



The Independent

Law & Disability Issues Conference

Every year the Community Health Law Project presents a free conference on law and disability issues. The conference is sponsored by the New Jersey State Bar Foundation and the New Jersey Institute for Continuing Legal Education, with funding from the IOLTA Fund of the Bar of New Jersey. The most recent Law & Disability Issues Conference took place on March 14, 2013. It began with Keynote Speaker Kenneth E. Kobylowski, Commissioner, New Jersey Department of Banking & Insurance.

2013

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PLENARY SESSION: Health Reform-Implementation and Exchanges

Moderated by John Sarno, Esq., Employers Association of New Jersey, with a panel consisting of Professor John V. Jacobi, Dorothea Dix Professor of Health Law & Policy; Faculty Director, Center for Health & Pharmaceutical Law and Policy, Seton Hall University School of Law; and Joshua Spielberg, Esq., Senior Attorney, Legal Services of New Jersey, Health Care Access Project; and Christine A. Stearns, Esq., New Jersey Business & Industry Association, Vice President Health & Legal Affairs.



*Keynote Speaker
Kenneth Kobylowski*

Workshop 1: Emerging Issues in Civil Rights Law for People with Disabilities This workshop examined such issues as including people with disabilities in emergency planning, the accessibility of point-of-sale machines, and issues of dealing with movies and web accessibility. Moderated by Stuart H. Weiner, Esq., Community Health Law Project, with a panel consisting of

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Law & Disability Issues Conference

Erika Kerber, Esq., Brian Smith, Esq., and Alma Yee, Esq., all of whom are from the Community Health Law Project.

Workshop 2: Accessing Entitlements This workshop discussed common roadblocks to accessing and obtaining services and/or entitlements for people throughout New Jersey. They provided an overview of what strategies seem to be most effective, while emphasizing that access to these services and entitlements is essential to people in need. Moderated by Robert Kley, Vice President and Chief Operating Officer, Mental Health Association in New Jersey, with a panel of peer specialists.



L-R: Brian Smith, Alma Yee, Erika Kerber and Stuart Weiner



L-R: A panel of peer specialists with Moderator Robert Kley

TRAINING SESSION: Systems Navigation—Know Your Rights Peer specialists are increasingly taking on the role of case/care managers of consumers who experience significant barriers to living independently in the community. As the role of peer case management grows, it is important to provide these professionals with the tools that are needed to be effective. This workshop provided an introduction to WorkFirst NJ, Social Security disability and landlord/tenant rules and regulations. Moderated by Ramona De FONZA, of the Community Health Law Project, with a panel consisting of Laurie Egeth, and Alma Yee, Esq., both from the Community Health Law Project.

CHLP Staff Update

- February 2012: Stacy Noonan became the Managing Attorney of our Union/Hudson office.
April 2012: Stuart Weiner became the Managing Attorney of our Mercer/Burlington office, and Ilene Gruenwald became the Supervising Advocate of our Essex/Passaic office.
August 2013: Laura Bagwell became the Supervising Advocate of our Monmouth/Ocean office.

We Would Like To Remember...

Michael D. Lione

Mike was a long time member of the Community Health Law Project's Board of Trustees, and a recipient of a 1988 Ann Klein Advocate Award. An executive with New Jersey Bell and Verizon, Mike retired as a well regarded and respected innovator for those corporate giants. Mike served as the eyes and ears of the company in terms of services to persons living with disabilities. He was a leader in an advocacy group for Verizon employees with disabilities, and instrumental in the company's creation and expansion of its telephone services to persons with hearing impairments. Until his passing in May 2013, Mike was a strong advocate of the Americans with Disabilities Act and its enforcement, particularly its accessibility provisions.



Mike served on many organizational boards in his capacity as a Verizon External Affairs Executive, and also many boards of disability organizations. Mike was the past president of DIAL, an independent living center for persons with disabilities, and served on the board of Disability Rights NJ. He also was an active member of the New Jersey Department of Community Affairs Barrier-Free Subcommittee. In that capacity, he offered practical suggestions on regulatory issues relevant to building construction requirements.

Besides the above involvement, Mike's passion was the sport of basketball. This passion blossomed into a lifetime of participation in basketball as a player, coach, organizer, mentor, and general manager. His involvement included participation in and coaching of wheelchair basketball, and the organization and coaching of youth and adult basketball teams and leagues. Mike was a prominent figure in the Jersey Shore Summer Basketball League. This league consisted of a number of teams whose participants were pro-athletes, college stars, and foreign players. All of them came under the tutelage of Coach Mike Lione. In recognition of his athletic ability and significance in youth and adult sports, Mike had the privilege of being a member of the Olympic Torch Relay for the 2004 Olympic Games.

Mike achieved all of these many accomplishments despite the fact that he was a polio survivor since the age of two, and thus a wheelchair user for most of his life. This did not in any way hinder Mike from having an outstanding career, or from being a strong advocate for those living with disabilities. We recognize Mike for his tireless advocacy on behalf of persons living with disabilities. He never allowed his disability to be an obstacle in his life, and his ability to overcome any challenges serves as an inspiration to all of us.

