

in brief

Victory in Adult Home “Headhunter” Case

In September 2006, MFY and Patterson Belknap Webb & Tyler LLP filed suit in federal court on behalf of one former and three current adult home residents who are elderly and mentally disabled. The lawsuit alleged that they were exploited by Blossom Glass Reyes, a “headhunter” who receives fees for placing people in adult homes. The suit charged that in addition to pressuring people into inappropriate placements in exchange for money, Glass Reyes and her associates stole more than \$40,000 from three of the resident plaintiffs. Three of the four plaintiffs reside at the New South Shore Manor Adult Home, which the suit charges actively participated in the scheme to steal residents’ funds.

MFY and Patterson settled this lawsuit for monetary damages and injunctive relief in October 2007. Each of the four plaintiffs received a significant amount of money, and the defendants agreed to comply with extensive injunctive relief. New South Shore Home for Adults agreed to stop paying placement fees to people who identify individuals for placement at the home. Glass Reyes and her associates agreed to forever cease operating or providing services of any type in New York State to people with any mental or psychiatric disabilities.

The majority of funds from the settlement have been placed in a special needs trust for the plaintiffs to pay for expenses that are not covered by government benefits. Thus far, the plaintiffs have used the funds from the settlement to purchase a computer and clothes.



MFY Urges NYCHA to Play by the Rules

In testimony before the New York City Council’s Subcommittee on Public Housing, MFY Attorney Runa Rajagopal charged that the housing authority routinely recommends that tenancies be terminated before any effort is made to investigate the facts and resolve issues. Citing numerous cases of residents with mental disabilities who received notices of termination, Ms. Rajagopal showed that NYCHA Housing Managers routinely ignore NYCHA’s policies and procedures, which require that they attempt to resolve problems and prevent “the development of conditions which might lead to termination of tenancy.” NYCHA specifically directs Housing Managers to discuss matters with tenants and make referrals to social agencies to correct problems.

For mentally ill NYCHA residents, a termination of tenancy can result in homelessness—a disastrous result for the tenant, and one that can cost the city tens of thousands of dollars in homeless services. Ms. Rajagopal urged NYCHA to improve training and orientation of Housing Managers and to allocate resources to pre-hearing interventions that can resolve problems and “alleviate the time consuming, intimidating, and dehumanizing hearing process where public housing tenants are often held to a higher standard of conduct than other tenants living in private apartments.” (The full testimony can be found at www.mfy.org/news/testimony.)

MFY Launches Lower Manhattan Justice Project



L to R: Extern Katie Cooper and MFY Staff Attorneys C.J. Masimore and Donna Chiu joined hundreds of tenants at City Hall on March 12 to mark the signing of a new bill against tenant harassment. MFY’s Lower Manhattan Justice Project will support tenant groups and provide legal backup to housing organizations.

MFY was one of 33 organizations recently funded by the Lower Manhattan Development Corporation (LMDC) to address community needs in areas south of Houston Street, particularly Chinatown and the Lower East Side. MFY’s Lower Manhattan Justice Project promotes economic and cultural diversity in the area by increasing access to justice for low- and moderate-income residents and area workers, especially those whose wellbeing was affected by the events of 9/11.

Staffed by two attorneys and a community organizer, the project works closely with neighborhood organizations and workers’ groups to identify and address the unmet legal needs of community residents and workers who cannot afford a lawyer. In addition to advice, counsel and represen-

tation for individuals on housing, employment, consumer and other matters, the project will conduct workshops for tenants, seniors, and workers, and will provide training for social service providers, tenant organizations, and neighborhood advocates on a wide range of legal topics.

“Residents and workers in Chinatown and the Lower East Side were hard-hit by 9/11,” said Jeanette Zelfhof, MFY Interim Executive Director. “We’re thrilled to be able to put more resources into these communities.” MFY will receive \$1 million over four years. Funding from LMDC is made possible through Community Development Block Grants from the U.S. Department of Housing and Urban Development.



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WINTER-SPRING 2008 Focus on the Working Poor

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MFY acknowledges generous recent support from:

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Celebrating 45 years of free civil legal services to low-income New Yorkers.

