

## MFY Sues to End Abuse in Three-Quarter Houses

The brochure Thomas received at a drug treatment program described an array of services available at a nearby three-quarter house—counseling and treatment so he would remain drug-free, access to job training and assistance finding permanent housing.

Desperate for a place to live so he could begin to get his life together, Thomas signed up. What he found was a run-down house in Brownsville, where between four and ten men were crammed in a sleeping room with bunkbeds, leaving barely enough room to walk around. What had been a kitchen was also used as a bedroom so there was no place to store or prepare food. Sometimes there was heat, sometimes not. The wait for the bathroom was long, and if you were not one of the first, there was no hot water.

The operator told Thomas that in order to stay he would have to attend a specific treatment program. Although Thomas was clean of drugs and needed a support program that would help him stay that way, he was forced to attend a program for people who were still abusing drugs. In fact, the operator instructed him to lie about his situation so he would be accepted.

The alternative was to live on the streets.

### A Revolving Door of Homelessness

Thomas is one of thousands of New Yorkers who have wound up in three-quarter houses after leaving hospitals, rehabilitation programs, shelters



MFY Attorney Tanya Kessler speaks at a rally and press conference organized by MFY and the Three-Quarter House Organizing Project (TOP) to protest illegal evictions and draw attention to MFY's class action lawsuit against operators for deceptive practices.

and jails. He is also one of an unknown number who have been illegally evicted after finishing a treatment program, leading many residents to believe there is a financial connection between some operators and the programs they insist residents attend.

With the housing crisis in the city showing no

sign of abating, three-quarter houses are proliferating in low-income neighborhoods throughout the city, with high concentrations in Brownsville, Bedford-Stuyvesant, East New York and Bushwick in Brooklyn. Most buildings used as three-quarter houses were formerly one-, two- and

*(Continued on page 4)*

## Foreclosure Crisis Escalates as State Funding Hangs in the Balance

As thousands of families in New York State battle to save their homes from foreclosure, advocates have escalated their efforts to press the state to restore desperately needed funds for foreclosure defense.

The state's FY2012 budget included no funding for foreclosure defense, and earlier state grants to providers run out at the end of the calendar year. "Averting foreclosures not only saves a family from great hardship and personal financial loss," said MFY's Foreclosure Project Supervisor Elise Brown, "but it prevents the loss of millions in government revenues."

### Foreclosure Defense Saves State Billions

A recent analysis of the impact of foreclosures in New York State by the Empire Justice Center, based on mortgage notes that are currently 60 to 90 days past due or in foreclosure, shows a loss of \$61 billion in market value for these homes, plus a \$5.1 billion loss of tax revenue and indirect costs to local governments. Taking direct and indirect costs into account, the average amount saved for each foreclosure averted is \$245,000.

Based on these average savings,

MFY's foreclosure prevention practice has saved the state upwards of \$12,250,000.

"The state took action to protect homeowners by mandating settlement conferences last year," said MFY Attorney Adam Cohen, who regularly represents Staten Island homeowners. "If legal services providers are de-funded, the banks will walk all over these families and the state will lose the investment it has already made in protecting homeowners from improper practices."

The foreclosure defense bar has also challenged banks and their mortgage service affiliates for failing to implement the federal Home Affordable Mortgage Program (HAMP), which helps qualified homeowners modify

their loans to make them affordable. "Public interest foreclosure attorneys are saving homes and neighboring communities. If we're not there on the front lines, foreclosures will wreak even more havoc on the state's economy," said MFY Attorney Elizabeth Lynch.

### URGENT ACTION NEEDED

MFY urges supporters to write or call their state representatives and Governor Cuomo urging that foreclosure defense funding be re-instated in next year's budget. For contact info for elected officials, go to [www.lwvnyc.org](http://www.lwvnyc.org).

# MFY Sues Large Firm for Undermining State Protections for Homeowners in Foreclosure

MFY Legal Services, Inc. and Harwood Feffer LLP filed suit on August 4, 2011 against Steven J. Baum PC, a law firm that files 40% of the foreclosure actions in New York State, charging unfair debt collection and deceptive practices in filing thousands of foreclosure lawsuits.

