Helping People with Criminal Records to Enter the Workforce

MFY Removes Barriers to Employment

“I have never had an option in my life. Now I have options.” That was Jared’s (not his real name) reaction when MFY Attorney Bernadette Jentsch called to tell him he had won his appeal to the New York Department of State and had been granted a license to work as a security guard.

A year earlier Jared had worked successfully as a security guard for several months but his employer could not offer him a permanent job until he secured a license. Since he had a past criminal record, he had to show that he was rehabilitated and was otherwise eligible to be licensed despite his convictions.

Jared’s life had been difficult. He had periods of homelessness and several violations and misdemeanors. Despite these obstacles, he was working hard to get his life together. He had a clean record for the past four years and was employed part-time at an overnight delivery company. With help from MFY, he was able to document rehabilitation and present credible testimony at his hearing. For Jared, having another employment option was a new and welcome experience.

MFY’s work to help ex-offenders re-enter the workforce is part of a larger commitment to economic justice that takes many forms, from securing unpaid wages for workers whose employers have violated federal and state wage and hour laws to defending low-income consumers from unsavory debt collectors. In tough economic times, when competition is stiff even for low-wage jobs, protecting workers’ right to be properly compensated and what it personally meant to them to have their hard work recognized is vital.

MFY’s work to remove barriers to employment has had a particularly profound and lasting impact on the lives of people with criminal records who are trying hard to secure jobs that will give them a new start in life. Begun several years ago as a small part of MFY’s Workplace Justice Project, the program has grown in both size and scope as more people seek access to secure licenses as security guards or taxi drivers or to remove errors from their records so they get a security clearance in order to work.

A License to Work

“Many young people wind up with criminal records simply because they exercised poor judgment,” said Ms. Jentsch. That was the case of James (not his real name) who came to MFY seeking help to become a Licensed Practical Nurse (LPN). Eleven years earlier, as a college freshman, he was intoxicated and wound up in someone else’s apartment. Although nothing was stolen, he was given five years’ probation for burglary. After working in several retail jobs and as a certified nurse’s assistant, he completed an LPN program and had a job offer pending approval of his license. MFY helped James craft his license application statement in which he explained his single offense, helped him gather proof of rehabilitation and represented him at the initial investigative interview. His license was approved and he is happy to finally be working in a field he enjoys that offers a decent salary and opportunities for advancement.

A Ticket Turns into A Crime

Carlos (not his real name), who lives in Brooklyn, worked as a security guard in New Jersey for several years. When he applied for a New York security guard license he was denied because his record showed he had been arrested for bail jumping in New Jersey, which the New York State Department of State considered a criminal conviction and a basis for the denial. It turns out that Carlos had received a summons because he had fallen asleep on the PATH train after working the night shift, missed his stop, and had an expired train ticket. Since he was not able to pay the fine immediately, he called the number on the summons and was arrested.

Home Care Workers Win $1 Million in Class Action Wage and Hour Settlement

In the first case of its kind in New York State to reach classwide settlement, hundreds of women who care for New York City’s elderly and infirm will share a $1,090,000 settlement in a groundbreaking class action lawsuit against McMillan’s Home Care Agency. The suit alleged that the for-profit company consistently underpaid its workers and never paid overtime, despite frequently asking that employees work more than 60 hours per week.

In 2010, Josefina A. Toledo Montero, a Harlem resident who had worked as a home health aide for three years, came to MFY complaining that McMillan’s was not paying proper wages, not paying overtime, and requiring workers to cover the costs of cleaning their uniforms and purchasing certain supplies. MFY Attorney Lindsay Rothfeder recognized that Ms. Monterro’s situation was typical of many workers at McMillan’s and the suit was initiated as a class action.

Judge Paul Wooten of the New York State Supreme Court, New York City, approved the settlement in early July, which will give each worker a pro-rata share based on overtime hours worked and not paid. The settlement also prohibits McMillan’s from retaliating against employees who complain about wages and hours and requires the company to appoint an administrator to handle complaints about payment of wages or reimbursement of expenses.

