

Kentucky Equal Justice Center

September 23, 2022

Staff Report Highlights

Maxwell Street Legal Clinic — Allison Hight

Staffing updates

MSLC has had some positive developments in working toward filling our open attorney positions. After advertising the position far and wide, we have narrowed down the field to four strong candidates. We have conducted in-person interviews with two and have the other two scheduled for late December and early January. They are all May 2023 law grads and won't be able to start until May at the earliest, but we're optimistic about their credentials and passion for immigration and nonprofit work. Apart from a delayed start date, the only bad news is that they're all so good that we want to hire all of them! We're looking forward to having more practitioners at MSLC to help meet the never-ending need for immigration services.

Volunteers

To help fill a small part of the gap while we wait for new practitioners, Maxwell Street has partnered with a nonprofit called We the Action to launch "Project Citizenship." We the Action connects nonprofits with attorneys interested in pro bono work. Over the last several months, we have received applications from, approved, and trained 16 attorney volunteers from across the country to assist clients with citizenship applications. Using some new tools in our arsenal, these attorneys are able to complete the citizenship application packet with the client entirely remotely. We have already matched three of these attorneys with clients and are just waiting on more clients to call us with naturalization requests to be able to connect the rest with clients.

Notable cases

- Michelle has received a couple of notable case approvals since the last board meeting. First, she won a difficult T visa case for a victim of human trafficking. MSLC first met with the client and her family in 2016 and identified her as a human trafficking survivor. We did not have the capacity at that time to take her case; however, after we received the VOCA grant, we did, and Michelle took on her case in 2020. In addition to the initial application, Michelle tackled a tough request for additional evidence from the government and connected the client to a local therapist for a free psychological evaluation that proved crucial in getting the case approved. Now both the client and her son have T visas and are on their way to receiving permanent residency.
- Michelle also had a long-fought green card application approved under the Violence Against Women Act. Michelle first met with this client in 2018 and has been working to move her case forward ever since. Most recently, she attended the final green card interview with the

client to make sure everything went smoothly, and the client was recently approved. At Michelle's request, the client also received her green card in her preferred name instead of her abuser's name, which was a huge relief to the client.

- Despite being short-staffed, our practitioners have continued to help as many clients as possible. Since the last board meeting, we have opened 38 new cases, including 10 DACA renewals, 9 work permit applications for crime victims, and 4 citizenship cases. We have also had 39 cases approved during this time, including 17 DACA renewals and 8 applications from crime survivors.

Impact Litigation and Advocacy — Ben Carter

Fair Elections


KEJC and Fair Elections Center filed their [appeal brief](#) with the 6th Circuit Court of Appeals in *Lostutter v. Beshear*. This is our primary challenge to Kentucky's worst-in-the-nation "system" for deciding whether to restore voting rights to Kentuckians who lost them as a result of a felony conviction. This lawsuit challenges the arbitrariness (thus the scare quotes around "system") of the process Gov. Beshear (and all other Kentucky Governors before him) use when deciding to restore (or not) Kentuckians' voting rights. Our suit claims that this arbitrary treatment of people by their government violates people's First Amendment rights.

The brief is a long one, so let me pull out a really resonant moment near the end (p. 45) that demonstrates how truly arbitrary our system currently is.

In her concurrence in *Woodard*, Justice O'Connor wrote that: "Judicial intervention might . . . be warranted in the face of a scheme whereby a state official flipped a coin to determine whether to grant clemency, or in a case where the State arbitrarily denied a prisoner any access to its clemency process." 523 U.S. at 289. The current absence of any codified, specific, and objective rules or criteria governing the Governor's discretion is, from a First Amendment perspective, arguably worse than a coin flip, which at least relies upon pure chance rather than unspoken, potentially discriminatory considerations.

Worse than a coin flip. Pretty bad.