*Justice Deceived*, a study by MFY of a representative sample of foreclosure filings in Brooklyn and Queens before and after the New York State Court's October 2010 rule requiring foreclosure law firms to attest to the accuracy of every foreclosure summons and complaint (the "Due Diligence Affirmation"), showed that four large law firms filed hundreds of foreclosure cases, but failed to file the documents that cause the case to be assigned to a judge and trigger a state-mandated settlement conference. In 82% of foreclosure cases filed in November 2010, lawyers failed to file the required Request for Judicial Intervention (RJI) and Due Diligence Affirmation seven months after the case was filed.

"Homeowners are left in limbo while they wait for the bank's law firm to file the documents that will trigger a settlement conference, which is their best chance of saving their home. Instead, the banks reject their mortgage payments and charge additional fees and interest that undercut homeowners' chances for a successful loan modification," said MFY Attorney Elizabeth Lynch, who authored the report.

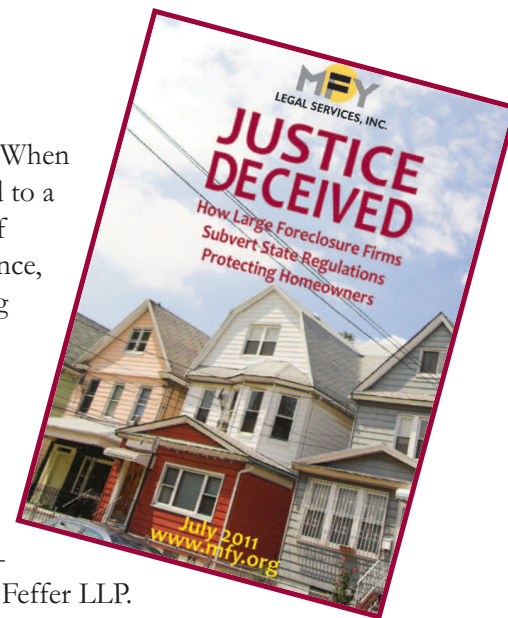
In response to the robo-signing crisis, the New York State Legislature required that attorneys filing foreclosure actions attest to the accuracy of every foreclosure summons and complaint and file such affirmation with their

Request for Judicial Intervention. When done properly, the case is assigned to a judge, homeowners are notified of their right to a settlement conference, and non-profit housing counseling agencies are also notified so they can assist homeowners and refer them to legal counsel.

"Steven J. Baum PC and other big firms are undermining the protections homeowners have under the law," said Robert I. Harwood, senior partner at Harwood Feffer LLP.

"This case is about getting everyone to play by the rules. If a law firm cannot attest to the accuracy of the papers it is filing, it should not file the case."

In its report, *Justice Deceived*, MFY recommends that the courts take steps to ensure that homeowners have access to settlement conferences regardless of what documents are filed, that documents are filed as required by law, that housing counseling agencies are informed of all filings, and that foreclosure cases be dismissed if proper documents have not been filed by the second settlement conference. Justice Deceived and other details on the case can be found at [www.mfy.org](http://www.mfy.org).



## Immigrant Opportunities Initiative in Action

### MFY Wins Back Wages for Immigrant Workers

With support from the New York City Council's Immigrant Opportunities Initiative, MFY works to defend immigrant workers—regardless of their citizenship status—who are being exploited at the workplace. New York's economy is dependent on immigrant labor, which generates over \$215 billion in economic activity and accounts for 43% of the city's workforce.

#### Construction Worker

In 2007, Mr. H, a Chinese immigrant, agreed to work for his friend, Mr. Z, who had a small construction company. The two friends agreed on a rate of pay and reimbursement for expenses, including a car that Mr. H used to ferry workers to job sites and pick up supplies. Although Mr. Z increased the agreed-upon rate of pay on two occasions, after several months on the job, Mr. Z stopped paying Mr. H. Mr. H continued working, believing that Mr. Z would eventually pay him. After many months Mr. Z gave Mr. H several checks, all of which bounced. The case was complicated by the fact that Mr. Z ran his business from his mother's kitchen and kept no records. Mr. H, however, kept a calendar noting every day he worked, when and how much he was paid, and also had receipts for all the purchases he made on Mr. Z's behalf. MFY filed a lawsuit on Mr. H's behalf and, in a 50-page decision, the court awarded him \$48,000 in unpaid wages, accepting as proof Mr. H's own records.

