



Texas RioGrande Legal Aid

JUSTICE IN ACTION

Fall 2019



TRLA Clients Win Record Clean Water Act Lawsuit— Formosa Plastics Will Pay \$50 Million to Clean Up Lavaca Bay



Bob Lindsey, a plaintiff and member of the San Antonio Bay Estuarine Waterkeepers, catalogues samples of plastic pellets and powders. Photo by Diane Wilson.

TRLA client and former shrimper Diane Wilson and members of the San Antonio Bay Estuarine Waterkeeper won a major victory against Formosa Plastics and its plant in Port Comfort. In June, U.S. District Court Judge Kenneth M. Hoyt ruled in favor of the plaintiffs, represented by TRLA and private attorneys, who sued the company for illegally discharging billions of plastic pellets, called “nurdles,” into Lavaca Bay and Cox Creek on Texas’ Gulf Coast. In October, the petrochemical giant agreed to pay a record \$50 million to settle the lawsuit over federal Clean Water Act violations brought by the Texas residents.

In his June opinion, Judge Hoyt described Formosa as a “serial offender” with “extensive, historical, and repetitive” discharges of plastics that it failed to report. The judge ruled that Formosa had violated both the Clean Water Act and its permit issued by the Texas Commission on Environmental Quality.

“The years of fighting to protect the natural resources of the Lavaca Bay-Cox Creek area have finally paid off,” said Diane Wilson. “It’s a huge victory for the environment – and for the people who love and depend upon it. We look forward to working with Formosa to restore the health of our environment and make sure it stays pristine.”

“A settlement of this size sends a powerful message to corporate polluters – there’s a steep price to pay for flagrant, chronic violations of laws that protect our environment,” said TRLA attorney Erin Gaines, who represents Wilson. “And with plastics pollution of our oceans at a crisis, the message comes at a vital time.”

The settlement must still be approved by Judge Hoyt. His decision is expected this December. During the trial, the plaintiffs presented 30 containers containing 2,428 samples of plastics they found in the water and on shores, as well as

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Defending the Rights of People with Serious Mental Illness

TRLA’s Mental Health Project originated with a woman in rural West Texas who had been living for years in an uninhabitable RV on her parents’ property. The local mental health authority could not figure out what she needed and, instead, tried to put her in an institution. With TRLA’s advocacy, she has been able to live successfully in the community. TRLA also filed a lawsuit against the local mental health authority for violating her rights under anti-discrimination laws.

People with serious mental illness (SMI) face unique challenges to access housing, public benefits, employment, adequate treatment and financial stability. Stigma, discrimination, isolation, and substituted decision-making by the people and

institutions that are often their only conduit to services are barriers to individuals with serious mental illness in accessing the legal and social services that can help them enforce their rights.

TRLA’s Mental Health Project creates a specialized program for clients with serious mental illness to combat an often unending cycle of psychiatric hospitals, homelessness and incarceration by employing specially trained attorneys, paralegals, peer specialists, and social workers. TRLA’s practice delivery system is a proven mechanism for addressing in a holistic manner the legal services needs of these clients.

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TRLA Clients Win Record Lawsuit

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photos and videos of Formosa's discharges. From 2017 to early 2019, they collected evidence of Formosa's discharge every day for 1,149 consecutive days. They also took more than 7,000 photos and videos of the pellets and powders from the plant in the water and along the shores.

Settlement funds will not go to the plaintiffs, but will be paid out over five years into a fund that will support projects that reverse the damage of water pollution in Texas's Calhoun County.



From left: Plaintiffs David Sumpter, Diane Wilson, Bob Lindsey, and Ronnie Hamrick.
Photo by Diane Wilson

TRLA Assists El Paso Mass Shooting Victims



In the weeks after the white supremacist shooting in El Paso in August, TRLA's office worked tirelessly to provide courageous, compassionate service to clients as the community attempted to recover. Staff made an extraordinary effort to help survivors and the relatives of victims deal with such problems as establishing the heirs and estates of the deceased in order to access bank accounts, applying for survivor or disability benefits, and negotiating with mortgage companies and landlords requesting payments.

