

## COURT RULES IN FAVOR OF TRLA CLIENTS DENIED DISASTER AID

After an eight-year court battle, the U.S. District Court in Brownsville ruled in favor of TRLA clients denied home-repair assistance from the Federal Emergency Management Administration (FEMA). [The Court in February ruled that FEMA violated federal law](#) by using a secret rule to deny home-repair



The aftermath of Hurricane Dolly. Photo credit: Patrick D. Kelley, U.S. Coast Guard

assistance to more than 24,000 families after Hurricane Dolly struck Texas' Gulf Coast in 2008.

"This decision is important not only for our clients but also for people all over the country," said TRLA attorney Jerome Wesevich, who represented the plaintiffs along with attorney Tracy Figueroa. "Presidents declare over 50 disasters every year, after which FEMA distributes billions of dollars in assistance. In the past, no one has known how FEMA decides who gets assistance. This ruling indicates that FEMA has to do a better job of explaining how it makes its decisions."

In the aftermath of the 2008

hurricane, FEMA deployed dozens of inspectors who were neither trained nor qualified to inspect homes for hurricane damage. Using standards undisclosed to the public, FEMA directed inspectors not to record damages as "disaster related" unless they concluded that Hurricane Dolly's relationship to the observed damages was "significant, obvious, and without question." Although many families were inside during the hurricane and saw it damage their houses, FEMA did not record their eyewitness accounts. By the end of 2008, Mr. Wesevich and Ms. Figueroa filed suit on behalf of individual homeowners and the 7,000 member *La Union del Pueblo Entero* (LUPE), arguing that FEMA's use of this undisclosed standard is illegal.

The February ruling directed FEMA to reconsider applications of plaintiffs denied assistance post-Dolly. Now, the plaintiffs, including as many as hundreds of LUPE members, [will be eligible for money or benefits from FEMA](#). TRLA attorneys are working with the agency to identify those who will be compensated.

"It's extremely gratifying to come to the end of an eight-year court battle and be able to help the people who suffered," Ms. Figueroa said.



Plaintiff holds photo of damage to her property during the 2008 storm. Photo credit: KFXV-TV

**TRLA ATTORNEYS WIN TOP STATE AWARDS**

Amanda Chisholm (right) and Maria Luisa Mercado, chair of the State Bar's Poverty Law Section

Attorney Amanda Chisholm received the 2017 Impact Award from the Texas State Bar's Poverty Law Conference for two key decisions from the Eighth Court of Appeals.

In the first case, Amanda had obtained a 10-year sexual assault protective order for a client. However, a year later, the target of the order filed and won a motion to have it terminated. Ms. Chisholm appealed the decision, and the Eighth Court of Appeals ruled with her, holding that a respondent can't move to terminate a sexual assault protective order – a win not only for her client but also for other victims of sexual assault.

In the second case, the Eighth Court of Appeals agreed that Ms. Chisholm's client could not be forced to pay court costs – though the Court believed he had enough money on hand – because his expenses exceeded his income. One of the first interpretations of the recently revised Rule 145 of the Texas Rules of Civil Procedure, the decision is vital for low-income litigants. Instead of applying a rigid formula to

determine if a person can pay for court costs, the ruling required that the client's full and specific financial circumstances – earnings, living expenses, and debt – must be considered.

Attorneys Michelle Ochoa and Jessica Canter received the Texas Gideon Award from the Texas Indigent Defense Commission (TIDC) for their work for the Bee County Regional Public Defender Office. The attorneys, who won the award along with Bee, Live Oak and McMullen counties, were honored at a March TIDC event in Austin. "The regional collaboration with TRLA has helped our counties improve our justice system in ways that would be impossible if we were on our own," Live Oak County Judge Jim Huff said at the event.

"The TIDC grant allowed us to represent indigent people in far greater numbers than they'd been represented before," Ms. Canter said. "Without it, the people who suffer are the accused, those who sit in jail without an attorney."



Michelle Ochoa (left) and Jessica Canter in TRLA's Austin office with their award.

## **GROWERS SETTLE TRLA FAIR LABOR, HUMAN TRAFFICKING COMPLAINT**

[Kentucky tobacco growers agreed to pay \\$117,108 to settle allegations](#) that their treatment of farmworkers violated the Fair Labor Standards Act and the Trafficking Victims Protection Reauthorization Act. The plaintiffs – Mexicans hired under H-2A visas and represented by TRLA’s Southern Migrant Legal Services (SMLS) and the Kentucky Equal Justice Center – said the growers did not pay them both overtime and regular wages, housed them in rat-infested quarters, and confiscated their passports to keep them from leaving. The workers sued in federal court for breach of contract, unpaid wages, and illegal holding of passports. After a two-year battle, the growers – Earl Planck and his farm B.S. Land and Cattle Co.; John Watkins and his farm High Point Farms LLC; and Chad Price — agreed to settle the claims in January. “Our experience is that many tobacco growers use the H-2A program to get a captive labor force that won’t complain about illegal wages and conditions,” said SMLS attorney Gregory S. Schell. “H-2A tobacco employers offer full-time work for eight months at above the U.S. minimum wage. Then once the workers get here, they pay them below minimum wage and house them in abysmal conditions. The scheme begs the question of why, if H-2A tobacco growers *really* had planned to pay above minimum wage, they didn’t just hire U.S. workers.”

