Navy veteran fights HIV discrimination

Bonnie Jones sat outside the physical therapy center in York, Pa. for almost an hour after leaving her appointment, seething with anger and indignation. She didn’t think she could drive home until she regained her composure.

Based on what transpired, the AIDS Law Project filed a federal lawsuit in June of this year on Bonnie’s behalf alleging she was denied aquatic therapy because she has HIV.

Bonnie had gone to the center seeking treatment for chronic spine pain and limited range of motion, the result of wearing a bulletproof vest for extended periods during two active-duty tours in Iraq. She had disclosed her medical history, including her HIV diagnosis and medications, during a visit June 18, 2015 to OSS Orthopaedic Hospital and was referred for treatment to Drayer Physical Therapy, located at the hospital.

When she returned on June 26, Bonnie met with a physical therapist, who recommended aquatic therapy.

Although the session had been going well, things changed when he went to the computer to check her records.

“His face suddenly changed,” Bonnie said. “He looked surprised.”

He told her he had to check to see if she could use the pool and left the room, returning a few minutes later.

“Because of your HIV/AIDS, you’re not allowed to go in the pool,” he told Bonnie. “It’s our policy.”

He made his pronouncement in the gym, within earshot of about 25 people. Some of them instantly looked at Bonnie. She had previously told only healthcare workers and a few close friends about her status.

“I just went numb,” Bonnie said. “I couldn’t believe he did it.”

Bonnie’s lawsuit contends that OSS, Drayer and the physical therapist violated federal anti-discrimination laws and the Pennsylvania law on confidentiality of HIV-related information.

The relief sought includes that OSS and Drayer develop an anti-discrimination policy and conduct training for all staff regarding HIV, transmission and universal precautions. The lawsuit also seeks compensatory damages, costs and attorney’s fees.

“We were surprised to hear that a health care provider thought it was unsafe for a person with HIV to use a therapy pool,” said Ronda B. Goldfein, executive director of the AIDS Law Project. “This concern has no basis in science or medicine. It’s discrimination without a reason and it’s against the law.”

Continued on page 4

BACK BY POPULAR DEMAND!

Boo! at bahdeebahdu, Oct. 28

The third Boo! at bahdeebahdu, the AIDS Law Project’s annual Halloween party, is shaping up to be bigger and better than ever.

While all the craziness and zaniness will be back in full force, organizers have come up with several new twists to appeal to everyone.

The evening will start with a limited-seating, three-course dinner, featuring gourmet food and fine wines, followed by a dance party of late-night revelry. Held on a Thursday night in the past, Boo! has been moved to a Friday night this year.

There are two separate admission prices, so attend one or both.

This year’s reincarnation of Boo! is billed as the Celebrities Edition. Halloween costumes have always been a big part of Boo! This year partygoers are encouraged to dress as their favorite celebrity.

“We want a party vibe, with a slight dark side in the Halloween tradition,” said RJ Thomburg, the lead organizer.

Continued on page 4
MESSAGE FROM THE EXECUTIVE DIRECTOR

In 2010, the federal government enacted the Affordable Care Act to improve health insurance quality and affordability, lower the uninsured rate, and reduce the costs of health care. Contrary to what had been hoped, the act has not put an end to discrimination experienced by people with HIV at the hands of some health insurers.

To protect the health-care rights of people living with HIV, the AIDS Law Project of Pennsylvania – in collaboration with Harvard Law School’s Center for Health Law and Policy Innovation and its partners in six other states – has been working to make sure that the act lives up to its promise.

Last year our analysis of health plans available in Pennsylvania found that several insurers designed plans that discourage enrollment by offering HIV medications at cost-prohibitive levels. The ACA prohibits discrimination on the basis of race, color, national origin, disability, age, sex, gender identity, or sexual orientation. But discriminatory plans are more than just a violation of the rules: They threaten the act itself.

If people living with HIV are discouraged from enrolling in discriminatory plans, they will cluster into more affordable plans, putting financial pressure on those insurers who do the right thing. Clustering will force other insurers to raise premiums or limit coverage. Discouraging enrollment in this way will lead to what the Harvard center calls a “race to the bottom” in which some insurers will require people with HIV to pay more and more for their meds.

On Sept. 7, the AIDS Law Project of Pennsylvania and the Harvard center filed complaints with the U.S. Department of Health and Human Services Office of Civil Rights against Highmark, Independence Blue Cross, and UPMC Health Plan, alleging that all three insurers designed plans that discriminate against Pennsylvanians living with HIV.

