

# The Cancer Legal Resource Center CHRONICLE

Volume III

Los Angeles County Edition

December 2009

## About the Cancer Legal Resource Center

The Cancer Legal Resource Center (CLRC), a joint program of the Disability Rights Legal Center and Loyola Law School Los Angeles, is a non-profit organization. The CLRC provides free services throughout the United States. Founded in 1997, the CLRC's mission is to provide information and resources on cancer-related legal issues to people coping with cancer. ❖

## Taking Time Off of Work Under the Family and Medical Leave Act

When you, or someone in your family, has a serious illness like cancer, you may need to take time off of work to get treatment or to care for your loved one. The Family and Medical Leave Act (FMLA) is a federal law that guarantees up to 12 weeks<sup>1</sup> of job and benefit-protected leave in a 12 month period<sup>2</sup> for qualifying employees. FMLA leave can be taken for your own serious illness<sup>3</sup>, or for that of a spouse, child, or parent. In California, you can also take leave to care for your domestic partner. FMLA leave can be taken all at once or as needed. It can be one day per week, one week a month, one month at a time, or any combination of shorter leave periods that a person needs.

### *Maintaining income and health benefits during FMLA leave*

The FMLA does not require that your employer continue to pay you while you are on leave. However, if you have unused paid time off (vacation or sick leave) you can use those benefits in order to continue receiving pay while you are on FMLA leave. In fact, employers will often require you to use your paid time off (PTO) concurrently with your FMLA. If you do not have any PTO available through your employer, or if you have used up your PTO, you may be eligible for short term disability benefits. Disability benefits provide you with a percentage of your previous income while you are unable to work due to a disability. Some employers provide disability benefits to their employees. Union members often have disability benefits available through their union. The State of California also provides short term disability benefits (known as State Disability Insurance or SDI) to people who have paid SDI taxes during the year prior to their disability.

During FMLA leave, an employer must continue to provide health benefits if they were providing them prior to the leave, and must continue to pay whatever portion of the premiums they were paying prior to the leave. The employee is still responsible for any contribution they were making toward their health insurance premiums before their leave. *continued on page 2*

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Disability Rights Legal Center

# CLRC

Cancer Legal Resource Center

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Fax: 213.736.1428 Email: [CLRC@LLS.edu](mailto:CLRC@LLS.edu)  
Web: [www.CancerLegalResourceCenter.org](http://www.CancerLegalResourceCenter.org)

### *Who is eligible for FMLA leave?*

In order to qualify for leave under the FMLA, you have to work for an employer that has 50 or more employees within 75 miles of where you work. Many employers, such as major corporations, have multiple worksites (factories or offices, for example). So, consider whether your employer has 50 or more employees within a 75 mile radius of your worksite.

Another requirement for FMLA leave is your work history. You must have worked for your current employer a minimum of 12 months (although the 12 months do not have to be consecutive) and a minimum of 1250 hours (a little more than part time if worked over an entire year) during the previous 12 months.

### *Employers' responsibilities*

Your employer is required to give you information about your rights and responsibilities under the FMLA when you take FMLA leave. Your employer cannot terminate your employment or otherwise punish you for taking FMLA leave. When you return from FMLA leave your employer must allow you to return to the same job you had prior to leave, or an equivalent position with equivalent pay, benefits, and other terms and conditions of employment.

Once your 12 weeks have been exhausted for the 12 month period, the employer is not obligated to provide additional leave under the FMLA. However, you may be entitled to a definite period of additional leave time as a reasonable accommodation under the Americans with Disabilities Act (ADA).

An employer can still terminate your employment while you're on leave if they would have made the same decision even if you had not been on leave. For example, if your entire department was laid off while you were on leave, you would not be entitled to your job just because you were on leave.

### *Employee's responsibilities*

The employee must provide 30 days advance notice when the need for leave is foreseeable. If the need for leave was not foreseeable, then the employee must give notice as soon as is practicable. This generally needs to be within one to two days of learning of the need for the leave.

The employer may ask the employee to obtain certification from a medical provider

verifying the need for the employee to take the leave for themselves or for a family member. At the end of the leave the employer may require the employee to obtain a certification of fitness to return to work, if the leave was due to the employee's own illness.

**For more information, call 866-843-2572 or visit [www.cancerlegalresourcecenter.org](http://www.cancerlegalresourcecenter.org).**

<sup>1</sup> Families of military members are now entitled to take up to 26 weeks of leave to care for spouse, child, parent or next of kin who is a member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy. Family members may also be entitled to time off when an Armed Services member has been called to active duty.