Case Management

The non-MSLC case handlers at KEJC have a new, modern case management system, Clio.  Our expanding provision of direct services, our funders, and our theory of change focused on power-building with directly impacted Kentuckians all demand data, data, data; Clio is an essential part of successfully delivering in each of these areas and supporting our growing staff of case handlers.

Vital Strategies

With new support (starting January 1, 2023), KEJC will begin a years-long partnership with Vital Strategies and Legal Action Center to combat discrimination against Kentuckians with

substance use disorder (SUD). This partnership will support a FT litigator and a FT Outreach and Investigations paralegal at KEJC. The work will look a lot like the multifunction advocacy model we use in other areas: health, food, housing, etc.

Health Justice — Chloe Atwater

Impact Litigation: UK HealthCare Case Update

Settlement negotiations fell apart after the last board meeting. We received a motion to dismiss on November 1, which argued that the case was moot, that any relief that could still be sought violated the Eleventh Amendment, and that because the case was moot, the class as certified no longer existed. In our [response brief](#) filed last week, we explained why they were incorrect on all three issues. We also filed a Renewed [Renewed Motion for Summary Judgment](#), in which we argued that, based on defendants' own admissions, there is no remaining issue of material fact, and we are entitled to the relief sought: (1) a declaration that UKH must account for the amount class members paid the Department of Revenue (DoR) and the 25% “fee” that the unconstitutional referral to DoR tacked on in any future action to collect from them; (2) a declaration that UKH may not argue that class members confirmed the validity of the alleged debt by entering into coerced payment plans; and (3) a declaration that, in defending against future lawsuits to collect from them, class members may argue that they were wrongfully denied financial assistance. We are awaiting action from the court on both of our motions.

Coalitions and Partnerships

- Legal Aid
 - Presented on the General Assembly's Benefits Cliff Task Force at a recent statewide legal services Welfare and Health Task Force meeting
- Non-legal
 - Assumed the role of "lawyer in the room" in various groups, including ThriveKY, an informal Kentucky Immunization Registry workgroup, and the Coalition for a Smoke-Free Tomorrow
 - Made contact and started forming relationships with folks at the National Health Law Program, the National Center for Law and Economic Justice, and others
 - Drafted an op-ed in opposition to Amendment 2 that was published by the Herald-Leader first [online](#) and then in [print](#) in slightly different forms

Healthcare Billing

- Assisted community member in navigating hospital billing issue without escalation
- Provided the consumer perspective on panel for Kentuckiana Health Collaborative community health forum entitled "Transparency in Hospital-based Healthcare"; drafted a report on the forum and hospital transparency tools for allies

Food Justice — Tyler Offerman

Kentucky Food Action Network

We continue to work with the Kentucky Center for Economic Policy, Community Farm Alliance, and Feeding KY to support the Kentucky Food Action Network (KFAN). KFAN members have selected 4 policy priorities to focus on in 2023:

- Advancing good food and ag policies in the 2023 Farm Bill
- Support Food is Medicine policies and programs in Kentucky
- Ensuring the successful implementation of CHFS's SNAP Kynector program
- Ensuring the successful implementation of KDA's Local Food Assistance Cooperative Agreement grant to get food to insecure Kentuckians and ensure that food is purchased from historically marginalized producers

(Embargoed) Food is Medicine Consortium

KFAN is dangerously close to finalizing a 3-year \$400,000 grant from the Humana Foundation to work with hospitals, MCOs, and doctors to utilize food and food prescriptions to address chronic illness or as a treatment plan post-op.