Staff from across our service area trained private attorneys along with the El Paso Bar Association to assist survivors on a pro bono basis. In addition, several of our attorneys served on a planning group of government officials, social service providers, and other community partners to coordinate support efforts for victims and survivors. Most recently, El Paso staff have been assisting eligible people apply for funds raised for survivors and the relatives of victims.

TRLA advocates in El Paso were challenged with supporting others through unimaginable circumstances while having to deal with the effects of this traumatic event themselves. Their strength throughout this horrible incident speaks volumes about the commitment TRLA staff have to helping the El Paso community.

TRLA Teaches the Gecko a Lesson, Forcing GEICO to Drop Trickster Lawsuits

In a settlement negotiated by TRLA attorney Cristina Trejo, GEICO dropped suits that it filed against two elderly El Paso women. GEICO had improperly sued the two women in Dallas County over car accidents that happened in El Paso County. "GEICO does this to keep people from showing up in court to defend themselves," said Trejo, who represented the women along with TRLA attorney Jaime Sanchez. TRLA countersued, stating that GEICO engaged in the "intentional practice of abusing process against Plaintiffs and El Paso residents in general by routinely suing them in Dallas County for accidents that occur in El Paso County." The

complaint listed examples of 12 other improperly filed cases.

The settlement was a victory for the two elderly women, who were able to avoid litigation that could have cost them considerable money and emotional stress. The countersuits also served to send Geico a message. "The abuse-of-process suits filed by us against GEICO put GEICO on notice that these subrogation suits should be filed in the jurisdictions where the accidents occurred rather than hundreds of miles away, where the defendants cannot readily defend themselves," Sanchez said.

DID YOU KNOW?

We serve more than
23,000
clients each year

68 counties in TX
make up our
service area

6 states are
served by our
Southern Migrant
Legal Services
Project based in
Nashville, TN

10 counties are
served by our
Public Defender
Program

400 advocates on-
staff, half of
whom are
attorneys

Trafficking Survivor Gets Her Life Back

A trafficking client we will call María escaped from indentured servitude in the Lower Rio Grande Valley and with the help and representation of TRLA was able to stabilize her life and avoid revictimization. María was born in Mexico but was raised since she was two in the Valley. Before her abusive father was deported, María and her mother and brothers spent time in a domestic violence shelter. She graduated from high school in 2011.

In order to support her struggling family, María took a job that was advertised as caring for two grandchildren and doing light cleaning during normal business hours in exchange for \$130 per week and room and board. Once she took the job, she was told she had to work seven days a week until midnight, provide round-the-clock care, and clean the entire house. She wasn't paid for the extra hours and often went hungry. Her employer was abusive and threatened to report María and her family to immigration for deportation. She also threatened to harm María and her family if she didn't do as she was told, including feeding a wolf the family illegally owned. The grandchildren María cared for also were treated abusively, and María was afraid for their safety if left alone with their family.

María's employer paid her \$1 per hour from which María was forced to "lend" money back to her. The employer would not let María keep doctor's appointments or take medications on which she relied for diagnosed mental health conditions.

The treatment became worse when the employer forced María to write a letter of support in a custody battle with the grandchildren's father. The employer threatened her with criminal charges as well as deportation of María's family, while María's father in Mexico was sending threatening letters to María's family. When María attempted to escape the house, she was blocked by her employer, who later relented when her lawyer told her it could adversely affect her custody case.

María was finally able to leave. She was put in touch with TRLA attorney Leah Glowacki who helped her secure an approved T-Visa as a trafficking victim. María is now authorized to work in the U.S. and can apply for lawful residence in three years.

TRLA Mental Health Project

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In response to an increasing need among our clients, TRLA spearheaded the first Psychiatric Advance Directive (PAD) clinics in Texas in collaboration with community partners. PADs are self-determination plans that serve an individual's psychiatric needs in the least restrictive manner possible.