At the 2013 Ann Klein Advocate Awards, the CHLP's Board of Trustees presented the newly created **MIKE LIONE ACCESSIBILITY AWARD** to Mike's sister, Mary Anne. The award will be presented each year, hereafter, to someone who has made significant accomplishments in achieving accessibility for persons living with disabilities.

The 25th Annual Ann Klein Advocate Awards

On Thursday, October 18, 2012, the Community Health Law Project's annual awards dedicated to the memory of Ann Klein, former Commissioner of the Department of Human Services, were held at The Wilshire Grand in West Orange, NJ. CHLP's Chairperson, Nicholas Stevens, Esq., presided over the presentation of awards to four recipients who were nominated by their colleagues as individuals who have made extraordinary contributions to improving the lives of people with disabilities. The 25th Annual Ann Klein Advocate Awards honorees were:

**Thomas Baffuto, Executive Director, The Arc of New Jersey
Borough of Closter, Bergen County, New Jersey
Robert L. Parker, CEO, NewBridge Services, Inc.
Tenants of Orchard Commons and the Roberts House**

We thank the following sponsors for support of the Ann Klein Advocate Awards and the important work of the Community Health Law Project:

Gold Sponsor: Verizon

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Trenk, DiPasquale, Della Fera & Sodono, P.C.

Bronze Sponsors: Edward A. Kopelson, Esq.; McCarter & English, LLP; Mutual of America;
Starr, Gern, Davison & Rubin, P.C.



*Residents of Orchard Commons
and the Roberts House*



*L-R: Sophie Heymann, Mayor,
accepting for the Borough of Closter;
Thomas Baffuto; and Robert L. Parker*

**The 27th Annual Ann Klein Advocate Awards will take place on
October 23, 2014, at The Wilshire Grand in West Orange.
If you would like to attend, please call Martha Prezuhy at CHLP, 973-275-1175.**

The 26th Annual Ann Klein Advocate Awards

On Thursday, October 17, 2013, the Community Health Law Project's annual awards dedicated to the memory of Ann Klein, former Commissioner of the Department of Human Services, were held at The Wilshire Grand in West Orange, NJ. CHLP's Chairperson, Richard D. Trenk, Esq., presided over the presentation of awards to seven recipients who were nominated by their colleagues as individuals who have made extraordinary contributions to improving the lives of people with disabilities. The 26th Annual Ann Klein Advocate Awards honorees were:

Dr. Cyrus J. Amato, *Medical Coordinator, NJ Institute for Craniofacial Surgery, St. Barnabas Medical Center*
Canine Companions for Independence

Neeta Das, MSW, LCSW, ACSW, *President/CEO, Progressive Comprehensive Services, LLC*
Gibbons P.C.

Elaine K. Meyerson, LSW, ACSW, DVS & Lawrence N. Meyerson, Ed.D., J.D.

Executive Director, Shelter Our Sisters *Rubenstein, Meyerson, Fox, Mancinelli, Conte & Bern, P.A.*

Stuart P. Milsten, *Vice Chair, Board of Trustees, Cheshire Home*

Lione Family, *The Mike Lione Accessibility Award*

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Standing L-R: Debra MacKenzie accepting for Canine Companions for Independence; Stuart Milsten; David Filippelli, Esq., accepting for Gibbons P.C.; Lawrence Meyerson; and Cyrus Amato

Sitting L-R: Mary Anne Lione accepting The Mike Lione Accessibility Award; Neeta Das; and Elaine Meyerson

PREVENTING EVICTIONS BY REQUESTING A REASONABLE ACCOMMODATION

As tenants, people with disabilities have the same rights as everyone else to the use and enjoyment of housing. What happens, however, if a tenant's disability-related behavior leads him to a potential violation of his lease? All too often, landlords seek to evict disabled tenants for disability-related lease violations, despite the fact that under Title VIII of the Civil Rights Act of 1968 (Fair Housing Act), Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act of 1990, and the NJ Law Against Discrimination, a tenant with a disability has the right to request reasonable accommodations to help him comply with the terms of the lease. Upon receiving a reasonable accommodation request, a landlord must discuss this matter with the tenant and may not unreasonably refuse to allow accommodations to housing rules or services. The failure of landlords to comply with these laws is discrimination based upon disability, and is the basis for further legal action.

The first step in seeking an accommodation is to establish a link between the tenant's non-compliance with the lease and his disability. Next, the tenant must show that the requested accommodation will allow him to comply with the terms of the lease. Finally, the accommodation must not be "unduly burdensome" to the landlord.

A common disability-related lease violation occurs when a person with a disability keeps an assistive animal in an apartment, despite a "no pets" clause in the lease. Landlords will attempt to evict tenants who keep a service animal in their apartment, even if the animal is needed by the tenant to assist in his physical and/or mental well being. In these cases, the tenant should request a reasonable accommodation to waive the "no pets" rule. The landlord may not unreasonably deny this request, the tenant can keep the pet, and the eviction proceeding must be dismissed.