A few days later we filed complaints against the same three insurers with Pennsylvania’s Department of Insurance.

We hope that these complaints will lead to anti-discrimination standards and will protect insurers who offer affordable access to HIV medications. We’ll keep you posted. For updates, check out www.aidslawpa.org or www.chlpi.org.
HOLDING A LANDLORD ACCOUNTABLE

It was on her first day in her new rented house, after the frenzy of moving in, that the woman noticed the horrendous smell.

“It was horrible,” she said. “It was turning my stomach.”

The woman had hoped her new home would bring some peace to her life after a period of instability. It wasn’t shaping up that way.

The smell was so bad and pervasive that she said it triggered a panic attack and she had to go to the hospital. She never spent a single night in the house, instead seeking shelter with family.

As she later investigated the source of the smell, she went to the basement, which she had not been able to inspect before she moved in.

She found more than a foot of water.

She notified the landlord, who took almost a week to have the basement cleaned.

By that point the woman decided she’d had enough and notified the landlord she just wanted her money back so she could find a new place.

The landlord never responded, so she contacted the AIDS Law Project.

Despite repeated efforts over several months by Malissa L. Durham, an Equal Justice Works Fellow at the AIDS Law Project, the landlord never responded.

While researching the case in landlord tenant court, Malissa saw that the landlord had filed an eviction notice against her client. The landlord knew she had never stayed at the house, but still posted the eviction notice and court date on the front door.

With the woman not at the hearing to defend herself, the judge granted the eviction and back rent to the landlord.

Malissa was eventually able get a new eviction hearing, where the judge reversed the original order.

Then Malissa successfully sued on her client’s behalf in small claims court to get her security deposit back. The landlord didn’t pay within 30 days, as required by law, so the woman was able to collect double the judgment, about $1,900.

“The AIDS Law Project was the first place I called,” she said. “If I’d done it on my own, I may not have gotten anything back.”

RIGHTING A COSTLY SOCIAL SECURITY ERROR

The future looked promising for the young man as he prepared to further his education by attending graduate school.

Then he got an unexpected and unpleasant surprise in March that threatened to derail his plans.

The Social Security Administration notified him that it had overpaid him about $13,500 in benefits and wanted the money back. His monthly benefit also was cut off, money he needed until he was in graduate school.

The man, 33, had been meticulous about his records and thought he had provided all the relevant information to Social Security.

“He was befuddled,” said Jacob M. Eden, a staff attorney at the AIDS Law Project. “He was upset he was receiving these bills.”

The student appealed the decision on his own in April, but was rejected.

Social Security said he should not have been paid in any given month when he had more than $2,000 in his bank account.

The man was aware of the rule, but also thought student loan payments were exempt. He was right. The only months he had more than $2,000 was when he’d received a student loan payment.

“He knew the rules,” Jacob said. “He provided all the information required and he still lost.”

Although he had provided all the relevant information, Social Security said they couldn’t determine the timing and amounts of the payments.

A second appeal would have to go to an administrative law judge, which could take many months. That would have played havoc with the man’s plans for his future. He wanted to sell his house by the end of June so he could move to go to graduate school.

Reviewing the case, Jacob realized Social Security had not given the man a face-to-face meeting, as regulation required.

“They made the decision before doing all the due process,” Jacob said.

Jacob successfully argued that the case should stay in the local Social Security office, avoiding lengthy delays. A personal conference was scheduled in May, which Jacob attended with his client.

But it wasn’t over yet. Although Social Security restarted the man’s $733-a-month benefit, it said it would deduct money for the overpayment, which should never have been imposed.

Jacob was able to deal with that problem with a phone call. Social Security agreed that the man owed nothing.

When his client sold his house, Jacob helped him report it to Social Security. It meant his benefit was suspended again, but that was fine with his client. Those are the rules and he didn’t want future problems with Social Security.

NAVIGATING THE SYSTEM

A CLIENT GETS THE NUTRITION HE NEEDS

The 64-year-old man was losing weight at a dangerous rate, a consequence of his HIV, which he had been living with since 1992.

He was often overwhelmed with malaise. Fatigue was a constant companion.

“It affected every area of his life,” said Adrian M. Lowe, a staff attorney at the AIDS Law Project.

His doctor hoped a liquid nutritional supplement would remedy the decline and wrote him a prescription for three cans a day. He took the prescription to the specialty pharmacy he used, assuming his insurance would cover it.

