

# Law Services News



**LSC** | America's Partner  
for Equal Justice  
LEGAL SERVICES CORPORATION

FALL 2019

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## Recent Litigation Victories for NSLS Disability Attorneys

**Rezwanul Islam, Senior Staff Attorney**, Disability Advocacy Project, recently received a decision from the United States District Court, Eastern District, in Gardner v Colvin overturning a determination by the Commissioner of the Social Security Administration. The decision had held that his client had "the residual functional capacity to perform a full range of work at all exertional levels, with certain non-exertional limitations" and that "there were a significant number of jobs in the national economy that plaintiff could perform despite these limitations" and, therefore, he was not disabled.

In remanding the matter to the Administrative Law Judge who made the original decision, the Court found that she failed to properly evaluate the medical evidence and failed to fully develop the record. On remand, the ALJ was directed to consider the psychotherapy notes and the IEP and elicit further testimony from the plaintiff regarding her learning disability in order to fully develop the record.

Rez credits **Jim Denson, paralegal**, for his significant contributions to the case which were vital to this reported victory. Slip opinion 2019 WL 3753797

In another recent case, Mr. F, a 51-year-old man at the time of his application, with an 11<sup>th</sup> grade education, applied for SSI in 2012 based on low IQ, inability to read, degenerative disc disease, knee pain and asthma. At a hearing held



in 2014, the client was represented by **Diane McClernon, Esq.** of the DAP Unit, where the ALJ issued an unfavorable decision. The judge found him capable of medium level work (ability to lift 50 pounds occasionally) and only briefly mentioned Mr. F's low IQ and did not even evaluate it in the decision. The ALJ also discredited the claimant's treating doctor's opinion. Diane took the case to the Appeals Council in 2015, which declined to remand the case. But Ms. McClernon did not give up and in November 2015, she filed an appeal in Federal Court. She argued that the ALJ failed to apply the "treating physician" rule; failed to develop the record, failed to specify the basis for the Residual Functional Capacity given, and failed to acknowledge the IQ score and deficits in adaptive functioning.

While the case was pending in Federal Court, Mr. F applied for

**"Doing What's Legally Possible to Create a Just World."**

## SPECIAL POINTS OF INTEREST:

- *Commitment to Justice Reception Info & Sponsorship Form*
- *NSLS in the Community*
- *Congratulations, Welcomes & Goodbyes*
- *National Pro Bono Week*
- *Message from the Executive Director*

**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!**

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United Way of Long Island

(Continued on page 2)

## Nora Gonzalez awarded Fair Hearing of the Month by the Empire Justice Center

Her efforts avoided a 90-day sanction of public benefits



Nora Gonzalez, Paralegal

After the Department of Social Services (DSS) conducted an alcohol and substance abuse assessment for Mr. L, who was in receipt of public assistance, he was deemed to be in need of treatment but was able to work. When he did not appear at the intake interview, he was notified that his Assistance would be discontinued for 90 days. Mr. L sought the help of paralegal, **Nora Gonzalez** who requested a Fair Hearing on his behalf.

At the hearing, Nora argued that pursuant to DSS directive 99 INF-4, drug and alcohol treatment must be listed as part of an Employment Plan, as defined in 18 NYCRR 385.7(b)(1) and (2). DSS never presented the Employability Plan mandating attendance in the drug and alcohol programs. Since the treatment was not specifically listed, Nora argued that a sanction for non-compliance could not be imposed. She also maintained that the sanction notice was defective because it failed to state the specific instance of non-compliance. Nora prevailed on her client's behalf and DSS was ordered to continue Appellant's Safety Net assistance. Congratulations, Nora, for the expert advocacy and Fair Hearing of the Month award!

*(Continued from page 1)* **Disability Attorneys**

SSI in October 2015. That subsequent application was approved in December 2015. After that approval, Mr. F. moved out of state to live with his son. The case in Federal Court was recently remanded back for a hearing. The hearing was held by phone conference in May 2019, with the judge stating from the bench that he was awarding benefits back to the original filing date of 2012 up until the approved subsequent application. A great win for the client and a proud victory for his legal representative! Congratulations!

## Senior Citizens Protected from Adult Child's Exploitation

In November 2018, when an elderly couple failed to pay their rent in full due to a Section 8 rental increase from \$575 to \$1467, the landlord commenced eviction proceedings to remove them. The couple lived on a fixed income and had lived in the subsidized housing for the past 35 years. The Section 8 agency increased the rent due to the employed adult daughter's earnings, but she refused to contribute to the household's expenses.

