AIDS Law Project of Pennsylvania

GOOD COUNSEL

WWW.AIDSLAWPA.ORG FALL 2018

A Celebration and a Renewed Sense of Purpose

After 30 years, the AIDS Law Project mission is still evolving, still vital

In the early days of the AIDS Law Project of Pennsylvania, new hires were warned that their clients might die.

Despite the grim landscape at the time, the small but dedicated staff soldiered on. They helped clients get public benefits and health insurance. They fought the stigma and discrimination that sadly was the norm at the time.

Now, it is with equal measures of wonderment, exhilaration and gratitude that we find ourselves observing our 30th anniversary.

“When we were founded in 1988, the idea was to provide some support, some dignity, to people who were not going to survive,” said Ronda B. Goldfein, who joined the AIDS Law Project in 1992 and became its third executive director in 2000. “We’re now helping people live healthy lives and plan for their futures.”

Managing Attorney Yolanda French Lollis joined the AIDS Law Project a few months after Ronda and has seen its mission change

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Court Approves $17 Million Aetna Settlement

The U.S. District Court for Eastern Pennsylvania in Philadelphia on Oct. 16 approved the $17 million settlement of a class action lawsuit against Aetna Inc. over an HIV privacy data breach.

Aetna agreed Jan. 16 to the settlement after a faulty mailing revealed the private medical information of thousands of its customers in what is believed to be the world’s largest privacy breach of its kind.

The court approval clears the way for settlement checks to be mailed to class members, probably by early January.

In July 2017, current and former customers of Aetna were alarmed when they received letters in envelopes with a large transparent window that accidentally revealed the recipients had been prescribed HIV medications.

Among those who got the mailing was “Andrew Beckett,” a Pennsylvania resident who became the lead plaintiff

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HAVE A HEART
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John Jarboe of The Bearded Ladies Cabaret performs at PEARL: A 30th Anniversary Celebration on Oct. 11. For more photos from PEARL, go to Page 5.

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Steadfast In Protecting Privacy For 30 Years

As much as we know there should be no shame in HIV, we also recognize that it is not safe for everyone living with HIV to be open about it. State and federal confidentiality laws were created to ensure that the fear of disclosure didn’t dissuade people from getting tested and treated for HIV.

For 30 years, the AIDS Law Project has been committed to protecting the privacy of people living with HIV. A client contacted us in August 2017 after receiving a letter from Aetna with a large transparent window revealing that he was prescribed HIV medications. It turned out that the letter was sent to 12,000 Aetna customers who were prescribed HIV medications for treatment or as PrEP, a pre-exposure prophylactic that prevents HIV.

We knew we had to take action. The AIDS Law Project of Pennsylvania, the Legal Action Center, and Berger & Montague, P.C. filed a federal class action lawsuit in August 2017 in Philadelphia.

After the lawsuit was filed, more than 500 people contacted our office to tell us that as a result of the letter, they felt forced to discuss their HIV status and sexual orientation with family, friends, neighbors, church members and employers. Class members on PrEP reported embarrassing conversations about intimate matters to explain their potential risk of HIV.

The case was settled for $17 million on Jan. 16, 2018, and the court granted final approval on Oct. 15. We expect that the checks will be no later than the beginning of January 2019.

While this may be the largest privacy breach we ever worked on, every case in which a person’s private medical information is at risk of unwanted disclosure is important to us. Disclosure, intentional or accidental, has devastating consequences. Our clients have lost their homes, jobs and families once their HIV status was shared without their permission.

Until we can create an environment where our clients don’t need to fear the stigma and discrimination that is often a part of living with HIV, we will remain steadfast in protecting their privacy.

Family Gains A Footing In A New Country

REFUGEES GET HELP FINDING THE PATH TO CITIZENSHIP, STABILITY

Fleeing the violence of a civil war in Liberia that eventually claimed about 250,000 lives, the man moved his family to a refugee camp in Ghana in 1997.

The family stayed in the camp until 2004, when they were able to come to the United States on refugee visas, initially settling in Philadelphia.

Hoping to solidify his family’s place in their new country, the man applied on his own for a permanent resident visa, or green card. He was shocked when he was rejected under the so-called HIV travel ban, which since 1987 had barred entry to the U.S. by people living with HIV or AIDS.

“He didn’t have any idea,” said Yolanda French Lollis, the AIDS Law Project’s managing attorney, who met him when he sought help in 2009.

Yolanda was able to get the man a waiver from the ban and his green card was granted. (The HIV travel ban was rescinded in 2010.)

In 2015, the man returned to the AIDS Law Project seeking Yolanda’s help to become a citizen. At the same time he revealed another problem his family faced.

