

# PRO BONO MATTERS

## Fish & Neave, NYLPI File Suit Against Drug Store Chain for Violating ADA

The ability to go to a drug store and shop for basic necessities is something most New Yorkers take for granted. But not the thousands of City residents with mobility impairments, many of whom have struggled for years simply to get in and around their local drug stores to pick up items like soap, cough medicine, and prescription drugs.



MANY DUANE READE STORES ARE NOT ACCESSIBLE.

For those who do make it inside, whole areas of stores are off limits because of stairs and the lack of elevators, ramps, or lifts and because aisles are cluttered with stocking material and product displays. One of the biggest complaints is that many of Duane Reade's pharmacies, where essential medications are sold, are either up or down stairs, making them totally inaccessible. In addition, service counters are often too high to be reached by people using wheelchairs.

The lack of alternatives to Duane Reade stores makes their barriers to access all the more troubling to individuals with disabilities. Many City neighborhoods have several Duane Reades and no alternatives.

"Duane Reade is a very successful company and it continues to grow to the point where its pharmacies are now everywhere in the New York City market," NYLPI senior staff attorney Dennis R. Boyd says. "Therefore it is critical that their stores and, most importantly, their pharmacies, be accessible to those with mobility impairments."

"It's not a matter of simple convenience, it's a matter of access to prescription and over-the-counter medication," says Jean Ryan, a plaintiff in the case. "There are fewer and fewer places for us to go to get our prescriptions filled and to get other medications. Frankly, by law, we have the right to go into a drugstore and access anything at all: prescriptions, shampoo, cosmetics, etc. We're only demanding what's right and what's legal."

The plaintiffs, who include several individuals and the 30-year-old disability rights organization Disabled in Action of Metropolitan New York, are asking the court to issue an injunction that would require Duane Reade to make all the modifications

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New York Lawyers for the Public Interest and member firm Fish & Neave are hoping to put an end to these struggles. On May 31, the two firms filed suit on behalf of individuals with disabilities against Duane Reade, Inc., the largest drug store chain in New York City. Filed in U.S. District Court for the Southern District of New York, the lawsuit alleges that Duane Reade violates Federal and New York City civil rights laws by failing to implement policies that ensure its stores and pharmacies are accessible to people with physical disabilities, especially those with mobility impairments.

The plaintiffs in the case have found that Duane Reade stores have a range of access problems. For starters, entrances to many stores lack the requisite ramps and door widths to allow the passage of wheelchairs.

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necessary to guarantee access for people with disabilities. The suit is brought under the Americans with Disabilities Act, the Rehabilitation Act of 1973, and the New York City Human Rights Law. These laws require that public accommodations be accessible to and usable by persons with disabilities.

Anthony Trocchia, the President of Disabled in Action, notes, “equal access for all is a civil right. You’d think that, since there are hundreds of thousands of New York City residents with mobility impairments, Duane Reade would, at least, see us as an important part of its market. The message we’re being given is that we’re not important to their bottom line or to their operation. This is a matter of justice, fairness, and respect and we’ve been given none of these by Duane Reade.”

Plaintiffs’ counsel contacted Duane Reade in June of 2000 and engaged in a series of discussions with them and their counsel in the hope of avoiding litigation and resolving the matter amicably. When those discussions failed, it was clear that litigation was the only way to ensure accessibility.

“Duane Reade had plenty of opportunity to come to an agreement before this lawsuit was filed,” said William McCabe, a partner at Fish & Neave. “Based on our previous contacts with Duane Reade, we concluded that the only way to make Duane Reade address the concerns of people with mobility impairments was to file this action and to ask the court to order the company to comply with Federal and City laws.”

A pre-trial conference is scheduled for late September, at which time plaintiffs’ counsel will discuss possible areas of agreement between the parties and the schedule for the litigation. While the hope remains that we will be able to settle the case, the concern is that Duane Reade does not understand the import of our clients’ needs.