<sup>2</sup> Employers are given some flexibility to decide how the 12 month period will be calculated. Some employers use a calendar year (Jan. 1 – Dec. 31). Others calculate the 12 month period from the day the employee began employment. However the employer chooses to calculate the 12 months, they must be consistent for all employees.

<sup>3</sup> Leave can also be taken for the birth and care of a newborn child or for placement of a child for adoption or foster care. ❖

## **CLRC Receives Grant from the Lance Armstrong Foundation to Educate Healthcare Professionals**

The CLRC has received a three-year grant from the Lance Armstrong Foundation to educate oncology healthcare professionals, including doctors, nurses, social workers, psychosocial care professionals, and patient advocates, about cancer-related legal issues.

Through this grant, the CLRC will be providing educational seminars, focus groups, conferences, and an online survey for healthcare professionals. The CLRC is also developing a Legal Guide for Healthcare Professionals.

If you would like more information about this project or would like to participate in one of these events, please contact Jennifer Fenton, CLRC Education & Outreach Coordinator, at [Jennifer.Fenton@LLS.edu](mailto:Jennifer.Fenton@LLS.edu) or (213) 736-1455.

## Where We'll Be . . .

*We'll be at these events coming soon. If you would like more information, please contact the CLRC.*

### January 2010

EVENT: Cancer and the Law Seminar  
DATE: January 12, 2010  
PLACE: Little Company of Mary, Redondo  
TIME: 10 a.m. to 11:30 a.m.

### March 2010

EVENT: Komen Los Angeles County Race for the Cure®  
DATE: March 14, 2010  
PLACE: Dodger Stadium, Los Angeles  
TIME: 7:30 a.m. to 1 p.m.

EVENT: Bethel Reformed Church Health Fair  
DATE: March 21, 2010  
PLACE: Bellflower  
TIME: 11 a.m. to 3 p.m.

### April 2010

EVENT: Cancer and the Law Seminar  
DATE: April 14, 2010  
PLACE: Disney Cancer Center, Burbank  
TIME: 12 p.m. to 2 p.m.

### August 2010

EVENT: Health Care Reform: What Does it Mean for You?  
DATE: August 16, 2010  
PLACE: El Segundo  
TIME: 7 p.m. to 8:30 p.m.



## Cancer Legal Resource Center Staff

### Director

Joanna Morales, Esq.

### Staff Attorneys

Dianne Prado, Esq.  
Tiffany Sirikulvadhana, Esq.

### Outreach & Education Coordinator

Jennifer Chayo Fenton, J.D.

### Advocacy & Outreach Coordinator

Sarah Semrow

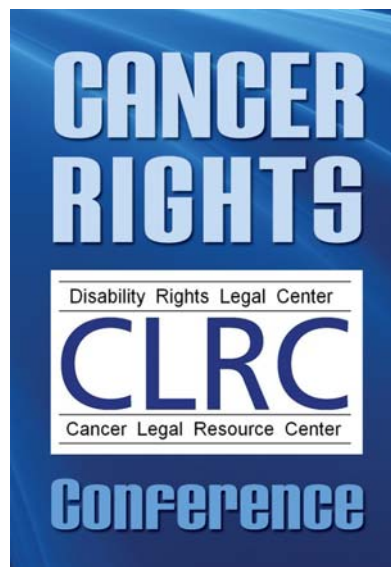
### Intake Coordinator

Maria Badillo

### Administrative Assistant

Angelica Corral

Visit [www.CancerLegalResourceCenter.org](http://www.CancerLegalResourceCenter.org) to learn more about our staff!



## Save the Date!

## Cancer Legal Resource Center 2010 Cancer Rights Conferences

Chicago – June 18, 2010  
Los Angeles – October 8, 2010

## CLRC Partners with the ABA's Breast Cancer Task Force

The CLRC and the American Bar Association's Breast Cancer Task Force have partnered on an initiative to train lawyers to assist people with cancer-related legal issues and to connect lawyers with the people who need their assistance.

The ABA's Breast Cancer Task Force provides legal advocacy training to lawyers, provides resources for lawyers and consumers dealing with breast cancer, and educates the public, lawyers, and policymakers on a range of legal issues related to women's health. After being trained, lawyers are given the opportunity to join the CLRC's Professional Panel.

When people with cancer-related legal issues contact the CLRC's national Telephone Assistance Line (866-843-2572), if appropriate, they may be connected with a member of the CLRC's Professional Panel (a lawyer in their state, who practices in a relevant legal field).

