

Milton Hershey School pays \$700,000 to end HIV discrimination complaint by 14-year-old boy



CNN's Anderson Cooper interviews AIDS Law Project Executive Director Ronda Goldfein about the Milton Hershey School lawsuit on his nightly program.

A 14-year-old ninth grader and his mother, represented by the AIDS Law Project of Pennsylvania, will receive \$700,000 from the Milton Hershey School in a federal AIDS-discrimination lawsuit settlement.

The school also will pay \$15,000 in civil penalties assessed by the U.S. Department of Justice, which thoroughly investigated the complaint and concluded that the school violated the Americans with Disabilities Act.

The settlement requires the school to provide HIV training for its staff and students and to pay an undisclosed amount of attorney's fees to the AIDS Law Project.

The Milton Hershey School in Hershey, Pa., founded in 1909 by the chocolate magnate and his wife, had refused to enroll the honor-roll student solely because he has HIV, saying his presence would be a "direct threat" to the health and safety of other students.

The school held to its position for more than a year, even after the AIDS Law Project filed the suit in November 2011, in U.S. District Court for the Eastern District of Pennsylvania, alleging violations of anti-discrimination laws.

The first triumph came on June 1. In denying the school's request to move the case from Philadelphia to central Pennsylvania, U.S.

District Judge C. Darnell Jones II wrote that "the issue involved in this case is ... relevant to the lives of over one million HIV-infected people nationwide, many of whom are currently in congregate-living settings and are not creating a direct threat to others."

Then, on Aug. 6, Milton Hershey School president Anthony J. Colistra publicly apologized to the student and to his mother,

"This case renewed a nationwide discussion about whether people with HIV represent a risk to others in casual settings. The question has once again been definitively answered: They do not."

Ronda B. Goldfein, Esq.

offered to reconsider the boy's application, and announced "a new Equal Opportunity Policy clearly stating that the School treats applicants with HIV no differently than any other applicants."

Colistra said the school also was "developing and providing mandatory training for staff and students on HIV issues and expanding our current training on Universal Precautions."

The student and his mother have decided it is not in his best interest to attend the school,

See HERSHEY, continued on page 4

NEWSLETTER OF THE AIDS LAW PROJECT OF PENNSYLVANIA

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Good Counsel is published semiannually by the AIDS Law Project of Pennsylvania for our friends, volunteers and colleagues committed to protecting the rights of people with HIV/AIDS.

Last year, we worked on more than 2,900 legal matters, nearly all from people with HIV/AIDS. We help people navigate the legal system, the welfare system, the housing system and the worlds of public and private insurance. We provide education and training to thousands of professionals who work with people with HIV/AIDS.

MESSAGE FROM THE EXECUTIVE DIRECTOR



Dear Friends:

This issue's cover story is a contemporary David-and-Goliath tale.

When "Abraham Smith", then a 13 year old honors student from Delaware County, was denied admission to the Milton Hershey School simply because he has HIV, his mother reached out to the AIDS Law Project of Pennsylvania.

What were we up against? We're a small nonprofit with modest resources, and they are a prestigious and politically connected boarding school with a reported endowment of \$9 billion. But we knew that Abraham was not a risk to the other students, as the school claimed, and we knew that the law protected him.

We took 'em on. And we won.

As a result of our federal lawsuit, the school agreed to financially compensate Abraham for the educational opportunity he lost, to no longer deny admission to students with HIV, and to provide HIV-training for its staff and students.

The case brought international attention to our firm. But for us, it was business as usual. For 25 years, the AIDS Law Project of Pennsylvania has been the David fighting back the Goliaths of the day:

- In 1994, after a Philadelphia ambulance crew refused to touch a patient with HIV, we won the nation's first settlement of an AIDS-discrimination case under the Americans with Disabilities Act, forcing the city to begin training more than 2,000 firefighters and emergency medical workers to prevent discrimination against people with AIDS or HIV in medical emergencies.
• We successfully fought both Medicaid (2003) and Medicare (2010) when those giant public-insurance programs refused to pay for organ transplants for people with AIDS.
• Last year, we convinced the Pennsylvania Department of State to clarify its policy on occupational licensing so that people with AIDS were not unfairly denied employment.