As one of the plaintiffs, Nadina LaSpina put it; “We see this as a civil rights issue. Suppose Duane Reade decided it wouldn’t

provide services necessary to address the needs of a certain nationality, or of those over a certain age?” LaSpina continued, “That would certainly never be allowed. Hundreds of thousands of New Yorkers who are mobility-impaired are demanding their rights and will continue to do so until all accessibility issues are addressed.”

New York Lawyers for the Public Interest (NYLPI) was created in 1976 to address the unmet legal needs of disadvantaged New Yorkers. NYLPI finds unique ways to tackle the problems facing low-income and underrepresented people throughout New York City using two related approaches:

1. Our *pro bono* Clearinghouse provides low-income individuals and community groups with free legal assistance on a wide range of issues by drawing on hundreds of lawyers from 80 of New York’s most prestigious law firms and corporate legal departments.
2. NYLPI’s staff attorneys, community organizers, and paralegals provide direct legal representation, advocacy, and organizing assistance to low-income New Yorkers through our three in-house program areas: disability rights, environmental justice, and access to health care.

**NYLPI NEWS**

In May, Paola Urrea began working as a community organizer for NYLPI’s disability rights and health programs.

NYLPI would like to thank the following students for their outstanding work this summer:

**Law Students:**

- Naomi Abraham, Columbia University
- Erin Barton, Brooklyn Law School
- Felise Cooper, Columbia University
- Melissa Goodman, City University of New York
- Hope Mohr, Columbia University

**Schulte Roth & Zabel Fellows:**

- Valerie Nannery, University of Virginia
- Kelly Vasquez, University of Virginia

**Undergraduate Intern:**

- Alina Engelman, Brown University

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## Disability Rights Task Force

NYLPI's Disability Rights Task Force brings together attorneys from NYLPI's member firms and corporate law departments who possess a substantial interest in disability rights law and a desire to do significant *pro bono* work in that area. In addition to their *pro bono* projects, Task Force members attend quarterly meetings that typically include presentations on cases or issues important to people with disabilities.

The April meeting featured a presentation by Joseph M. McLaughlin of Simpson Thacher and Bartlett, the firm that represented golfer Casey Martin in his lawsuit to compel the Professional Golf Association (PGA) Tour to allow him use of a golf cart in tournament play. Mr. Martin has a degenerative circulatory disorder that has left his right leg atrophied and withered, and he sued the PGA under Title III of the Americans with Disabilities Act (ADA) to allow him to use a golf cart as a reasonable accommodation to his disability.

Mr. McLaughlin spoke to the Task Force about the legal and factual issues in the case, points of litigation strategy, and highlights of the oral argument before the United States Supreme Court. Task Force members discussed the merits of Martin's position, as well as issues raised by the high-profile nature of the case and the extensive media coverage.

For the June meeting, Jeanette Zelhof, Managing Attorney for the Mental Health Law Project of MFY Legal Services, gave a presentation on the ethical and practical issues in representing individuals with diminished capacity. Task Force members and NYLPI staff discussed a variety of challenging situations with the speaker and offered each other guidance on strategies for handling them.

With respect to their *pro bono* projects, the Task Force has been devoting significant resources and expertise to a wide variety of



NYLPI'S KIM SWEET WELCOMES GUEST SPEAKER JOSEPH M. McLAUGHLIN TO THE DRTF MEETING.

matters. Recently, Task Force members have played an active role in nation-wide efforts to preserve the right to enforce disability rights laws against state claims of sovereign immunity. James Shifren of Stroock & Stroock & Lavan worked with NYLPI lawyers and a team at his firm to write an *amicus curiae* brief to the Supreme Court in the case of *Board of Trustees of the University of Alabama v. Garrett*. The brief was written on behalf of the American Bar Association. Despite the best efforts of Stroock, NYLPI, and countless others, the Supreme Court in *Garrett* limited the ability of private citizens to enforce Title I of the ADA, which covers employment, against the states. The Second Circuit then requested briefing on how *Garrett* affects claims under Title II of the ADA and Section 504 of the Rehabilitation Act of 1973 in *Garcia v. State University of New York Health Sciences Center*. Task Force member Andrew Tannenbaum led a team at Davis Polk &

Wardwell in submitting an *amicus curiae* brief on behalf of a number of disability rights organizations. Decision on *Garcia* is pending.