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MFY’s 45th Anniversary Dinner & Theatre Benefit

Cocktails & Dinner at the Marriott Marquis Hotel, followed by Broadway’s newest musical, IN THE HEIGHTS

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MFY Fights for Justice for New York’s Working Poor

Close to half of all households living in poverty now include a working adult. The growth of the service sector, disparities in educational opportunities, and welfare reform have created an entire class of working poor New Yorkers. Immigrants now account for 47% of the City’s workforce and most hold minimum-wage jobs. Few if any can afford a lawyer.

To meet the growing demand for services from working poor New Yorkers, over the past three years MFY doubled the number of staff working on employment and consumer issues and increased efforts to reach out to and train workers and consumers on their rights. In the employment arena, MFY’s Workplace Justice Project assists hundreds of low-wage workers with unpaid wage claims, discrimination matters, and denial of unemployment insurance benefits, and helps ex-offenders remove barriers to employment. MFY’s Consumer Rights Project—our fastest-growing practice—helps consumers who are victims of improper judgments, frozen bank accounts, illegal debt collection practices, identity theft, and financial scams.

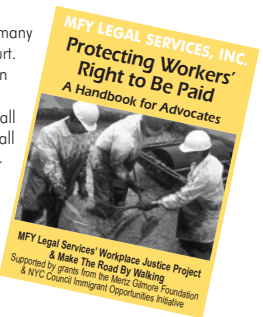
Workplace Justice Project Battles Wage Theft



Almost all immigrant workers have been victims of wage theft at some point. MFY Staff Attorney Anne Marie O’Donovan represents many, including Silvia Medina. Over a four-year period, her employers failed to pay her properly for all the hours she worked as a nanny. Then, she was fired from her job after she fell ill and was hospitalized. A member of Domestic Workers United, Silvia went public at a press conference at MFY’s office last December to draw attention to her case and the plight of domestic workers. MFY filed suit in New Jersey, where Silvia last worked, for back wages and damages. The case is pending. Silvia is one of hundreds of immigrant workers who MFY helps each year to recover unpaid wages.

Silvia Medina and members of Domestic Workers United speak at a press conference at MFY on December 5, 2007. In addition to publicizing Ms. Medina’s case as typical of the kind of treatment nannies, maids and other workers receive, the event drew public attention to Domestic Workers United’s campaign in the NYS Legislature for a Domestic Workers’ Bill of Rights, which would require employers to give notice and severance pay to domestic workers and set a minimum living wage.

MFY also counsels and represents many workers who bring unpaid wage claims to Small Claims Court. Natalie Elias, a nursing assistant whose employer reneged on an agreed-upon rate of pay, is one of many workers MFY helped to collect back wages after winning their cases in Small Claims Court. But many more workers cannot collect on Small Claims Court judgments because they have insufficient information on their employers. To help prevent rampant wage theft among immigrant workers, MFY trains workers and advocates on how to calculate wages owed, document hours worked, and win and collect a Small Claims Court judgment. In addition to the comprehensive handbook pictured here, Ms. O’Donovan is featured in *Workers’ Rights: Preventing Wage Theft*, a video available at youtube.com/NEDAPNYC.



Unjust Terminations and Discriminatory Practices

Many workers find themselves unjustly terminated or discriminated against. When Ms. D was fired from her job at a dry cleaning factory because of pregnancy, her former employer contested her application for Unemployment Insurance Benefits. MFY Staff Attorney Carolyn Coffey secured her benefits after a hearing and then filed a discrimination claim with the Equal Employment Opportunity Commission (EEOC), which resulted in a \$13,750 settlement. For another client who was fired after requesting accommodations because of severe rheumatoid arthritis and who applied for and received Social Security Disability Insurance (SSD), MFY filed a claim with the State Division of Human Rights and won a settlement of \$10,000. MFY Staff Attorney Jadhira Rivera is representing a female construction worker with 20 years’ experience in a case against her union and three companies for routinely passing her over for work in

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Working Poor

(Continued from page 1)

favor of male workers. The case is currently before the EEOC.

