



SUNU P. CHANDY, NWLC LEGAL DIRECTOR

National Women's Law Center Litigation Highlights - 2019

NWLC's litigation efforts were in full swing across the Center throughout 2019. We are immensely proud of this work including winning significant court victories against the Trump Administration and engaging in intense settlement negotiations to better the lives of women and girls and for all to be free from sex discrimination. Our litigation work falls into three key categories.

- Cases against entities such as schools and employers who are violating our nation's Constitution or other civil rights laws and creating harm for women, girls and others who suffer sex discrimination.
- Cases against the Trump Administration for its harmful and illegal rules and changes in policies.
- Leading and joining amicus briefs in matters raising important legal questions, including matters supporting LGBTQ individuals, immigrants and others we know are crucial to include within the work of women's rights and our larger fights against sex discrimination.

Some of our highlights are detailed below by program area.

Education

- *Goodwin v. Pennridge*
- *Doe v. Pennridge*
- *Doe v. School Board of Miami-Dade County*
- *A.P. v. Fayette County Board of Education et al*

The Education team is currently litigating four Title IX cases representing girls in high school whose schools have not properly addressed their reports of sexual harassment and in several instances punished the girls when they came forward. Two matters are in the final stages of settlement negotiations and we are securing both monetary relief for the harmed individuals and significant policy and training changes – including in Pennsylvania and Florida. We also have a similar case in Georgia in the early stages of litigation. In these intensely litigated matters, we have partnered with the following firms, organizations, and attorneys: DLA Piper, Stroock & Stroock & Lavan, Making School Work, Alice Nelson, Mastando & Artrip, LLC, and Penn Law, LLC.

Reproductive Rights & Health

- *Planned Parenthood Federation of America v. Azar*

NWLC represented Planned Parenthood in the November 6, 2019 victory against the Trump Administration when the federal court in New York vacated the refusal of care rule. This rule would have allowed virtually any individual or entity involved in patient care to refuse to do their job and to deny patients care and information, even in emergency situations, simply by claiming a religious or moral objection. Co-counsel include Democracy Forward, Planned Parenthood Federation of America, and Covington & Burling LLP.

- ***Irish 4 Reproductive Health v. U.S. Dep't of Health and Hum. Servs.***

We are also litigating an on-going suit challenging unlawful rules and a related unlawful settlement agreement between the Administration and Notre Dame to deny students, employees, and their dependents insurance coverage of birth control guaranteed to them by the Affordable Care Act (ACA). We are awaiting a decision on the pending motion to dismiss from the federal district court in Indiana in that case. Co-counsel in this case include Americans United for Separation of Church and State, Center for Reproductive Rights, Fried, Frank, Harris, Shriver & Jacobson LLP, Macey Swanson LLP.

Workplace Justice

- ***NWLC v. OMB & EEOC et al***

Following our major pay data collection victory against the Trump Administration in March 2019, this case is now on appeal to the DC Circuit on the legal question of whether we have “standing” and whether the district court judge overreached in seeking a host of remedies to ensure the Administration’s compliance with its ruling. Five amicus briefs were filed in October in support of NWLC in the appeal, by the Democratic Women’s Caucus, former Obama officials, 19 state and local civil rights agencies, economists, and civil rights groups. Meanwhile, the Administration sought an order from the trial court judge indicating that the 2017-2018 pay data collection efforts were complete, but the court ruled in late October saying in no uncertain terms that the collection efforts must continue through January 2020. (Currently, more than 80 percent of employers have provided the data.) Our co-plaintiff in this case is the Labor Council for Latin American Advancement (LCLAA) and we are co-counseling with Democracy Forward.

- ***Borders et al. v. Wal-Mart Stores, Inc.***

In November, we were granted preliminary approval by the Court of a \$14 million proposed settlement of a class action against Wal-Mart representing workers who sought pregnancy related accommodations. Our co-counsel on this case are A Better Balance, Mehri & Skalet, LLC, and local co-counsel, Sedey Harper Westhoff P.C.

Income Security

- ***La Clínica de la Raza v. Trump***
- ***State of California v. Department of Homeland Security***
- ***State of New York v. Department of Homeland***
- ***Make the Road New York v. Cuccinelli***

We were excited to co-lead four amicus briefs alongside AALDEF and Advancing Justice | AAJC in federal district court cases in New York and California in support of a range of litigation fighting back against changes to the “public charge” immigration rules and highlighting how these rules harm women. Members of the Income Security team had submitted comments on this matter and so the team was particularly pleased to take part in related litigation. In October, a federal judge in New York blocked the rule, which would have restricted the ability of immigrants to become permanent residents if they receive or are likely to receive public benefits and two other courts similarly followed suit. The cases are now on appeal and we are likely to continue these efforts to both show our support for immigrant justice and to highlight the harmful impact these changes have on women in particular through these briefs. Our law firm partner for these amicus briefs is Crowell & Moring LLP.

Time’s Up Legal Defense Fund

- ***Upcoming Sex Harassment Litigation***

As we conduct intake and review the sex harassment complaints that are brought to the Time’s Up Legal Defense Fund we also consider these for potential NWLC litigation. We are currently working towards litigation in a matter that involves three women, two who are Latina and one who is Filipina, and they all have sexual harassment, including assault, claims against their supervisors at a cable manufacturing company. Our law firm partner on this matter is Boies Schiller Flexner LLP.