His daughter, now 19, was born in a refugee camp, where birth certificates are not issued. Her only official identification was the I-94 arrival record created after she left the refugee camp at age 5.

Her father kept the document in his wallet. He lost his wallet two years ago, and she could no longer prove she was in the country legally. If she had been picked up, she could have been detained or even deported.

To make matters worse, although she had graduated from high school and been accepted to a college, she could not get financial assistance.

“She was scared for her future,” Yolanda said. “She didn’t think she was going to get to go to college.”

The only thing the family had was a United Nations document showing they had promised to repay her travel expenses to the United States. Utilizing her strong investigative skills, Yolanda tracked down records that showed our client’s daughter entered elementary school in 2005 and was issued a student ID in 2016.

With those documents in hand, Yolanda requested that Homeland Security reissue the client’s daughter her I-94 arrival record. She can now apply for a green card.

The young woman is now in college and looking forward to a bright future.

To top things off, her father was granted citizenship in August and is now waiting for the ceremony that will make it official.

GOOD COUNSEL BY E-MAIL

Want to get the newsletter electronically? Sign up at AIDSLawPa.org/e-newsletter.
Although she had transitioned her gender more than 40 years ago, the woman had never gotten official identification in the name she had used all her adult life. But she had come to a point where she wanted to broaden her horizons. As a transgender woman and a long-time survivor of HIV, she wanted to share her story to give strength to others in her situation, said Adrian M. Lowe, an AIDS Law Project staff attorney.

According to the Centers for Disease Control and Prevention, 22 to 28 percent of transgender women are living with HIV and an estimated 56 percent of black transgender women are living with HIV. “She wanted to give hope to other trans women living with HIV,” Adrian said. She had opportunities to pursue her goal, having been invited as a panelist to international and national conferences. The problem was she couldn’t get to them. New federal regulations that took effect in January require air travelers to have official identification compliant with the Real ID Act. Without ID that matched her true identity, she would always be limited in her ability to tell her story. She came to the AIDS Law Project for help.

The first step was to legally change her name to the one she had been using her entire adult life, which presented several hurdles. As Adrian worked on her case, he learned she had a criminal record for sex work and a 12-year-old bench warrant she didn’t even know about. Luckily, she had never been convicted of a felony, which could have barred her from changing her name. Adrian helped her resolve those issues and then petitioned the Court of Common Pleas in Philadelphia for a legal name change. But there was one more problem.

Pennsylvania requires name changes be published in two newspapers. Although the woman had a strong desire to interact with the transgender community, she didn’t want to be “outed” to the general public because of the discrimination and violence transgender women often face. Adrian requested an in-camera hearing to ask for a waiver of the requirement. “She testified about friends she had lost to violence as a result of hatred towards transgender women,” Adrian said. The judge granted the waiver and sealed the record of her name change. Finally, Adrian and his client went to the Department of Motor Vehicles and she soon had an ID that matched her true self. “She said she felt like she just won the lottery,” Adrian said.

Despite living with muscular dystrophy and HIV, the 50-year-old Camden County man pushed himself hard to keep up with the demands of his work as a mental health case manager, a job he loved. Then he lost his job to company-wide layoffs and things started to unravel.

He wanted to get back to work immediately in a similar position, but that proved elusive. The jobs he applied for required physicals and he failed them time and time again. His muscular dystrophy, a hereditary condition marked by progressive weakening and wasting of the muscles, had advanced since he was diagnosed about 15 years ago. Reluctantly, he applied for Social Security disability benefits, but was denied and his family’s finances deteriorated. Although his wife took a second job, they struggled to pay the mortgage on their house and eventually could not keep up. They were at risk of losing their home.

Unable to even help out much around the house due to his health, our client gradually slipped further into depression. Then, in September 2017, he realized he needed help and met with Charlotte Hollander, the senior staff attorney at our Southern New Jersey office.

Charlotte reviewed his medical records and realized what probably caused the denial from Social Security, which has specific criteria for what constitutes a disability based on various medical conditions. Although the records included his neurologist’s assessment that he was “clearly disabled,” they did not contain the battery of neurological and functional tests that would meet the Social Security Administration’s criteria. Charlotte discussed the criteria with the neurologist, who reexamined the man, did additional tests and updated his records.

The next step was to appeal the denial to the New Jersey Department of Disability Determination, a process that can take up to two years. It was time the man and his family didn’t have. At an initial review of the appeal in August, the department made a highly unusual decision, approving his application on the spot and granting him back benefits. The man was elated. “It had become a really bad situation,” Charlotte said. “Now they can keep their house. It was a life saver.”
1988: We file several complaints against Pennsylvania physicians for secretly testing people for HIV.

1989: We file suit against a funeral home that used an empty coffin at the memorial service for the deceased. A jury awarded the mother of the deceased $175,000.