Consumer Rights Project Challenges Unfair Debt Collection Practices

Four out of five callers to MFY's Consumer Rights Project have a debt problem. Third party debt collectors buy millions of dollars of old credit card debt and file tens of thousands of lawsuits each year, frequently failing to properly serve the debtors, who find out about the suit when their bank accounts are frozen. The court routinely grants default judgments without the debt collector having to prove that the debt even exists.

The system wrecks havoc of the lives of low-income New Yorkers, many of whom live on fixed incomes or survive on low salaries. When Mr. L found his three bank accounts and safety deposit box frozen, he contacted MFY. MFY Attorney Anamaria Segura discovered that he was named as a co-defendant in a suit in Brooklyn, and that service had been made to an address where he had never lived. With proof of his correct address, Ms. Segura got the suit dropped and the accounts released, but Mr. L was hit with hundreds of dollars in bank charges for the frozen accounts and checks he bounced before he realized the problem, an expense

he cannot afford.

"Even clients who are served and attempt to pay the debt are exploited by debt collectors," said Ms. Segura, who described the case of a young single mother who called the lawyers for a collection company after receiving a legal notice. Believing she was speaking to an attorney, the representative assured her that if she agreed to a payment plan she would not have to go to court. She made four monthly payments only to find her bank account frozen when she went to buy groceries. The suit had not been dropped and a default judgment for the entire amount had been entered against her. She contacted MFY and Ms. Segura represented her in court, where the collection attorney's documents clearly showed she had agreed to a payment plan. The judgment was vacated, and MFY filed a counterclaim against the collection agency.

In addition to providing advice, counsel and representation to hundreds of New Yorkers each year, the Consumer Rights Project is working with consumer groups around the



MFY Staff Attorney Carolyn Coffey (left) presents Natalie Elias with a check for \$5,020 in back wages and fees won in Small Claims Court.

state to encourage passage of the Exempt Income Protection Act, introduced by Assemblymember Helene Weinstein, which will close a loophole that allows credit card companies and debt collectors to use "restraining notices" to freeze bank accounts of poor, disabled and elderly New Yorkers even when all of the money in the account is exempt from collection. "For clients living on Social Security, disability payments, or who simply live from paycheck to paycheck, an account that's frozen for even a week or two can mean no money for food, rent, or medicines," said Ms. Coffey. "It can be absolutely devastating."

MFY Sues NYC Department of Education over Arbitrary Firings

Over the past two years a disturbing pattern emerged among some of the many people with prior criminal records who call MFY for employment help. They were all summarily fired or denied employment with the New York City Department of Education (DOE) because of a criminal record. As each new case came in, it became clear that despite compelling evidence of rehabilitation and a good work record, the DOE summarily rejects the appeals and applications of lower-level employees. It appears that one standard is used for teachers and supervisors and another for aides, clerks, and other support personnel.

Ms. R, a 32-year-old mother of a young child, is a typical case. At age 17 she got in trouble and spent three years in prison. Once released, she worked full-time while attending college and later got a job as a paralegal, working successfully for two law firms before taking a job as an administrative assistant with a non-profit agency that has contracts with the DOE. A routine fingerprint check flagged her as an ex-offender, and the DOE ordered the agency to discharge her without fully considering her record since her youthful offense. The case is currently on appeal.

Ms. A had received glowing evaluations from her principal during her 13-year tenure as a paraprofessional working with autistic children. She voluntarily reported a misdemeanor conviction for which she received probation to the DOE and was discharged. Despite providing proof of her fitness to continue teaching, the DOE rejected her appeal. With no job and a disabled child to support, she wound up on welfare and is now fighting an eviction proceeding.

"None of these women got a fair shake from the DOE," said Ms. Jentsch, who has filed five Article 78 lawsuits against the DOE for discharging employees or rejecting applicants with criminal records without conducting a proper investigation and determination required by law.

