

poetic justice

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Fall 2009

Right to education preserved for special needs child

Stacie Jernigan knew her son Rishad had the right to an education, though asserting this right was often a challenge. The elementary student was legally blind, unable to speak, had cerebral palsy and suffered from asthma. Still, when the family moved to the suburbs from Cleveland, Rashid's mother enrolled him in the local public school.

As the school year progressed, Ms. Jernigan was horrified to learn her son was being restrained – often for hours at a time – in a special chair designed to hold developmentally disabled children when they are unable to hold themselves upright. Rishad's pediatrician found no medical need to provide this for Rishad. The school was simply using the chair as a convenience. The special education class was not engaging; sometimes Rishad was just given newspaper and told to tear it into pieces. The school district insisted on keeping Rishad in diapers, even though he was supposed to be toilet training. Though the school employed a nurse, she only worked part-time and was not always available to help if Rishad suffered a sudden asthma attack.

Frustrated, Ms. Jernigan took a friend's advice and called Legal Aid. Legal Aid education attorney Jennifer Martinez Atzberger represented the family and requested a letter from the doctor explaining that Rishad had no medical need for the chair. Ms. Jernigan was told the chair had been taken out of the room, but when she stopped by the school unannounced, the chair had reappeared.

Meanwhile, Ms. Atzberger worked with Ms. Jernigan and the school team to create an Individualized Education Plan (IEP) for Rishad, clearly outlining requirements and techniques for occupational, behavioral and speech therapy and removing any use of the special chair. The process took months. Often Ms. Jernigan and Ms. Atzberger would arrive for a meeting only to find the district representative was not coming.

Finally, after Ms. Atzberger made it clear that she intended to file a complaint with the Ohio Department of Education if the district did not cooperate, a district representative came to the meeting and agreed to place Rashid in a private facility with the highly-trained medical and teaching staff he required. Ms. Atzberger notes: "I really admire Ms. Jernigan



Rishad and his mother Stacie Jernigan

"I was just 'the mother'. Having an attorney spoke volumes."

continued on page 5...

Inside this issue:

On page 2, Legal Aid helps the unemployed.

Legal Aid Prevents Foreclosure in Ashtabula County

Refinancing a mortgage is an overwhelming process. Consumers have little choice but to depend on lenders to guide them to the appropriate solution. Unfortunately, unscrupulous lenders sometimes violate this trust and take advantage of borrowers or homeowners.

This was the case for Joseph and Cecilia Smith*. The Smiths were both elderly and on a fixed income. After struggling to keep up with mortgage payments, the couple decided to refinance their home in 2005. Mr. Smith was told during discussions that he had signed a fixed rate mortgage.

The lender actually presented Mr. Smith, who is a disabled veteran, with an adjustable rate mortgage; interest rates on adjustable rate mortgages are subject to drastic fluctuations over the course of the loan. Because he was disabled, Mr. Smith was unable to read the mortgage statement himself, and Mrs. Smith asserted the contract was never read aloud

to either one of them. Unwittingly, the couple had entered a predatory lending scam.

For a period of time, the interest rate was stable, and the Smiths had no difficulty making the monthly payments. However, two years after they refinanced, the Smiths' interest rate "adjusted" and increased. Their monthly payments became substantially higher and were unaffordable. The bank threatened to foreclose the home the two had lived in for almost 40 years. When the couple tried to cancel the contract as provided by law, the bank insisted they were too late to do so.

Without alternatives, Mr. and Mrs. Smith turned to The Legal Aid Society of Cleveland for assistance; Legal Aid's Consumer Law Unit, currently fully dedicated to foreclosure assistance, preserves the rights of homeowners and helps save communities. Anne Reese, a staff attorney at Legal Aid's Ashtabula office, represented



Anne Reese, Esq.



SAVE THE
dream
OHIO'S FORECLOSURE
PREVENTION EFFORT

the couple. With careful investigation, Ms. Reese discovered that the bank had indeed misled Mr. and Mrs. Smith; the contract still allowed time to renegotiate the mortgage terms. Ms. Reese filed a foreclosure defense and raised equal credit claims, arguing that the lender discriminated against the Smiths because of their age. In the end, Ms. Reese got the bank to charge off the loan, so the couple no longer had to pay the high interest rates. Ms. Reese was pleased with the result, calling the verdict a "good outcome."