Collaborating with the Programs and SNAP Advocates

KEJC has secured funding from the Center on Budget and Policy Priorities to allow us to work with legal aid staff in the Welfare and Health Task Force to create a training curriculum and facilitate trainings for the Programs on SNAP IPV hearings and appeals. This work will be done alongside and in conjunction with the launch of a Local SNAP Advocates program to work with Step-By-Step and Kentucky Food Action Network members to ensure that local community members, including SNAP beneficiaries:

- know about new options for SNAP enrollment
- have their voices heard in implementation of the state SNAP Kynector program
- know the process and their rights to appeal inaccurate SNAP determinations, and
- with the assistance of the legal aid programs, build a network of support for community members who have had SNAP claims collections unjustly brought against them

Housing Justice — Stefanie Ebbens Kingsley

This project has been ramping up for the last quarter, and truly exciting developments are building on the work of the Organizers in Lexington. The team has been busy building out the statewide support for the Housing Justice Project, while finishing out the Fayette County Rent Assist with the subgrant through Legal Aid of the Blue grass, to door knock and conduct outreach for rent assistance and legal assistance.

- We have met with the legal aid directors, advocacy directors and finance teams to ensure all grantees understand the parameters of the grant and billing, and two of the four programs

have outlined an outreach strategy, priority case referrals that our two organizers—Laura Harper Knight and Emma Anderson—will be working with community partner organizations to continue building new and stronger referral networks for renal assistance as well as legal aid representation for tenants facing eviction.

- We are working with Lexington and Louisville to see if there is a continued role for KEJC in the outreach landscape, as the reallocation and final tranches of ERA2 funds are dispersed, as the two city projects seem more viable than relying on continued support from KHC.
- We have six months of Consumer and Housing Task Forces on the calendar, with a summer event at the Norton Sports & Learning Center for a Racial Justice-focused task force hosted by the Louisville Urban League, practice group meetings, and events to discuss Right to Counsel with our partners and community organizers. The support role of KEJC will be strengthened with these efforts and there is an opportunity to continue to build strengthened referral systems no matter the resources available for tenants facing eviction.

Outreach — Miranda Brown

Networking/Outreach/Communications:

- **Outreach:** KEJC staff spoke directly with about 140 people, either by meeting them at the New Life Day Center, Festival Latino Health Fair, or in-person or virtual presentations and partner meetings. Some unique occasions this quarter were in-person presentations with Concerned Citizens for Migrants in Morehead and multiple meetings with union organizers from the Louisville Metro Public Defenders union to Restaurant Workers United.

Direct Service

- **Lexington Wage Claim Clinic:** After 10+ years, we suspended the Wage Claim Clinic after September due to lack of funding for the project. We continue to wrap up existing wage claim cases, seek co-counsel and referral options for cases, and seek funding to resume strategic Worker Rights work.
- **Health Coverage Enrollment Assistance:** Miranda helped 4 new individuals and families with health coverage in addition to previous clients.

Advocacy Feedback Loop

- **Kentucky Health Benefit Exchange (KHBE):** Miranda serves on KHBE's recently revived Education and Outreach Subcommittee. During this quarter, she contributed feedback, reading level-sensitive edits, and immigrant-sensitive language on new health insurance literacy materials, "kynect to Care" booklets and accompanying community-directed presentations modeled after the federal CMS "Coverage to Care" materials.
- **Consumer Rights and Client Needs Technical Advisory Committee:** Miranda serves on this committee, which made recommendations to the Department for Medicaid Services this quarter to finalize and post a network adequacy one-pager and to create a process for

Kentuckians to apply for Emergency Time-Limited Medicaid in advance of an emergency and to be pre-approved to receive ETLM in the event of an emergency occurring within a 12-month period from the date of their application.

Fundraising

- **Our Workers' Rights team** of McKenzie and Miranda with support from Raaziq have been networking with worker rights and labor advocates to discuss strategy, highlight Kentucky's momentum, and drum up support. Recent efforts culminated in a Kentucky Workers Briefing with representatives from the National Employment Law Project, national Jobs With Justice, AFL-CIO, Kentucky State AFL-CIO, UFCW Local 227, Louisville Metro Public Defenders Union IBEW 369, and Ky Policy.

Language Access

- Miranda and Gaby have been updating KEJC's Language Access Plan, surveying staff about their experience providing language access to clients, and evaluating quality alternatives to our current interpreting service provider.