The Texas Access to Justice Foundation (TAJF) has recognized TRLA's approach with funding to expand our vision of person-centered advocacy for these critically underserved clients. With this support, TRLA has embarked on a groundbreaking project to advocate for people with mental illness by providing legal support so they can advocate for themselves. This project is directed by TRLA's expert mental health managing attorney Laurie Hallmark. This fall Laurie Hallmark has begun touring TRLA's offices to train attorneys and other staff on psychiatric advance directives and working with clients with serious mental illness.

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"People who have mental illness face invidious discrimination in our society," said Laurie Hallmark. "The last place they should be subjected to that kind of discrimination is from the service providers who are supposed to help them."

Taking State and Federal Governments to Court for Harvey Assistance Discrimination

While natural disasters do not discriminate in their choice of victims, the ability to recover from disasters is often directly related to the incomes of the victims and the willingness of government agencies to direct their resources to aid victims with the fewest personal resources. Texas and the federal government seem particularly unwilling to assist renters displaced by storms.

Ruth Ortiz is a resident of Victoria who had to move out of her \$750 per month rental home after Hurricane Harvey left four windows broken and the back door damaged enough so that it couldn't be locked. Ortiz moved her family into a \$1,000 per month apartment using temporary rental assistance from the Federal Emergency Management Agency (FEMA). When that aid ended, she and her children had to move to a less expensive place farther away from her job, her children's school, and the doctors who treat her son, who has a brain tumor. "Our lives became chaos after Harvey," said Ortiz. "And we're still not completely back on our feet. We needed more than just a few months of assistance from FEMA."

Ortiz is one of the Texas tenants displaced by Hurricane

Harvey who recently filed suit against state and federal agencies for employing discriminatory policies that have made African American and Hispanic residents disproportionately ineligible for disaster assistance. Unlike homeowners and developers, the tenants who were forced out of their rented homes by damage from the storm have been unable to apply for long-term state recovery aid. They are represented by TRLA.

Through Texas's Plan for Disaster Recovery, the General Land Office is administering more than \$5 billion in Housing and Urban Development funds to assist Harvey survivors who continue to have "unmet housing needs."

But tenants, who are predominantly African American and Hispanic in the counties hit by Harvey, are not included in the plans to distribute those funds. In the 49 Harvey-impacted counties, 56 percent of African American occupants of homes are tenants and 46 percent of Hispanic occupants are tenants. In comparison, only about 27 percent of white occupants are tenants. "Tenants, even though they are often the most financially-strapped, are completely left out of the picture," TRLA attorney Rachel Zummo said.

The Right to Health and Safety at School

Families in the Chamizal neighborhood of El Paso have been working with TRLA to protect the health and safety of their elementary school children, who are being relocated to schools situated in toxic environments. The El Paso Independent School District voted to close their neighborhood schools and relocate them to schools in highly polluted, unsafe areas near an industrial plant and heavily trafficked roads. One of the schools the children were sent to is located next to a highly polluting metal recycling plant and close to an active railroad. The other receiving school is located adjacent to the heavily trafficked Bridge of the Americas — one of the busiest international crossings in the United States.

In May, TRLA filed a Title VI Civil Rights complaint with the federal Department of Education (DOE) against the El Paso Independent School District (EPISD). The complaint argued that EPISD's closure of the schools and relocation of the students violates their civil rights because they will be relocated to schools in highly polluted, unsafe regions.

"The closures violate Title VI because they will disproportionately increase exposure to health and safety hazards on the basis of race and national origin," said TRLA attorney Margaret Barnes. "All of the children who have been relocated are Mexican-American, and they will suffer more environmental hazards than other children in the school district."

"The relocation is deeply unfair to our community," said Hilda Villegas, leader of the grassroots group, Familias Unidas del Chamizal, whose son is among those relocated. "Our children have a right to be as healthy and safe in their schools as other kids."



Since 1970, TRLA has provided high quality, zealous advocacy for low-income people in Texas. For almost 50 years, our organization has grown to address the many needs of people in Southwest Texas and beyond.

www.trla.org/donate