At the final court hearing, several former McMillan’s employees spoke movingly about their need to be justly compensated and what it personally meant to them to have their hard work recognized by the settlement. There are some 250,000 home care workers in New York State, and a projected need for another 100,000 over the next decade. In New York City, one in seven low-wage workers is a home care worker, providing crucial care for elderly and infirm patients in and around New York City. Abbey Spanier Rodd & Abrams, LLP and the National Employment Law Project co-counselled the case with MFY.
MFY Seeks Justice for New Yorkers with Disabilities

Over the past year, MFY has intensified its efforts to protect the rights of people with disabilities, filing cases on behalf of tenants with physical disabilities and residents of adult homes with mental illness.

NYCHA Ignores Persistent Complaints about Dangerous Ramp

MFY is representing three tenants in a suit against the New York City Housing Authority (NYCHA) for failing to repair a ramp that is too dangerous for people using wheelchairs, motorized scooters or walkers to use safely, rendering the entrance inaccessible. Filed in U.S. District Court, Southern District of New York, the suit seeks declaratory and injunctive relief as well as compensatory and punitive damages. MFY's complaint states: "The ramp is so dangerous that these women can’t navigate it on their own. Even when they have help, there have been accidents and calls," said Onor Okumakpey, the MFY attorney representing the tenants. "NYCHA has agreed that the ramp needs to be fixed, but after six years of complaints, it still has done nothing."

On one occasion a 67-year-old tenant who has multiple health problems that require her to use a motorized wheelchair traveled down the steep ramp accompanied by her home attendant. Near the bottom, the wheelchair tilted sideways with one set of wheels becoming airborne and the other set sliding out of control toward the metal railing and concrete wall. The tenant, who has suffered three heart attacks and three strokes, was deeply shaken and only averted physical harm when several people nearby caught the wheelchair before impact.

Judge Allows Blind Resident’s ADA Lawsuit against NYCHA to Proceed

In another suit, a federal judge in Brooklyn ruled that a suit brought by a NYCHA tenant who is blind may proceed despite NYCHA’s efforts to have the matter dismissed. In 2010 the tenant sued NYCHA for terminating his tenancy when he failed to respond to written notices, even though NYCHA was aware that he was blind and could not read the notices without assistance. Although the agency subsequently reinstated his Section 8 housing and promised to provide future notices on audio disks, it has failed to do so more than 18 months later.

In denying NYCHA’s motion, the court emphasized that the harm the tenant faces is not only loss of his housing subsidy, but NYCHA’s discriminatory treatment. The suit seeks an order that NYCHA cease its discriminatory practice by providing him with notices in an accessible format. Such an order would ensure that hundreds of others like him will not face homelessness because they cannot read notices.

In addition to MFY, the tenant is being represented by New York Lawyers for Public Interest, Inc., in both of these cases with MFY.

Removing Barriers to Work (continued from page 1)

mons to request a new date by which to satisfy the fine. However, he never received a response or notice and was later charged with bail jumping. He eventually paid the fine and resolved the matter but New York denied his license application. MFY represented him at a hearing and argued that bail jumping in this situation is classified as an offense and not a crime under New Jersey law. The Administrative Law Judge agreed and held that Carlos’ offense was a violation and not a crime under a similar New York law and granted his license. Carlos can now be considered for promotion at his current assignment.

New York. MFY has been able to expand the number of re-entry services, to provide rehabilitation to facilitate re-entry into the workforce. MFY’s work has enabled scores of people with criminal records on cleaning up rap sheets and documenting rehabilitation to facilitate re-entry into the workforce. MFY has been able to expand the number of clients served with help from Ropes & Gray LLP, whose associates are representing people with past criminal records in appeals of licensing denials.