In another project of note, Lisa Schweitzer of Cleary, Gottlieb, Steen & Hamilton, with co-counsel from NYLPI, won a second significant victory in her ongoing representation of a boy with severe learning disabilities who is struggling for the same access to educational opportunities as his wealthier peers. She won both cases with trail-blazing opinions at the administrative hearing level and then worked with NYLPI attorneys to publicize the opinions and share briefs with special education advocates poised to make the same arguments. Both cases have strengthened the right of a child with a disability to attend private school at public expense if the public school system fails to provide him with an appropriate education. In March, Ms. Schweitzer joined NYLPI's Senior Staff Attorney Kim Sweet in presenting on these cases as a member of the faculty of the Practising Law Institute's Education Law Institute 2001.

Attorneys interested in joining or learning more about the Disability Rights Task Force should contact Kim Sweet at (212)244-4664 or [ksweet@nylpi.org](mailto:ksweet@nylpi.org).

### Associate Matters

**Andy Chen, an associate of Skadden, Arps, Slate, Meagher & Flom, has worked on several transactional pro bono matters through NYLPI's Clearinghouse. Mr. Chen helped form Blue Beta Media Group, which offers Internet domain name registration, e-mail services, web design and web hosting to not-for-profit organizations. Mr. Chen has given numerous presentations on incorporation and tax-exemption to community organizations such as Partnership for Parks and Youth Venture. In addition, he helps run a project of the Asian American Bar Association of New York (AABANY) that matches pro bono attorneys with Asian-American nonprofits in need of incorporation assistance. Mr. Chen is currently helping start up the Fiorella Foundation, a nonprofit that informs healthcare providers about pain management and palliative care.**

# Recently Placed Clearinghouse Matters

2/1/01 to 7/15/01

(The attorneys listed below took initial responsibility for each matter. NYLPI would also like to thank other attorneys and support staff at our member firms who have worked on these matters.)

*6th Avenue and 15th Street Community Garden (6/15 Green)*

## **Sullivan & Cromwell**

*Preston Savarese, Sam Caspersen*

The firm is helping 6/15 Green, a five-year-old garden association in Brooklyn, to incorporate and obtain tax-exempt status.

*Brooklyn Cultural Consortium*

## **Davis Polk & Wardwell**

*Carole Schiffman, Aisha Christian Royall, Renata Ferrari, Lawrence Wu*

The firm is assisting the Brooklyn Botanic Garden, Brooklyn Children's Museum, Brooklyn Museum of Art, Brooklyn Public Library, Prospect Park Alliance, and Prospect Park Zoo to form a consortium and establish central Brooklyn as a must-see destination.

*Brooklyn Public Library*

## **Skadden, Arps, Slate, Meagher & Flom**

*Ronald Weiss*

The firm is helping the library with the structuring and tax implications of a large private donation.



**Ximena Naranjo, Associate Director of the Green Guerillas, welcomed summer associates to the Liz Christy garden. Over 100 summer associates from ten law firms participated in NYLPI's four garden tours.**

*Campaign for Fiscal Equity (CFE)*

*v. State of New York*

## **Wachtell, Lipton, Rosen & Katz**

*Norman Redlich, Dawn Smalls*

The firm is writing an amicus brief to the Appellate Division, 1st Department in support of CFE's position in this landmark school funding case.

## **Davis Polk & Wardwell**

*Frances Bivens, Patricia Northrop,*

*Andrew Tannenbaum*

The firm is writing an amicus brief in support of CFE on behalf of organizations serving NYC children with disabilities.

*Centro Hispano Cuzcátlan (CHC)*

## **Piper Marbury Rudnick & Wolfe**

*Michael Yaeger, Laurie Ann Martino*

The firm is helping CHC, which provides immigration, housing, health, and education services to low-income individuals in Jamaica Queens, to obtain tax-exempt status.