Abraham Smith has a brighter future today because of the AIDS Law Project of Pennsylvania, and because of your support. He may be the best-known, but he's just one of more than 30,000 Pennsylvanians we've proudly represented. We can only take on the Goliaths with your continued support. Please remember us generously this holiday season.

Thanks,

Ronda

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Want to receive Good Counsel electronically?
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Remember us at workplace giving time.

When you donor-designate in your workplace giving campaign, remember your neighbors served by the AIDS Law Project of Pennsylvania.

United Way of SE PA Specific Care Option #09067
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YEARS OF FIGHTING A BUREAUCRACY RESULTS IN A WIN

Many people with HIV are too sick to work and need to rely on some sort of disability payment just to survive. But that doesn't mean they should be prevented from other opportunities they feel well enough to pursue, like going to school.

But does "going to school" mean the same thing as "working"? In one case, we argued the answer is "no."

Our client in that case came to us with a whopping overpayment. The Social Security Administration (SSA) said he needed to repay \$136,000 of Social Security disability payments. SSA said he shouldn't have received any disability payments because he was "working" at the time.

But **Yolanda French Lollis**, Esq., our managing attorney, argued that half of the disputed money was a modest stipend the client received over several years while studying for a university degree.

As all the students in his program received the guaranteed stipend, which is not tied to any work requirements, such as teaching, it can't be counted as work.

Yolanda, who has been fighting for our client since 2007, recently received word that Social Security finally agreed with her and knocked down the amount to \$65,000.

"People with HIV shouldn't be afraid to explore other options when they can't work," she said. "They shouldn't fear losing an essential safety net just because they want to go back to school."

A LONG WAIT PAYS IN JUSTICE SERVED

When clients have little to no income, help from the AIDS Law Project can make the difference between survival and personal disaster.

A homeless client first came to us in 2009, seeking help after the Social Security Administration (SSA) denied his Supplemental Security Income (SSI) benefits. As the SSA's website explains, SSI "pays benefits to disabled adults ... who have limited income and resources" but who don't have a significant work history.

Staff attorney **Asha Ramachandran**, Esq. represented the client at the hearing but an administrative law judge who heard the case turned the man down.

That meant he would have nothing to live on except the state's General Assistance benefit of \$205 a month – but even that was discontinued this summer, leaving him temporarily with no income, except for SNAP benefits (formerly known as food stamps).

This desperately poor client then had to make the difficult choice between appealing the decision, which could take a long time, or applying anew for benefits, which may have been approved much more quickly but at the expense of almost \$20,000 of back benefits. (SSA's policy is to not accept a new application for benefits if an appeal is pending.)

Through Asha's skill and expertise, she was able to explain the options to the client, who decided to appeal. Asha was then able to build a strong case.

"He was depressed and he wanted to know what to do," Asha said. "I told him he had a good case and needed to hold on."

Finally, after a 19-month wait, the Appeals Council reversed the decision, ruling that the judge failed to consider the opinion of the client's health care provider and erroneously decided that despite his severe impairment and age, he could be retrained to do some type of work.

With the decision now in our client's favor, he was granted three years of benefits – about \$26,000. Welfare rules require him to repay the money he received from the state when he wasn't receiving his SSI.

"The balance is his," Asha said. Luckily, the client also has found a place to live where his rent is being paid for him by a nonprofit housing group.

"This is a real win," she added. "We did a lot of work for this client, and he could have had these benefits a long time ago. He deserved them; he was thrilled."



NAVIGATING THE SYSTEM



John Bell 1946-2012

The AIDS Law Project mourns the loss of Philadelphia's John Bell, HIV activist. A memorial service was held Oct. 5. Mr. Bell was featured in our documentary, "Justice Being Done," first screened at our DECADES event in 2008, where it was praised by AIDS Law Project friend and supporter, Academy Award-winning director Jonathan Demme. The documentary can be seen at <http://vimeo.com/12866001>.

Mr. Bell was a long time employee of Philadelphia FIGHT, an AIDS-service organization, and co-created "TEACH Outside," FIGHT's consumer education program for HIV-positive people leaving prison or jail. We extend condolences to Mr. Bell's longtime partner, Gloria Prusakowski.