This is one example of many homes saved through Legal Aid's foreclosure prevention efforts. Legal Aid is a partner in "Save the Dream," a statewide initiative that mobilizes Ohio's legal community - Legal Aid attorneys, private attorneys, bar associations, the Supreme Court and the Attorney General's office - and matches attorneys with low-income borrowers. This program has saved more than 3,220 Ohio homes from foreclosure during the past year. ●

Legal Aid's Employment Law Practice

The unemployment rate is increasing in the state of Ohio, and Legal Aid is facing growing demands for assistance with unemployment cases. A recent neighborhood Brief Advice and Referral Clinic focusing on employment issues drew more than seventy people in two hours - double the average for similar Legal Aid clinics.

Legal Aid helps resolve unemployment issues in a variety of ways: in addition to providing representation by a senior staff attorney, Legal Aid refers cases to the Cleveland-Marshall School of Law Employment Law Clinic and has developed *pro se* materials for clients to use on their own. Anita

Myerson, staff attorney in Legal Aid's Health Education Work Income and Immigration Unit, works closely with the Volunteer Lawyers Program to find additional help from the private bar. Another Brief Advice Clinic focused on employment issues is scheduled for Celebrate *Pro Bono* Week in late October.

Employment questions become more urgent in a difficult economy. Some employers, anxious to cut personnel costs, are finding trivial reasons to terminate employees (rather than lay them off) and avoid paying unemployment benefits. Ms. Myerson cites a recent case where a supermarket employee

Anita Myerson, Esq.
at a recent
Unemployment
Brief Advice Clinic



Staff Profile: *Susan Stauffer*

In June of 1968, Susan Stauffer had just completed her first year at Case Western Reserve University School of Law and began to volunteer at Legal Aid. By her second year, Ms. Stauffer was working for Legal Aid, and has continued ever since. After passing the bar exam she established a formal Family Law Unit at Legal Aid, focusing on cases where the safety of household members are especially at risk. Ms. Stauffer recounts, "On the Monday after we were sworn in, the Family Law Unit started. We were on 118th and St. Clair - one office, one telephone and one typewriter."

The Family Law Unit has grown considerably since 1970. There are several staff members handling family law cases, and Ms. Stauffer continues to mentor hundreds of *pro bono* attorneys who supplement the work of Legal Aid's staff attorneys. Ms. Stauffer has devoted forty years of service to Legal Aid's mission: "It's important that people who have fewer economic means get the same level and quality of representation as people with economic means. Family law, for many, is the trickiest."

In addition to regular hours spent as a senior staff attorney, Ms. Stauffer is a fixture at Saturday Brief Advice and Referral Clinics, sponsored by the Volunteer Lawyers Program. Notes Ann McGowan Porath, Managing Attorney of the Volunteer Lawyers Program, "Susan is in demand from the start of the clinic to the end - and very often beyond - because she is dedicated to helping people resolve their problems. Susan has embraced the Saturday clinics as part of her work week and VLP depends on her expertise - and personality - as key to the success of the clinics." ●



Susan Stauffer, Esq. at a recent Brief Advice Clinic

"[Susan] is dedicated to helping people resolve their problems."



Susan Stauffer, Esq. (foreground) in her early career

was fired due to an honest pricing error in the seafood department. Legal Aid was able to prove his wrongful termination and secure benefits.

Ms. Myerson explains why helping the unemployed is so necessary: "If people get some income, they may still be able to make their mortgage payment. They can stay in their house. It alleviates the need for them to be involved in foreclosure, bankruptcy, or other consumer issues."

Cleveland-Marshall law students are also helping people secure income through the school's Unemployment Law Clinic. Third year student Maryland Ubaid recently took a case from Legal Aid, and with faculty supervision, was able to restore benefits for a former auto worker. She calls working at the clinic "an experience we would never have in the classroom," and adds, "It's a perfect situation - we're learning and helping people who would be underrepresented."

Legal Aid's *pro se* materials include advice letters for people at the hearing level, an appeal process outline and a community education

brochure called, "What to Do if You Lose Your Job," which provides steps necessary to secure unemployment compensation after termination and offers other helpful information for the recently unemployed.

