

The Cancer Legal Resource Center CHRONICLE

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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. ❖

Breast Cancer and the Law

By Tiffany Sirikulvadhana, Esq.
Staff Attorney, Cancer Legal Resource Center

It's hard to believe that cancer legislation began in the early 1900's with the National Cancer Act of 1937. It was the first act of Congress that appropriated funds towards the fight against cancer. Here we are in 2010, and cancer continues to be an ongoing battle on many fronts. Cancer legislation has provided consumers with various rights and protections, providing access to screenings, health care, health insurance and employment. In this article, we will discuss some current laws that affect cancer patients in California.

Women's Health and Cancer Rights Act

For many breast cancer patients, the best course of treatment may be surgery and a mastectomy. A mastectomy is the removal of one or both breasts, partially or completely. Prior to October 21, 1998, women with breast cancer who received mastectomies did not have the right to breast reconstruction covered by their health insurer. Health insurers would often categorize any reconstructive surgeries as a cosmetic procedure, denying many women coverage.

That all changed with the enactment of the Women's Health and Cancer Rights Act (WHCRA). WHCRA provided many women with the opportunity to have breast reconstruction after a mastectomy paid by their group health plans, insurance companies, and HMOs. Under the Act, insurers that offer mastectomy coverage must also provide coverage for reconstructive surgery. This coverage includes reconstruction of the breast removed by mastectomy, reconstruction of the other breast to "achieve symmetry," breast prostheses, and treatment of complications from the mastectomy, including lymphedema.

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Disability Rights Legal Center

CLRC

Cancer Legal Resource Center

919 Albany Street • Los Angeles, CA 90015
Toll Free: 866.THE.CLRC (866.843.2572)
Phone: 213.736.1455 TDD: 213.736.8310
Fax: 213.736.1428 Email: CLRC@LLS.edu
Web: www.CancerLegalResourceCenter.org

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WHRCRA also addresses a health insurer's responsibility when the insured changes health insurers in between a mastectomy and reconstruction. Under WHCRA, the new health insurer is obligated to pay for reconstruction, if they would have covered the original mastectomy. Look to your health insurance plan and policy for information on their mastectomy coverage.

While WHCRA has provided many patients with the opportunity to receive reconstruction, the law is vague with respect to the time a patient has to opt for reconstruction, so it is unclear how long you may have the right to reconstruction. It is important to discuss with your physician whether or not reconstruction is a right decision for you.



Genetic Information Nondiscrimination Act

In recent years, genetic discrimination has been a topic of great concern for cancer survivors, people with genetic predispositions for cancer, and their families. Cancer research has shown that women with genetic mutations in the BRCA1 and/or BRCA2 genes have an increased risk of developing breast or ovarian cancers. Women with high risk factors, like a family history, can undergo genetic testing to determine if they carry a BRCA1 or BRCA2 genetic mutation. However, many women are concerned about the possibility of discrimination based on their genetic test results.

In 2008, President Bush signed into law the Genetic Information Nondiscrimination Act of 2008 (GINA), which prohibits health insurers and employers from discriminating against individuals based on genetic information. For example, a health insurer might refuse to provide coverage to a woman carries a BRCA1 mutation, because that may increase her chances of having breast cancer in the future.

Many states have enacted their own laws, which may provide additional protections against genetic discrimination in health, disability, and life insurance and in employment.

For more information about these laws, please contact the CLRC at 866-843-2572 or visit www.CancerLegalResourceCenter.org.

Meeting the Professional Panel: Jacqueline Vitti Frederick, Esq.

By Dianne Prado, Esq.
Staff Attorney, Cancer Legal Resource Center

Jacqueline Vitti Frederick is a volunteer attorney on the CLRC's Professional Panel. Ms. Frederick is a civil litigation attorney with her own offices located in San Luis Obispo, CA. Her practice handles torts, real estate, contracts, business, water and environmental law, fraud, wrongful death, product liability, personal injury, family law, employment, and probate cases. Ms. Frederick is not only an exceptional and highly qualified attorney, but her service to CLRC is invaluable due to the fact she also shares a connection with many of the CLRC callers due to her own personal loss to cancer.