For more information on this partnership, please visit: [www.CancerLegalResourceCenter.org](http://www.CancerLegalResourceCenter.org) or [www.abanet.org/health/07\\_Projects/BCTF/index.shtml](http://www.abanet.org/health/07_Projects/BCTF/index.shtml)

## Cancer-Related Resources

### For employment related questions:

Equal Employment Opportunity Commission  
(213) 894-1000 or (800) 669-4000  
[www.eeoc.gov](http://www.eeoc.gov)

California Dept. of Fair Employment & Housing  
(213) 439-6799 or (800) 884-1684  
[www.dfeh.ca.gov](http://www.dfeh.ca.gov)

Job Accommodation Network (JAN)  
(800) 526-7234 [www.jan.wvu.edu](http://www.jan.wvu.edu)

### For Family & Medical Leave Act (FMLA) questions:

U.S. Department of Labor  
(626) 966-0478 or (866) 487-9243  
[www.dol.gov/dol/topic/benefits-leave](http://www.dol.gov/dol/topic/benefits-leave)

### For State Disability Insurance (SDI) questions:

California Employment Development Department  
(800) 480-3287 [www.edd.ca.gov](http://www.edd.ca.gov)

### For Social Security Disability Insurance (SSDI) & Supplemental Security Income (SSI) questions:

Social Security Administration  
(800) 772-1213 [www.ssa.gov](http://www.ssa.gov)

### For COBRA questions:

U.S. Department of Labor  
Employee Benefits Security Administration  
(866) 275-7922 [www.dol.gov/ebsa/](http://www.dol.gov/ebsa/)

### For Cal-COBRA (CA version of COBRA) and HIPAA questions:

California Department of Managed Health Care  
(888) 466-2219 [www.dmhc.ca.gov](http://www.dmhc.ca.gov)

### For insurance questions:

California Department of Insurance  
(800) 927-4357 [www.insurance.ca.gov](http://www.insurance.ca.gov)

### For major risk Insurance questions:

Major Risk Medical Insurance Program (MRMIP)  
(800) 289-6574 [www.mrmib.ca.gov/mrmip](http://www.mrmib.ca.gov/mrmip)

### For Medicare questions:

Health Insurance Counseling & Advocacy Program  
(213) 383-4519 or (800) 824-0780

### For Health Insurance Premium Payment Program questions:

Department of Health Services  
(800) 952-5294 or (866) 298-8443

### For Women's Health and Cancer Rights Act questions:

Employee Benefits Security Administration  
(626) 229-1000 or (866) 275-7922

### For general information about cancer:

American Cancer Society  
(213) 386-6102 or (800) ACS-2345 [www.cancer.org](http://www.cancer.org)

Susan G. Komen for the Cure®  
Los Angeles County Affiliate  
11845 W. Olympic Blvd., Suite 645W  
Los Angeles, CA 90064  
(310) 575-3011 or (800) IM-AWARE  
[www.komenlacounty.org](http://www.komenlacounty.org)

Living Beyond Breast Cancer  
(888) 753-5222 [www.lbbc.org](http://www.lbbc.org)

Young Survival Coalition  
(646) 257-3000 or (877) YSC-1011  
[www.youngsurvival.org](http://www.youngsurvival.org)

Lance Armstrong Foundation  
LIVESTRONG SurvivorCare program  
(866) 673-7205 [www.livestrong.org](http://www.livestrong.org)

The Wellness Community  
(888) 793-WELL [www.thewellnesscommunity.org](http://www.thewellnesscommunity.org)

National Cancer Institute  
(800) 4-CANCER [www.cancer.gov](http://www.cancer.gov)

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## About Susan G. Komen for the Cure®, Los Angeles County Affiliate

Susan G. Komen for the Cure is the world's largest grassroots network of breast cancer survivors and activists fighting to save lives, empower people, ensure quality care for all and energize science to find the cures. Over 13 years, the Los Angeles County Affiliate of Susan G. Komen for the Cure has raised over \$7 million to provide grants to local organizations providing breast cancer screening, education, and treatment services and to help fund national breast cancer research programs. A major focus of the Komen Los Angeles County Affiliate is to help uninsured and underinsured women and men who have symptoms of breast cancer and are facing barriers to accessing health care, particularly women and men under 40. Komen for the Cure also engages millions of people in events like Komen Race for the Cure®.

For more information visit [www.komenlacounty.org](http://www.komenlacounty.org).