He had Medicare and Medicaid. He had Medicare because of his work history, and Medicaid through the Medical Assistance for Workers with a Disability program because he worked a few hours a month.

Unfortunately, the pharmacy notified him that his insurance refused to pay for the nutritional supplement.

His only income was Social Security Disability Insurance. There was no way he could pay for the supplement on his own.

“He was discouraged,” Adrian said. “He had thought it would be covered.”

After the man came to the AIDS Law Project in December 2015, Adrian set about figuring out what to do. He learned that Medicaid does in fact cover nutritional supplements, but requires prior authorization, which the client had not obtained.

The medical need must be documented to obtain prior authorization, so Adrian worked with his client’s doctor and nutritionist to assemble all the necessary medical records, a lengthy process.

Adrian was finally able to apply for prior authorization in May and in July the state Office of Medical Assistance Programs approved it.

“He was grateful that he finally got what his doctor had prescribed,” Adrian said. “No one should have to wait that long to get something as basic as nutritional supplements.”
EXPANDING THE FIGHT AGAINST HIV CRIMINALIZATION

More than 300 participants from 34 states, Canada, Mexico and Germany converged on the campus of the University of Alabama in Huntsville from May 17 to 20 for the HIV Is Not a Crime National Training Academy II.

The goal of the event was to build an inclusive, collaborative movement to fight HIV criminalization across the country. A particular emphasis was on bringing people to the table who are often excluded, including youth, transgender women, black gay men, sex workers and immigrants.

“One of the most important things for me is that they did outreach across movements, including young people, the trans community and Black Lives Matter,” said Waheedah Shabazz-El, a co-founder of Positive Women’s Network-USA and a board member of the AIDS Law Project. “We’re bringing people on board.”

The event was a follow-up to the HIV Is Not a Crime conference held two years ago and was co-organized by Sero Project and Positive Women’s Network-USA.

Sean Strub, executive director of Sero Project, told the conference that people living with HIV needed to work together to “define our own agenda, to select leadership of our own choosing, not leadership somebody else is choosing for us.”

The AIDS Law Project was represented by Executive Director Ronda B. Goldfein, who moderated a panel discussion, and Staff Attorney Adrian M. Lowe.

“Leadership should come from the people most affected,” Adrian said. “This conference really put its money where its mouth is.”

Participants worked on state-by-state strategies to modernize or repeal HIV criminalization laws. The conference started on an upbeat note because shortly before it began, the Colorado legislature voted to repeal two HIV criminalization laws.

About 35 states and jurisdictions have HIV-specific statues. In many other states, HIV prosecutions have been pursued under other laws. There have been hundreds of prosecutions, according to Sero Project, and punishments are often vastly disproportionate to any actual harm.

Many of the laws date back to the early days of the AIDS epidemic and do not reflect the dramatic medical advances that have made HIV a chronic, manageable disease.

“What’s being created by these laws is HIV hysteria,” Waheedah said. “But we’re at the beginning of the end of AIDS.”

Pennsylvania does not have any statutes that include HIV as an element of a crime, but prosecutions have been pursued under other laws. The commonwealth does have provisions for enhanced penalties if a defendant has HIV, usually related to prisoners and sex workers.

In 2015, the AIDS Law Project handled 179 legal issues concerning HIV criminalization.

“Leadership should come from the people most affected,” Adrian said. “This conference really put its money where its mouth is.”

Adrian M. Lowe
Staff Attorney AIDS Law Project of Pennsylvania

Boo!, continued from cover

Thornburg and Warren Muller will host the event at bahdeebahdu, their design studio at 1522 N. American St., Philadelphia.

David Hall, of Joshua’s Catering, which emphasizes natural and organic ingredients, will prepare the dinner. The courses will be paired with wines from Moore Brothers Wine Company, which specializes in small-farm, naturally-produced wines.

Beer, specialty cocktails and light fare will be provided during the dance party. Performances throughout the evening will include Brian Sanders’ JUNK, John Jarboe and Heath Allen of Bearded Ladies Cabaret and DJ Sharyn Stone.

The popularity of Boo! has spread thanks to the success of the first two years. Thornburg said he expects the dinner, which is limited to 50 guests, will sell out and the dance party will be packed.

“It’s getting a reputation,” Thornburg said. “It seems a lot of people think it’s the thing to do.”

Order tickets today!

Tickets are $200 for the dinner and dance party, $100 for just the dance party. The dinner begins at 6 p.m., followed by the dance party at 8:30 p.m. Tickets can be purchased by calling 215-587-9377 or going to www.aidslawpa.org.