1990: We file a complaint against 11 dentists who refused to treat patients living with HIV.

1992: A Bucks County dairy bar settles a discrimination suit we filed on behalf of a worker who was fired because he had HIV.

1994: Philadelphia signs the first consent decree in the country under the ADA after Fire Department emergency medical technicians refuse to treat a man with HIV.

1994: We take action against SEPTA and Rite Aid after a breach of confidentiality of employee prescription records. Rite Aid agrees to modify its billing procedures to prevent future disclosures.

1995: 12th Street Gym pays $35,000 to settle an HIV discrimination suit.

1999: The Pennsylvania Legislature adopts the Standby Guardianship Law, drafted and proposed by the AIDS Law Project.

1999: A Delaware County man who was fired from his job because his partner had AIDS gets a financial settlement.

2001: A national transportation company pays financial compensation after its driver rejects the disability pass from our client, a man with HIV.

2001: Our client, a Peruvian man living with HIV, wins asylum in the United States, sparing him deportation.

2002: A bus company pays a financial settlement to a group of HIV activists it refused to drive to a rally in Harrisburg.

2003: A dentist pays a financial settlement to a man with HIV he refused to treat.

2004: A client gets a liver transplant after we appeal his Medicaid denial. HIV is removed from the state’s list of “life-limiting conditions” as a result.

2006: Philadelphia agrees to financial compensation, a nondiscrimination policy and training after Fire Department emergency medical technicians refuse to treat our client, a man with HIV.

2006: We get the state to clarify that occupational licensing rules that exclude people with an “infectious, contagious, or communicable disease” do not apply to people with HIV, as the virus is not transmitted through casual contact.

2008: A sandwich shop pays a settlement to a worker it fired for having HIV.

2009: A financing company settles with our client after trying to back out of a promise to pay her health insurance premiums for life because she lived longer than expected.

2010: We successfully sue a financial services company who paid death benefits to the ex-wife of our client’s deceased partner, contrary to his wishes and even though they had been divorced for 25 years.

2011: We settle a case on behalf of a single mother of four living with HIV who was fired from her job at a snack-food manufacturer after her supervisors found out her status.

2012: We negotiate a settlement with a national health care staffing firm that rescinded a job offer from a nursing assistant after learning he has HIV.

2012: The Milton Hershey School pays $700,000 to settle a federal AIDS discrimination suit we file after the school refused to admit our client, a 13-year-old honor student, because he has HIV.

2013: A home health care company pays $15,000 to our client after a worker told his uncle to keep the kids away from him because he has HIV.

2013: We settle a case on behalf of a nursing assistant with HIV whose job offer was rescinded after he disclosed his status.

2014: A hospital pays financial compensation to our client who was recovering from surgery, when his doctor disclosed his status to a visitor.

2014: Our client, a worker at a residential facility for troubled youth who was fired for having HIV, is reinstated and gets back pay and compensatory damages.

2015: With our assistance, criminal charges are dismissed against a licensed practical nurse from Lebanon County for not disclosing her HIV status before engaging in consensual sex.

2015: A Montgomery County hospital pays $25,000 to settle
a claim we brought on behalf of a woman who said she was
denied bariatric surgery because she has HIV.

2015: A Philadelphia County physical rehabilitation center
financially compensates our client, a woman who was denied
paraffin wax treatment because she has HIV.

2015: A Lancaster County medical practice agrees to finan-
cially compensate our client after it kicked him and his family
out of the practice because he has HIV.

2016: Following the end of DOMA and the beginning of
marriage equality, we file an immigration waiver for a man
with HIV who was at risk of being deported and separated
from his US citizen husband.

2017: The Philadelphia Commission on Human Relations
grants our client financial compensation in a claim against
a taxi company whose driver kicked him out for kissing
another man.

2017: Our client receives $30,000 from a northeast Pennsyl-
vania residential care facility that fired him five days after he
disclosed he has HIV.

2017: We settle a case on behalf of a Navy veteran with HIV
who was denied aqua therapy at a physical therapy center.

2017: A chef living with HIV and his fiancé, who does not have
HIV, get financial compensation in an agreement we negotiate
after both were fired from a country club restaurant.

2018: Aetna agrees to a $17 million settlement after we
partner with the Legal Action Center and Berger & Montague
on a federal class action lawsuit after a faulty mailing reveals
the HIV-related information of more than 12,000 customers.
Hearts Newsletter Breaks Into Prison

Hearts on a Wire, a collective of transgender and gender variant people and allies inside and outside Pennsylvania’s prisons, publishes a quarterly newsletter. When officials in two state prisons blocked its distribution, the AIDS Law Project stepped in to help.