MFY’s work has enabled scores of people with past criminal records to re-enter the workforce. The project receives generous support from the Bernard F. & Alva B. Gimbel Foundation, the New York City Council and the Fortune Society.
Chain Store Pays Damages after Breaching Reasonable Accommodation Settlement

In 2009, MFY negotiated a settlement between a major drugstore chain and an employee who suffered from plantar fasciitis, a painful foot ailment, which required the store to split the employee’s duty evenly between working the cash register and working the store aisles, and to pay $15,000 in damages. By alternating responsibilities throughout the workday, the employee was able to avoid the severe pain caused by standing behind the register for her entire eight-hour shift.

The store did not keep its end of the bargain, and continued to assign her overwhelmingly to the register. In 2011, MFY filed a discrimination charge with the New York State Department of Human Rights (DHR) and requested assistance to enforce the settlement. DHR issued a probable cause determination a few months later, which led to new negotiations and a settlement of $35,000 in damages for the client, a letter attesting that she is a satisfactory employee, plus attorney’s fees.

MFY's Carolyn Coffey Receives NYCLA's Public Service Award

Carolyn Coffey, Supervising Attorney of MFY's Consumer Rights Project and Low-Income Bankruptcy Project, was one of the attorneys who received the New York County Lawyers’ Association Public Service Award on September 12, 2012. The award recognized her achievements in representing low-income consumers and in winning greater protections for all New York consumers. Her efforts included a 2008 report, Justice Deceived, which exposed rampant “sewer service” in the debt collection industry, and successful advocacy for city legislation to protect consumers from shoddy process serving.

MFY Settles Appeal of NYCHA's Refusal to Allow Tenant to Keep Emotional Support Dog

When the New York City Housing Authority (NYCHA) ordered Ms. K to remove her service dog from her apartment, she refused, stating that the dog is the only thing in her life that brings her joy and loves her unconditionally. Ms. K, who has had many setbacks in her life, relies heavily on the dog for emotional support.

The dog in question is a large, friendly and exuberant pit bull who accidentally nipped the hand of a neighbor who routinely gave the dog treats. MFY Attorney Dinah Luck focused on the Fair Housing Act and steps that the client was willing to take to mitigate any potential threat. After the judge indicated that she was inclined to reverse NYCHA's decision, she gave the agency the opportunity to settle the case. NYCHA agreed to allow Ms. K to keep the dog on the condition she muzzle the dog when taking her out of the apartment. Ms. K readily agreed.

MFY Wins Decision in Non-Traditional Family Succession Case

After a three-day trial in Housing Court, MFY Attorney Scott Stamper won the right of his client, Mr. A, to succeed to the tenancy of the woman he considered “mom.” Mr. A was a teenager when he first met Ms. V, with whom his father was living. They developed a close relationship and Mr. A began calling her “mom.” Thirteen years later, in 2005, Ms. V’s health declined and Mr. A agreed to move in and care for her. For the next five years, Mr. A and Ms. V shared their lives together. Mr. A contributed to the household expenses and, as Ms. V’s health worsened, he helped Ms. V bathe and dress and performed all of the household tasks. After hearing the testimony of family members and friends, the judge concluded that they had “a loving, emotionally committed and financially interdependent relationship and were thus a family in every respect.” The victory allows Mr. A to remain in the rent-stabilized, affordable apartment.
MFY Honors Cleary Gottlieb and Willkie Farr for Commitment to Externship Program

MFY honored Cleary Gottlieb Steen & Hamilton LLP and Willkie Farr & Gallagher LLP at its annual benefit on June 13, 2012 for their outstanding commitment to pro bono service through their externship programs with MFY.

Cleary Gottlieb was the first law firm in the United States to provide public interest externships, a commitment it has continued for the past four decades. Cleary has been involved with MFY since the late 1960s and established a formal externship program in 1973. Willkie Farr & Gallagher launched its externship program with MFY in 1989.

Guests at the benefit watched a short video in which externs spoke of their experiences.

“On a day-to-day basis I was in control of my caseload, I was in control of my schedule. More practically, going into court with witnesses and cross-examining people on the stand is normally not something I get to do on a day to day basis,” said Anna Burns, a former Willkie extern.

