Thinking that you are having a heart attack is a nightmare. In Philadelphia, thinking that you are having a heart attack when you have a diagnosis of HIV/AIDS can be more than nightmarish – it can be a living hell.

That is what 38-year-old John Gill Smith discovered one morning as he pulled on a shirt to go to work. A coughing fit at that moment meant that the simple, everyday act left him collapsing with chest pain and gasping for breath. Until that moment, it was a normal Tuesday in February 2001 in the Frankford section of Philadelphia. Minutes later Mr. Smith had entered an alternate reality where everything science has said about HIV/AIDS was meaningless.

Mr. Smith’s partner immediately called 911. He was relieved when minutes later they heard the sirens of an approaching ambulance bringing two Philadelphia Fire Department emergency medical technicians (EMTs). Hurriedly, the partner ushered the pair up the stairs to Mr. Smith’s bedroom as he outlined Smith’s medical history, which included high blood pressure, a known risk factor for heart attacks. Just after all three entered the room the partner got to the fact that Mr. Smith has AIDS, and that was when Mr. Smith’s situation turned hellish.

"This victory is not just good for people with HIV/AIDS, it affects every resident of the City of Philadelphia who ever needs an ambulance."

Gregory Liancouras

One EMT pulled her shirt collar over her face, left the house and did not return. The second, watching Mr. Smith hyperventilating on his bed in agony, shouted at him: “Cover your face, or I’m not going to help you! If you cough on me, I can get AIDS!”

The EMT failed to take Mr. Smith’s vital signs, perform an EKG or touch him in any way. Instead, she told him to get dressed if he wanted to go to the hospital. Believing that his life depended on getting to the hospital, Mr. Smith struggled to dress with the help of his partner and another friend.

But, as if the initial response wasn’t bad enough, the remaining EMT would not help Mr. Smith downstairs. So, Smith’s partner and their friend helped him down to the ambulance. While the first EMT stood nearby, the second refused to help Mr. Smith into the ambulance. Mr. Smith managed to crawl into the ambulance on his own and tried to lie down on the gurney but the second EMT wouldn’t let him, saying that he should “Cut the act.” It was all Mr. Smith’s partner could do to hand him the AIDS medications he has to take on a firm schedule before the EMT slammed the doors in his face.

Mr. Smith was taken to Frankford Hospital, where the EMTs ordered him to get out of the ambulance and walk without assistance to a wheelchair a few feet away. Once inside, a triage nurse administered an immediate
MESSAGE FROM THE EXECUTIVE DIRECTOR

Dear Friends:

2006 has been a very busy year for the AIDS Law Project of Pennsylvania.

As you will see from our cover story, 12 years after a landmark settlement in which the City of Philadelphia agreed to stop discriminating against people with AIDS, the city has settled the AIDS Law Project's second AIDS-discrimination lawsuit alleging the city failed to live up to its original promise.

Under the November settlement, the City of Philadelphia once again promises to adhere to a nondiscrimination policy and train all emergency medical personnel on infection control and HIV/AIDS transmission. This settlement makes Philadelphia safer for all its residents.

In September, in an AIDS Law Project case that attracted international attention, a company that broke its promise to pay the health-insurance premiums for a woman with AIDS was ordered by a Camden County judge to set aside $837,357 to pay our client's premiums. Representing a client whose legal woes were brought on from surviving with AIDS – rather than the legal needs associated with declining health – is a reminder of the evolving legal needs of our clients.

In May, we convinced Pennsylvania's State Board of Cosmetology to renounce discriminatory licensing requirements. Pennsylvania, like many other states, has occupational licensing requirements which exclude people with communicable, contagious or infectious disease. Among the occupations with licensing requirements are cosmetologists and barbers. Despite federal, state and local disability discrimination laws people with HIV/AIDS continue to be excluded from certain occupations because of these licensing requirements.

The AIDS Law Project brought our concerns about illegal exclusionary practices to the Bureau of Professional and Occupational Affairs which, in response, issued a letter to all active Pennsylvania beauty schools that the State Board of Cosmetology will no longer require compliance with occupational licensing requirements that conflict with the anti-discrimination laws, clearing the way for people with HIV/AIDS to become or remain licensed cosmetologists.

We managed these victories while responding to almost 2,000 calls for HIV-related legal assistance we received last year. And we do it all with continuously shrinking resources.

We recently sent out our annual fall fundraising appeal. This is our last request of the year. Please give generously. We can only continue the vital work we do all year long with your help.

