

JUSTICE IN ACTION

Texas RioGrande Legal Aid (TRLA)

Spring 2018

FEMA Compensates Dolly Survivors After 10-year Legal Battle

TRLA's hard-fought battle with FEMA finally ended happily for some Rio Grande Valley residents hit by Hurricane Dolly in 2008. In January, as a result of TRLA's suit against FEMA on behalf of survivors, some received long-awaited FEMA checks to repair property damaged by the hurricane. "It's just justice – we deserve that money," Rio Grande Valley resident Sara Garcia told media. "The government has money for disasters and we deserve it." She received an \$11,538 check.



TRLA staff and LUPE members celebrate distribution of FEMA checks.

In February 2017, a U.S. federal court in Brownsville sided with TRLA, ruling that FEMA had violated federal law by using undisclosed rules for determining who would get financial aid to repair their homes after Dolly struck. Effectively, FEMA had refused to provide aid to thousands of people, claiming that the agency was not responsible for helping repair their homes because they were already in poor condition. TRLA attorneys **Jerome Wesevich** and **Tracy Figueroa** (Corpus Christi) filed suit on behalf of individual residents and LUPE (La Union del Pueblo Entero). "This lawsuit put FEMA on notice," Figueroa told KRGV television when the checks were distributed in January.

After 2-Year Battle with TRLA, Midland Trucking Conglomerate Settles

The Magallanes family from Midland settled a claim by three TRLA clients for \$130,000, netting more than \$25,000 each. The clients – drivers from Mexico who were represented by attorneys **Christopher Benoit** (El Paso) and **Lakshmi Ramakrishnan** (Mercedes) – had been hired by the Magallanes family, which operated a multi-million dollar trucking conglomerate. In 2013, the family decided to hire workers from Mexico for their trucking business – but at a lower wage rate. They formed two shell companies and, within days, petitioned workers from Mexico on H-2A visas. They claimed, under oath, that their business was farming and told the federal government that they needed farm workers. In truth, they were hiring the Mexican workers to do trucking work – something that is well compensated in the Permian Basin area and for which many local workers would have applied, if they knew the true nature of the job. Family members repeated the deception under oath over several years – telling the federal government that they needed farm workers while instead bringing in drivers for 18-wheelers hauling construction materials.

Unaware of their employer's fraud, TRLA's clients came to work in 2015 and worked 60- to 80-hour weeks, receiving well under the prevailing wage for truckers in the area. One client, when he confronted his employer about missing pay, had a gun put to his head and was run off the job. Benoit and Ramakrishnan, who represented three of the drivers, tried to resolve the case prior to litigation but were rebuffed by the employer. They then filed suit in 2016. After two years of litigation and two months prior to trial, the clients settled. The case is a good example of a serious problem –

the fraudulent use of the H-2A and H-2B guest worker visas to obtain employees abroad for work that is not mentioned in their job applications. This practice hurts both U.S. workers who compete for those jobs and the foreign workers paid below the legally mandated prevailing wage.

City of Socorro Settles with Neighborhood Residents for Flood Damages

Last fall, Socorro, southeast of El Paso, settled a suit filed by 30 TRLA clients, who suffered damage to their homes and property after what appeared to be intentional redirection of flood water into their neighborhood in 2013. Before that year, residents of the city's Patti Jo neighborhood had not experienced flooding, despite living there for 30 to 40 years in some cases. But in September of 2013, when rains saturated Socorro, water poured down the Sparks Arroyo near the Patti Jo neighborhood and rose up to three feet in their homes. The neighborhood organized and sought help from TRLA, and attorneys **Christopher Benoit** (El Paso), **Alberto Mesta** (El Paso), and **Michael Russell** (formerly El Paso) took on their case, with the guidance of **Robert Doggett** (Austin). After an investigation, TRLA and its clients found that the flooding was no accident. The city had diverted the flow of the Sparks Arroyo away from a relatively new private development built in its path and toward Patti Jo. The TRLA lawsuit filed in 2013 sought redress for damage to the clients' homes under a constitutional takings claim. The city fought vigorously, seeking to dismiss the case in trial court, the Eighth Circuit Court of Appeals, and eventually the Texas Supreme Court. The TRLA team defeated the city in trial court, with Russell representing plaintiffs at the hearing, on appeal, with Benoit representing plaintiffs at oral arguments, and, finally, TRLA's team convinced the Texas Supreme Court to deny review of the appeal. *See City of Socorro v. Campos et al*, 510 S.W.3d 121 (Tex. App. – El Paso 2016).

Under the settlement with the city, TRLA's

remaining 30 clients will receive a significant portion of damages incurred from the flooding. The case also resulted in numerous multi-governmental discussions to solve the problem of the Sparks Arroyo to avoid similar flooding in the future.