When the elderly couple failed to show up in court, the landlord got a judgment and the couple was served with a sheriff's 72-hour notice. The clients filed an order to show cause on their own and then turned to NSLS' Senior Citizen Project to represent them in a week and a half!

**Rose Caputo**, attorney in the Senior Citizen Project, represented them in court and reached a settlement to pay the landlord any arrears owed and to vacate two months later. Though the clients looked for alternative housing, they could not find anything affordable. The situation was made worse by Section 8 regulations prohibiting them from transferring their voucher to another rental unless the daughter was removed as a member of the household. She refused to leave voluntarily and began to verbally abuse her mother, throwing rocks at her window and posting disparaging facts about the clients on social media. Rose filed an order of protection alleging harassment by the clients' daughter and financial exploitation of her elderly parents. Though the daughter initially said she did not care if her parents became homeless, she consented to an order of protection in Family Court.

With the order issued, Section 8 granted a new voucher removing the daughter from the household budget.

The clients were able to get assistance to pay

the rent arrears from a local pastor and the landlord located a one-bedroom apartment for the couple in the same complex. A very happy ending for this elderly couple. Kudos to Rose Caputo for all her hard work!



## Suffolk County Access to Justice Partners Host Georgia Colleagues



The Suffolk County Access to Justice Committee recently hosted a delegation from Georgia representing a sister “justice for all” project. The local collaborative and our out-of-state partners, share a strong commitment to expanding

access to justice in their communities. Personnel from the Georgia Dougherty County Law Library project were joined by staff from the National Center for State Courts as they met during the week of June 17, 2019 with Suffolk Access to Justice partners. The Georgia pilot project, which also received access to justice funding, is focusing on rural legal services. The teams shared their ideas, challenges and goals at a series of meetings during which the Georgia staff visited the Cohalan Court complex, the Suffolk County Bar Association, Touro Law Center (photo above), and Suffolk public libraries.

The Suffolk Access to Justice Committee was formed last year as a result of input from Suffolk stakeholder agencies. The goal is to meet the community’s legal needs and close the justice gap by providing meaningful access to justice for all. “Access” can include direct and indirect legal assistance through a wide range of legal services and comprehensive collaboration among legal services providers. **Nassau Suffolk Law Services** has joined other community organizations and legal service providers to achieve this goal (more on p. 7).

## Changes in the Law You Should Know About

- The new rule on **Public Charge** goes into effect on October 15, 2019. It will create significant additional barriers for those trying to adjust their immigration status to Lawful Permanent Residence through Family Petitions. For more information contact the NY Immigration Coalition <https://www.nyic.org/>
- **Landlord Tenant Law** saw drastic changes in the law that occurred suddenly this summer. As the legal community is quickly getting up to speed, be aware that there is a dramatic impact on predicate notices to tenants (much more lead time in most cases), including the format and timing of the notice, mandatory adjournments, elimination of attorneys fees in some cases, service and return dates, and sheriffs’ warrants. Published on our website at [www.nslawservices.org](http://www.nslawservices.org)
- **Americans with Disabilities Act litigation:** The Empire Justice Center and the National Center for Law and Economic Justice filed a Class Action Complaint yesterday in federal court against Frances Pierre, Commissioner of the Suffolk County Department of Social Services (Suffolk County DSS), on behalf of Suffolk County residents with disabilities who need accommodations to access public benefits and participate in programs administered by Suffolk County DSS, such as Medicaid, SNAP (commonly known as Food Stamps), Temporary Assistance, and Temporary Housing Assistance. The Complaint alleges that Suffolk County DSS, as administered by Commissioner Pierre, violates the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973 by discriminating against people with disabilities. Specifically, the allegations include a systemic failure or refusal to provide the accommodations necessary for individuals like Plaintiffs to access and maintain benefits and services. For further information on this issue, please contact Linda Hassberg, Empire Justice Center (631-650-2305).





## 2019 FALL COMMITMENT TO JUSTICE RECEPTION

### "A RAY OF LIGHT FOR JUSTICE"

OCTOBER 30, 2019, 6 PM– 10 PM  
LARKFIELD, EAST NORTHPORT, NY

For over 50 years, Nassau Suffolk Law Services has been helping people in need. We provide free legal representation and advocacy to low income and disabled residents of Long Island in non-criminal matters.