With best wishes for a healthy and happy holiday season and New Year,
Company that wanted out now in for $837,357

Last spring's issue of Good Counsel told the dramatic but unfinished story of M. Smith vs. Life Partners, Inc. The latest chapter of the story got a happy ending on Sept. 25 when New Jersey Superior Court Judge M. Allan Vogelson found LPI liable for "anticipatorily repudiating its unambiguous obligation" under an agreement with the AIDS patient made in the 1990s.

In that contract, LPI promised to pay Ms. Smith's health insurance premiums for the rest of her life in exchange for the rights to her life insurance. LPI first tried to free itself from Ms. Smith, in 1998, and then again in 2005, when the AIDS Law Project of Pennsylvania took on the case. To prevent future attempts to withhold payment, the judge ordered LPI to set aside $837,357 as security.

The case, which attracted international attention from the media and throngs of bloggers and other Internet users, may yet be unfinished, though, as LPI is expected to file an appeal. Anticipating that maneuver, the judge also ruled that if LPI deposits $75,000 with the court and files a timely appeal, the order would be stayed pending the appeal.

At Ms. Smith's demise or at the end of the policy -- if it ends for any reason other than nonpayment of premiums -- the court will return any remaining balance to LPI.

"As we are happily seeing people with AIDS living longer, healthier lives, we never expected that survival would be the basis of a lawsuit," said Ronda B. Goldfein, Esq., executive director of the AIDS Law Project of Pennsylvania. "We hope that today's ruling will bring Ms. Smith some peace of mind and that every cent of the money in trust will be spent keeping her healthy."

Jacob Cohn, Esq., a trial attorney with Cozen O'Connor who acted as pro bono co-counsel on the case, told the media, "We knew all along that the defendants had no defensible position in refusing to comply with their own contract."

"We are pleased that the court has clearly spelled out LPI's obligation," said Cohn, adding the hope that LPI "will finally do the right thing and abide by Judge Vogelson's decree."

Sapphire Fund helps the AIDS Law Project

The AIDS Law Project of Pennsylvania is proud to be one of three organizations "adopted" for the year by the Sapphire Fund, a volunteer-run fundraising organization that supports the efforts of organizations contributing to the health and well-being of Philadelphia's gay, lesbian, bisexual and transgendered community. This year a donor has offered to match up to $20,000 all new donations made to the Fund, so if you've never given to Sapphire before, this is a great time to start. Information on Sapphire and its two big spring events, Blue Ball and Emerge, can be found at www.sapphirefund.org.
James McBride concert and auction raise $32,000 for the AIDS Law Project

James McBride, saxophonist and author of the international best seller *The Color of Water*, performed with his jazz band on Oct. 28 for the benefit of the AIDS Law Project of Pennsylvania at the Philadelphia Clef Club. The warm-up act was The Young Talents of West Philadelphia, a teenage jazz group. A festive cocktail reception and silent auction were held before the show and during intermission. Altogether, the evening’s proceeds totaled more than $32,000. Thanks to all who helped make this the AIDS Law Project’s most successful fund-raiser of the year.
Circle of friends at the auction includes Jacob Eden, Lindsay Ermey (center) and Sofia Gindburg. Nearly 100 items were up for auction, including dance lessons, artwork and athletic club workouts.

Ellen Benson (left) and Linda Scarazzini share a laugh as Kim Silverman admires a copy of The Color of Water, band leader James McBride's best-selling book.

Silent auction coordinator Joani Leszczynski (left) with Executive Director Ronda Goldfin and Calvin Hughes, the CBS 3 weekend news anchor who was concert emcee. Calvin, an eloquent supporter of the AIDS Law Project, has since moved with his family to a new television position at WPLG in Miami.

AIDS Law Project board member Nancy C. Molock and staff Paralegal Carlos Muñoz at the silent auction and reception.

Those attending the silent auction enjoyed a sumptuous spread of finger foods, including cheeses, vegetables, fruit and shrimp.

AIDS Law Project Public Benefits Attorney Asha Ramnachandra (left) and Cathryn Miller-Wilson offer copies of The Color of Water.

Dr. Constance E. Clayton, former Philadelphia schools superintendent, is flanked by AIDS Law Project Deputy Managing Attorney Cathryn Miller-Wilson (left) and Executive Director Ronda B. Goldberg during a pre-concert chat.

AIDS Law Project board President Katrina Tiagha and board member Darlene Harris survey auction items at the Clef Club.
Continued from cover...

EKG and told him whatever was causing such excruciating pain was not a heart attack. Mr. Smith was sent back into the waiting area and the EMTs drove off quickly without returning Mr. Smith's essential pills to him.