On, July 7, 2003, Ms. Frederick's daughter, Stacey, was diagnosed with ovarian cancer. "What Stacey had to live through was nothing short of ghastly, but through the experience she and our family experienced some of the most beautiful and deeply moving moments of our lives, all attributable to the love for each other that we shared. From the experience one takes away a changed heart, increased wisdom, a keen sense of understanding and empathy for the suffering of others, and in our family's case, a yearning to make something good come of our loss."

In 2008, Ms. Frederick along with the California Women Lawyers Association and the Cancer Legal Resource Center [CLRC], launched an initiative to recruit attorneys for the CLRC's Professional Panel. The San Luis Obispo Women Lawyers is proud to be the first CWL Affiliate to associate with the CLRC to provide this service to cancer patients who are battling for their lives while facing numerous legal questions.

Ms. Frederick has also generously given back to the cancer community through her participation in events that raise money for the Ovarian Cancer Awareness Organization. "I keep my promise to Stacey to spread the word about the innocuous symptoms of ovarian cancer and promote the CA125 blood test for women."

Please join us in thanking Ms. Frederick for her service on the CLRC's Professional Panel. We are grateful for her contribution and drive to make a difference in people's lives. The CLRC is fortunate to have access to an attorney like Ms. Frederick who understands first-hand the challenges that a person with a cancer diagnosis faces. ❖



**Registration is now open for the
Cancer Legal Resource Center
2010 Cancer Rights
Conferences!**

**Friday, June 18, 2010
Loyola University Chicago School of Law**
✻

**Friday, October 8, 2010
UCLA Medical Center**

We invite you to join us for these **free**, one-of-a-kind, conferences dedicated to educating people coping with cancer, caregivers, advocates, and healthcare professionals about cancer-related legal issues, including:

- Employment and Taking Time Off Work
- Getting and Keeping Health Insurance
- Navigating Managed Care
- Estate Planning
- Disability and Life Insurance Options
- Legislative Advocacy and Cancer Community Resources

The CLRC is proud to offer the 2010 Cancer Rights Conference with the support of Title Sponsors: **Disability Rights Legal Center, Loyola University Chicago School of Law, UCLA Health System, Lance Armstrong Foundation, and Genentech.**

Visit www.CancerLegalResourceCenter.org to register for these free events! ❖

**DRLC Honors
Pamela Acosta Marquardt**

By Sarah Semrow,
Advocacy & Outreach Coordinator, CLRC



On November 19, 2009, the Disability Rights Legal Center held its Annual Gala and Silent Auction. At the gala, the Pancreatic Cancer Action Network was awarded the 2009 Cancer Legal Resource Center's Cancer Vanguard Award.

Pamela Acosta Marquardt accepted the award on behalf of the Pancreatic Cancer Action Network. The Cancer Vanguard Award honors individuals and organizations for their valuable contribution to the cancer community, through increasing awareness, advocating for change, providing support, and giving



hope. After losing her mother to pancreatic cancer in 1996, Ms. Marquardt discovered there was no organization that focused on assisting those with pancreatic cancer. In response, Ms. Marquardt had the idea to stage a black-tie celebrity fundraiser. This was no easy task, but with Ms. Marquardt's tireless and hopeful

efforts, the event was an incredible success. This event initially led to the funding of a research lab for early detection of pancreatic cancer and then in the following months, Pamela Acosta Marquardt joined with Paula Kim and Terry Lierman and founded the Pancreatic Cancer Action Network.