*Cheer Foundation*

## **Piper Marbury Rudnick & Wolfe**

*Elisabeth McOmber, David Schechtman, Carlos Bellido*

The firm is assisting the Cheer Foundation, a nonprofit that produces educational CD's and audiotapes for donation to hospitalized children, in a payment dispute.

*Church Sexual Harassment*

## **Hughes Hubbard & Reed**

*Vilia Hayes, Christine Fitzgerald*

The firm is providing legal counsel to a church on a sexual harassment matter.

*Citizens Union Foundation (CUF)*

## **Stroock & Stroock & Lavan**

*Mark Wintner, Laurel Rother*

The firm is helping CUF, to set up a medical benefits plan for its employees.

*Community Health Alliance and Muslim Professional Service (CHAMPS)*

## **Skadden, Arps, Slate, Meagher & Flom**

*Nicole Perez, Brian Hartly*

The firm is helping CHAMPS, which combats barriers to access to health care in low-income communities in NYC, to incorporate and obtain tax-exempt status.

*Crescent University*

## **Debevoise & Plimpton**

*Catherine Marten, Elizabeth Serebransky, Evelyn Baltodano*

The firm is helping a group of Muslim scholars draft the charter and bylaws for a new Muslim University.

*Disabilities*

## **Kramer Levin Naftalis & Frankel**

*Dan Rindsberg*

The firm is helping Disabilities, a nonprofit dedicated to flying disc sports as therapeutic recreation for people of all physical abilities, to obtain tax-exempt status.

*Education as a Vaccine Against AIDS (EVA)*

## **Skadden, Arps, Slate, Meagher & Flom**

*Anthony Ragozino, David Weil*

The firm is helping EVA, which educates Nigerian teenagers about HIV/AIDS, to obtain tax-exempt status.

*Fiorella Foundation*

## **Skadden, Arps, Slate, Meagher & Flom**

*Andy Chen*

The firm is helping to incorporate the Fiorella Foundation, an organization that informs health-care providers about pain management and palliative care.

*Fonkoze Haiti*

## **Chadbourne & Parke**

*J. Allen Miller, Alejandro San Miguel, Anne-Marie Shelley, Helena Mahler, Si-Yeon Kim, Damien Atkins, Sarah Richards, Eryn Tandler, Venkata Medabalmi, William McCracken, Vadim Daynovsky*

The firm is assisting Fonkoze Haiti, a nonprofit foundation that promotes a democratic economy in Haiti by providing financial services to the poor, with the preparation of a private offering package for potential U.S. investors.

*Friends and Relatives of the Institutionalized*

*Aged (FRIA)*

## **Morrison & Foerster**

*Joel Haims*

The firm is working with FRIA to advocate on behalf of nursing home residents whose visitation rights have been restricted.

*Green Guerillas*

## **Shearman & Sterling**

*Maura O'Sullivan, Louise Liu,*

*Yujie Gu, Chris Poggi*

The firm is advising Green Guerillas – a not-for-profit resource center for New York City's network of 700-plus community gardening groups – on copyright, fundraising, and incorporation issues.

*Kid Care Network*

## **Piper Marbury Rudnick & Wolfe**

*Noga Delschau, Mimi Foldes*

The firm is helping Kid Care Network, which plans to operate a childcare center in Bushwick, Brooklyn, to obtain tax-exempt status.

*Matter of Ana V.*

**Skadden, Arps, Slate, Meagher & Flom**

*Shiek Pal, Gared Grusd*

The firm represented an 11-year-old girl with disabilities who was denied accommodations by her Bronx school district. Skadden negotiated a favorable resolution.



*Matter of Asia C.*

**Stroock & Stroock & Lavan**

*Kevin Curnin, Bob Lewin*

The firm is helping a student with a learning disability to enforce an agreement made with her school to provide assistive technology.

*Matter of Derris S.*

**Stroock & Stroock & Lavan**

*Kevin Curnin, Bob Lewin*

The firm represented a student at a special education hearing to defeat an overly restrictive placement.

*Matter of George B.*

**Torys**

*Jason Adams, David Wawro*

The firm is representing a man seeking to recover money that was invested in real estate by a former guardian.