TAKE A SEMINAR, TAKE CONTROL

Life can be a little easier with the right information at your fingertips. Our AIDS and the Law experts give you the lowdown on how to leave your job, go back to work or handle your landlord. These free seminars are held at our offices at 1211 Chestnut St., Suite 600, just a short walk from the Broad Street and Market/Frankford SEPTA lines, Market East trains and many bus lines.

BACK TO WORK

Your medications are working and you're ready to get a job. This seminar covers the rules of returning to work so you won't lose the benefits that got you healthier in the first place. You'll also learn how to improve your credit rating with your new income.

Second Tuesday of the month, noon-2 p.m.

LEAVING YOUR JOB

Making a smooth transition from the working world onto disability benefits takes planning. This seminar lays out a step-by-step timeline so you know what to expect when it's time to make the move. You'll also learn how to avoid some of the common debt pitfalls leaving a job can entail and how to handle the debt you may take with you into retirement.

Second Wednesday of the month, noon-2 p.m.

HOUSING: TENANTS' RIGHTS AND RESPONSIBILITIES

Before you sign a lease or offer a security deposit, learn what to expect of your landlord and what your landlord can legally expect of you. This program covers protecting and retrieving your deposits, record keeping, qualifying for subsidies, dealing with utilities, and all aspects of the landlord/tenant court process.

Second Thursday of the month, noon-2 p.m.

HERSHEY, continued from cover

and they will use the money to provide other educational opportunities for him.

Ronda B. Goldfein Esq., executive director of the AIDS Law Project of Pennsylvania, said the settlement removes any lingering doubt about whether someone with HIV poses a threat in everyday life.

"This case renewed a nationwide discussion about whether people with HIV represent a risk to others in casual settings," Goldfein said. "The question has once again been definitively answered: They do not."

Goldfein said a settlement of this size acknowledges that the pain of stigma is just as real as any other type of injury or harm inflicted upon a person.

"In this case, our client suffered from learning that simply because he has a virus, he was considered a threat," Goldfein said.

Of counsel **Sarah R. Schalman-Bergen** Esq., who worked with Goldfein on the lawsuit, said the Americans with Disabilities Act and other federal and state laws clearly "prohibit discrimination on the basis of a real or even a perceived disability, including having HIV."

Schalman-Bergen added that the National Association of State Boards of Education determined that "the presence of a person living with HIV infection or

See HERSHEY, continued on page 7

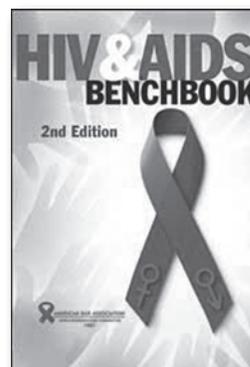
Public Benefits manual and AIDS and the Law handbook still available

The **Public Benefits Advocacy Manual and AIDS and the Law handbook** are available for purchase from the AIDS Law Project.

The Manual is a comprehensive, easy to use guide on eligibility for public benefits in Pennsylvania. Each chapter provides detailed instructions, practice tips, flow charts and examples for case managers and other advocates to ensure that clients get the benefits to which they are entitled. As state-funded cash assistance is no longer available to poor Pennsylvanians, the need to learn about federal public benefits is greater than ever.

The Handbook is an 85-page guide with answers to questions across each of our practice areas. Take advantage of the distilled wisdom of our in-house legal experts on matters from discrimination and health insurance to public benefits and permanency planning for child custody.

Each Manual costs \$75; each Handbook costs \$25. For your own copy, go to our website at www.aidslawpa.org or call our office at **215-587-9377**.



AIDS Law Project contributes to ABA Benchbook

Hot off the presses, the American Bar Association (ABA)'s new book for judges includes a chapter written by AIDS Law Project staff and interns.

The "HIV & AIDS Benchbook, 2nd Edition" is a guide for judges hearing cases in which the HIV status of a litigant becomes an issue in the case.

Former interns **Matt Mossman, Julie Foster** and **Irena Shiloh**, along with our staff, worked on the "Civil Court Proceedings" chapter. Matt, who continues to volunteer for our organization, explains that the purpose of the book is to give judges an accessible guide to how HIV interacts with the law.