Goldfein, Adrian M. Lowe, a staff attorney at the AIDS Law Project, and Sarah R. Schalman-Bergen, of Berger & Montague, P.C. represent Bonnie, who is using a pseudonym to protect her identity.

A Navy veteran who served two tours of duty in Iraq, Bonnie is no pushover. She is prepared to deal with the lingering physical consequences of her service. But she is not prepared to take the kind of treatment she got while seeking medical help.

Bonnie said she filed the complaint because “I just want them to know that they can’t do this to people.”

The defendants have denied the allegations.

“After risking her life serving her country in a war zone, Bonnie Jones thought she was ready for anything,” Ronda said. “She never expected to have to fight HIV discrimination after she came home.”

Navy veteran, continued from cover

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Join us for AIDS Walk Philly on Sunday, October 16th

The AIDS Law Project will once again field a team for the AIDS FUND’s AIDS Walk/Run Philly 5K on Oct. 16.


Beginning in 2017, AIDS Fund will be providing support to the most vulnerable people in our community living with HIV by providing emergency financial assistance for critical life needs.

Participating in the AIDS Walk is critical to increasing awareness, fighting stigma, and raising funds to support the most vulnerable people living with HIV disease in the greater Philadelphia region.

Come walk or run with us

The AIDS Law Project will once again be Team #0008. To join the team, call Arlene Vasquez at 215-587-9377 or go to aidswalkphilly.org. Don’t forget to choose Team #0008!

Helping hard-to-reach communities get their affairs in order

The AIDS Law Project is building on its relationship with Prevention Point Philadelphia by offering services to its clients that otherwise may not be available to them.

AIDS Law Project Staff Attorney Jacob M. Eden held a planning documents clinic at Prevention Point’s Kensington office on June 2 to prepare wills, living wills, medical powers of attorney and other documents for Prevention Point clients, free of charge.

Since November 2015, AIDS Law Project staff members have held twice-weekly office hours at Prevention Point, where clients can get free legal help with a variety of other issues.

Jose Benitez, executive director of Prevention Point, and Ronda B. Goldein, executive director of the AIDS Law Project, were inspired to create the planning documents clinic by the death of their friend Samuel Morales, a longtime advocate for the Latino/a community and people with HIV.

Morales had suffered an aneurism and was unresponsive for weeks before he died Jan. 17. Without any planning documents, his stated but undocumented wishes regarding the medical care he wanted at the end of his life could have been ignored.

Jose and Ronda wanted to help Prevention Point clients avoid the same situation.

“We felt it was unlikely many of them would seek out civil legal services or have the money to pay for it,” Ronda said. Providing planning documents has always been a key component of the services the AIDS Law Project provides. In 2015, the AIDS Law Project handled 689 legal issues concerning planning documents, about 12 percent of the total number of legal issues that year.

Prevention Point is the only sanctioned organization that offers syringe exchange in the region and serves a population that can be difficult to reach. It is dedicated to reducing the harm associated with substance use and sex industry work, such as HIV, by promoting health, empowerment and safety.

At the Prevention Point clinic, Jacob met with eight people and completed six living wills, six medical powers of attorney, three wills and one directive as to disposition of remains. Additional clinics will be scheduled in the future to promote the value of planning.

Jose said that although some people prefer to avoid thinking about end-of-life planning, those who attended the clinic came to understand its importance.

“Once people got educated about the process, it became empowering,” he said.
Collins takes on a new role

Jenna Collins, the AIDS Law Project’s housing attorney, isn’t giving up the courtroom, but this semester she’ll also be spending time in the classroom.

Jenna is teaching a community lawyering clinic offered by Drexel University Thomas R. Kline School of Law. The clinic is housed at Drexel’s Dornsife Center for Neighborhood Partnerships.

The clinic is designed to empower students to be community lawyers, leaders, advocates and policy analysts.

Jenna is enthusiastic about the potential of the clinic and the chance to interact with students.

“It felt more natural then expected,” Jenna said. “The students were engaged and enthusiastic.”

At the AIDS Law Project, Jenna represents clients living with HIV and AIDS in housing cases, including evictions, loss of housing subsidies, disability accommodation claims and housing maintenance complaints.

Prior to joining the AIDS Law Project, she completed a fellowship in the Housing Unit at Community Legal Services in Philadelphia.

She is a graduate of Amherst College and Harvard Law School.

