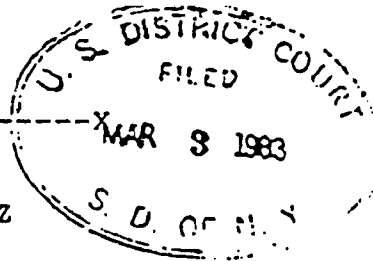


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



LEONARDA RODRIGUEZ, individually and on
behalf of her children LEONARDA RODRIGUEZ
and JUANITA RODRIGUEZ, and ALMA IFILL,
individually and on behalf of all others
similarly situated,

: 79 Civ. 4518
(VLB)

Plaintiff,

-against-

: STIPULATION
: AND
: JUDGMENT

BARBARA BLUM, individually and as
Commissioner of the New York State Depart-
ment of Social Services, STANLEY BREZENOFF,
as Administrator of the New York City Human
Resources Administration; PETER MULLANY,
individually and as Assistant Counsel to the
Commissioner of the New York State Department:
of Social Services, and NEW YORK CITY DEPART-
MENT OF SOCIAL SERVICES,

Defendants.

-----X

It is stipulated that this action is settled as
follows:

1. The following terms shall have the definitions
indicated:

(a) "Agency": defendant Stanley Brezenoff, the
Commissioner of the City of New York Department of Social
Services at the time the action was commenced, his successors,
and the City of New York Department of Social Services and its
agents and employees;

(b) "State": defendant Barbara B. Blum, the Commissioner of the State of New York Department of Social Services at the time this action was commenced, her successors, and the State of New York Department of Social Services and its agents and employees;

(c) "Appellant": A person who receives benefits and requests a fair hearing to challenge an agency notice to reduce, discontinue or restrict benefits;

(d) "Fair Hearing": The procedure by which an appellant appeals to the Commissioner of the New York State Department of Social Services from decisions or actions of the agency and has a hearing thereon;

(e) "Benefits": Aid or care received from the agency under the Aid to Families with Dependent Children (AFDC) or Home Relief (HR) programs;

(f) "Complete relevant case record": That portion of an appellant's case record maintained by the agency in each of the following areas pertinent to the issue or issues at the hearing:

- (i) Face-to-face recertification,
- (ii) Income maintenance,
- (iii) Employment;

(g) "Case Record": All paper records and machine readable data which can readily be converted to a comprehensive paper record relating to an appellant's receipt of AFDC or HR;

(h) "Notice": A notice to or a notice of intent to reduce, discontinue or restrict benefits issued by the agency.

2. The agency shall provide an appellant's complete relevant case record at a fair hearing.

3. If the agency appears at a fair hearing without an appellant's complete relevant case record in those cases covered by the class as defined in paragraph 10 of this stipulation, it shall withdraw its notice.

4. Where the agency withdraws its notice because it failed to have an appellant's complete relevant case record at the fair hearing, it may reissue its notice, provided it has first procured and reviewed the appellant's complete relevant case record. The agency's new notice shall clearly advise the appellant that it is reissuing its earlier notice, and that it is doing so after procuring and reviewing the appellant's complete relevant case record. A copy of the format of this notice, prior to promulgation, shall be sent by the agency to plaintiffs' attorneys for their approval.

5. Plaintiff Rodriguez's August 8, 1979 fair hearing decision is annulled and the agency's notice that was the subject of the fair hearing is withdrawn.

6. Within 30 days after this stipulation becomes effective, the agency may reissue its notice to plaintiff Rodriguez, provided it has first procured and reviewed her

complete relevant case record. If the agency reissues its notice and her complete relevant case record is not at the fair hearing, the agency shall withdraw its notice and shall not reissue a notice on the same issue and the same facts.

7. Plaintiff Ifill's August 23, 1979 fair hearing decision is annulled and the agency's notice that was the subject of the fair hearing is withdrawn.