The newsletter publishes stories, letters and resources for incarcerated people that are a lifeline for a highly marginalized community, both in the prison system and the broader community, according to Adrian M. Lowe, a staff attorney for the AIDS Law Project and a co-founder of Hearts on a Wire.

“It connects them to one another and the community outside,” Adrian said. “It gives them hope.”

Based on Hearts on a Wire’s internal survey, 34 percent of its incarcerated members self-disclosed that they are HIV positive.

In May, Hearts on a Wire mailed copies of its 22nd issue to community members in Pennsylvania state prisons. It was rejected by two of them.

The AIDS Law Project challenged those decisions, arguing among other things that banning the newsletter without a legal basis violated the First Amendment rights of the intended recipients.

The Department of Corrections ultimately agreed that the appropriate process had not been followed and the newsletter was soon in the hands of those it is intended to help.

BOO! V • "SWINE AND PEARLS"

Our annual Halloween party was at BAHDEEBAHDU on Oct. 26. Enlivening the festivities were, left, Kristina “Supa” Hill and Evan Thornburg; below left, Todd Flaherty and Audrey Hoang Ai; and below, Jennifer Segal, board member Bryn Michaels, Adam Williams and Shira Goldberg.

CONGRATULATIONS: Blair C. Dickerson, our intake attorney, was honored with a Tatnall School distinguished alumni award in October. The Tatnall School is an independent, coeducational college preparatory school in Wilmington, Del., founded in 1930. In 1972, Blair was the school’s first African American graduate.

CONGRATULATIONS: Finesse Ross, a member of our board of directors, received a much-deserved honor when she was named one of four Miss Philly LGBT Pride recipients, in honor of their loyalty to the community.

WELCOME: Saybria Nelson has joined the AIDS Law Project as an intake paralegal. She currently is a paralegal studies student at Peirce College. Saybria was a volunteer on our intake team this summer.

FAREWELL: Maggie Schepcaro has left her role as an intake paralegal to study for a master’s degree at Temple University Klein College of Media and Communication. We thank her for her contribution and wish her good luck in her studies.

THANK YOU: This summer we were lucky to have the assistance of two second-year law students from Temple University Beasley School of Law. Josh Davis worked on housing issues and Grace Harris worked on public benefits issues and HIV discrimination.
Aetna Settlement Approved

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in the lawsuit, using the pseudonym of the fictional lawyer with HIV played by Tom Hanks in his Academy Award–winning role in the 1993 movie Philadelphia.

The AIDS Law Project of Pennsylvania, the Legal Action Center and Berger & Montague, P.C. filed the lawsuit in August 2017. The plaintiffs included people taking medication to treat HIV, as well as people who, like Beckett, take PrEP, a pre-exposure prophylactic that prevents HIV.

Aetna improperly shared its legal counsel and a mail vendor the names of 13,487 customers who had been prescribed HIV medications, papers filed in support of the settlement allege. Of those, 11,875 people received the large-windowed envelopes revealing confidential HIV–related information, according to the papers.

Aetna agreed to pay $17,161,200 to resolve the claims. All settlement class members will automatically receive a base payment of either $75 to those whose health information was allegedly improperly disclosed by Aetna to its legal counsel and mail vendor, or at least $500 (including the $75 payment above) to those who received the large-windowed envelope.

Class members also had the opportunity to seek additional monetary relief of up to $20,000 by documenting financial or non-financial harm.

The settlement includes the implementation by Aetna of a new “best practices” policy to prevent similar incidents from occurring in the future, and provides for attorneys’ fees and expenses.

Aetna Settlement Approved

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After 30 Years, Still Vital

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with the times. While originally intended to exclusively serve people with HIV and AIDS, it now also helps people at risk of HIV, including the transgender community and those in the grip of opioid addiction.

“I’m excited that we’re still here, still providing quality services,” Yolanda said. “We respond to the issues in the community as they evolve.”

Aaron Skrypski, president of the AIDS Law Project’s board of directors, said the number of people the organization has helped is overwhelming.

“As we look to the future, the needs of our community and city are evolving, and the AIDS Law Project is committed to being at the forefront of that change,” Aaron said. “We will continue to fight for an end to HIV–related discrimination, while expanding our advocacy work with new vulnerable populations and — most importantly — being a place of refuge for anyone who walks through our front door.”

We observed our milestone with a series of events throughout the year, culminating with PEARL: A 30th Anniversary Celebration, a spectacular evening at the Asian Arts Initiative on Oct. 11, and BOO! V “Swine & Pearls,” our annual Halloween party at BAHDEEBAHDU on Oct. 26.
Our Funders and Donors

Gifts received April 1, 2018 through Sept. 30, 2018

Major Funders, Grants and Contracts
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