Mr. Smith's partner arrived soon after and, learning that a heart attack seemed unlikely, elected to take Mr. Smith to his regular physician at Hahnemann Hospital. At Hahnemann, Mr. Smith was quickly steered into the emergency room where his vital signs were taken for the first time and he was given intravenous painkillers. Mr. Smith's doctor found that the real cause of the pain was that muscles he had torn the day before had been aggravated by the coughing fit and panic at the thought of having a heart attack. Properly medicated, Mr. Smith went home that same day to call the AIDS Law Project.

For Executive Director Ronda B. Goldfein, Esq., that call was a moment of déjà vu. In a 1994 legal settlement of a similar case, the City of Philadelphia had agreed to a nondiscrimination policy, AIDS training for all its personnel, financial compensation and an apology. That agreement was the first Justice Department settlement under the Americans with Disabilities Act (ADA).

John Gill Smith's complaint was brought by the AIDS Law Project of Pennsylvania and the Philadelphia law firm of Liciacus & Smith, LLP, headed up by former AIDS Law Project board member Gregory Liciacus, Esq. The U.S. Department of Justice intervened in the case in July 2004. The complaint alleged that Philadelphia EMTs violated the Americans with Disabilities Act (ADA) and other antidiscrimination laws in February 2001 by failing to provide treatment to Smith.

Under the November 2006 settlement, the City of Philadelphia agreed to pay $50,000 to Mr. Smith. It also promised, once again, to adhere to a nondiscrimination policy and train all personnel on infection control and HIV/AIDS transmission.

For Goldfein the satisfaction of this victory is tempered by the fact that she is feeling it for the second time. "Anyone who calls 911 needs to feel confident that the emergency personnel understand infection control. We hope that this settlement ensures that all of the city's EMT personnel are finally properly trained and unafraid of sick people who need their help."

"This case involved serious allegations of discriminatory conduct arising from beliefs and attitudes that simply have no place in society," said co-counsel Liacouras, adding that "this victory is not just good for people with HIV/AIDS, it affects every resident of the City of Philadelphia who ever needs an ambulance."

The settlement agreement remains in effect for three years.

Mr. Smith survived the experience and no longer lives in Philadelphia.

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**New CDC guidelines call for universal HIV testing**

More than one million Americans are infected with HIV but 25 percent of those cases are undiagnosed, according to the Centers for Disease Control and Prevention (CDC). Public health pundits long have been shaking their heads over that, since not knowing one's HIV status can lead to inadvertent transmission of the virus and a late start to medical care that can prolong life and improve its quality.

To address the problem, the CDC announced new guidelines in September calling for the HIV test to be administered to everyone between ages 13 and 64 who uses the health care system. The CDC proposes that all patients should be "notified that testing will be performed unless the patient declines," a system called "opt-out screening."

"Separate written consent for HIV testing should not be required," said the panel behind the recommendations. Rather, "general consent for medical care should be considered sufficient to encompass consent for HIV testing."

The AIDS Law Project of Pennsylvania fully supports making HIV testing more accessible but has great concern over some areas of the CDC recommendations:

- As in several other states, Pennsylvania law requires a specific, written release before testing a person for HIV — which we believe is appropriate — and the CDC recommendations are at odds with that.
- Testing without written documentation that the person has been given information about the test — and agreed to it — may result in testing without a client's true permission or knowledge. We are concerned that HIV testing could easily become lost in the blur of other routines.
- Because opt-out screening streamlines testing, it raises the likelihood that some people — particularly those who are timid, intimidated by medical authority, or overwhelmed by the swift pace with which many exams are conducted — might not receive an explanation of what the test means or why it is appropriate for them.
- The CDC guidelines could be counterproductive in that people who are not ready to confront their HIV status may avoid any sort of medical care, including emergency visits, in order to avoid testing.

"We are all for everyone who wants or needs a test getting it, but this is potentially another barrier to people getting tested and treated," says Ronda B. Goldfein, Esq., the executive director of the AIDS Law Project. "HIV is not like any other virus because of the stigma that attaches to it. As a result, the knowledge that a person is positive is not useful or helpful to them if it comes at a time when they are not emotionally ready to deal with it."

"We want people to be actively engaged in their own health care rather than being tricked into testing and treatment," she says, adding that universal testing that includes those who have no risk factors will be an enormous financial burden on an already overextended health care system.

To read the AIDS Law Project's full position paper on the subject, go to: www.aidslawpa.org and click on "CDC Recommendations Response."
Welcome new Board Members

Rasheen N. Davis, Esq., is an associate with Marshall, Dennehey, Warner, Coleman & Goggin specializing in medical malpractice. Rasheen earned a bachelor of business administration degree in risk management and insurance from Temple University in 1996 before working as an underwriter for American International Companies and Liberty Mutual Insurance. A 2002 graduate of the Beasley School of Law of Temple University, Rasheen served as the 2001 Student Bar Association vice president in addition to volunteering with the Consumer Bankruptcy Assistance Project. She is on the board of Center in the Park, a community center that promotes positive aging and fosters community connections for older adults in Northwest Philadelphia, and is a member of the Women Lawyers Division of the Philadelphia Bar Association and the Barristers’ Association.