"It is designed as a first resource, so that judges will have an idea of what protocols to follow when HIV is at the center of litigation or comes up during the course of litigation," Matt says.

The section deals with HIV in the civil context, including how to decide if a litigant's or witness' HIV status is relevant to litigation, procedures to follow if someone's HIV status came out in the courtroom, procedures to protect the privacy rights of people with HIV during litigation, and a protocol for jury instructions.

For a closer look or to purchase a copy, go to the ABA's Web Store, available via <http://bit.ly/UyGo36>.



SUMMER MOVIE PARTY: ALWAYS A CROWD PLEASER.

More than 100 supporters and camp-film lovers came out in August for the AIDS Law Project's Summer Movie Party, held once again this year at the William Way Community Center in Center City. This year, we screened "Sudden Fear!" with Joan Crawford and Jack Palance. Thanks to The Secret Cinema's **Jay Schwartz** for the movie, and to our guest speaker, film historian **Richard Barrios**. Thanks also go out to **Don Groff** (above left), for the donation from his travel book collection, and to our sponsors, **Philadelphia FIGHT**, **Mark Seaman**, and **Sam P. Gulino**. Beer was graciously provided by **Yards** and by **Philadelphia Brewing Co.** Food was donated by **Tootsie's**, **Donna Cabello** and **Kim Silverman**, **Jose's Mexican Food**, **13th Street Pizza**, **Nina's Kitchen**, and **Pasteleria El Payazo**. And finally, cake and pretzels courtesy of **Ralph Niglio**. Also enjoying the party were **Juan Baez**, **Sarah Schalman-Bergen** and **Matt Mossman** (center photo, left to right). Join our mailing list at www.aidslawpa.org so you don't miss next year's movie!

AIDS Law Project helps with "election protection"

Until early October, Pennsylvania required all voters to present a valid photo ID when casting their vote. To bring awareness to that new law, the AIDS Law Project held informational training sessions to make sure clients and others are able to cast ballots.

Staff Attorney **Juan Baez**, Esq. led sessions in English and Spanish, speaking about the various forms of photo IDs that were to be accepted at the polls on Election Day. Then, a Commonwealth Court judge suspended the law's enforcement until after the November election. But that doesn't mean our work is over.

"The ruling just delayed the law from taking effect," Juan said. "So we still have to educate people on what to do so their vote will count."

In his trainings, Juan explains that Pennsylvanians without valid photo IDs can obtain a free photo ID from PennDOT, the state's transportation department, or from the Pennsylvania Department of State. Moreover, clients who call us with legal problems are asked by our trained intake staff whether they need help getting a photo ID, and were reminded to vote on election day.

Baez and *of counsel* **Sarah Schalman-Bergen**, Esq. also were at the polls on Election Day in Philadelphia, making sure poll workers were not wrongly denying people the right to cast a ballot.



Pennsylvania Re-Starts HEMAP

Homeowners who are at least three months delinquent on their mortgage may be eligible for assistance through HEMAP (Homeowners' Emergency Mortgage Assistance Program).

To apply for HEMAP, interested homeowners must go through a local counseling agency for help in completing a HEMAP application.

We recommend CLARIFI at 1608 Walnut Street, 10th Floor, Philadelphia, PA 19103, phone (800) 989-2227.

At the meeting with the counseling agency, the debtor should take all paperwork regarding their mortgage delinquency, including an Act 6 notice, if they have received one.

Homeowners interested in more information may contact HEMAP toll-free during week-day business hours at 1-800-342-2397.

More information also is available online at www.phfa.org/counseling/hemap.aspx. Or call us for assistance Monday-Friday, 9:30 a.m.-1 p.m. at (215) 587-9377.



The Independence Foundation, a longtime friend of the AIDS Law Project, has issued a challenge grant. The foundation will generously match contributions by new donors or increases by current donors, up to \$10,000. Simply put, your contributions go twice as far.

The match is still going on, and we are well on our way of reaching our goal of \$20,000. So please give today. Visit <http://www.aidslawpa.org/donate> to find out all the ways you can help. Thank you.



