



NEIGHBORHOOD
LEGAL SERVICES, INC.

INSIDE NLS

News from the front lines of Neighborhood Legal Services

May, 2019

Holistic Legal Help for Niagara Falls Clients

In mid-April, Niagara County Housing Attorney Matt Finamore assisted a client, “Robert.” The client was facing eviction for non-payment. However, after talking to the client, Matt discovered that there were serious habitability violations. The client also disclosed that the landlord was sexually harassing him and asking for sexual favors in exchange for the water and electricity being turned on in the apartment. Matt called for a habitability hearing, which was scheduled the following week. Matt then discussed with and referred the housing matter to Attorney Michelle Roy, as Robert’s situation would fall under Michelle’s grant. Robert was also referred to Attorney Stan Steele to assist with getting shelter from DSS. At the habitability hearing, Robert was granted 100% abatement of rent and the landlord’s petition was dismissed. The client is still working with Stan to get assistance with moving and storage expenses, and Robert has also been working with Attorney Debbie Olszowka and Paralegal Luis Santos on his Social Security Appeal.

The entire Niagara Falls Office came together to help this client and because of their teamwork, were able to help resolve many of Robert’s legal needs.

*“The day the power
of love overrules the
love of power, the
world will know
peace.”*

- Mahatma Gandhi

**NLS does not use the
actual names of clients
in *Inside NLS*.**



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When you think all hope is lost ...

“Cheryl” was a 30 year-old, married woman with three children ages eight, six and three. Cheryl suffers from lupus nephritis (a chronic, long-term disease that causes systemic inflammation which affects multiple organs) and depression. She couldn’t stand for more than 10 minutes and needed both arms to lift a gallon of milk. Cheryl applied for Social Security Disability Insurance (SSDI) but was denied. SSDI benefits are not income tested but are based on a person’s work record. Cheryl went to a Social Security Disability hearing on her own; she thought with the nature of her disability and the diagnosis she had that she couldn’t lose. She lost at hearing and came to the Batavia office in November 2016 seeking help.

Darlene Westphal, a paralegal in the Batavia office, appealed the unfavorable decision to the Appeals Council which issued an unfavorable decision in May of 2017. Darlene and Attorney Steve Brooks decided to appeal. After Steve filed his brief, the United States Attorney agreed to stipulate to a remand.

Darlene represented Cheryl at the new hearing in January 2019. This time, Cheryl won and the Administrative Law Judge found her disabled back to March 2012.

This case had a profound impact for Cheryl. Because of the timing of the first ALJ decision, even if Cheryl reapplied for benefits she would not have been eligible for SSDI benefits. With her husband’s income, she may not have been eligible for Supplemental Security Income benefits (which are income tested) either. Steve’s appeal and the remand stopped that from happening.

When Darlene called Cheryl to let her know she had won, Cheryl cried. Cheryl was behind in her mortgage and was on the verge of losing her home and her medical bills were stacking up. With the retroactive benefits she will receive, Cheryl and her family are no longer at risk of losing their home. Great job Darlene and Steve.



Teamwork and Quick Thinking Save the Day

Matt Finamore, an attorney in the Niagara Falls office, had two clients approach him just as eviction court was starting. Matt could not help because he had to get into court. Danielle Dunlap, a paralegal in the Niagara Falls office, however, did an intake on them.

The clients owed \$700.00 in rent, but didn’t pay because the apartment had some habitability issues. The clients had only \$600.00 and would not have the remaining amount until early April. They could not pay the rent, or post the undertaking that would be necessary to move forward with a habitability hearing. Danielle suggested that Matt speak to the landlord to see if he could resolve the case while she check into something. The landlord would not budge and wanted the client out. It did not look good.

While Matt was negotiating with the landlord, Danielle, on a hunch, checked who owned the property on the assessor’s website. It turned out that the property was owned by a limited liability company (LLC). The eviction proceeding, however, was not brought by the LLC. Nor was the LLC represented by counsel as required by New York law. Both were grounds for dismissal.

Using that information, Matt was able to convince the judge to summarily dismiss the petition. This gave the clients the time they need to either get the rest of the money or move. Acting on her hunch, Danielle got the petition kicked and bought the client the time they needed!

NLS Good News!

As you all know we are currently undergoing renovation of our Buffalo office. We have survived the first step of the renovation by moving everyone off of the fourth floor and on to the fifth floor. Now we wait until the fourth floor is ready to move back into.

The goal of all of this necessary inconvenience is a safe and appealing space for both our clients and our staff.

The Management Team of NLS wants to thank each and every one of you, including the staffs of our sister offices, for your patience, cooperation and good spirits during this time.

Thank you!!