Beyond establishing strategies for individual cases, Legal Aid attorneys are working to identify systemic problems which may create bottlenecks for benefit applicants. Recently, a letter was sent by an unemployment agency to notify applicants of an office closing and refer them to an alternate office. Clients began to contact Legal Aid to say they were unable to reach the new office, and they were worried about missing the strict appeal deadlines. As similar complaints piled up, Ms. Myerson realized the letter listed a non-existent fax number. She alerted the agency, which corrected the issue. She notes, "[The agencies] want to operate a system that works and don't want people facing pitfalls."

To get involved in Legal Aid's effort to help the unemployed, please contact Legal Aid's Volunteer Lawyers Program at probono@lasclev.org. ●

Volunteer Spotlight: *Michael Riley*



Michael Riley, Esq.
McDonald Hopkins Co., LPA



Mary Beth McConville, Esq.
Legal Aid

Michael Riley's experience at McDonald Hopkins in estate planning, probate, employee benefits, and executive compensation is a natural bridge to his *pro bono* work in representing low-income taxpayers facing active tax controversies before the IRS and in the U.S. Tax Court.

Michael is a founding *pro bono* attorney with Legal Aid's tax practice. Through his involvement with Legal Aid's Low-Income Taxpayer Clinic (LITC), Michael assists individuals who confront federal income tax matters like audits, characterization of income, and levies against wages. Most recently, Michael successfully represented a victim of identity theft in obtaining a tax refund that had been intercepted to satisfy a 2005 tax liability that was not the client's.

"I have had uniformly good experience with the cases referred by Legal Aid," states Michael encourages attorneys, CPAs and enrolled agents to lend their expertise to the LITC. "The clients are very responsive and appreciative. It's a privilege and a pleasure to work with them. I like to involve a newer attorney on each case to give them the same satisfaction."

Mary Beth McConville, a staff attorney with the Volunteer Lawyers Program, emphasizes the impact of *pro bono* attorneys on Legal Aid's mission: "Legal Aid simply does not have the staff resources to assist the many low-income individuals who need assistance with tax matters . . . Consequently, *pro bono* volunteer participation is critical to Legal Aid's efforts to satisfy the needs of low-income taxpayers with federal, state, and local tax issues."

The Low-Income Taxpayer Clinic, funded by the Internal Revenue Service, is a partnership between the Volunteer Lawyers Program and numerous private attorneys, CPAs, and enrolled agents. ●

2009 Philanthropy Update

In 2009 the demand for legal services in Northeast Ohio grew considerably. In the area of employment law alone, intake increased by 56% from one year ago. Legal Aid's staff and volunteer attorneys worked to increase organizational capacity to meet this need. Despite the worst economic crisis in decades, Legal Aid expanded service to clients through numerous Brief Advice Clinics, many more volunteer attorneys, and creative outreach methods.

Legal Aid's generous supporters make all of this possible. We are grateful to these organizations which have provided Legal Aid with \$5,000 or more during 2009:

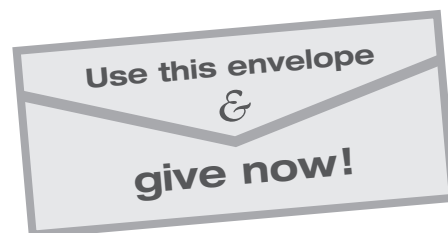
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- United Black Fund
of Greater Cleveland, Inc.
- United Way of Ashtabula County
- United Way of Greater Cleveland
- United Way of Greater Lorain County
- Thomas H. White Foundation

Please join the effort to support Legal Aid's 2009 Annual Campaign by using the included envelope to send a tax-deductible gift.

All donations help preserve rights, maintain dignity and ensure justice for low-income individuals.

Contact Menaka Chandurkar, Annual Campaign Coordinator, at 216-861-5692 or menaka.chandurkar@lasclev.org with any questions. ●



Right to Education preserved... continued from page 1.



Jennifer Martinez Atzberger, Esq.

for her dedication and determination. She refused to sign the IEP until she believed it contained what her son needed. We worked as a team.” Ms. Jernigan underscores the team effort, “I couldn’t have done it without Ms. Atzberger. She was my spokesperson. Before, when I called, people didn’t pay much attention – I was just ‘the mother’. Having an attorney spoke volumes.”

A full year after Ms. Jernigan’s initial complaint, Rishad began sixth grade at his new school. He is out of diapers and learning to use the restroom in accordance with his new IEP; he starts each morning in a group of classmates, then goes to his own desk where a picture schedule walks him through the day’s assignments. The new school offers art, music and occupational therapy. Rishad also helps out at lunchtime, wiping down tables after everyone has eaten. Ms. Jernigan notes that Rishad has become more social and plays with other children in the class – an opportunity he’d never had before.