*Matter of Janielle F.*

**Stroock & Stroock & Lavan**

*Kevin Curnin, Bob Lewin*

The firm is helping a student with a disability secure inclusion placement for high school.

*Matter of Joelis P.*

**Skadden, Arps, Slate, Meagher & Flom**

*Mark Cheffo*

The firm is representing a student with a disability at a hearing to obtain appropriate special education services.

*Matter of John Doe*

**Cahill Gordon & Reindel**

*Emily Poler, Patricia Farren*

The firm is representing a man with HIV in a suit against a home care agency for breach of confidentiality.

*Matter of Justin P.*

**Robinson Silverman Pearce Aronsohn & Berman**

*Jennifer Edlind, Eric Rieder*

The firm is representing a student with a disability in negotiations with the school board to obtain assistive technology devices.

*Matter of Niasia W.*

**Skadden, Arps, Slate, Meagher & Flom**

*Sharon Gravesande*

The firm is challenging the Board of Education's decision to assign Niasia to a segregated class for children who are emotionally disturbed.

*Matter of Sean E.*

**Patterson, Belknap, Webb & Tyler**

*Roseann Kitson, Fred Warder*

The firm represented a 9-year-old boy with a learning disability at an impartial hearing to obtain funding for specialized nonpublic school.

*Matter of S.P.*

**White & Case**

*Karen Asner, Rebecca Garrett*

The firm is co-counseling with NYLPI to represent a deaf woman who was treated for a heart condition, but denied access to a sign-language interpreter.

*Matter of Tommy T.*

**Stroock & Stroock & Lavan**

*Kevin Curnin, Bob Lewin*

The firm is representing a 13-year-old boy with multiple disabilities in a challenge to the Board of Education's decision to place him in a segregated classroom outside of his local school district.

*Millennium Kids*

**Piper Marbury Rudnick & Wolfe**

*Joseph Marchese, Dean Colucci*

The firm is helping Millennium Kids, a nonprofit that works with at-risk youth in the South Bronx, to amend its bylaws and obtain tax-exempt status.

*Mission of Mercy (MOM)*

**Cadwalader, Wickersham & Taft**

*Ryan Pitterson*

The firm is helping MOM, a nonprofit that provides emergency food services, childcare, and job skills training to low-income Brooklynites, to amend its bylaws.

*More Gardens!*

**Sullivan & Cromwell**

*Brian Tang, Colleen Brown*

The firm is helping More Gardens!, a grassroots organization that advocates for preservation of green space, to incorporate.

*National Conference of Puerto Rican Women (NCOPW)*

**Piper Marbury Rudnick & Wolfe**

*Christina Lee*

The firm is reviewing the corporate documents of NCOPW, a nonprofit umbrella organization that seeks to foster interest in the civic affairs of Hispanic communities.

*New York Foundation for the Arts (NYFA)*

**Patterson, Belknap, Webb & Tyler**

*Patrick Dussol*

The firm is helping NYFA, a 20-year-old independent arts service organization, to negotiate a lease extension.

*Partnership for Parks*

**Skadden, Arps, Slate, Meagher & Flom**

*Anthony Ranieri*

The firm is serving as general counsel for Partnership for Parks, a public/private organization that encourages support for and involvement in New York City's Parks.

*Second Shiloh Baptist Church*

**Clifford Chance Rogers & Wells**

*John Bustard*

The firm is defending this small Harlem church against a Supreme Court suit filed by a pedestrian who tripped on the sidewalk outside the church.

*Sista II Sista*

**Piper Marbury Rudnick & Wolfe**

*Steven Hunter, Martin Jones, Martin Karamon*

The firm is providing legal advice on the tax consequences of fundraising for this Brooklyn nonprofit devoted to empowering teenage women of color.

*South Camden Citizens in Action v. NJDEP*

**Milbank, Tweed, Hadley & McCloy**

*Joseph Genova, Douglas Henkin, Michele Host*

The firm wrote an amicus brief to the 3rd Circuit U.S. Court of Appeals in support of plaintiffs' petition in this important civil rights case.