8. Within 30 days after this stipulation becomes effective, the agency may reissue its notice to plaintiff Ifill, provided it has first procured and reviewed her complete relevant case record. If the agency reissues its notice and plaintiff Ifill requests a fair hearing to review the notice and her complete relevant case record is not at the fair hearing, the agency shall withdraw its notice and shall not reissue a notice on the same issue and the same facts.

9. This stipulation shall become effective 30 days after it becomes the judgment of the court.

10. This action shall be maintained as a class action consisting of all present or former recipients of benefits residing in the City of New York who had a fair hearing on or after December 1, 1980 to challenge an agency notice to reduce, discontinue or restrict benefits or who request a fair hearing on or after the effective date of this

stipulation to challenge an agency notice to reduce, discontinue or restrict benefits.

11. Within the thirty-day period after this stipulation takes effect, the agency shall cause to be published an announcement (a copy of which is annexed hereto as Appendix A) advising recipients of benefits of the retroactive relief afforded by this stipulation five times within a thirty-day period in the following newspapers: New York Daily News, New York Post, El Diario and the Amsterdam News. The parties will accept the translation of the announcement provided by El Diario. The size of the publication of this announcement shall be no less than one-eighth of a page. Prior to publication, the agency shall make available to plaintiffs' attorneys a proof copy of the announcement as prepared for publication.

12. Within the thirty-day period after this stipulation takes effect, the agency shall prominently post the announcement advising recipients of benefits of the retroactive relief afforded by this stipulation (in English and Spanish) in the public areas of every agency office under the supervision of its department of income maintenance on posters which shall be at least eleven inches by seventeen inches. The announcement shall remain posted for a minimum

of thirty days. The agency on or before the effective date of this stipulation shall provide plaintiffs' attorneys with fifty copies of these posters.

13. Within the thirty-day period after this stipulation takes effect, the agency shall send to plaintiffs' attorneys (a) proofs of publication of the announcements, and (b) proof of distribution of the announcement, for purposes of posting, to the local income maintenance centers.

14. All appellants as defined in this stipulation who had a fair hearing on or after December 1, 1980 and before August 1, 1981, who lost their fair hearing in whole or in part and whose complete relevant case record was not present at their hearing may request a new fair hearing and shall be afforded such a hearing where such a request is made within ninety days of the effective date of this stipulation or within sixty days of the date of last publication as set forth in paragraph "11" hereof, whichever period is longer.

15. All appellants as defined in this stipulation who had a fair hearing on or after August 1, 1981 and before the effective date of this stipulation, and who lost their fair hearing in whole or in part, may request a new fair hearing within ninety days of the effective date of this stipulation or within sixty days of the date of last

publication as set forth in paragraph "11" hereof, whichever period is longer. Those appellants who represent on a form provided by the agency or by the State (a copy of which is attached hereto as Appendix B) that, because their complete relevant case record was not present at the hearing, their hearing was unfair, shall be afforded such a hearing.

16. Copies of any written instructions to staff issued by either the State or the agency to implement this stipulation shall be sent to plaintiffs' attorneys within ten days of their issuance.

17. For a period of one year after the date upon which this stipulation becomes effective, the State shall provide to plaintiffs' attorneys, to the extent possible, monthly monitoring reports setting forth by name, request date, issue date and issue code(s) those appellants who had two or more fair hearings which resulted in agency withdrawals of agency actions on identical issues within a six-month period.

18. This court shall have continuing jurisdiction over this action for the purposes of enforcing this stipulation and judgment.

19. The issue of plaintiff's entitlement to an award of attorneys' fees, pursuant to 42 USC § 1988, and costs

and disbursements is reserved for later determination upon application to the court. All other claims for monetary relief asserted in this action are hereby discontinued with prejudice.

20. (a) The issue of whether an agency employee with personal knowledge of the facts and circumstances of the issues to be addressed at the fair hearing is required to appear at the fair hearing is not part of this stipulation and insofar as it might have been raised in this action is withdrawn by plaintiffs without prejudice.