“There is really no better feeling than having a client who literally would be homeless if you weren’t able to assist them . . . to prevent that is really an amazing feeling,” said Lauren Haldeman, a former Cleary extern.

Externs handle cases from intake through disposition, engage in motion practice, make decisions on cases, a regularly appear in court where they gain valuable litigation experience. Together, these two firms have contributed 60 years of service, providing advice, counsel and representation to more than 12,500 clients.

Ropes & Gray Begins New Externship at MFY to Help Seniors to Avoid Eviction

On July 9, 2012, Bharathi Pillai became the first Ropes & Gray associate to join MFY’s staff as an extern. A second year associate who worked on government enforcement matters, she is now working in the MFY’s Seniors Project, helping older adults in place with dignity in their own homes. The Project provides representation in housing court to Manhattan residents over age 60 who are facing eviction, and helps seniors with Medicare, Medicaid, Social Security and public benefits problems, consumer issues, and access to health care.

“I’m really proud to be the first Ropes & Gray extern at MFY. The firm has a strong commitment to pro bono work and this experience is giving me the opportunity to work directly with clients and manage a large caseload. I’m dealing with a lot of issues at once, and I’m much more confident going to court. There are great people to learn from here, and everyone is always willing to help, no matter how busy they are. I will definitely recommend this externship to my colleagues.”

MFY Awards Breakfast Honors 350 Volunteers

MFY honored 350 pro bono attorneys from 48 firms at its Pro Bono Recognition and Awards Breakfast in April. Among those specially honored for outstanding service were Keith D. Marlowe, an associate at Paul Hastings LLP, for representing kinship caregivers in adoption cases and supervising some 60 associates at the firm who are also participating in the project. Richard L. Levine, a partner at Weil, Gotshal & Manges LLP received MFY’s Partner in Justice Award for leading a team from his firm that is pursuing a class action lawsuit against a three-quarter house operator and substance abuse program that exploit tenants.

Also receiving the Partner in Justice Award was a team from Patterson Belknap Webb & Tyler LLP that is litigating a class action lawsuit against several three-quarter house operators for deceptive practices and violation of housing laws.

City Councilmember Daniel J. Garodnick received MFY’s Champion of Justice Award for his leadership in passing city legislation to provide greater protections for consumers.

THANK YOU


Pfizer Helps MFY Launch Nursing Home Residents Project

With generous seed money from Pfizer, Inc., MFY launched the Nursing Home Residents Project (NHRP) in February to enable nursing home residents and their families to get legal help. The project continues the work of Friends and Relatives of the Institutionalized Aged (FRIA), which suspended operations in 2011.

The NHRP is modeled on MFY’s groundbreaking Adult Home Advocacy Project, which provides trainings, advice, and legal representation that have resulted in systemic reforms that have benefitted thousands of adult home residents.

“In the 20 years since we launched our Adult Home Advocacy Project, MFY has helped countless adult home residents to assert their rights to dignity, respect, and care in more integrated settings,” said MFY’s Executive Director, Jeanette Zelhof. “We are now undertaking a similar initiative to provide those essential services for the over 40,000 New Yorkers who live in nursing homes.”

The project began by operating a toll-free helpline and will soon hire a full-time attorney to address a range of issues, including abuse and neglect, civil rights violations, improper discharge planning, and unfair consumer practices.

The NHRP helpline at 855-444-6477 is open Tuesdays (10 am-1 pm) and Thursdays (2 pm-5 pm); beginning October 1, it will operate Monday through Friday, 10 am-5 pm.

“We have already seen cases in which a person entered a nursing home for rehabilitation but no steps were taken to ensure that his affordable apartment would be there when he got out,” said Kevin Cremin, MFY’s Director of Litigation for Aging and Disability Rights. “If someone loses an affordable apartment, it is unlikely that he will find another one. He’s stuck in a nursing home, when he is capable of living independently and wants to return to his home.”