From left, the AIDS Law Project's Arlene Vasquez, Ronda Goldfein, and Arlene's father and long time AIDS Law Project supporter Riger Vazquez at the 2012 AIDS Walk in Philadelphia, held October 21. The annual event raises much-needed funds for our organization and others that help people with HIV/AIDS. Around 12,000-15,000 people did a 12 kilometer walk or 5 kilometer run in the Art Museum area, raising approximately \$375,000.

Staff attorney gives a needed voice to a client

When bureaucracies won't listen to our clients, we step in to speak up for them.

Staff Attorney **Juan Baez**, Esq., recently found himself in Harrisburg, our state capital, to help a woman who had been denied Supplemental Security Income, or SSI. The SSI program pays benefits to disabled adults and children who have limited income and resources.

The client had been denied SSI since July 2011 because her local Social Security Administration office in rural Pennsylvania kept miscalculating her finances. Her husband had been receiving unemployment, and Social Security was incorrectly calculating that money toward her own income.

She came to us after other legal aid organizations in her area, already at their maximum caseloads, said they couldn't help her.

"It was an uphill battle," Juan said of the woman's case. "Social Security didn't understand the numbers, and no one had been able to figure it out."

The Social Security Administration finally insisted on a hearing before an administrative law judge in Harrisburg. Juan went to the hearing with the client, where he methodically did the math, explaining why the woman was entitled to SSI.

The judge agreed that, among other things, the husband's unemployment compensation had been incorrectly applied. Ultimately, he granted the woman back payments for the SSI she had been denied and allowed her to get new payments.

"I was glad to be a voice for her," Juan said. "Everyone, including her, was confused. To make matters worse, no one was listening to her. Thankfully, we made things right."

TRAINING AT A GLANCE

In the second and third quarters of 2012, the AIDS Law Project offered several opportunities to learn about AIDS and the law, including in-house seminars on topics vital to our clients and many others. Here's a snapshot of the programs.

TRAINEE DEMOGRAPHICS

April 2012 - September 2012

WHO ATTENDED

31 students
159 case managers and other health professionals
15 other attendees

OFF-SITE LOCATIONS

Cranberry, PA (central Pennsylvania)
Various locations in Philadelphia (southeastern Pennsylvania)

MOST-REQUESTED TOPICS

Back to Work
Public Benefits

SPONSORS

Circle of Care/Family Planning Council
Drexel University College of Medicine, Philadelphia
Health Federation of Philadelphia, a network of the community health centers in Southeastern Pennsylvania
Pennsylvania/MidAtlantic AIDS Education and Training Center, Philadelphia
Philadelphia Department of Public Health, AIDS Activities
Coordinating Office (AAO)
Philadelphia FIGHT
Temple University School of Medicine, Philadelphia

diagnosed with AIDS poses no significant risk to others in school, day care, or school athletic settings.”

Identified in court filings by a pseudonym to protect his privacy, “Abraham Smith” is a public school scholar-athlete who lives in Delaware County, Pa., near Philadelphia.

“I am very glad this is over,” Abraham said. “It should have never been an issue in the first place.

“I will never recoup my eighth-grade year in school,” he added. “Though I had a good one academically, I was too engulfed with this ... to enjoy the fun of going to high school. Now it’s time for me to start healing”

From the day it was filed, the case generated massive media coverage and sparked a firestorm of outrage.

An online petition [<http://chn.ge/P5Qjs6>] at the website Change.org gathered nearly 30,000 signatures demanding that the school issue a public apology.

In an emotional plea [<http://huff.to/RL9BY1>] headlined Shame on the Milton Hershey School!, the actress and social activist Mia Farrow wrote in the Huffington Post: “Abraham’s plight reminds me of the 1980s when Ryan White, a child with AIDS, was not allowed to attend school. It is remarkable that 30 years later, we are still dealing with the same ignorance and discriminatory practices.”

Protesters demonstrated outside the Hershey Co.’s flagship store in New York’s Times Square in March and outside a Hershey Co. stockholder meeting in May. The school is funded by the Hershey Trust Co., the chocolate company’s largest shareholder.

The landmark settlement is the latest victory in the AIDS Law Project of Pennsylvania’s 24-year history of activism on behalf of people with HIV and AIDS.