A Great Outcome for a Mother of Five

“Evelyn,” a section 8 recipient and single mother of 5 children, was forced out of her apartment due to the landlord not making necessary repairs. Rental Assistance Corporation (RAC) had done an inspection and found violations which the landlord refused to repair. RAC abated the rent in an attempt to get the landlord to make repairs but the landlord failed to follow through. Our client continued to pay her portion of the rent during the abatement as instructed by RAC. RAC terminated the Section 8 contract with the landlord after he again failed to make the repairs, which meant the tenant had to move in order to keep her Section 8 voucher.

After Evelyn moved out, the landlord filed in eviction court for nonpayment but as she did not live there anymore, she didn't know about the court date until after the fact. When she did not appear at Buffalo City Court, a default judgment of possession and money judgment were entered against her. Although she was already out of the apartment, her Section 8 voucher was at risk since she now had an eviction record as well and money judgment. Katelyn Niedermier, an attorney in our Buffalo office, reached out to the landlord's attorney regarding the money judgment as the judgment included the RAC portion of the rent which is not the tenant's responsibility to pay. Katelyn worked out a resolution which included a stipulation removing the Section 8 portion from the money judgment and adding a mutual termination of the tenancy.

In the meantime, Evelyn received a termination notice from RAC. Kimberly Kalinka, a paralegal working with Katelyn, represented her in a hearing on March 22, and was able to demonstrate that the client wasn't served properly with the court papers and didn't, in fact, owe rent arrears for any time period covered by the HAP contract. After the hearing, RAC issued a decision revoking the termination notice! The client will keep her Section 8 and she and her children are already re-housed.

Great job Katelyn and Kim!



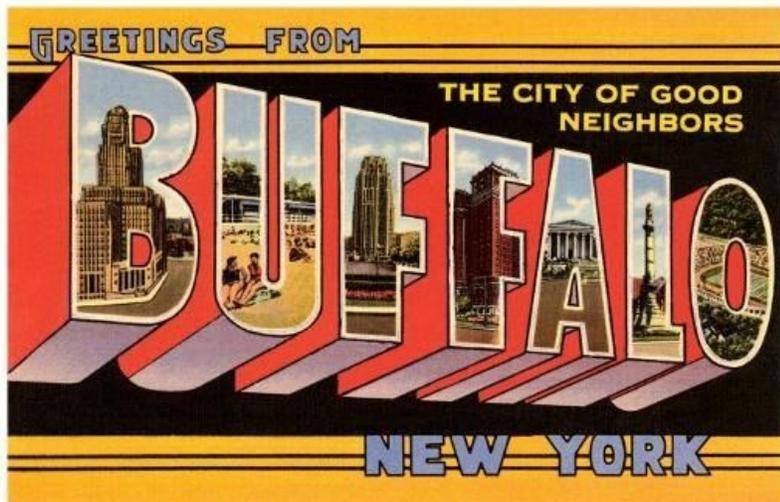
Tax Returns an Issue for Low Income Clients

As part of the public assistance application process, the Department of Social Services (DSS) may require applicants to pursue available resources that may reduce or eliminate the need for assistance. For example, DSS may require that an applicant file a tax return if it believes that the applicant may be eligible for a refund or credit. Because taxes are complicated matter, and many people need help in filing returns. DSS is required to provide applicants with assistance in completion of tax returns. This could include a referral to the Volunteer Income Tax Assistance program (VITA). Where VITA or other free clinics are not available, DSS personnel must help the applicant.

The Niagara County Department of Social Services (NCDSS) was requiring many applicants to file tax returns, but was not providing them with the proper assistance in doing so. Nevertheless, it denied the applications of persons who failed to verify that they had filed the tax returns. NLS took the denials to fair hearings and won. But the denials should not have happened in the first place.

On April 5th, Penny Selmonsky, Karen Welch, and Stan Steele met with NCDSS Commissioner Restiano and his team to advocate on behalf of their clients. NCDSS agreed it would no longer require applicants to apply for taxes outside of times when free tax clinics are available in NCDSS (approximately Jan-Aug).

This will help some of our most needy clients – that is those who need financial assistance but are unable to file tax returns without help. These clients will no longer be denied assistance for failing to file taxes when no free help is available to them.



Have a Story to Share?

Email your story to
Jim Morrissey at
jmorrissey@nls.org

GIVING HELP GIVING HOPE

The mission of Neighborhood Legal Services, Inc. is to provide a full range of free civil legal representation to low income and disabled people residing in Erie, Niagara, Orleans, Genesee, and Wyoming Counties, in matters involving their financial security and the legal rights which affect the stability of families and individuals. Our goal is to create the greatest access to the justice system for those low-income and disabled people without the means to pursue their rights. Our mission also includes providing outreach and training services to underprivileged populations and the community agencies which serve them.