TRLA Suit Results in Vital Autism Treatment for San Antonio Boys

Under a settlement reached with top Texas health officials in December, twin boys and a teenager with autism will receive the most effective treatment for their autism. **Susan Zinn** (San Antonio) and Disability Rights Texas (DRTx) filed suit in December 2016 because applied behavioral analysis, known as ABA, is not covered under the state's Medicaid program, even though it is the most recommended and the only evidence-based treatment for autism. Under federal Medicaid regulations, children have the right to receive necessary treatment. The complaint was filed against top officials at the Texas Health and Human Services Commission and at Texas Medicaid.

Describing the case, Zinn told media, "In other states, children with autism spectrum disorder have sued to get ABA from Medicaid. Every time children sue in this circumstance, they win."

Under the settlement, the Bexar County boys can receive ABA for at least two years. However, the settlement does not require Texas Medicaid to offer the therapy to everyone who needs it. DRTx's Peter Hofer told the Austin American Statesman, "It's shortsighted on Texas' part. [There is] a lot less cost associated with special education for kids who receive medically necessary ABA." The therapy is estimated to decrease the lifetime cost of supporting someone with autism by as much as \$2.4 million. According to the Statesman, about 22,000 Texas children with autism are covered by Medicaid.

TRLA Sues Condo Association That Auctioned Elderly Woman's Home

In February, **Robert Doggett** (Austin) and **Christopher Benoit** (El Paso) filed suit on behalf of Maria Nunez, an 88-year-old El Paso woman whose condo was sold at auction for little more than \$4,000 because she owed late fees. Nunez had completely paid off her condo, but she got deeply in debt because of an abusive, snowballing late-fee scheme used by the Casa del Sol Condominium Association. By the time of the foreclosure in 2014, Nunez was caught up on her condo association fees. But for nearly two years, the condo association had been charging her late fees for being late on her payments of previous late fees. Last year, TRLA helped her raise money to get her ownership of the condo reinstated. "It was the biggest scare of my life," Nunez told local media before the suit was filed this year. "But here I am, and I'm giving advice to everyone that's in the same situation."

TRLA filed suit against the condo association for monetary damages for Nunez and to get a judgment that would rein in the association's use of punitive late fees. "This association has determined that it's reasonable to charge \$90 a month for late fees on late fees, and that's problematic because that runs counter to state law," attorney **Veronica Carbajal** (El Paso) told local media. "The question is, at the heart of this case, why the association is being allowed to encumber people and their properties with late fees that don't seem to have any basis in the law or in any material damage to the condominium association itself?"

TRLA Tackles Health, Safety Issues at Brownsville Mobile Home Park

Sascha Rips Stremler (Brownsville) represented tenants in their fight to improve extremely substandard conditions at the Rio RV and Mobile Home Park in Brownsville. Even though residents pay for water as part of their monthly rent, they received notice from the El Jardin Water Supply Corporation that their service

would be shut off on Jan. 16 due to unpaid bills. The park owner, in the midst of bankruptcy proceedings, had failed to make water payments for several months. The park is rife with other health and safety problems – sewage that backs up into people's homes because of a malfunctioning septic system, massive leaks in the water line, and a toppling electrical pole. The park owner, in addition to trying to force residents to shoulder the water debt, also refused to make repairs.

TRLA negotiated with El Jardin to maintain service for the tenants. Rips Stremler, who agreed to represent individual tenants and the Rio Mobile Home Park Tenant Association, held a "know your rights" workshop and clinic at the park with the assistance of attorney **Jenecia Martinez** (Brownsville). Rips Stremler and Martinez walked tenants through their rights to request repairs under the Texas Property Code, and take legal action. Rips Stremler helped tenants request repairs and negotiated departures for people who decided to terminate their leases under the Property Code's repairs provision. The park owner is in the process of transferring ownership of the park back to the previous owner as part of bankruptcy proceedings. TRLA continues to monitor water service and health and safety concerns to make sure they are addressed when the park ownership is transferred.

Awards and Grants

Texas CBAR was awarded a \$5,000 grant from the Corporate Counsel Section of the State Bar of Texas. The grant will be used for Texas CBAR's Lawyer UP program, which provides pro bono legal services to micro-entrepreneurs and nonprofits that help low-income communities. In its application for the grant, CBAR pointed out that it has leveraged \$11 million worth of legal services for low-income micro-entrepreneurs and nonprofits.

In December 2017, Fatima Figueroa, winner of the Miss Teen Global South beauty pageant (center, below) hosted a gala ball in Donna to

raise awareness about human trafficking.

Proceeds from the event benefitted TRLA's human trafficking work led by attorney **Stacie Jonas** (Austin). Paralegal **Alicia Villanueva** (Austin) and attorney **Adriana Rodriguez** (San Antonio) gave presentations at the event, and Development Director **Geoff Rips** (Austin) attended.



Miss Teen Global South Fatima Figueroa (center); TRLA attorney Adriana Rodriguez (right); and TRLA Development Director Geoff Rips (far right).