John J. Franchini, Esq., is an associate in the litigation practice at Morgan Lewis. A 2000 graduate of the University of Virginia School of Law in Charlottesville, he has a B.A. from Lehigh University. In addition to the AIDS Law Project’s board, John sits on the boards of Lehigh University and the Will Rogers Washington Comedy Foundation.

Tara L. Walker, Esq., is counsel for Toll Brothers, Inc., a Fortune 500, publicly traded homebuilder headquartered in Horsham, Pa. Prior to joining Toll Brothers, Tara was an associate in the business and finance department of Morgan Lewis’ Philadelphia office. Tara is a member of the NEXT Committee of the Philadelphia Theatre Company and the White Rock Baptist Church, where she is involved in its Ministry to Youth and Children. She graduated on the Dean’s List with a B.A. from Duke University in 1997 and earned her J.D. in 2000 from the University of Pennsylvania Law School.

Welcome new Staffers

Bradley Lenora joined the AIDS Law Project in September as the criminal records resolution paralegal. A 2002 graduate of Xavier University in Cincinnati with a B.S. degree in criminal justice, Bradley spent the last four years in Philadelphia as an enrollment and matching team specialist with Big Brothers Big Sisters Southeastern Pennsylvania. Prior to that, he spent a year doing intake as a juvenile corrections officer in Cincinnati. Bradley grew up in Milwaukee and is the youngest of five. A football fan, Bradley also enjoys reading and travel.

Beth Slinger, a paralegal, comes to the AIDS Law Project as the recipient of the 2006 Paralegal Studies Academic Achievement Award from the Community College of Philadelphia. Prior to enrolling at the college, she had 20 years of experience in the restaurant business, having managed The Garden, London, Bridgid’s and Bistro St. Tropez. Beth is married to Joseph and they live in Fairmount with cats Sadie and Trixie, and Trixie’s kittens.

...and bid farewell

The AIDS Law Project of Pennsylvania extends its best wishes to Mehreen Zaman, who left us at the end of July to enroll at Boston College Law School.

Intern-al gratitude 2006

The AIDS Law Project of Pennsylvania is again indebted to its spring and summer interns:

Joseph Best, a second-year student at Villanova Law School with a background in public policy/advocacy, HIV prevention and research administration, handled numerous client cases in June and July. Joseph is so committed to the AIDS Law Project that he generously donated a week in his French village house to the silent auction held at the James McBride Concert fundraiser. That item, valued at $500, brought in $700.

Sarah Schalman-Bergen, a third-year student at Harvard University School of Law, joined us in July and August working on financial, employment, disability and confidentiality issues. Watch for information on Sarah’s return in the spring issue of Good Counsel.

Bruce Strong, a senior at Akiba Hebrew Academy in Merion Station, spent his May weeks with us reworking development and publicity files. Bruce is now enrolled at Brandeis University near Boston.

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 real low-down on how to leave your job, go back to work or handle your landlord. These free seminars can help smooth the road ahead.

Housing Law: Tenants’ Rights and Responsibilities

Before you sign a lease or pay a security deposit, learn what to expect of your landlord and what your landlord can legally expect of you. This seminar covers all aspects of landlord-tenant law including security deposits, communicating with your landlord, qualifying and keeping housing subsidies, dealing with utilities, and the eviction process.

Second Thursday of the month
Jan. 11, 12-2 p.m. Feb. 8, 5-7 p.m.
March 8, 12-2 p.m. April 12, 5-7 p.m.
May 10, 12-2 p.m. June 14, 5-7 p.m.

Leaving Your Job

Making a smooth transition from the working world to disability 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 pitfalls of leaving a job can entail and how to handle the debt you may take with you into retirement.

Second Wednesday of the month
Jan. 10, 12-2 p.m. Feb. 7, 5-7 p.m. (first Wednesday)
March 14, 12-2 p.m. April 11, 5-7 p.m.
May 9, 12-2 p.m. June 13, 5-7 p.m.

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 made you feel well enough to work in the first place. You’ll also learn how to rebuild your credit now that you have income.

Second Tuesday of the month
Jan. 9, 12-2 p.m. Feb. 13, 5-7 p.m.
March 13, 12-2 p.m. April 10, 5-7 p.m.
May 8, 12-2 p.m. June 12, 5-7 p.m.
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