#### Domestic Workers

Domestic workers are particularly vulnerable to abuse, but more are seeking help after the state legislature passed the Domestic Workers Bill of Rights. Valerie Hall was hired by an antiques dealer to feed his parrot, cook, clean and run errands. Although she was paid properly at



Domestic worker Valerie Hall won a \$26,000 settlement.

first, her employer gradually paid her less and less until finally she had to quit and look for another job. Without full pay she had trouble paying her rent and was facing eviction. MFY Attorney Magda Barbosa successfully fought the eviction and won an Unemployment Insurance appeal so Ms. Hall could collect benefits. Ms. Barbosa then filed a case in federal court under the Fair Labor Standards Act. The case was complicated by the defendant's bankruptcy and federal tax liens, but eventually resulted in a \$26,000 settlement.

In another case, Ms. Barbosa negotiated a \$95,000 settlement for two live-in nannies who had worked for the same family for several years, and who had been consistently paid below minimum wage and no overtime. Neither spoke English and neither could read or write even in their native language, Spanish. They were terrified of challenging their employers who, despite their wealth, were unwilling initially to recognize their responsibility to pay legal wages. The settlement enabled both women to open their first bank account and to begin a new life.

### THANK YOU

MFY wishes to thank the following foundations and businesses for support in 2011:

- Brookdale Foundation
- BTMU Foundation
- Equal Justice Works
- Ira W. DeCamp Foundation
- Milberg LLP
- New York Community Trust
- New York Foundation
- NYS IOLA Fund
- Office of Court Administration
- Patterson Belknap Webb & Tyler LLP
- Skadden Fellowship Foundation
- Wachtell, Lipton, Rosen & Katz

### MFY Legal Services, Inc.

Celebrating 48 years of free civil legal services to low-income New Yorkers.

Jeanette Zelhof, Executive Director  
Elise Brown, Deputy Director

Carolyn Coffey, Ramonita Cordero, Kevin Cremin,  
Kenneth Lau, Christopher Schwartz  
Supervising Attorneys

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# in brief

## After four-year battle, MFY wins SSI and \$40,000 retro payment for disabled young adult

In 2007 MFY Attorney Dinah Luck represented Dennis, a young man who suffers from bipolar disorder and rarely leaves his parents' home, at a hearing for SSI benefits. His benefits were denied in part because the doctor's handwritten progress notes were difficult to read and did not adequately reflect how impossible it would be for Dennis to cope in a regular work setting. Ms. Luck appealed that decision to the Appeals Council, winning a remand for another hearing and representing Dennis in August 2011 before an Administrative Law Judge, who awarded ongoing benefits and a retroactive payment of over \$40,000.

## Court vacates judgment after tenant stole friend's identity

Several years ago Karen, a consumer of mental health services, and a friend were about to move into a new apartment when the landlord withdrew his offer. Karen went on to find other housing and lost contact with her friend. Several years later, she found that her wages were being garnished for a judgment she knew nothing about. It turned out that that Karen's old friend had indeed moved into the apartment, failed to pay rent, and appeared at the nonpayment hearing claiming to be Karen and signed a stipulation with a judgment in Karen's name. MFY Attorney Scott Stamper prepared a motion to vacate the fraudulent stipulation and the judgment associated with it in housing court. He was able to negotiate a vacatur of the judgment so that Karen will no longer be losing wages and will be able to clear up her credit problems.

## Laid off MoMA worker can study nursing after MFY wins appeal of UI denial

When Alison was laid off from her job as a paper conservator at the Museum of Modern Art, she knew that finding another position in that field would be a long shot, so she decided it was time to change professions. She applied for nursing school, but the Department of Labor claimed there were plenty of jobs available for "art conservators" and argued that she should not

be relieved of her obligation to look for work. MFY Attorney Bernadette Jentsch represented Alison at her Unemployment Insurance Benefits hearing, cross-examining the state's expert witness to show that an "art conservator" and a "paper conservator" were very different jobs. The administrative law judge agreed and restored Alison's unemployment insurance benefits, enabling her to pursue a more promising future that will provide stability to her family.