According to the American Cancer Society, an estimated 42,470 people were diagnosed with pancreatic cancer in 2009, and 35,240 lost their battle. Thanks to the tremendous efforts of the organization's staff and their passionately committed volunteers around the country, the PanCAN has become the only national organization creating hope in a comprehensive way through research, patient support, community outreach and advocacy for a cure. The Pancreatic Cancer Action Network fosters the mission of the Cancer Legal Resource Center by empowering patients and their families to make informed decisions regarding treatment, survivorship, and legislative advocacy. Previous Cancer Vanguard Award recipients include: Ambassador Nancy Brinker for founding Susan G. Komen Race for the Cure, and Fran Drescher for founding Cancer Schmancer.

Where We'll Be . . .

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

MARCH 2010

EVENT: Susan G. Komen Race for the Cure
DATE: MARCH 14, 2010
PLACE: Dodger Stadium, Los Angeles
TIME: 7 a.m. to 1 p.m.

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

EVENT: UCLA Brain Tumor Conference
DATE: MARCH 20, 2010
PLACE: Los Angeles
TIME: 9 a.m. to 4 p.m.

APRIL 2010

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



Cancer Legal Resource Center Staff

Director

Joanna Morales, Esq.

Staff Attorneys

Tiffany Sirikulvadhana, Esq.

Dianne Prado, Esq.

Monica I. Fawzy, Esq.

Outreach & Education Coordinator

Jennifer Chayo Fenton, J.D.

Advocacy & Outreach Coordinator

Sarah Semrow

Intake Coordinator

Maria Badillo

Administrative Assistant

Angelica Corral

2010 Skadden Fellow

Anya Prince

Advocacy Corner

By Sarah Semrow,
Advocacy & Outreach Coordinator, CLRC

The CLRC strongly believes legislative advocacy in the Cancer Rights arena is important because it is an effective way to provide protections for people with cancer, including: providing access to a particular treatment; protecting people from discrimination in employment and health insurance; requiring the provision of health insurance coverage; creating government benefits programs; and providing access to screening, treatment, and research. The CLRC and the DRLC support state and federal 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.

Recently, the California Department of Public Health (CDPH) made immense cuts to the *Every Women Counts* program by eliminating coverage of breast cancer screenings for women ages 40-49 and temporarily closing the program to new women from January 1, 2010, to July 2010. *Every Women Counts* ensures that woman who are uninsured, underinsured, and who do not qualify for Medi-Cal, get the screenings they need. If a woman has limited access to breast cancer screenings, it increases the chance that she will be diagnosed at a later stage, lowering her survival rate. When breast cancer is detected early, the 5-year relative survival rate is 98 percent. There are currently bills in the California Assembly and Senate bills to restore access to the *Every Woman Counts* program. Join us in supporting these bills!

For more information on the *Every Women Counts* budget cuts and a complete list of federal and state legislation, supported by the CLRC, please visit:

www.CancerLegalResourceCenter.org. ❖



CLRC Gives Hope to Its Own

By Angelica Corral, *Administrative Assistant, CLRC*

When my father was diagnosed with stage-four pancreatic cancer in October of 2008, my family became so fixated on finding a cure that we failed to consider the serious legal implications of his diagnosis. In our minds, preparing for the worst meant giving up on the miracle we were certain would happen at any moment. And so, from chemotherapy and clinical trials through alternative therapies and constant prayer, our ardent faith carried with it denial of what might result from my father's condition. Were it not for my older sister, a second-year Loyola Law student who was enrolled in CLRC Director Joanna Morales' Cancer Rights Seminar at the time, my family would be in financial ruin today.

By participating in the Cancer Rights seminar, my sister understood the urgency of discussing estate planning and assigning power of attorney. Indeed, just hours after my father signed the family trust documents, he became incapacitated, and within two days, he was gone. For my family, having access to legal resources and a pro bono attorney who provided us with estate planning services, guidance, and hope when we most needed it made all the difference.



