Overview of Achievements, 2020-21

NCLEJ’s program of impact advocacy secured a wide array of benefits for low-income New Yorkers throughout the State during this grant year. Our work benefitted more than 854,506 people in 19 impact cases or projects, including direct financial benefits of $3,990.50 in back awards and settlements, $6,224 in monthly benefits, and $150,378 in avoided garnishments and fees. It also helped bring additional federal dollars to the State and created systemic reforms to endure for years to come.

NCLEJ continues to protect low-income disabled people, who are particularly vulnerable to the medical, economic, and societal effects of COVID-19. In partnership with Disability Rights New York, we filed Not Dead Yet v. Cuomo, challenging New York’s emergency ventilator guidelines for people who rely on ventilators for survival. We will continue to address New York’s discriminatory ventilator allocation policy that has prevented ventilator users from accessing health care during a global pandemic. Furthermore, we hope to expand the existing legal precedent that emergency preparedness plans cannot disadvantage disabled people, who are often the most vulnerable in the event of an emergency.

NCLEJ and the Empire Justice Center obtained class certification in Newkirk v. Pierre, an ongoing lawsuit against Suffolk County alleging disability discrimination in the provision of public benefits. The named plaintiffs include a visually impaired woman who could not receive the application in a format that she could use, a senior citizen who could not apply because he could not stand in long lines. The agency refused to allow him to sit while waiting. A cognitively disabled man could not maintain his benefits because the Suffolk County DSS refused him assistance with completing forms that he could not read or understand. The lawsuit, currently in discovery, seeks broad changes to policies and practices and comprehensive training for DSS workers.

We continued our unrelenting efforts to enforce the landmark federal court class action settlement in Baez v. NYCHA, which obligates the New York City Housing Authority (NYCHA) to remediate mold and excessive moisture of its apartments. Mold repairs and remediation slowed significantly because of the pandemic. We expended considerable efforts (including securing a second Special Master) to ensure that repairs would continue safely for tenants and workers. The Ombudsperson Call Center obtained repairs to 5,749 unique units in the last year, benefiting 17,247 residents. We have recently returned to court yet again because NYCHA continues to attempt to evade its obligations, this time through its privatization plan. We will continue working to ensure that all NYCHA units remain subject to Baez and that the responsible entity—whether NYCHA or a private developer—removes toxic mold at the source so that it cannot recur.

Critical to our mission is preserving and promoting access to public assistance. NCLEJ enforced longstanding consent decrees that enhance the fair hearing process and preserve entitlement to public assistance. We participated in a massive, collaborative effort to strike down the Trump Administration’s public charge rule, which significantly impaired immigrants’ ability to seek public assistance, helping secure a ruling that enjoined the application of the policy in New York. We filed an amicus brief in the D.C. Circuit, challenging Food Stamps regulations that would have caused a massive reduction in SNAP benefits to New Yorkers; there, too, our position prevailed. We continued to enforce a Niagara County court order mandating the timely provision of benefits, and we secured back payments for SSI recipients denied state supplemental payments without due process.

Finally, NCLEJ and New Economy Project secured certification of a class of approximately 850,000 individuals subjected to unconstitutional debt collection practices by the New York City Transit Authority, including seizure of state tax refunds without notice or opportunity to be heard.

Population Served: Individuals, Families, and Communities Affected by Disabilities

Area Served: Statewide

Total Funding: $2,308,182
Total IOLA Grant: $70,000

Staffing - Full Time Equivalents:

- Total Staff: 15.75
- Lawyers: 10.37
- Others: 5.38
Direct Legal Services

50 people benefitted
34 legal cases closed

Examples

**Income Maintenance:** Because of our work in enforcing class-wide settlements concerning the fair hearing process, advocates from legal services programs routinely request our assistance on behalf of their clients. In one such case, an advocate from Mobilization for Justice asked us to intercede on behalf of a client for whom HRA had sent her shelter allowance to the wrong landlord. The client had a fair hearing and won, but HRA continued to send the shelter allowance to the wrong landlord. The client and her children risked losing their housing in the middle of a pandemic because of HRA’s error.

When HRA refused to correct its error in response to the fair hearing decision, we interceded and wrote directly to the lawyer for HRA and, invoking our class action settlement, demanded immediate action. HRA complied, processed the client's case correctly. As a result of our intervention, HRA immediately restored the client's benefits, the landlord received the amount owed, and the client and her children maintained stable housing. Our intercession prevented the MFJ attorney from undertaking a cumbersome appeal process that would have likely resulted in the client losing her housing while the appeal was pending.

**Other (Access to Driver's Licenses):** In Queens County, NCLEJ assisted a disabled essential worker to preserve access to her driver's license. At the beginning of the pandemic, our client discovered that her driver's license was suspended because she had failed to pay or respond to a traffic ticket. Our client initially did not respond to the traffic ticket because of a psychiatric hospitalization that prevented her from appearing timely. By the time she recalled the ticket months later, the pandemic had set in, and the DMV was closed. She had lost the ticket and had no internet access to get a copy of it. And without having a record of the ticket, she had no way to resolve it. At the time, she was commuting to her job at a local Wal-Mart, which was her first work experience in more than ten years, and maintaining employment was very important to her, both for financial and mental health reasons. Unfortunately, she had to commute to work by car, and she lived in fear of being stopped and arrested for driving on a suspended license. The stress of not resolving her situation became severely threatening to her mental health and nearly caused her to give up her job.