Sometimes, a disability may cause a tenant to inflict damage on the property of the landlord, who will then seek eviction. In the case of *Citywide Associates v. Penfield*, a woman who heard auditory hallucinations damaged her apartment by flinging sticks and water at the walls in an effort to quiet the voices. The tenant was able to avoid eviction when the landlord agreed to accommodate her behavior and lessen his damage by giving her a "nerf" bat with which to strike the walls.

A tenant whose aggressive behavior constitutes a "direct threat" to the health and safety of other individuals is subject to eviction. However, even in these "direct threat" cases, if the tenant's disability is the cause of the aggressive or destructive behavior, the tenant is entitled to seek a reasonable accommodation from the landlord; the tenant can be evicted only if the landlord can show that no such accommodation can be reasonably accomplished. To illustrate, we recently represented Ms. B, a mentally ill woman who was not taking her psychotropic medications during the summer, and who consequently was belligerent and threatening to other residents during a community room "cooling center" event. The police were called and eviction proceedings were instituted. CHLP requested and received a "reasonable accommodation" from the landlord and avoided our client's eviction once we established that Ms. B's behavior was a consequence of her lapse in medical treatment and could ensure that she was now fully participating in a structured psychosocial program. In another case, our client Mr. H violated his lease when he was incarcerated after threatening a police officer with a knife during a suicide attempt. As a result, his Section 8 voucher was terminated, effectively evicting him from his apartment as he could not afford to pay the rent without assistance. Once we showed that our client's criminal activity was directly related to his mental illness and proved that he was now compliant with more intensive treatment, the Section 8 termination proceedings ceased.

It is vitally important that tenants with disabilities know the value of the "reasonable accommodation" weapon in their battle against unlawful evictions.

Superstorm Sandy

The Community Health Law Project continued its efforts to assist New Jerseyans who were victims of Superstorm Sandy. The problems faced by individuals and families are many. The issues presented are both related to the immediate crisis of the storm and its long term effects on individuals and families. Some of the current problems that CHLP staff are involved in are the following:

Tax Appeals — *Many clients have been faced with property tax assessments on their property at pre-storm value. Staff are representing clients in seeking to have their taxes reduced since homes have been damaged and some are not even habitable.*

Landlord/Tenant Eviction Prevention — *Many clients have been displaced from their homes and apartments due to the storm. Often they are faced with landlords who have increased rents after renovation, and others have refused to accept the client's rental assistance vouchers, even though they did previously. Staff are representing and have represented clients in court objecting to eviction proceedings and excessive counsel fees. Staff are also helping clients to apply for Sandy Homeowners Renter Assistance Program (SHRAP).*

Contractor and Builder Suits — *Staff are representing clients in both affirmative actions against contractors who have done faulty work or who have not completed the required construction. Staff are also taking action to remove construction liens placed upon our clients.*

New Jersey Consumer Fraud Act — *Staff have encountered a number of cases where unregistered contractors have done work that appears to violate the Act and/or the Home Improvement Act. Staff have filed complaints in Superior Court under the Act, as well as alleging breach of contract.*

FEMA Temporary Housing — *Many of the Law Project's clients have been temporarily housed as a result of the storm while awaiting repairs to their homes. Most of the clients are residing at Fort Monmouth or mobile home parks. FEMA has notified clients that they will have to move or pay market rental. Staff are monitoring the situation to assure that clients are not over-charged for rent or pressured into vacating without warranted reasons.*

To Your Health

The Community Health Law Project's To Your Health program has concentrated this year on two important issues facing our clients: providing assistance in advising and enrolling individuals related to the new Medicaid expansion program and the Healthcare Marketplace under the Affordable Care Act. We have also assisted and represented homebound individuals who have had their healthcare services denied, terminated or reduced by their healthcare insurance carrier.

Healthcare Enrollment - Law Project staff have conducted numerous outreaches to mental health, addiction, and social service agencies to inform their clients about healthcare coverage available under the Affordable Care Act. Staff have educated numerous individuals about the various providers and have assisted many clients to be enrolled in the programs. A majority of those enrolled were found eligible for the new Medicaid expansion program. For others who still were ineligible for the expansion program, but ordinarily would not be able to afford coverage, the federal subsidies in the healthcare exchanges enabled many of our clients to receive the necessary healthcare protection.

This effort included many hours of outreach time to service providers and to clients as well as the tedious effort to work through the web application process of the state Medicaid program and the federal exchange. The staff were able to assist 130 clients to enroll into these very important health insurance programs.

Homebound Services - Law Project staff have also been engaged in assisting and representing many homebound individuals receiving home health care services or seeking to receive said services. Because of changes in the state Medicaid waiver programs during the past year, many more individuals were transferred from a fee-for-service system to a managed care system. This has resulted in clients facing a reduction in the type of service or hours of service.

Staff have represented clients in a number of cases where the new medical assessment by the carrier has resulted in a reduction or termination of Personal Care Assistant Services. Appeals have been requested in both the internal stage reviews and in Medicaid fair hearings before Administrative Law Judges. Clients have been successful in having their services and hours restored or increased in most cases. Additionally, in a number of cases, the matter has been settled favorably before the hearing. Staff have also successfully requested reassessments of our clients, thus reaching favorable results.

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