With offices located across Long Island, our direct legal services alone have benefitted nearly 15,000 individuals a year. Our cases involve Social Security, Public benefits for seniors, low income families, veterans, and disabled individuals. We preserve housing by defending foreclosures, evictions, and the rights of homeless families. We provide specialized legal assistance to people living with cancer, mental illness, HIV/AIDS, those formerly incarcerated and survivors of domestic violence.

NSLS also supports the work of community agencies by giving them the tools and education they need to do their advocacy work effectively. Private attorney volunteers are important partners to fill the gap in services and expand on our current programs. Our dedicated poverty law and housing specialists include attorneys, social workers, paralegals and support staff who are devoted to this important mission. Our work must be done together: the community, the judiciary, volunteers, staff, and advocates.

**With your ongoing support, NSLS can continue to  
"Do What's Legally Possible To Create A Just World."**

- JEFFREY A. SEIGEL, NSLS EXECUTIVE DIRECTOR

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CONGRATULATE  
THIS YEAR'S COMMITMENT TO  
JUSTICE HONOREES AND GIVE  
SPECIAL ACKNOWLEDGMENT  
TO LAW SERVICES WITH A  
VIRTUAL JOURNAL AD!

#### BARBARA J. MEHRMAN COMMITMENT TO JUSTICE HONOREE



ELLEN BIRCH  
REALTIME REPORTING

NSLS Advisory  
Council Member

#### NSLS' COMMITMENT TO JUSTICE HONOREES



MARIA DOSSO, ESQ.  
DIRECTOR OF COMMUNICATIONS &  
VOLUNTEER SERVICES

After more than 30 years of  
dedicated service, Maria will be  
retiring at the end of the year.



DOUGLAS RUFF, ESQ.  
DIRECTOR OF LITIGATION &  
SENIOR STAFF ATTORNEY

After more than 40 years of  
dedicated service, Doug will be  
retiring in September.





## LAW SERVICES IN OUR COMMUNITY



Law Services continues its strong ties within the community in an effort to collaborate with various agencies and ensure 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!

On August 29, 2019 **Raymond DeLeo**, Staff Attorney of the Re-entry Project, attended Nassau County Parole's "Ready, Set, Work" program held for parolees. He reviewed Corrections Law 23A and gave out information on how to read, request and correct a NYS rap sheet.



On August 22, 2019, **Carly Sommers**, Staff Attorney of the Re-Entry Project attended Re-Entry Orientation at the Parole Office located in Bohemia. She met with parolees and offered to assist them with problems they may have regarding their public assistance case, consumer debt issues, employment and housing discrimination.

On September 20, 2019 Carly and Touro law student Wendy Claros, attended a Resource Fair sponsored by The Suffolk County Reentry Task Force held at The Suffolk County Community College's Eastern Campus. They staffed a table and handed out brochures, spoke to many of the attendees, and networked with other providers.



On July 18, 2019 **Erika Verrill**, Staff Attorney of the Adult Home Project attended Nassau County's Ombudsman Training held at the Hempstead Public Library. Erika spoke to Ombudsman volunteer advocates regarding rights of residents in adult homes and assisted living homes. Erika also distributed our Adult Home Residents Rights Manual and the Ombudsman Legal Rights Manual.

On September 12, 2019 Erika attended a Core Coordinator training at Family Service League in Bay Shore. She gave information to Family Service League's staff about the services provided by NSLS as well as information regarding the rights of adult home residents with a focus on the most common legal issues faced by residents.



On July 11, 2019, **Marissa Luchs Kindler**, Sr. Staff Attorney of the Suffolk Civil Unit, presented at the Cohalan Courthouse to a packed room on the topic of recent amendments to landlord tenant law. On July 17 she was joined by **Robert Scoll**, Staff Attorney in the Volunteer Lawyers Project, presenting on the topic to the Nassau Bar Association.



**Maria Dosso**, Director of Communications and Volunteer Services, joined members of the Suffolk Access to Justice team during the summer months to raise awareness among community groups, including faith-based leaders and the Suffolk Library System Staff, about the availability of legal services and court-based assistance. See p. 3



## NSLS Board Chair Passes the Torch



After more than 30 years at the helm, **Douglas J. Good** has stepped down as Chair of Nassau Suffolk Law Services' Board of Directors. During Mr.