We first assisted this client in obtaining her DMV records to identify the outstanding tickets. Next, we spoke with DMV representatives to ascertain the steps a person could take to resolve outstanding tickets in the middle of the pandemic when DMV offices were closed. We counseled the client on the appropriate steps to take, and ultimately, she cleared the ticket and recovered her driver's license. She also kept her job. NCLEJ is one of the only legal services programs in the State that has developed legal expertise around preserving individuals' access to driver's licenses, a critical tool for economic opportunity and mobility in most communities across the State.
Other Services...

Number of People Benefitted by Services Other Than Direct Legal Representation

<table>
<thead>
<tr>
<th>Service</th>
<th>People</th>
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<tbody>
<tr>
<td>Total</td>
<td>5,017</td>
</tr>
<tr>
<td>Community Legal Education</td>
<td>1,276</td>
</tr>
<tr>
<td>Online Assistance</td>
<td>3,741</td>
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</table>

Other Legal Related Services: Overview

NCLEJ presents at various community events to provide information to community members regarding their rights. NCLEJ often partners with community-based organizations to give presentations to their members. The presentation's content is driven by what is most beneficial to the organizations and their members. Training often covers (a) disability rights, (b) immigrant workers' rights, and (c) access to Medicaid and other health care programs. We also speak to the general public on racial justice and the use of the courts to preserve and enhance civil rights. During the grant year, we trained 1,332 individuals at community presentations.

NCLEJ normally provides pro se assistance to individuals through clinics and community events on consumer rights and access to benefits. Unfortunately, during this reporting period, the COVID-19 pandemic prevented us from providing this service.

Other Legal Related Services: Examples

In April 2020, NCLEJ attorney Greg Bass presented an ABA Webinar concerning access to benefits during COVID-19. The audience for the webinar included attorneys, law students, and the general public (the program was free and available to the general public). Hundreds of people attended, including many New Yorkers.

In June 2020, NCLEJ attorney Britney Wilson appeared on multiple panels celebrating the anniversary of the Olmstead decision, which guarantees disabled people the right to live in the community with supports appropriate for their needs.

In April 2021, NCLEJ Skadden Fellow Jordan Berger organized a panel discussion called "ADA in the Workplace" with the National Disabled Law Students Association and NYU DALSA. One hundred fifty (150) people attended, many of whom were people with disabilities wanting to learn about their rights.
Significant Collaborations

NCLEJ often partners with other organizations to extend the reach of our impact litigation program. As our list of impact cases shows, Empire Justice Center has been a critical statewide partner, from our ADA case against Suffolk County to statewide impact cases securing public benefits and SNAP benefits for low-income New Yorkers.

NCLEJ has deep connections to worker centers in New York City, such as Chinese Staff and Workers and the National Mobilization Against Sweatshop. We partner with these groups, and others such as Adhikaar and Make the Road New York, on several initiatives to ensure that low-wage, immigrant workers receive full pay for all their hours worked and have access to critical health care benefits. Since the COVID-19 crisis hit New York City, we have been working closely with our worker center partners to answer their questions about the crisis and support their organizing efforts. Many are struggling to support themselves and their families without their regular paychecks. We have recently supported efforts to improve access to unemployment insurance benefits, particularly for people with limited English proficiency.

In Buffalo, the Western New York Law Center is a critical partner, both when it comes to securing access to benefits and accommodations for disabilities throughout Western New York and fighting against unfair fines and fees imposed by the City of Buffalo low-income people of color. We also provide guidance and support to the Fair Fines + Fees Coalition, a new coalition of community organizations in Buffalo, NY, seeking to raise awareness and change City policy around fines, fees, and ticketing practices.

We continued our work with the statewide Driven by Justice coalition, which works to bring awareness across the State to the devastating harms caused by suspending driver’s licenses of low-income people who cannot afford to pay traffic tickets. Driver's licenses are a critical tool for economic mobility; without them, low-income people lose access to jobs and stable incomes that could lift them out of poverty. A detailed account of the problem is available at www.drivenbyjustice.org. We co-lead this statewide effort with the Fines and Fees Justice Center, the African-American Health Equity Task Force, and The Bronx Defenders. On the consumer side, we partner with organizations such as Mobilization for Justice, the Feerick Center for Social Justice at Fordham Law School, and New Economy Project.
Impact Cases

**Milestone** – NCLEJ and Empire Justice Center achieved class certification in an ADA lawsuit against Suffolk County. Newkirk v. Pierre alleges that Suffolk County fails to provide reasonable accommodations in the benefits application process. The named plaintiffs included a woman with a visual impairment who could not receive the application in a format that she could read and complete, and a senior citizen with significant physical disabilities could not complete the application process because he could not stand in long lines. The agency refused to allow him to sit while waiting. A cognitively disabled young man could not maintain his benefits because the Suffolk County DSS refused him assistance with completing forms that he could not read or understand. The lawsuit, currently in discovery, seeks broad changes to policies and practices and comprehensive training for DSS workers.