## MFY sues NYS Department of Health to ensure protection of disabled adult home residents

MFY filed a special proceeding charging that the New York State Department of Health (DOH) failed to comply with its obligation to enforce laws and regulations protecting adult home residents from psychological abuse and financial exploitation. The action was brought on behalf of Deepak Mirani, a 55-year-old disabled resident of the Garden of Eden Home for Adults in Brooklyn, who was threatened with eviction after his Supplemental Security Income (SSI) benefits were disrupted. Instead of helping Mirani to straighten out the benefits problem as required by law, the home coerced Mirani into agreeing to allow money to be deducted from his \$178-per-month personal needs allowance, which is illegal.

Mirani complained and the DOH investigated and ordered the home to return the money and help Mirani with his benefits, but it has done nothing to enforce their order even though it acknowledged that the home's actions constituted a Class A misdemeanor on two occasions.

MFY Attorneys Jota Borgmann and Barbara Graves-Poller, who represent Mirani, have received similar complaints from other residents. After looking into conditions at Garden of Eden, the *New York Daily News* found residents who complained about threats, were overcharged for air conditioning, and were denied help with health problems. Ralph Goldberg, a 64-year old resident, told the *News* he regularly sees other residents being bullied and tormented. "This is like a dictatorship," he said. "People are supposed to be in a protected environment, not a place where people are threatened."

MFY is asking the court to compel DOH to enforce its order, review the evidence that the DOH ignored when it investigated the complaint, and find that the DOH's penalty on the home is not commensurate with the home's willful misconduct.

## Court Rules Department of Education Discriminated in Denying Job to Clerical Aide with Past Criminal Record

MFY's four-year battle to get justice for Madeline Acosta, who was denied employment with a Department of Education (DOE) contract agency because of a 13-year old criminal record ended in March when the New York State Court of Appeals ruled that the DOE's actions in the case were arbitrary and capricious. The ruling rejects the DOE's unlawful practice of denying employment to people with criminal histories without a specific basis for finding them to be a danger to the particular job involved, and affirms an Appellate Division decision on the case.

Madeline Acosta, now 35, married and the mother of a six-year-old son, worked for a non-profit organization that contracted with the DOE to provide special education services, as a part-time administrative assistant in 2006. As part of the DOE's security

clearance procedure, Ms. Acosta acknowledged her previously disclosed criminal record. As a 17-year-old high school senior, Ms. Acosta was coerced by an abusive boyfriend to accompany him in several armed robberies. She was arrested and spent four years in prison.

Ms. Acosta complied with every DOE request for information and presented abundant documentation of her rehabilitation. In prison, Ms. Acosta completed high school, took business classes, and taught other inmates. After her release at age 21, she attended college at night while working and earned a B.S. in Legal Studies. She worked successfully at two law firms before taking the part-time position at the non-profit so she could have more time with her young son. For years, she volunteered with advocacy organizations, speaking to young

people about her experiences and encouraging them to stay out of trouble.

"New York State law recognizes that to prevent criminal recidivism, people with criminal histories must be able to secure jobs," said Carolyn Coffey, the MFY Supervising Attorney who argued the case. "The court agreed that the DOE did not consider the documentation Ms. Acosta had submitted regarding her rehabilitation and that it discriminated against her by denying her application for security clearance."

"For years the courts have been deferring to determinations made by administrative agencies in cases like these without holding the agencies to the standards articulated in the law," said Ms. Coffey. "This case will help other people who got in trouble in the past but are now law-abiding citizens to be treated fairly by employers."



*Education gave me the jump-start I needed to rehabilitate my life. I used education to empower myself and the DOE threw everything I believed in out the window. It's sad that the DOE doesn't believe in its own system.*

*– Madeline Acosta*

## Three-Quarter Houses

(Continued from page 1)

three-family residences that provided affordable homes for low- and moderate-income families. Using these buildings as three-quarter houses is lucrative. A building that formerly had a rent roll of \$1800 a month for three apartments can now bring in over \$7,500 a month in housing payments from the city by packing in 35 people. And now operators are taking over rent-stabilized apartments and SRO rooms to profiteer even more (see story below).

### MFY's Three-Quarter House Project Files Class Action Against Abusive Operator

MFY started its Three-Quarter House Project in September 2009 with initial assistance from the Skadden Fellowship Foundation and later from the New York Community Trust and New York Foundation. Outreach to residents and community-based organizations that provide emergency food and social services resulted in a steady stream of residents who needed help. Most had stories like Thomas; others came after they had been forcibly, and often violently, ejected from their three-quarter house in the middle of the night. During its first year, the project—staffed by one attorney and one organizer—provided direct legal assistance to over 300 residents (including representation in court to challenge illegal evictions), held dozens of community training sessions, and organized residents.

