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Queens Residents File Suit Challenging Biased Denials of Social Security Disability Benefits

Queens Office Has One of Nation's Highest Benefits Denial Rates

Class Action Suit Seeks To Disqualify Biased Social Security Administration Administrative Law Judges, de Blasio files Amicus Brief in Support

New York, New York – Eight disabled Queens residents filed a class action lawsuit today charging systematic bias against low-income disabled individuals seeking Social Security Disability benefits in Queens. The suit against the U.S. Social Security Administration seeks the disqualification of five Administrative Law Judges (ALJs) at the Queens Office of Disability Assistance & Review (ODAR) because of their persistent denial of claims based on glaring and intentional legal and procedural errors, thereby depriving thousands of eligible claimants of benefits they need to survive.

The Queens ODAR has the **third highest benefits-denial rate in the country and the highest benefits-denial rate in the New York region**, based on data covering decisions from 2005 to 2008. Almost all of the ALJs named in the suit rank high on the national list of top claims deniers. On appeal, the Queens ODAR suffers one of the highest remand rates in the country.

The lawsuit brought by the **Urban Justice Center's Mental Health Project** and the law firm of **Gibson, Dunn & Crutcher**, details a history of persistent and intentional denials by the ALJs of disability claims, and provides compelling evidence of their anti-claimant bias. These errors have persisted despite repeated warnings and reversals by the federal court in Brooklyn. In prior rulings, that court has used various phrases to describe the problem with ALJs from Queens ODAR, including:

- Proceedings that were “a far cry” from the required standards;
- Conduct that “raises the possibility that the ALJ was not seeking to neutrally develop the record, but rather to find support for the conclusions he had already formed”
- Analysis that was “deficient” and “incoherent”
- Delay that was “particularly egregious”
- Rationale that was “plucked from thin air”

- Analysis that “trivializes plaintiff’s impairments”
- Overall conduct that demonstrates “serious negligence and could possibly even suggest bias”

While these findings came in individual cases over three years, this is the first lawsuit to weave those findings together, and with other evidence of bias, as a basis to seek the disqualification of most of the members (5 of 8) of a local Social Security hearing office.

Eve Stotland, Director of the **Mental Health Project, Urban Justice Center**, said “We hope this lawsuit will bring an end to the well-known and flagrant bias our clients face every day. These ALJs have used any and every rationale to deny claims for many years. We look forward to the day when bias against disabled claimants is no longer tolerated.”

“Many of these individuals are living in dire poverty while these ALJs repeatedly to refuse to apply the law,” says **Emilia Sicilia**, Senior Attorney at the **Urban Justice Center**. “Attempts to appeal these cases are almost always futile because even when errors are found on appeal, the cases are typically remanded back to the same ALJ and always to the same hearing office.”

"Any time the rights and needs of the vulnerable are disregarded, we must stand up for them," said **Public Advocate Bill de Blasio**, whose office has filed an amicus brief in the case. “For years, administrative law judges have been wrongly denying disabled New Yorkers the social security benefits they deserve. My office will file our first amicus brief to help restore benefits to these victims and reform the way these judges do business,”

The five ALJs at the center of the lawsuit are Hearing Office Chief Administrative Law Judge David Nisnewitz, and ALJs Michael D. “Manuel” Cofresi, Seymour Fier, Marilyn P. Hoppenfeld, and Hazel C. Strauss. All have presided over thousands of cases, making the potential class of affected persons enormous.

Jim Walden, a partner at **Gibson, Dunn & Crutcher**, said, “Federal law does not permit this kind of bias in any form or fashion. Although this lawsuit is ground-breaking in the relief it seeks, it is firmly grounded in established precedent and statutory and Constitutional imperatives.”

Ian F. Feldman and **Emilia Sicilia** are counsel for the **Mental Health Project, Urban Justice Center**.

Oliver Olanoff, Tyler Amass, Sharon Grysman, Daniel Harris, Adam Jantzi, William Moriarty, Karin Reiss, and Abraham Shaw of **Gibson, Dunn & Crutcher LLP** are also working on the litigation on behalf of Class Plaintiffs.

The case is *Padro, et al, v. Astrue*, and has been filed in the U.S. District Court for the Eastern District of New York.