I came to work at the CLRC after my experience inspired me to pursue a career in public interest law. With over 11 million cancer survivors living in the United States today and countless more receiving diagnoses daily, the cancer community needs legal advocates to inform them of their rights and

resources in any scenario, from diagnosis to survivorship.

Like my sister, by virtue of knowing the available resources and legal issues surrounding a cancer diagnosis, the CLRC's student externs who answer the Telephone Assistance Line are providing an invaluable service that can truly change lives. Perhaps equally, if not more important, is the hope that the TAL gives callers. I speak from personal experience when I say that sometimes; a bit of hope is all you need to make it through the worst of times.

CLRC Student Spotlight

By Maria Badillo, *Intake Coordinator, CLRC*

Eric Mercaldo is a student at Loyola Law School. We have come to rely on Eric's accurate and thorough work. His interaction with CLRC callers is warm, sympathetic, and always honest. Here are Eric's answers to some questions we had for him:

Tell us a bit about yourself.

I was born in Pennsylvania but grew up in New Jersey, near the ocean. A few years after graduating from high school, I moved to Los Angeles to pursue an acting career. Although I did a lot of live theater, I didn't get much in the way of television or film work (apart from an appearance on "Jeopardy!"), so I decided in my mid-20's to get a bachelor's degree. I graduated from UC Irvine with honors with a degree in drama. By that time, I had a growing family of a wife and four sons. I knew I would need to find a career that I would find both personally fulfilling and financially sufficient to take care of my household. The decision to attend law school has been a major life change, and getting accepted to Loyola was a proud moment for this later-in-life law student.

Why did you join the CLRC and stay 2 semesters?

Like most people, my life has been touched by the effects of cancer. When I was just eight years old, I vividly remember my grandfather's declining health and passing away as a result of bone cancer. I am interested in the legal rights of and resources for cancer patients, and also disability rights in general. As a father of children with disabilities, I was drawn to the DRLC, and when I learned about the model of the CLRC, specifically the opportunity for individual personal interaction, I decided to work here. Returning for a second semester was an easy decision once I found that I had space in my schedule. I enjoy the working environment, the friendly atmosphere created by the staff, and the opportunity to assist callers who are going through devastating personal crises.

Once you leave the CLRC, what will you take away from the experience?

When I began at the CLRC, I expected to be challenged by how depressing the work might be, given the subject of cancer. I was pleasantly surprised to find, at least with most of the callers I've spoken with, a genuine sense of hope and a deep appreciation for the services we provide. So, sure, I will leave the CLRC with useful experience and skills, but so much more importantly, a raised estimation of the human spirit and its ability to meet and often overcome adversity. ❖

Cancer-Related Resources

For employment related questions:

Equal Employment Opportunity Commission
(213) 894-1000 or (800) 669-4000

www.eeoc.gov

California Dept. of Fair Employment & Housing

(213) 439-6799 or (800) 884-1684

www.dfeh.ca.gov

Job Accommodation Network (JAN)

(800) 526-7234 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

For State Disability Insurance (SDI) questions:

California Employment Development Department

(800) 480-3287 www.edd.ca.gov

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

Social Security Administration

(800) 772-1213 www.ssa.gov

For COBRA questions:

U.S. Department of Labor

Employee Benefits Security Administration

(866) 275-7922 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

For insurance questions:

California Department of Insurance

(800) 927-4357 www.insurance.ca.gov

For major risk Insurance questions:

Major Risk Medical Insurance Program (MRMIP)

(800) 289-6574 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

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

Living Beyond Breast Cancer

(888) 753-5222 www.lbbc.org

Young Survival Coalition

(646) 257-3000 or (877) YSC-1011

www.youngsurvival.org

Lance Armstrong Foundation

LIVESTRONG SurvivorCare program

(866) 673-7205 www.livestrong.org

The Wellness Community

(888) 793-WELL www.thewellnesscommunity.org

National Cancer Institute

(800) 4-CANCER www.cancer.gov

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.