“Residents are not getting the services they were promised and are living in abject conditions,”

said MFY Attorney Tanya Kessler. “Everyday we learned about another house, another illegal eviction, another resident who needed job training or mental health treatment forced to go to a substance abuse program. We decided it was time to challenge the model itself.”

In December 2010, MFY, with pro bono assistance from Patterson Belknap Webb & Tyler LLP, filed a class action lawsuit against three companies that operate three-quarter houses, alleging that defendants engaged in widespread deceptive practices, pressured tenants into signing away their rights, violated the rent stabilization code and laws, and unlawfully evicted tenants onto the street when their tenancies became unprofitable.

A Brooklyn Supreme Court Judge issued a stay against illegal evictions while the case goes forward.

### Tenants Join the Three-Quarter House Organizing Project

In the meantime, the project continues to help individual tenants and to bring the issue of three-quarter houses to the attention of elected officials and the public in general. MFY, together with Neighbors Together, a community-based organization in Brownsville, organized tenants into the Three-Quarter House Organizing Project (TOP). TOP members have conducted outreach to other three-quarter house tenants to help them understand their rights, have participated in local police precinct and Community Board meetings, testified at an Office of Alcoholism and Substance Abuse Services hearing, and rallied to protest illegal evictions and publicize the class action lawsuit.



The Three-Quarter House Organizing Project (TOP) has enabled residents to understand their rights and to come together to advocate for change. Members have spoken to the press and have held meetings with elected officials, local Community Boards, and police precincts.

“These companies are operating totally outside the law,” said Kessler. “The operators rake in thousands of dollars in city-financed rent payments each month while creating a revolving door of homelessness for people who are desperate for a place to live. It’s a direct outcome of the city’s failure to develop affordable housing for homeless people.”

## MFY Defends SRO Tenants Evicted to Make Room for a Three-Quarter House

For many years, MFY’s SRO Law Project has been representing tenants of the Greenpoint Hotel, a 193-unit single-room occupancy hotel in Brooklyn, in disputes with the landlord over deplorable conditions, harassment, and illegal evictions. In July 2010, after many tenants received eviction notices, MFY discovered that the hotel’s owners had leased 89 rent-stabilized units in the back of the building, known as Clay Street House, to an entity called CIS Counseling Center to operate a three-quarter house. Harmony House LLC recruited tenants from rehab programs, hospitals, shelters and jails, promising services and compelling them to sign a document agreeing to limit their stay to six to nine months and to attend an outpatient program at CIS Counseling Center.

### Profiteering from Improper Medicaid Claims

The Greenpoint Hotel, which charges residents approximately \$215 per month per room, rented each of the 89 back rooms to Harmony/CIS for \$1,225 per month, six times above the lawful regulated rent. Harmony/CIS crammed two people into each tiny room, collecting \$430 per month per room. Additional profits came from billing Medicaid \$77 for each outpatient session it unlawfully required residents to attend. Affidavits from tenants indicate that visits to the CIS Counseling Center—as many as five per week—consisted of a 15-minute check-in with no services provided.

### MFY Files Class Action Suit to Uphold Rent Stabilization Laws

MFY filed suit in Brooklyn Supreme Court to end Harmony/CIS’ illegal eviction of tenants, showing that the units in question were rent-stabilized and that the agreement tenants were forced to sign limiting their tenancies was a contract of adhesion and therefore illegal. Shortly after the suit was filed, CIS announced it was going out of business and surrendered its lease. The Greenpoint Hotel’s landlord told the court that he had taken possession of the property and was intending to lease the Clay Street House portion to a



new prime tenant and wanted to deliver the premises unoccupied. Unfortunately, the judge ignored the law and held that the tenants were “licensees,” and directed the landlord to proceed with eviction proceedings in housing court based on that status.

MFY filed an appeal of the judge’s decision. In the meantime, MFY is representing 51 tenants who have received eviction notices in housing court.

“These tenants are again facing homelessness,” said MFY Supervising Attorney Christopher Schwartz. “SROs are the housing of last resort for poor single people in New York City and we are not going to allow this housing to be taken over by three-quarter house operators so they can reap huge profits by exploiting people who need real help and perpetuating the cycle of homelessness.”