(b) It is agreed that this action does not raise, nor does this stipulation resolve, any issue with respect to the number or frequency of notices sent to recipients of benefits.

21. Nothing contained in this stipulation shall be deemed to be a finding or an admission that defendants have in any manner violated plaintiffs' rights as contained in the Constitution, statutes, ordinances and rules and regulations of the United States, the State of New York or the City of New York.

Dated: New York, New York
~~November~~, 1982
December 13

MICHAEL D. HAMPDEN
Attorney for Plaintiffs
By

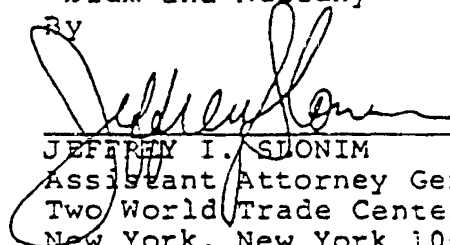


SEAN DELANY
Bronx Legal Services Corp. C
579 Courtlandt Avenue
Bronx, New York 10451
Tel. No. (212) 993-6250

Dated: New York, New York
~~November~~, 1982
February 22, 1983

ROBERT ABRAMS
Attorney General of the
State of New York
Attorney for Defendants
Blum and Mullany

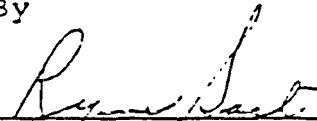
By



JEFFREY I. SLONIM
Assistant Attorney General
Two World Trade Center
New York, New York 10047
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Dated: New York, New York
~~November~~, 1982
February 16, 1983

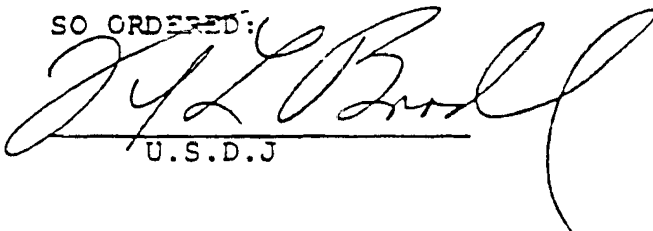
FREDERICK A.O. SCHWAPZ, JR.
Corporation Counsel of the
City of New York
Attorney for Defendants
Brezenoff and New York City
Department of Social Services
By



REGINA SAAT
Assistant Corporation Counsel
100 Church Street
New York, New York 10007
Tel. No. (212) 566-2970

2/25/83

SO ORDERED:



U.S.D.J

APPENDIX A

TO WELFARE AND MEDICAID
RECIPIENTS: YOU MAY BE
ENTITLED TO MORE BENEFITS

Can you answer yes to all of these questions?

1. I had a fair hearing after November 30, 1980 and before _____, 1982;
2. I had the fair hearing because the New York City Department of Social Services tried to terminate, reduce or restrict my welfare or medicaid benefits;
3. I lost all or part of the fair hearing;
4. My complete relevant case record was not present at my fair hearing.

If you answered yes to all of these questions, you may have the right to a new fair hearing, which if you win may mean more welfare or medicaid for you. Your case record will be present at the new hearing.

You should contact the New York State Department of Social Services by calling (212) 587-4349 or by writing to the Fair Hearing Section, Attention: RT, P.O. Box 1930, Albany, New York 12202. Please be prepared, if possible, to give the following information when requesting this hearing: your name, case number, center number, address and date(s) your prior fair hearing(s) was/were held. If you wish a new hearing, you must request one before _____.

APPENDIX B

At the fair hearing which was held on _____,
at which the New York City Department of Social Services tried
to terminate or reduce my welfare benefits, my complete
welfare file was not present and I believe the hearing I had
was therefore not fair.

By signing this statement, my present welfare
benefits will not be changed.

Name

Case Number (if known)

Center Number (if known)