Rishad is happy, and so is his mother: “They wanted me to get tired, but I kept going. I couldn’t get tired - I wanted the best for my son.” ●

Legal Aid gets extra help during tough times

New “attorneys-in-transition” have joined Legal Aid to meet the region’s overwhelming demand for free, high-quality legal services. Eight positions were created this fall with a two-fold purpose: one, to provide law graduates and new attorneys, with or without deferred employment opportunities, valuable experience; and two, to give Legal Aid a substantial capacity boost to handle an anticipated 10,000 cases in 2009 (an increase from the 8,000 cases handled last year).

Legal Aid recently welcomed these attorneys-in-transition:

Eastern Offices (Ashtabula, Geauga & Lake Counties): Peter Morrison

Lorain County Office: Emily White

Family Law: Erin Simmons

Health, Education, Work, Income & Immigration: Lori Helton Welker, Mary Lombardi

Housing: Cassandra Haddock

Volunteer Lawyers Program: Lillie Askari Burkons, Jerid Kurtz



David Hooker, Esq., Thompson Hine LLP managing partner, dons a chef’s hat for United Way of Greater Cleveland’s 2009 Pancake Flip and Campaign Kick-Off.

Mr. Hooker announced the campaign goal of \$40 million with co-chair Patrick S. Mullin, a managing partner at Deloitte. Funds raised through United Way support a wide network of community organizations, including Legal Aid.

For more information, visit www.uws.org.

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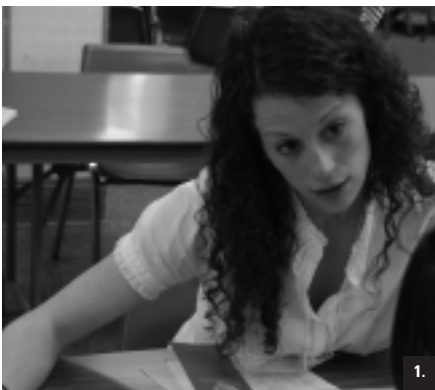




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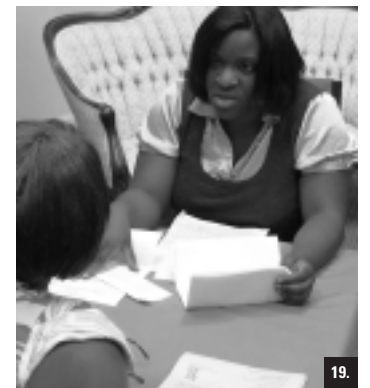
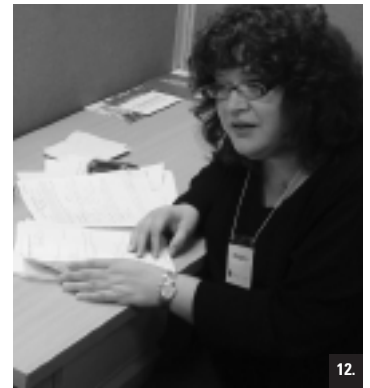
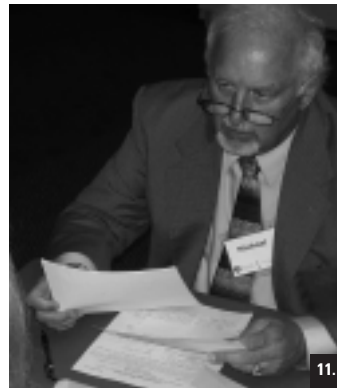
Volunteer Lawyers Program [vlp]





Attorneys at Legal Aid VLP Clinics

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Stories of Philanthropy and Hope

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Legal Aid

our mission:

To secure justice and resolve fundamental problems for those who are low income and vulnerable by providing high quality legal services and working for systemic solutions.

join our journey
 for justice...

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 & Report to the Community

Friday, November 13, 2009

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Tickets: \$50 per person
 \$1,000 - \$3,000 for law firm & corporate table sponsorships

RSVP online: www.lasclev.org/events

Questions? Contact Menaka Chandurkar,
 Annual Campaign Coordinator,
 at (216) 861-5692.

Confidentiality *The names of some clients profiled in this newsletter were changed to protect their confidences.

