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NEWS RELEASE

Groundbreaking Federal Lawsuit Challenges Epidemic of Delay in Bronx Criminal Court

Broken System Undermines Right to Speedy Trial and Due Process for Thousands
of People Charged with Low-Level Offenses, Causing Significant Social and
Economic Hardships

*(Note: Attorneys are available for interview in Spanish and English today from 10
a.m. – 1 p.m. at The Bronx Defenders, [360 East 161st Street](#); plaintiff interviews by
arrangement.)*

NEW YORK (May 10, 2016) – A federal class action lawsuit was filed today against Governor Andrew Cuomo and the administrators of New York State’s Unified Court System for failing to provide the constitutionally guaranteed rights to a speedy trial and due process to people charged with misdemeanors in the Bronx.

The suit, *Trowbridge et al., v. Cuomo et al.*, Civil Action No. 1:16-cv-03455, was filed in the U.S. District Court for the Southern District of New York on behalf of the thousands of people affected by the structural and systematic failures of the Bronx Criminal Court who want their day in court.

“Years of persistent delays in misdemeanor cases have made the promise of justice an illusion for tens of thousands of people charged with low-level offenses every year in the Bronx,” said Robin Steinberg, executive director of the legal advocacy group The Bronx Defenders, which filed the case together with the law firms Morrison & Foerster LLP and Emery Celli Brinckerhoff & Abady LLP.

Noting problems with court delay nationwide, Steinberg said the lawsuit's novel approach could pave the way for others like it challenging both misdemeanor and felony delays.

The complaint states that the maxim "justice delayed is justice denied" is a stark reality in the poorest county in the state and the borough with the highest minority population. Marked by perennially closed courtrooms, unfair allocation of judicial resources compared to wealthier boroughs, pointless interim court appearances and overall dysfunctional administration, the interminable delays lead to lost paychecks, school absences, missed medical appointments and childcare emergencies, among other "hidden taxes" on Bronx communities. As a result, many people end up taking plea bargains and giving up their right to a trial.

Plaintiff Michael Torres, for example, a 43-year-old father of two, was forced to appear in court on 14 separate occasions on a misdemeanor marijuana possession charge, often waiting as long as six hours before his case was adjourned. He lost wages and was ultimately fired due to multiple absences from work. His case was dismissed 877 days after the initial arraignment when the arresting officer testified that he had no recollection of the incident.

"After waiting all that time, I wasn't even able to have my day in court," said Torres. "I did everything I was supposed to do, but the system failed me – I joined this case because I want to ensure this doesn't happen to others."

New York's speedy trial statute requires prosecutors to be ready for trial within 90 days of arraignment for Class A misdemeanors, 60 days for Class B misdemeanors, and 30 days for non-criminal violations. In the Bronx, however, these guidelines are meaningless: As of January 2016, there were 2,378 misdemeanor cases in the Bronx pending for over 365 days and 538 cases pending for two years. The few Bronx residents who do manage to exercise their right to trial wait on average 642 days for a non-jury trial and an astonishing 827 days for a jury trial. In 2015, a year that saw over 45,000 misdemeanor arraignments, there were only 98 misdemeanor trials in the Bronx.

Citywide, the disparity in court delays is striking: the Bronx had more misdemeanor cases pending in excess of one year than the four other boroughs of New York City combined.

This state of affairs has not gone unnoticed by those responsible for the Court system – former Chief Judge Jonathan Lippman has called it "intolerable" – but efforts at reform have failed miserably.

The lawsuit seeks a declaration that the court system as it currently operates deprives people charged with misdemeanors in the Bronx of their Sixth Amendment right to a speedy trial and their Fourteenth Amendment right to due process of law, and asks the Court to provide appropriate relief, which could include systemic reforms as well as additional resources.

In addition to Governor Cuomo, the named defendants in the lawsuit are

Janet DiFiore, Chief Judge of the State of New York and Chief Judicial Officer of the Unified Court System, and Lawrence Marks, Chief Administrative Judge of the Unified Court System.

The complaint is available [here](#).

A fact sheet about the case is available [here](#).

Additional quotes:

From Ruti Smithline, Partner, Morrison & Foerster LLP (note: Ms. Smithline is available for interview in Spanish):

“Esta demanda está siendo traída para tratar de arreglar una parte del sistema legal que priva a los que están acusados de delitos menores en el Bronx de sus derechos constitucionales. Los afectados por la epidemia de la demora en el Bronx tienen que regresar a la corte decenas de veces para resolver sus casos. Eso significa tener que faltar al trabajo, alinear el cuidado de niños, y programar toda su vida en torno a estos casos pendientes, que pueden prolongar y se prolongan por años. Nuestra esperanza es que esta demanda asista a reparar un sistema que está claramente estropeado.”

“This lawsuit is being brought to fix a part of the legal system that deprives those charged with misdemeanors in the Bronx of their constitutional rights. Those affected by the epidemic of delay in the Bronx have to return to court dozens of times to resolve their cases. That means missing work, lining up childcare, and scheduling their whole lives around these pending cases, which can and do go on for years. Our hope is that this lawsuit fixes a system that is clearly broken.”

From Gary Lee, Partner, Morrison & Foerster LLP:

"Our justice system can do better than this. People in the Bronx are living out the Kafka story, 'Before the Law,' about a gatekeeper who refuses to grant entry to the court. We expect through this lawsuit that the courtroom doors will be opened once and for all."

From Matt Brinckerhoff and Ilann M. Maazel, Partners, Emery Celli Brinckerhoff & Abady LLP:

“In the poorest county in New York State, access to justice is often a pipe dream. People deserve equal access to justice whether in the poorest county or the richest county. We look forward to working with Chief Judge DiFiore to give Bronx residents the quality of justice they need and deserve.”

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