MFY also filed a Freedom of Information Law request to the DOE, asking for written policies and other materials that instruct staff on how to investigate cases and make determinations. When the DOE failed to produce relevant documents after repeated requests, MFY filed an Article 78 lawsuit to compel cooperation. At oral argument in January, MFY Attorney Jadhira Rivera showed why MFY believes the DOE had not complied with the request and asked for a hearing on the matter. The judge's decision is pending.

from the docket

Retroactive SSD Award Saves Client's Apartment

Known for her tenacious advocacy for disabled clients, MFY Paralegal Una Perkins moved mountains to overturn a denial of Social Security Disability Insurance for her client, who was facing imminent eviction. Ms. S, a 47-year-old former art teacher who had stopped teaching two years earlier because of severe depression, owed \$9,000 in rent arrears while waiting for SSD approval. Public Assistance had refused to give her a one-shot rent payment and her landlord had won his eviction case against her. While Supervising Attorney Andrew Goldberg got a stay of the eviction, Ms. Perkins convinced the Administrative Judge to move up the SSD hearing date, then pleaded with the judge to expedite her decision. The judge ruled in Ms. S's favor less than one week before she was to be evicted. Ms. Perkins then convinced Social Security to cut a check in time for Ms. S to save her apartment. With a \$1,700 monthly award and \$36,125 in retroactive payments, Ms. S was able to pay her entire back rent and will be able to keep up with expenses.

Buyouts Help Seniors Stabilize Housing

Mr. K, a 72-year-old Harlem retiree, faced eviction after the aunt with whom he lived died. Mr. K wanted to move to senior housing, but needed time and money to do so.

MFY Welcomes New Staff

L-R, top row: C.J. Masi-more, housing attorney; Elise Brown, supervising attorney; Liz Carlin, Mental Health Project organizer; Brian Sullivan, Mental Health Project attorney; Nisha Chandak, housing attorney. Bottom row: Scott Stamper, Mental Health Project attorney; Robin Goeman, Senior Project attorney; Lindsay Bascom, Controller.



MFY Challenges GAL's Authority to End Tenancy

When Mr. G, a 35-year old mentally disabled Brooklyn resident, came to MFY, he had just been evicted from the building he had lived in since he was a child. Although the problem that led his landlord to sue for nonpayment (his roommate failed to pay his portion of the rent) could have been resolved with advocacy with Adult Protective Services and Public Assistance, the city agencies that should have protected Mr. G failed to act. Even worse, his court-appointed Guardian ad Litem (GAL) signed a stipulation surrendering the apartment without contacting Mr. G, who knew nothing of the agreement.

MFY Staff Attorney Dinah Luck filed an order to show cause in Housing Court, arguing that the GAL had no authority to

surrender the apartment and that the stipulation was not in Mr. G's best interests. When the motion was denied, Ms. Luck filed an appeal in the appellate term. The City of New York filed an amicus brief agreeing that the GAL exceeded her authority in surrendering an apartment. In January 2008, the appellate term vacated the stipulation signed by the GAL on the grounds that it was not in Mr. G's best interests and remanded the case to housing court for trial.

Although Mr. G had lived independently for years, the GAL's action has left him homeless for the past two years. He is determined to win back his independence and looking forward to his day in court with representation from MFY.

Rejecting an initial low buyout offer, MFY Attorney Monica Cheng negotiated a waiver of eight months of rent arrears and a \$30,000 settlement with six months to move. Mr. K will now be able to move to more stable and appropriate housing.

Ms. J, a 66-year-old working nanny, was the last remaining tenant in an Upper West Side brownstone that the new owner wanted to convert to a single-family residence. He had managed to buy out the other tenants, but his initial offer of \$60,000 to Ms. J was not enough to enable her to secure affordable housing elsewhere. When Attorneys Patrick

Pearsall, an extern from Willkie Farr & Gallagher LLP in MFY's housing unit, filed multiple papers asking for detailed financials and deposed the landlord, the landlord decided to cooperate. Willkie extern Katie Cooper settled the case, with Ms. J receiving \$300,000 and several months to relocate.