Good's impressive tenure, he has navigated NSLS through some challenging times and thanks to his service, the firm currently flourishes with a budget of almost \$10 million. Mr. Good is a partner at the firm Ruskin Moscou Faltischek PC, which has been NSLS' major supporter over the years, and this year is our premier *Ray of Light for Justice* sponsor. We are infinitely grateful for Mr. Good's dedication and experienced leadership, and are happy to report that he will continue to serve as a member of the NSLS Board.

Congratulations to **Christina M. Rosas** who is Mr. Good's successor and was recently elected as the new Chair of NSLS' Board of Directors at its September 18, 2019



meeting. Ms. Rosas is counsel at Lazer Aptheker Rosella & Yedid PC, a firm that has been a longtime, faithful supporter of NSLS. Ms. Rosas has been a devoted member of the Board of Directors for over 13 years and we look forward to working under her leadership and direction as NSLS continues in its proud tradition of providing outstanding legal services to our Long Island community.

*"Doing What's Legally Possible to Create a Just World"*

Congratulations to **Beth Zweig** who was promoted to Senior Staff Attorney of the Welfare Units.



We bid farewell to **Douglas Ruff**, Director of Litigation

In his forty plus years at NSLS, Doug has developed a special expertise in the area of public benefits and the rights of the homeless. He has handled over 50 reported Appellate Division decisions and represented hundreds of clients at administrative fair hearings. We at NSLS hold him in the highest esteem as a welfare expert and he is equally respected among public interest attorneys throughout the state as an authority in the field of poverty law and Medicaid. He will be sorely missed but we wish him all the best in his retirement! Doug will be honored at our **Fall Commitment to Justice Reception** on October 30, 2019. We hope you can join us! See pp. 4-5

### Welcome to our newest Staff Members!

**Sherilyn Bennett**, Paralegal Pro Bono  
**Agnes Bonavoglia**, Staff Attorney, Welfare Unit  
**Arlene Fazio**, Receptionist  
**Ray DeLeo**, Staff Attorney Reentry Project  
**Justin Ruffini**, Staff Attorney ICAN



With **National Pro Bono Week** upon us, we celebrate Long Island volunteer attorneys and the initiatives they support:

#### SUFFOLK

- **Suffolk Pro Bono Project luncheon** October 23, 2019 at the Suffolk County Bar Association
- **Matrimonial Boot Camp** at the SCBA [www.scba.org](http://www.scba.org) on October 24, 2019 Participants are encouraged to accept a pro bono case and have their tuition waived!
- **The Community Legal Help Project** is providing ongoing pro bono services as part of the Suffolk Access to Justice's Strategic Action Plan. The partners include pro bono attorneys and local legal service providers who provide free consultation and referral out of Suffolk County's public libraries to help ensure that residents receive effective assistance in addressing essential legal needs. Call 631 822-3272 to volunteer or schedule a consultation.

#### NASSAU

- **Open House** at the Nassau County Bar Association on the October 24, 2019. Appointments are required. Call 516 747-4070.
- Nassau's Access to Justice effort, the **Community Legal Help Day**, continues to offer bimonthly consultations at the Hempstead library with the participation of legal partners, and of course, our essential pro bono attorneys!

**We are very grateful and proud of the generous pro bono attorneys who are responsible for making these efforts a success. The pro bono spirit is certainly alive and well on Long Island!**

## *Message From the Executive Director*



Later this month we will hold our annual Fall Commitment to Justice Reception honoring our esteemed Advisory Council member and dear friend, **Ellen Birch** of Realtime Reporting. We will also be bidding farewell to two members of our Senior Staff as they retire, **Douglas Ruff** and **Maria Dosso**, who together have devoted over 70 years of service to NSLS and the clients we serve. We hope you will join us in honoring them all with your attendance at the event on **Wednesday October 30, 2019** at the elegant Larkfield. Please consider saluting their commitment, dedication and hard work with an ad or sponsorship. We know our honorees would be so appreciative to read your messages of support in the virtual journal and program materials.

This year's event is receiving special support from our "Ray of Light for Justice" sponsor, **Ruskin Moscou Faltischek P.C.** Among our loyal supporters joining us again this year are: **PSEG Long Island, Carole and Jim Burns**, and **USI**. Many other generous sponsors are supporting the event and will be joining in the festivities. Sponsorships are available until October 20, 2019 (see pp. 4-5). All proceeds from this year's fundraiser will benefit the critical legal programs that NSLS provides free of charge to low-income and disabled individuals in the Long Island community.