*United Puerto Rican Organization of Sunset Park v. New York Power Authority (NYPA)*

**Kelley Drye & Warren**

*Tom Kinzler, Stacey Kinnamon, Mike Feder, David Zalman*

The firm co-counseled with NYLPI to represent the plaintiffs in an action challenging NYPA's decision to site ten power plants in low-income neighborhoods of color in Brooklyn, Queens, and the Bronx.

As in past summers, NYLPI organized an externship program for law firm summer associates. Over 130 associates from 14 different firms provided valuable assistance to 25 nonprofit legal services organizations in one- and two-week externships.

## In-House Activities

During the past year the Supreme Court has dealt a number of serious blows to civil rights law, and these decisions will have an impact on NYLPI's areas of practice. In *Garrett*, the Court ruled that suits to recover damages brought against state employers for failure to comply with Title I of the Americans with Disabilities Act (ADA) are barred by the Eleventh Amendment, which cloaks states with immunity from such suits. States are now raising this sovereign immunity defense in cases brought under Title II of the ADA and Section 504 of the Rehabilitation Act, two other key federal laws protecting the rights of people with disabilities.

In *Sandoval*, the Court held that there is no private right of action to enforce disparate impact regulations promulgated under Title VI of the Civil Rights Act of 1964, a crucial provision relied upon by communities to challenge both the siting of environmental hazards in low-income communities of color and discriminatory policies and practices in the health care industry.

At the end of May, the Supreme Court also ruled that the “catalyst theory” is not a permissible basis for the award of attorney’s fees under particular statutes, including the ADA. The Court held that plaintiffs’ attorneys are not entitled to attorneys fees absent a judgment on the merits or court-ordered consent decree — even where defendants changed their conduct in accordance with what the plaintiffs sought to achieve through the lawsuit.

In response, NYLPI has taken the initiative. We have brought together advocates from the racial justice, disability rights, and women’s rights communities, among others, all with a common interest in addressing the Supreme Court’s unraveling of civil rights laws. Working as a coalition, we are developing strategies for public education on these issues, and for seeking reforms at both state and federal levels.

We are also assisting with post-*Garrett* and post-*Sandoval* litigation, briefing legal questions that follow in the wake of these decisions. NYLPI worked on the brief for the plaintiff in *Garcia v. SUNY Health Sciences Center*, the first case in the U.S. Courts of Appeals in which the parties were asked to discuss the application of *Garrett* to Title II of the ADA.

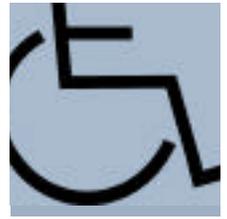
We have also been working with others to support an effort to press New York State to waive sovereign immunity from suits under the ADA. NYLPI provided our allies with an in-depth analysis of what rights remain for state workers seeking judicial remedies for disability discrimination post-*Garrett*.

Finally, NYLPI continues to press forward, filing cases and pursuing an active agenda.

### Disability Rights

■ *E.W. v. Staten Island University Hospital*: NYLPI filed suit against Staten Island University Hospital on behalf of three individuals with developmental disabilities. The complaint alleges that Staten Island University Hospital (SIUH) maintains a separate entrance and waiting room for people with developmental disabilities at the SIUH dental clinic. Plaintiffs also allege that SIUH fails to provide accessible restrooms for patients with developmental disabilities at the clinic, fails to provide accessible gynecological exam equipment, and fails to provide accessible parking at its facilities.

■ *Brad H.*: Last year Manhattan Supreme Court Justice Braun issued a preliminary injunction requiring the City to provide discharge planning



to jail inmates with mental illness who need continuing mental health treatment when they are released. After nearly a year during which not much of substance had been done by the City, plaintiffs’ counsel concluded that contempt was the only means to move the City into compliance. NYLPI, Debevoise & Plimpton, and the Urban Justice Center, are presently engaged in discovery to support the contempt motion.