Judge Orders Adult Home to Install More Phones

A NYS Supreme Court Judge ordered Lakeside Manor Home for Adults in Staten Island to install two additional pay phones and cease charging residents for toll-free calls. The preliminary ruling came after MFY Attorney Kevin Cremin filed suit last November on behalf of four residents who alleged that the lack of adequate pay phones violated their rights and created a potentially dangerous situation in the event of an emergency. Regulations require Lakeside to have five pay phones, but the home had only two for 200 residents. The judge also ordered the home to stop charging residents for toll-free calls, stating that "their need to communicate with their families, advisors, healthcare providers, etc. is essential to their well-being." He also incorporated in the recent decision a previous ruling barring the home from retaliating against the residents.

pro bono news

MFY Board Members Answer Call to Prevent Deportation of Korean Immigrant to a Country He Never Knew

Two days before Christmas in 2005, a letter from a young Korean immigrant in prison reached MFY's offices. The 24-year old man, Mr. L, was facing a deportation hearing in four weeks and was desperate for legal help. His predicament and the unusual facts of his case moved MFY's former Executive Director Lynn Kelly to reach out to MFY's Board for help. Board Members **Nancy Morawetz**, professor of clinical law at NYU School of Law and head of its Immigration Rights Clinic, and **Lisa Cleary**, partner at **Patterson Belknap Webb & Tyler LLP**, agreed to help Mr. L. Over the next two years, Cleary supervised a pro bono team at Patterson and recruited additional expert help from outside attorneys, and Professor Morawetz, whose work at NYU has developed new legal theories and set new precedents, spent hundreds of hours supporting the effort.

Derivative Citizenship Thwarted when Family Fled Abuse

Mr. L emigrated to the U.S. with his parents in 1981 when he was nine months old. His father served in the U.S. Army for eight years, and his mother became a naturalized citizen in 1997, when Mr. L was 16 years old. Later that year his mother fled an abusive relationship and moved with her four children to Minnesota. Mr. L's three younger siblings were citizens. Under the law, Mr. L could obtain derivative citizenship only if both parents became citizens, unless the parents were legally separated or one was deceased. Although Mr. L's parents had separated when he was 17, his mother, struggling to support four children on a postal worker's salary, obtained an order of legal separation only after Mr. L turned 18, disqualifying him from derivative citizenship.

"My siblings and I were entirely raised and educated here in the U.S. . . . We speak Korean at an elementary school level, which is insufficient to live a normal adult



The Patterson team and other pro bono supporters celebrate Mr. L's victory at a dinner at the Harvard Club in December, donning T-shirts made for the occasion.

life or make a living in Korea," wrote Mr. L. ". . . deportation would be both a harsh and extreme measure . . . I would like a second chance."

Immigration Court Denies Claim

At a one-day trial at the Immigration Court in the upstate correctional facility where Mr. L was held, the Patterson team, led by Nico Commandeur, argued that the order of legal separation made certain factual findings that his parents had been living apart prior to Mr. L's 18th birthday and that he qualified for derivative U.S. citizenship. Mr. L's mother, his brother, and an expert on domestic violence issues testified at the hearing. The Judge denied the citizenship claim and ordered Mr. L to be removed. Patterson appealed that order to the Board of Immigration Appeals (BIA), which affirmed.

Patterson Appeals and Seeks to Amend Parents' Separation Decree

Refusing to give up, the Patterson team filed a petition for review of the removal order with the Second Circuit Court of Appeals. In the meantime, Mr. L completed his prison term and was transferred by the

"Deportation would be both a harsh and extreme measure . . . I would like a second chance."

Department of Homeland Security (DHS) to a jail in Pennsylvania. While the appeal was pending, Lisa Cleary worked with Minnesota family attorney Bill Mullin to help get an order from that state's family court amending its original decree to recognize the legal separation as effective prior to Mr. L's 18th birthday.

On the eve of oral argument before the Second Circuit last fall, Cleary convinced the DHS attorney to move jointly before the BIA to reopen and terminate the deportation proceedings and to release Mr. L. After brief oral argument, the panel agreed to hold the petition for review in abeyance until the BIA acted, granted a renewed motion for bail, and ordered the government to immediately release Mr. L on his own recognizance. Judge Wesley noted that with immigration cases comprising a third of their caseload, "It's nice to see such fine young lawyers working so hard for pro bono clients."