplishments of the grantees as well as the contributions being made by local health care professionals and organizations in the fight against breast cancer. Attorney Denise Snow, who is also a nurse and midwife, expressed her appreciation. "It is an honor to be recognized along with the other grantees who are doing such



**Kelly Murray and Denise Snow**

important work in the community." Kelly Murray agreed, "It is enormously gratifying to be able to bring critical legal services to cancer patients on Long Island." Law Services commends the attorneys for their outstanding efforts to serve families affected by cancer and thanks Komen Greater NYC and the other grantors for their leadership and support of PLAN's mission on Long Island.

## Congratulations, Jane on 30 Years!

**Jane Reinhardt**, Senior Staff Attorney for the Nassau Mental Health Law Project and Senior Citizen Project, was recently honored at Law Services for 30 years of dedicated service. Over the years, Jane has worked in both Nassau and Suffolk and is best known for her expertise in the areas of mental health advocacy and elder law. Her keen legal skills and tenacious yet unassuming manner have earned her the respect of her peers and adversaries alike. She is truly a great mentor and model for her Law Services colleagues. Thanks for all you do!



Nassau/Suffolk Law Services Committee, Inc.

1 Helen Keller Way, 5th Fl. Hempstead,  
N.Y. 11550

(516) 292-8100

1757 Veterans Memorial Hwy., Suite 50,  
Islandia, N.Y. 11749

(631) 232-2400

313 W. Main St., Riverhead, N.Y. 11901

(631) 369-1112

*"Equal Justice  
Under Law"*

**We're on the Web**  
**[www.nslawservices.org](http://www.nslawservices.org)**

**Make sure to give us your  
email address by going to  
[www.nslawservices.org](http://www.nslawservices.org) and  
look for the "Sign up for our  
newsletter field". Tell your  
friends and colleagues!**



*\* If interested in donating a  
basket or gift card, please  
contact Cathy Lucidi at 631  
232-2400 Ext. 3324, by  
September 10, 2010. Thank  
you for your support!*

Nassau Suffolk Law Services is proud to  
count **Officer Lola Quesada** as a sup-  
porter. She serves on our Advisory Council  
and was recently [featured in Newsday](#) for  
her work with the Hispanic Community.



Law Services recently bid farewell to Attorney **Jack Evans**. Jack's work with the David Project involved representation at Fair Hearings, Family Court and Landlord Tenant Court where he gained valuable experience and delivered expert services to his clients. Jack stated that he was especially moved when his clients expressed their gratitude for even the smallest service or short term representation. Jack has moved to Touro Law Center where he will be representing undocumented residents in landlord/tenant and family court cases, and child support respondents. Good luck in this important work!

### **WE NEED YOUR SUPPORT!**

You now have the ability to support Nassau Suffolk Law Services by making a donation online! Go to our website [www.nslawservices.org/donation.shtml](http://www.nslawservices.org/donation.shtml) and show your support for the critical legal services we provide. You can also use the online donation form to email your friends and family directly and invite them to join us as a supporter! Thank you!

And don't forget our

### **WINE TASTING ON**

**SEPTEMBER 29, 2010 AT THE CARLTUN**

There are many ways to support the Wine Tasting:

- Be a sponsor (see page 15 for more information)
- Invite your family and friends; and/or
- Donate a basket/giftcard to be raffled off that night.\*



Just a sampling of last year's beautiful baskets





### *From the Executive Director*

Law Services continues to battle the pressures created by the economic downturn and government budget cuts. We're all too familiar with the confusion and difficult budget decisions being made at the State level. We have received much support from the community in an attempt to fend off as many of the cuts as possible, but it looks like it will be a tough 2010-2011 year.

Interest on Lawyer Accounts (IOLA) has taken a devastating hit as interest rates plummeted and real estate transactions have declined. This has been a significant source of funding for Law Services, but gratefully, the Office of Court Administration has proposed a solution which would restore most of the funding. The damage has come in the form of State cuts in civil legal services funding and other designated state funding which supports our Welfare, Landlord Tenant and Social Security (DAP) Units. At the time this goes to press, the jury is still out on how serious those reductions will be. County funding decisions have also affected our Child Support and Housing Preservation Projects in Nassau County. This comes on the heels of losing our Consumer Debt and Suffolk Domestic Violence Projects. The result will probably be additional shrinking in services to the community in the months to come.

We haven't given up the fight and hope you will continue your valuable show of support. Please consider making a donation by going to our website [www.nslawservices.org](http://www.nslawservices.org) and/or joining us at our September Wine Tasting fundraiser!