**Impact** – More than 22,000 low-income people with disabilities reside in Suffolk County. All are financially eligible for benefits, yet many cannot apply for or retain benefits because of the County's failure and refusal to provide reasonable accommodations for people's disabilities. Reforming the County's practices will increase access to benefits for thousands of low-income people with disabilities.

**Milestone** – NCLEJ and Disability Rights New York filed a class-action lawsuit against the State of New York on behalf of people with disabilities who rely on ventilators for survival. The lawsuit challenges New York's emergency ventilator guidelines because they permit the taking and/or removal of the personal ventilators of chronic ventilator users to provide them to others who score higher on a mechanical test, resulting in the death of the ventilator user.

**Impact** – Approximately 3,300 New Yorkers rely on ventilators for daily living. These people are currently affected by New York's discriminatory emergency ventilator policy. Thousands more New Yorkers with disabilities stand to benefit from the lawsuit's broader central premise that emergency planning policies must accommodate the needs of disabled people.

**Milestone** – The Trump administration’s public charge rules created a wealth test for noncitizens seeking lawful permanent resident status or entry into the United States. The rules unlawfully redefined the term "public charge," transforming it from one that Congress intended to apply to only a narrow category of people. These rules changed the term "public charge" to include anyone the immigration service deemed likely to receive even small amounts of a wide range of cash or non-cash benefits—at any point in the future, even temporarily and even after becoming U.S. citizens. These include food assistance, health care, and housing assistance. Potential "public charges" would be denied entry into the U.S. or lawful permanent residence and would be unable to change or extend their status within the U.S.

NCLEJ led a nationwide effort to coordinate and organize the drafting and submission of 19 amicus briefs to support the lawsuits filed around the country to block public charge rule. More than 400 organizations, businesses, and scholars joined the briefs. In August of 2020, the Second Circuit affirmed an injunction the district court granted in 2019, blocking the implementation of the public charge rule within New York, Connecticut, and Vermont. In its decision, the Second Circuit specifically noted the quality of the amicus briefs.

**Impact** – Within New York, approximately 2 million citizens share a household with at least one noncitizen. Each of these people would potentially have been affected by the public charge rule. Moreover, the public charge rule had a chilling effect on many more U.S. citizen immigrant households who declined to seek public benefits even though the public charge rule did not apply to them because they did not share a home with a noncitizen.
Trainings

All NCLEJ employees are encouraged to identify training programs (including conference-type training in New York City or elsewhere, web-based training programs, and audio-tape and videotape programs) to improve skills and/or knowledge essential to their functions at NCLEJ.

All employees with continuing education requirements for maintaining a license related to their employment at NCLEJ are responsible for adhering to those requirements and avoiding last-minute crises meeting those requirements. While lawyers are encouraged to take advantage of free programs, such as LSNY, Legal Aid, and others, they are not restricted to those programs. Lawyers are also reminded that they may claim credits for time spent as a trainer at continued legal education (CLE) approved training events or as an author of legal writing such as Clearinghouse Review articles.

NCLEJ pays bar association dues of up to $150 per attorney for one association per staff attorney if the staff attorney asserts that there is a relationship between membership in that association and NCLEJ’s work or mission. In addition, NCLEJ pays for (1) individual memberships to NLADA and (2) membership in the Federal Bar Council if the attorney intends to take advantage of such CLE courses.

NCLEJ also provides training in a range of legal skills (e.g., legal analysis and writing, substantive law, development, and conduct of advocacy, professional ethics) to legal staff through in-house activities and access to external programs.
Pro Bono Volunteer Involvement

NCLEJ often partners with pro-bono counsel on class action litigation. Obtaining this support magnifies our reach because NCLEJ attorneys can staff many more cases knowing that law firms can provide additional litigation support for intensive litigation tasks such as electronic discovery. Pro bono firms also shoulder much of the financial risk of litigation, allowing NCLEJ to maintain a higher caseload than we could on our own.

During the reporting period, we co-counseled with Proskauer Rose in the Baez v. NYCHA litigation on behalf of NYCHA public housing tenants with asthma who have suffered from mold and excess moisture conditions in their apartments.

We also co-counseled with Dentons on our Suffolk County ADA litigation; with Faegre Drinker Biddle & Reath LLP on ongoing litigation against the New York City Transit Authority for its unconstitutional debt collection practices that disproportionately target low-income New Yorkers; and with Covington & Burling on a class-action lawsuit against the City of Buffalo for discriminatory policing practices. We are also fortunate to have senior retired lawyers providing us with their services. Ed Krugman, a retired Partner at Cahill Gordon, works with us on the Buffalo litigation. And as discussed further below, retired lawyers contribute to the Federal Practice Manual under the auspices of the Attorney Emeritus Program.

We have a long-established law student intern program and typically host multiple students during the summer and throughout the school year. Law students provide invaluable research support, and we endeavor in return to provide them with meaningful tasks and help to develop their lawyering skills.

Pro Bono Statistics

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Sources Of Funding

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