In 1994, after a Philadelphia ambulance crew refused to touch a patient with HIV, the firm won the nation’s first settlement of an AIDS-discrimination case under the Americans with Disabilities Act, forcing the city to begin training more than 2,000 firefighters and emergency medical workers to prevent discrimination against people with AIDS or HIV in medical emergencies.



Legal Clinic attracts large audience

The LGBT Elder Initiative (LGBTEI) sponsored a free community legal clinic on Oct. 27, where more than 40 people were informed about wills, living wills and other important documents at no cost.

Twenty-five attorneys, paralegals, notaries and other volunteers donated their time to work with 25 of the clinic attendees to complete the legal documents. From our staff were Executive Director **Ronda B. Goldfein**, Esq., of counsel **Sarah Schalman-Bergen**, Esq., staff attorneys **Juan Baez**, Esq. and **Jennifer Collins**, Esq., volunteer **Adrian M. Lowe**, Esq., and intake paralegal **Rebecca Richman**.

“The whole event could not have happened without the AIDS Law Project’s time, commitment, energy and professionalism,” said Ed Bomba, the LGBT Elder Initiative’s communications chair.

The LGBTEI’s Legal Clinic was held at the William Way Community Center in Center City Philadelphia and made possible by a grant from PNC Bank. Mazzoni Center, Senior Law Center, Ballard Spahr, Blank Rome, Jenner & Palmer, and attorneys Amy Steerman and Sarah Barnwell collaborated on the event at which more than 100 documents were prepared.

Changes...

After nearly four years, **Rafiah Davis Gilliam**, our housing attorney, is departing our fold as her new husband Hollis Gilliam takes a job in Atlanta, Georgia. Rafiah was frequently featured in these pages for her work saving our clients from homelessness and keeping their utilities on. We’ll miss her smile and her laugh that echoes through the office, but we wish her well!



Replacing Rafiah is **Jennifer Collins**. She came to us after completing a fellowship in the Housing Unit at Community Legal Services in Philadelphia, where she represented clients in to public housing cases. She is a member of the Pennsylvania bar, a 2011 graduate of Harvard Law School and a 2008 graduate of Amherst College. While in law school, Jenna spent two years as a member of the Harvard Legal Aid Bureau, where she assisted low-income clients in family law cases and government benefits cases. She also spent a summer working at the ACLU’s Women’s Rights Project and another at the Legal Aid Society of Cleveland. Jennifer, born and raised in Cleveland, spends her spare time trying to enjoy watching her hometown sports’ teams play.



Returning to the fold as volunteers are former legal interns **Matt Mossman**, Esq. and **Adrian M. Lowe**, Esq. Matt, a 2012 Drexel Law graduate, has begun his master’s degree in politics at The New School in New York

City but will continue helping us on discrimination cases. Adrian graduated Temple Law in 2012. He rejoins us to work on general litigation and policy. Recently, Matt passed the bar in New York and Adrian passed the bar in Pennsylvania. We welcome them back.



Rebecca Richman, Intake Paralegal, began working for us in July 2012. She came to us from Community Legal Services in Philadelphia, where she volunteered for the Aging and Disabilities unit, helping out on Supplemental Security Income (SSI) and disability cases. She graduated from West Chester University and holds a master’s degree in women’s and gender studies from Rutgers University (New Brunswick, NJ). She enjoys baking and scuba diving.

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Gifts in kind:

Knoll, Inc.
Captivating Queens (and King)
of Illusion
deme
Donna Cabello and Kim Silverman
Dish Catering (John Romano, proprietor)
El Azteca Uno
FitzPatrick Design
flowers & garden by Annie Edwards
Jose's Mexican Food
Las Lomas Grocery & Bakery
Moore Brothers Wine Company
Nina's Kitchen
Pasteleria El Payazo
Printcrafters (now part of CRW Graphics)
David Talento
Tequilas Restaurant
Tres Jalapeños

** The AIDS Law Project is the convener of the HIV Policy Collaborative of Pennsylvania, a consortium of AIDS service organizations active in dozens of counties across the Commonwealth. Collaborative members work together to develop and recommend medically-sound and legally-equitable policies for the management of the HIV/AIDS epidemic and the treatment of people with HIV/AIDS.*

To join, visit our website at:
<http://aidslawpa.org/get-help/legal-information/collaborative>.