Using a grant from the American College of Bankruptcy Foundation, attorneys Veronica Rodriguez (San Antonio) and Tracey Whitley (Austin) collaborated to create a website to help consumers deal with exploitative payday lenders (www.texaspaydayloanshelp.org). Whitley, head of TRLA's consumer team, provided guidance on content, and Rodriguez created the website and a related video.

On average, borrowers pay \$23 for every \$100 dollars borrowed, which results in an annual percentage rate (APR) of 574 percent on a typical single-payment two-week loan. In addition, most payday and auto title loans are aimed at the people least able to shoulder high financial fees – working families, senior citizens, and military families who often struggle to pay

for basic needs. The new website, created in collaboration with Texas Appleseed, explains the payday lending system, provides information on consumer rights and alternatives to using payday lenders, and directs people to resources and agencies that can help, such as the Texas Office of the Consumer Credit Commissioner, the Consumer Financial Protection Bureau, the Texas Attorney General, and TRLA. Since many consumers are often threatened with criminal prosecution, arrest, jail time and fines, Rodriguez also created a “know your rights” video on that topic, which is available at the website and will be available through TRLA's YouTube and Vimeo accounts.

Legal Aid for Survivors of Sexual Assault (LASSA)

In recent months, LASSA has been working closely with TRLA's special education team to advocate for disabled children who have been sexually assaulted. In one case in South Texas, LASSA helped a student with disabilities request adjustments to her Individualized Education Plan to ensure that both her safety and learning needs were met. The student had been isolated from the rest of the students, undermining both her mental health and ability to learn. With LASSA's help, the student has been reintegrated into mainstream classrooms and the school has taken steps to prohibit contact between her and an abusive classmate.

In total during the last quarter of 2017, LASSA closed 119 cases from its northwest service area and had 114 new cases. In its southwest service area, LASSA closed 196 cases and opened 138.

In a new multi-year partnership, LASSA has



TRLA attorney Adriana Rodriguez.

joined forces with the Hutchinson County Crisis Center (HC3). The first workshop in November

drew more than 35 participants, including judges, prosecutors, law enforcement, and victim advocates.

Attorneys **Adriana Rodriguez** (LASSA team manager), **Maricarmen Garza** (victim rights group coordinator), and **Carmen Hileman** (assistant director of Legal Aid for Survivors of Abuse, LASA) were among those who participated in the workshop.

In a television interview about the collaboration, HC3 Executive Director Norma Luginbyhl estimated that between 150 and 160 survivors in the county could have benefited from LASSA services in 2017.

“A woman that’s usually in trouble – whether its domestic violence or sexual assault, especially if its someone that’s intimate – [doesn’t] always have the funds to hire an attorney,” she said. “This fills that gap here in Hutchinson County.”

She said that while HC3 will continue using services provided by Legal Aid of Northwest Texas, “when you run a non-profit you utilize every service and resource possible.” By providing additional services, advocates hope more victims of domestic violence and sexual assault will seek help.

Attorney Julia Raney Rodriguez (group coordinator for TRLA’s family and domestic violence team) was interviewed for a one-hour program on Texas Public Radio's talk show, “The Source,” in San Antonio. Rodriguez (San Antonio) discussed domestic violence in Texas and responded to questions from callers. The program is at <http://tpr.org/post/1-3-texans-experience-domestic-violence>.

In the past several months, numerous members of the LASSA team – including attorneys **Maricarmen Garza**, **Stephanie Cantu** (Dallas), **Allison Schmitz** (Dallas), **Carmen Hileman** (San Antonio), **Sarah Worthington** (Austin), **Adriana Rodriguez** (San Antonio), **Adriana Leal** (El Paso), **Caitlin Fish** (Laredo), and **Stephanie James** (El Paso), paralegals **Andres Kenney** (Laredo) **Alberto Sandoval** (Laredo), and **Merelis Bray** (El Paso) and social workers **Monica Diaz** (El Paso) and **Alejandra Torres**

(Edinburg) – have held trainings and workshops for partner organizations, law enforcement and judges. The sessions – covering civil legal remedies, best practices, and updates on legislation affecting victims of violence – took place in multiple towns and counties, among them, Laredo, Alpine, Borger, Houston, and El Paso, and the counties of Uvalde, Erath, Hood and Cooke.

Que Te Vaya Bien

“Rudy Sanchez, TRLA’s deputy director who has helped lead us through growth, change, and tumultuous years, is leaving to accept a position as the Executive Director of the DNA–People’s Legal Services Program of Window Rock in Arizona. After working as a summer intern for TRLA in 1988, he became a staff attorney in 1989. He was promoted to manager of the farmworker team in 2001, and became our deputy director in 2011. He has dedicated 30 years of his life to TRLA and our client community, so we couldn’t let him go without a proper farewell. Good travels to our good friend, Rudy Sanchez.” – Ricardo Perez



TRLA staff attended a farewell BBQ hosted by the Mercedes office staff.

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