Baez appointed to Fair Housing Commission

Mayor Jim Kenney has appointed Juan M. Baez, the AIDS Law Project’s deputy managing attorney, to the Philadelphia Fair Housing Commission.

Juan will join four other members on the commission, which decides disputed complaints through adjudicatory hearings.

Commissioners also can conduct investigations to address unfair rental practices in properties.

“It’s a great opportunity to serve the community and make sure the housing ordinances are applied fairly and equally to everyone,” Juan said.

In addition to his administrative duties at the AIDS Law Project, Juan also handles cases concerning consumer debt, taxes, estate planning, Social Security disability and student loans.

He has a JD from the Thomas R. Kline School of Law at Drexel University and a Masters in Law in Trial Advocacy from Temple University James E. Beasley School of Law.

He is admitted to practice law in Pennsylvania, New Jersey and New York.

Seeking justice with a softer touch

Getting justice for a client doesn’t have to mean filing a lawsuit and fighting it out in court.

A recent case provides an example of what AIDS Law Project Staff Attorney Adrian M. Lowe calls preventative lawyering.

The AIDS Law Project recently helped a woman whose life was in turmoil when she contacted us.

Her husband had become seriously ill and was admitted to a hospital, where he was diagnosed with AIDS. Soon after, she tested HIV positive.

The woman had worked for a small, family-owned business for two decades. She loved her job and considered her boss a major source of support, so she shared her diagnosis.

Although initially supportive, that soon changed. A few days after her disclosure, her boss told her she would have to tell all the other employees about her diagnosis for insurance liability reasons.

If she didn’t, he said, he would fire her.

She didn’t want to tell her coworkers – at that point she had only told two close friends. But she also didn’t want to antagonize her employer or lose her job.

Her doctor referred her to the AIDS Law Project, where she spoke with Lowe and Executive Director Ronda B. Goldfein.

“She felt cornered,” Adrian said. “Everything was piling up against her.”

Ronda and Adrian reassured her that there was no legal obligation to disclose, and that she could take legal action if she was fired because of her HIV.

With their client clear on her legal rights, the three strategized about how to maintain her right to privacy while avoiding a confrontation with her boss.

Clearly, her boss needed to be educated about how universal precautions prevent a risk of transmission in the workplace.

They decided that message was better coming from a doctor, rather than getting an intimidating call from a lawyer.

The woman asked her boss to contact her doctor, which he did. After learning the facts about HIV, her boss said she did not have to inform her coworkers.

Instead, he organized an all-staff training on workplace safety, including universal precautions. The training did not single out the woman or HIV in any way.

“We’re always happy to get a good outcome without subjecting the client to the trauma of litigation,” Ronda said. “Contrary to what you see on television, lawsuits aren’t fun for anyone.”
Malissa L. Durham is leaving after spending two years at the AIDS Law Project as an Equal Justice Works Fellow sponsored by the Norfleet Progress Fund specializing in family law litigation. Malissa, a 2014 graduate of the University of Michigan Law School, also was a summer intern at the AIDS Law Project in 2013. We thank Malissa for her hard work and wish her well.

Faith Serwaa Osam-Gyaabon has joined us as a part-time employee based in our AIDS Law Project of Southern New Jersey office. A lawyer in Ghana, Faith first practiced criminal law before moving to a civil law firm. She has a Masters of Laws degree in Global Health Law from Georgetown University Law Center.

This summer, the AIDS Law Project had four legal interns who assisted with client intake and handled cases and three undergraduates who worked on research projects.

Imani Hudson-Hill is in her second year at Temple University Beasley School of Law.

Priya Mehta is in her second year at Temple University Beasley School of Law and has returned to the AIDS Law Project for the fall semester as an Equal Justice Works intern.

Kadeem Morris is in his third year at Penn State University – Dickinson Law.

Khushbu Solanki, is in her second year at Rutgers School of Law – Camden.

Simon Caskey, a sophomore at Grinnell College, and Andrés Montaner, a sophomore at Penn State University, geo-spatially mapped the locations of callers seeking the assistance of the AIDS Law Project.

Sylvia Strauss, a senior at Davidson College, analyzed HIV criminalization cases in Pennsylvania and New Jersey.

The AIDS Law Project is among the 40 local organizations to be recipients of the 2016-2017 Barra Awards. The award comes with $50,000 in unrestricted funding over two years. The Barra Foundation supports nonprofit organizations dedicated to improving the quality of life in the Greater Philadelphia region.
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*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

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