



**The Barbara McDowell and Gerald S. Hartman Foundation
National Center for Law and Economic Justice – Final Report
July 31, 2019**

Overview

Since our inception, NCLEJ has been committed to advocacy on behalf of low-income individuals and families. That commitment, in addition to our successful work around the criminalization of poverty, and the disproportionate impact of such practices on communities of color, is what led us to file *Black Love Resists in the Rust v. City of Buffalo* last June. The Buffalo Police Department (BPD) had conducted thousands of “traffic safety” stops at checkpoints that were overwhelming placed in Black and Latinx neighborhoods. There people of color were being stopped, searched, ticketed, and even arrested and having their cars towed in violation of their constitutional rights. They were also being issued multiple tickets for offenses such as having tinted windows, as the City of Buffalo sought ways to generate an increase in revenue at their expense.

With the generous support of the Barbara McDowell and Gerald S. Hartman Foundation, NCLEJ has been hard at work to stop these practices. As the litigation proceeded, we have simultaneously been conducting outreach, engaging in intense discovery, and participating in the court’s process to determine whether the case can be addressed through mediation.

Activities

Outreach/Fact Gathering - NCLEJ planned and held numerous meetings with our plaintiffs and community members in Buffalo throughout the period. In the meetings, we informed community members about the case and listened to stories about their experiences with checkpoints, ticketing, and the BPD. In December 2018, we also coordinated an outreach training for plaintiffs where questionnaires, case fact sheets, and flyers we created were distributed to plaintiffs, law student volunteers, and other legal team members who would be canvassing and conducting outreach. Since that time, we have continued to coordinate and supervise canvassing and outreach efforts around the City of Buffalo.

We have conducted numerous interviews with people who have been through checkpoints or experienced the BPD’s excessive ticketing practices. We have reviewed thousands of pages of material, data from multiple sources, and various reports.

Discovery - NCLEJ has submitted and requested various types of information to support our claims for relief on behalf our individual named plaintiffs as well as our claims about the BPD and

the City of Buffalo's policy and practice of discriminatory and excessive ticketing and revenue generating for the City. First, we prepared and submitted initial disclosures with information concerning evidence we plan to use to support our plaintiffs' claims. Then, we drafted and submitted requests for production and interrogatories asking the defendants to produce certain documents and reveal certain information to us.

However, although it has been several months, opposing counsel has yet to turn over much of the information that we have requested, and much of what he has produced has not been produced in the form we requested it in so that we can effectively analyze it. However, as the discovery process requires, we had lengthy negotiations in the hopes of assisting opposing counsel in producing the information that we need.

Defendant remained obdurate and by May 2019, the Court issued an order mandating compliance with discovery requirements. Defendant still has not complied and, as a consequence, at the end of July 2019 we filed a motion to compel full discovery production, including a range of electronic discovery as well as to locate and produce BPD Housing Unit, Traffic Unit, and Strike Force Monthly and Daily Reports – all of which detail police action in City of Buffalo.

Mediation - The local rules for the federal district court in which our case was filed require that we attempt to address our dispute through mediation. As a result, we selected a mediator for the case to assess whether we might be able to do so. In preparation for this, we coordinated phone calls with our plaintiffs where we discussed their goals for the case and ideas they might have about potential injunctive relief. We included these ideas in a letter to the mediator, which we sent to him in advance of our call to discuss the possibility of settlement. However, there has not been successful mediation to date.

Media Coverage - The case generated and continues to generate strong media coverage. For example, Marsha McLeod, a reporter for the *Investigative Post* has written two articles that were inspired by and explicitly mention our case about the BPD's discriminatory ticketing practices and the City of Buffalo's use of traffic tickets, including excessive surcharges, to generate revenue. The first article was published in February 2019 and the other was published in March 2019. See <http://www.investigativepost.org/2019/02/27/city-hall-cashing-in-on-traffic-tickets/>

Progress Anticipated Over the Next Six Months

A primary focus of the next six months will be on obtaining the discovery needed to move for class certification and prepare for trial. We also must obtain and review substantial electronic discovery from defendants concerning their policies and practices; obtaining this information will likely require some motion practice before the district court. After we obtain and analyze document discovery, we will begin taking depositions. If we can obtain all necessary discovery within the next six months, we will move for class certification. Finally, we will continue to engage with the City in settlement discussions as appropriate.

Conclusion

The assistance from the Barbara McDowell and Gerald S. Hartman Foundation supports our efforts to fight for fundamental civil right of low income communities of color. This assistance has been absolutely essential to our work, which has been and continues to be very resource intensive. We

could not be more grateful for the support – it is truly making a difference by shining a spotlight on egregious governmental misconduct, helping communities of color in Buffalo to be heard, and vindicating important rights.

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