## **TRLA CONFERENCE FEATURES TOP JUDICIAL, CITY GOVERNMENT LEADERS**



Justice Eva Guzman

**Justice Eva Guzman will be the keynote speaker for the closing lunch** of the annual conference organized by TRLA attorneys who provide free legal services to survivors of domestic violence and sexual assault. In a recent editorial in the *Austin American-Statesman*, Guzman praised the Legal Alliance for Survivors of Sexual Assault (LASSA), one of the special projects through which TRLA serves survivors. “In the short time since its founding, LASSA has provided legal assistance to 4,500 sexual assault survivors, serving as a lifeline that enables survivors to protect themselves and move forward with their lives,” she wrote. Houston Mayor Pro Tem Ellen Cohen, a longtime supporter of sexual and domestic violence survivors, will open the June 14-16 conference in San Antonio. Before joining the city’s council, Ms. Cohen was CEO of Houston Area Women’s Center, which provides multiple services to survivors of sexual assault and domestic violence. As a State Rep, she authored the so-called “pole tax” legislation, which uses revenue from a \$5 per patron fee at strip clubs to fund support services for survivors.

## **TRLA CASE BRINGS REFORM IN TREATMENT OF HOMELESS CHILDREN**

**Attorneys Courtney Schusheim and Israel Morales Reyna negotiated a settlement that brought financial compensation for a homeless woman and her children as well as policy changes throughout the Laredo Independent School District.** The attorneys intervened on behalf of a homeless, single mother after two of her four children were thrown out of school despite federal protections for homeless children under the McKinney Vento Act; the protections include the right to stay in schools of origin and be shielded in other ways from barriers to education. The woman and her children also lost their temporary residence, a mobile home shared by 15 people, after the school district sent a truancy officer to inspect it.

With affidavits from several homeless families who had been similarly mistreated, the attorneys set the stage for a claim that the entire school district violated the act. In mediation, the district agreed to cover compensatory damages for the woman and her children as well as enact district-wide policy changes to comply with McKinney Vento.

## **TRLA ATTORNEYS WIN KEY RULING FOR AUSTIN TENANTS**

**Attorneys Robert Doggett and Shoshana Krieger won a district civil court ruling for North Austin residents fighting for hot water and other basic amenities in their deteriorated apartment complex.** On April 26, [Judge Scott Jenkins, of Travis County's 53rd District Court, granted a motion for a temporary injunction](#), ordering NAHC Cross Creek Apartments LLC to make immediate repairs to the property's common areas, including fixing shaky handrails, broken balconies, holes in walls, broken gutters, unsafe walkways and open electrical boxes. The complex was built partly with \$2 million in funding from the city, and in 2015, the city of Austin sued to get the repairs done.

The case returned to court in April 2017, because tenants reported that repairs hadn't been completed; they still don't have hot water consistently, and security problems have worsened, due to poor exterior lighting and unsecured vacant units. At the April hearing, tenants requested that the Court appoint a receiver to take over management of the property and use tenants' rent to make repairs. Although Judge Jenkins did not grant the receivership, he indicated he would pursue it if necessary. "All in all, a good day," Mr. Doggett told Austin's ABC affiliate KVUE. "What we went in for is to get the defendant's attention, get some repairs started and send a message that if this isn't done we're going to go to the next level."



*Cross Creek Apartments. Photo credit: Erin Jones, KVUE*

## **TRLA ANNOUNCES INTENT TO SUE CHRONIC INDUSTRIAL POLLUTER**

In response to long-term pollution of Lavaca Bay, residents represented by TRLA [announced their intent to file suit against Formosa Plastics under the Clean Water Act](#). Over more than a decade, the firm's Point Comfort facility has repeatedly been cited for discharging plastic pellets and debris into Lavaca Bay and nearby waterways. "These are serious issues for people who love this area for its beauty,



Plaintiff Ronnie Hamrick with plastic pellets collected along the shore of Lavaca Bay and nearby waterways.

and for the fishing and tourism industries that depend on the natural habitat," said TRLA attorney Erin Gaines, who is representing the plaintiffs, along with attorney Enrique Valdivia and former TRLA attorney Amy Johnson. "Unfortunately, the agencies designated to protect this habitat have not put a stop to Formosa's harmful pollution. So our clients decided that they had to step up and make sure the laws are enforced."