■ *Bartlett*: This spring, NYLPI and private attorney JoAnne Simon returned to district court on remand from the Second Circuit for a determination as to whether Marilyn Bartlett is substantially limited in the major life activity of reading, among other things. The district court had previously found that the plaintiff reads slowly and laboriously and that she “simply does not read in the manner of an average person.” Recent decisions of the Supreme Court, though, have made it more difficult for plaintiffs to show that they are substantially limited in a major life activity and, therefore, covered by the Americans with Disabilities Act (ADA). This summer, the parties briefed the issues, and closing arguments were heard in July.



KENNETH T. JACKSON KEPT THE AUDIENCE ENGAGED THROUGHOUT HIS INFORMATIVE TALK.

NYLPI held its annual luncheon to celebrate the accomplishments of its *pro bono* volunteers June 13 at the Bar Association. Attorneys from Fish & Neave and NYLPI joined representatives from Disabled in Action of Metropolitan New York to talk about the lawsuit they have filed against drug store chain Duane Reade. They were followed by guest speaker Kenneth T. Jackson, President of the New-York Historical Society, who gave a compelling address on the history of poverty in New York City.

## Environmental Justice

■ **NYPA:** This spring, NYLPI filed an action challenging the New York Power Authority's decision to site ten power plants in low-income neighborhoods of color in Brooklyn, Queens and the Bronx. The suit was brought in Kings County on behalf of several community groups and is co-counseled by New York Public Interest Research Group (NYPIRG). We filed the case in Kings County and defeated a motion to change venue to Albany. In April, Supreme Court Justice Lawrence Knipel dismissed the petition and denied our request that the court review both the determination by the Siting Board that exempted NYPA from complying with procedural requirements governing the siting of power plants, and NYPA's failure to undertake an adequate environmental review. This summer NYLPI and co-counsel Kelley Drye & Warren briefed and argued the appeal. On July 24, the Appellate Division, Second



Department, ordered NYPA to undertake the environmental review and, specifically, to examine the health effects of additional fine particulate matter (PM 2.5) in the communities in which the power plants will be located.

■ **Transfer Station Siting Regulations:** NYLPI represents the Organization of Waterfront Neighborhoods (OWN) and other community groups in a challenge to the City's solid waste transfer station siting regulations. Although no settlement was reached during mediation ordered by Supreme Court Justice Gangel-Jacob, the process was productive. The City has now admitted that it must promulgate new regulations to address some of the environmental concerns of the communities. Despite the change in the City's position, we are requesting an injunction against new siting pending the new regulations, and expect a decision on the merits of the case.

### Other Items of Note

NYLPI's John Gresham and *Brad H.* co-counsel at Debevoise & Plimpton and the

Urban Justice Center recently received awards from both the statewide chapter of the National Alliance for the Mentally Ill (NAMI) and Brooklyn Community Housing & Services.



**NYLPI Boardmember Chris Tahbaz accepts the New York State Bar Association Pro Bono Award on behalf of Debevoise & Plimpton from New York State Bar Association President Paul Hassett.**

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### New York Lawyers for the Public Interest would like to welcome three new members to its Board of Directors:

#### Rachel B. Coan, Esq.

Partner and co-char of the pro bono committee at LeBoeuf, Lamb, Greene & MacRae, Ms. Coan represents clients in public and private securities offerings, acquisitions, and various banking transactions.

#### Gilbert L. Klemann, Esq.

Mr. Klemann is Senior Vice President and General Counsel for Avon Products, and a member of the Avon Operating Council, the company's senior policy-making group.

#### Kenneth M. Kramer, Esq.

A partner in the litigation department of

Shearman & Sterling, Mr. Kramer represents a wide range of domestic and international clients, specializing in antitrust, securities law, and international arbitration litigations.

#### Mindy J. Spector, Esq.

Ms. Spector, a partner in Weil, Gotshal & Manges' litigation department, handles complex commercial litigation including insurance/market conduct class actions and product liability cases.

**NYLPI would like to thank outgoing Board members Steven G. Brody, Esq., of King & Spalding, and Michael Nissan, Esq., of Round Table Merchants Partners, for their generous support of our work.**

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