## CLRC Student Spotlight

Maria Sedano became an extern with the Cancer Legal Resource Center during the fall semester in 2009, after learning about the program through her Cancer Rights Law Seminar, taught by CLRC Director, Joanna Morales.

At the CLRC, Maria has endeared the people around her with her kind persona, while at the same time impressing the staff with her thoroughness in research on programs that might help the cancer community, her professionalism, and her vision. Maria is currently a student at Loyola Law School Los Angeles and had previously obtained an accounting degree at Mount St. Mary's College. It must be mentioned that Maria is also juggling a married life with three children while attending law school and it's evident that she devotes herself wholeheartedly to each of the demanding aspects of her life.

About her experience at the CLRC, Maria states,

"[The] CLRC has exposed me to a diverse group of people who are facing various types and degrees of hardship relating to cancer. In talking with them, I am constantly reminded of how destructive cancer is and how one disease can permeate all aspects of one's life, so that it affects personal relationships, employment, and financial well-being. For me, this is one of the more difficult parts of working for the CLRC. In that respect, it is exceeded only by the realization that government or public assistance is not always available to fully address the needs of CLRC callers. Through the CLRC, I have come to recognize the importance of having a wide array of public resources made available to people with cancer.

On the converse, dealing with and helping CLRC callers is a very rewarding undertaking. Even if it's just referring callers to outside organizations and arming them with a general understanding of the laws that apply to them, it is satisfying to know that I participated in some small way in improving their plight. It is this concept of 'making a difference' that inspired me to become a lawyer. CLRC has reminded me of why I go through the difficulties of law school..."

Maria will be an extern with the CLRC again next semester and we welcome the talents and skills she brings. ❖

## Advocacy Corner

The CLRC strongly believes that cancer is a political issue. Legislative advocacy in the Cancer Rights arena is important because it is an effective way to address the employment and health insurance laws that fail to provide adequate protections for people with cancer. Laws can: provide access to a particular treatment; protect people from discrimination in employment and health insurance; require the provision of health insurance coverage; create government benefits programs; and provide access to screening, treatment, and research.

With the possibility of significant changes to the health care system on the horizon, it is more important than ever to stay informed and understand the legislative issues that may affect people with cancer. The CLRC and the DRLC are currently supporting bills that will increase access to affordable and quality healthcare, remove pre-existing condition exclusion clauses from health insurance policies, provide patient and consumer protections, and increase access to clinical trials.

**For a complete list of federal and state legislation, supported by the CLRC, please visit:**  
[www.CancerLegalResourceCenter.org](http://www.CancerLegalResourceCenter.org). ❖



CLRC Advocacy & Outreach Coordinator, Sarah Semrow, and CLRC Legislative Advocacy Intern, Melissa Oppen in Washington, D.C. for 2009 Komen Lobby Day

**Cancer Legal Resource Center services are...**

- National
- Free
- Confidential
- Specific to your situation
- Available in English and Spanish

**The Cancer Legal Resource Center can help you if you have questions about:**

- Employment
- Medical Leave
- Reasonable Accommodations
- Health Insurance
- Access to Healthcare
- Government Benefits
- Medicare
- Medi-Cal & Medicaid
- Patient Rights
- Disability Insurance
- Estate Planning
- Advanced Health Care Directives
- Life Insurance
- Custody & Guardianship
- Conservatorship
- Consumer Rights

**Yes! I want to support the important work of the Cancer Legal Resource Center!**

**PAYMENT INFORMATION**

LLS 11-3-71400-00000-7465

Federal Tax ID# 95-2960607

First Name \_\_\_\_\_ Last Name \_\_\_\_\_

Mailing Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_ Daytime Phone # \_\_\_\_\_

**CREDIT CARD PAYMENTS:**

**Please complete following information and mail or fax to DRLC:**

Visa or MasterCard # \_\_\_\_\_ Exp. Date \_\_\_\_\_

Name on Credit Card \_\_\_\_\_

Zip Code Where Statement Sent \_\_\_\_\_

Signature Authorizing Charge \_\_\_\_\_

Amount Authorized \$ \_\_\_\_\_

**Credit card payments will appear on your statement as "Loyola Law School"**

**PAYMENTS BY CHECK:**

**Please make check payable to the Disability Rights Legal Center:**

919 Albany Street

Los Angeles, CA 90015

Secure Fax Number: 213-736-1030

Disability Rights Legal Center



Cancer Legal Resource Center

919 Albany Street

Los Angeles, CA 90015

*Newsletter funded in part by:*