During the past year, the plaintiffs – including author and former shrimper Diane Wilson and the San Antonio Bay Estuarine Waterkeeper, represented by environmental attorney David Frederick – collected 1,064 samples of plastic pellets and debris discharged into Lavaca Bay and other waterways. The pellets endanger wildlife, according to the EPA, and are another indicator of Formosa's repeated violations of both EPA and Texas Commission on Environmental Quality (TCEQ) regulations.

In 2004 and 2010, the EPA documented the Point Comfort facility's discharge of pellets and PVC dust as part of its investigations of the plant. In response to residents' complaints, the TCEQ has likewise looked into and confirmed the discharge of pellets. Despite the findings, the discharge has continued.

In April, plaintiffs sent a "notice of intent to sue" to Rick Crabtree, vice president/general manager of the Point Comfort-based Formosa Plastics Corporation, Texas, and to Jason Lee, chairman of the board. The letter said that the suit would be filed unless Formosa makes "permanent changes" that prevent future pellet discharge and cleans up all plastic litter it has already left in Texas bays, waterways, wetlands, and on its beaches.

## **EL PASO OFFICE DEFENDS ELDERLY VICTIM OF LATE-FEE SCHEME**

TRLA attorney K-Sue Park successfully represented an 86-year-old El Paso woman who almost lost her home after falling prey to an abusive late-fee scheme. Maria Nuñez Ojeda, who had paid off the mortgage on her condo and kept up with her association fees, missed one "special assessment" fee in 2015. The condo association then used a snowballing late-fee strategy against her, charging her \$90 a month for 17 months for being late in paying her late fees. After the association sold her paid-off condo in foreclosure in January for less than \$5,000, Ms. Park stepped in, trying to negotiate. When the condo association failed to respond, she scheduled a press conference to announce Nuñez's suit. On the day of the event, the association agreed to meet Nuñez's demands, including a settlement that will allow her to redeem her condo. "I want people that have the same problem as me to go out and look for help, like me," Ms. Nuñez said in an interview with El Paso's KFOX14. "I looked everywhere and found [TRLA], and, look, everything worked out."

In another El Paso housing case, TRLA attorneys Veronica Carbajal and Cassandra McCrae in March forced a delinquent landlord to improve conditions at his deteriorating Union Plaza apartment building on Overland Drive. The tenants turned to TRLA last fall because the landlord failed to respond to their complaints. After Ms. Carbajal and Ms. McCrae filed the tenants' complaints with the city's Justice of the

Peace Court, [the landlord was found in contempt of a previous order to make repairs and ordered to fix the apartments or go to jail.](#)

## **RESIDENTS RELOCATE UNDER TRLA-NEGOTIATED CIVIL RIGHTS ACCORD**

Residents from Corpus Christi's Hillcrest neighborhood in March [started getting offers on their homes](#) under the TRLA-negotiated Harbor Bridge Agreement. The accord, which helps residents move to homes of comparable value outside the highly polluted refinery row, resulted from a civil rights complaint filed on behalf of residents by TRLA attorney Erin Gaines and Kelly Haragan, director of the University of Texas at Austin's Environmental Law Clinic. In February, state and federal government officials resolved their disputes over the agreement, clearing the way for offers to be made to Hillcrest homeowners, landlords, and renters who wish to move under the voluntary program. Soon after, residents started receiving offers on their homes for an amount equal to the cost of buying a comparable house elsewhere in Corpus Christi.

## **TRLA HELPS PEOPLE DEFEND THEMSELVES**

TRLA's Laredo staff in March joined forces with UT law professors and students to counsel Laredo high school students with intellectual disabilities on alternatives to guardianships. In a letter to TRLA



A Laredo High School student with TRLA paralegal Gabriel Sanchez (right) and a UT law student.

after the session, school administrator Adan Soliz said families were greatly relieved to find that they could instead enter into "supported decision-making agreements," which allow intellectually-disabled adult children to maintain their right to self-determination while receiving parental support. Soliz said parents "expressed an understanding that their 'children' are now adults and that they can and should make their own decisions." The Laredo office also hosted an "access to justice" session for 15 Texas A&M University law students and their professor. After an introductory session on legal aid, students took part in training on criminal record relief, family law, and legal strategies for survivors of sexual and domestic violence. Students also trained in law relating to human rights, immigration, and foreign worker programs.

The Del Rio office hosted a two-day expunction clinic on April 26 and 28 in collaboration with the Val Verde Community Center. Thirty applicants signed up for legal assistance with expunging or sealing their criminal arrest records.