



**The Barbara McDowell and Gerald S. Hartman Foundation
National Center for Law and Economic Justice – Midyear Report
May 14, 2020**

Overview

The National Center for Law and Economic Justice (NCLEJ) works to advance the cause of economic justice for low-income families, individuals, and communities, using groundbreaking impact litigation, policy advocacy, and support for grassroots organizing. The Foundation’s \$40,000 grant in 2019 has enabled NCLEJ to play the lead role in a critical class action entitled *McCullough v. City of Montgomery*. This case challenges a series of interwoven policies and practices of the City of Montgomery, Alabama, designed to increase municipal budgets at the expense of low-income people of color by repeatedly ticketing them, subjecting them to coercive private “probation” schemes, jailing them when they lacked the ability to pay, and then forcing them to work while jailed in order to pay off their debt.

The case was originally filed by a retired law professor with support from a small, but well-regarded civil rights law firm. They survived motions to dismiss through the 11th Circuit, but they lacked the resources to pursue the surviving claims through discovery, summary judgment, and trial. Without support from NCLEJ, and the additional pro bono resources we secured from Dentons, the litigation could not have survived.

In its present form, the litigation seeks damages on behalf of a putative class (or classes) of people subjected to discriminatory court debt collection practices. The centerpiece of the lawsuit is a peonage claim directed at the city’s practice of jailing indigent people for unpaid traffic tickets, fines, and fees and then coercing their labor to “work off” the debt at \$50/day. The lawsuit also brings equal protection and due process claims against the City of Montgomery and a private probation company that extracted millions of dollars in probation fees from our clients. This recent story in the New York Times describes a piece of the problem:

<https://www.nytimes.com/2020/05/13/us/coronavirus-jails-alabama.html>

We see this case as critical to challenging discriminatory policing and debt collection practices that have subjected communities of color in Alabama to both unreasonable intrusion and relentless revenue harvesting. Though previous lawsuits have challenged some of this same conduct, those lawsuits never succeeded in forcing the City to change its practices, and the City has never been held accountable to the thousands of people harmed by these unlawful and discriminatory practices.

Activities to Date

Over the last six months, NCLEJ has engaged in intensive litigation on a highly compressed schedule. In Fall 2019, the court placed the case on a rocket docket, giving the parties three months to complete discovery. By mid-December we had drafted and served document requests, responded to written discovery on behalf of seven named plaintiffs, defended the depositions of each of the named plaintiffs, reviewed and processed thousands of pages of electronic records, and took ten depositions of defendants.

Immediately following the close of discovery, we began summary judgment briefing. In mid-January, the parties filed cross-motions for summary judgment, with briefing continuing through March 9, 2020. This was a Herculean effort involving full-time effort from almost every member of NCLEJ's staff, as we needed to process a massive amount of evidentiary material in a highly-compressed time frame, while at the same time researching and framing our legal theories.

Progress Anticipated Over the Next Six Months

While we await the court's decision on summary judgment, we remain extremely busy preparing for class certification and trial. This work includes securing expert witnesses, analyzing electronic data received from Defendants in discovery, drafting a brief in support of class certification, and putting together a trial notebook. We anticipate that once the summary judgment decision comes down, we will once again be on a very short timeframe.

Conclusion

The assistance from the Barbara McDowell and Gerald S. Hartman Foundation supports our efforts to fight for the fundamental civil rights of low-income people of color in Montgomery, Alabama. This work has been extremely resource intensive, and the Foundation's support has been critical. We could not be more grateful for the support – it is truly making a difference.

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