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Bet Tzedek Clinic Files Amicus Brief on Behalf of Deaf Student who was Denied a Sign Language Interpreter in School



On January 18, the Bet Tzedek Civil Litigation Clinic, co-directed by Professors Rebekah Diller and Leslie Salzman, filed a U.S. Supreme Court amicus brief in support of certiorari in the case of a deaf student who suffered 12 years of isolation and distress because his school refused to provide him with a qualified sign language interpreter (*Perez v. Sturgis Public Schools*). The clinic filed on behalf of 23 law professors who argued that the Court’s intervention was needed to ensure that disabled students can pursue damage claims when their rights are violated in school settings.

The Clinic works on behalf of clients in need, often representing elderly and disabled people seeking health, disability, and housing benefits that they could not get without Clinic assistance.

At issue is the intersection of two laws designed to protect the rights of disabled students—the Individuals with Disabilities Education Act (IDEA), which requires that special education services be provided, and the Americans with Disabilities Act (ADA), which ensures equal access and effective communication in public settings, including schools. Here, the student plaintiff brought claims under both laws. But, because he settled his special education claims through the IDEA administrative process prior to a hearing, the Sixth Circuit Court of Appeals ruled that he had not exhausted administrative remedies and was therefore barred from bringing an ADA disability discrimination claim for damages in federal court. As the brief argues, this ruling is contrary to Congress’s intent, the Court’s prior rulings, and established principles of statutory interpretation. In addition, without

intervention from the Supreme Court, the circuit court ruling will frustrate the IDEA's goal of encouraging settlement so that students with disabilities can get needed services quickly.

Professor Rebekah Diller, the clinic's co-director, said, "This case raises an issue of exceptional importance for students with disabilities who experience discrimination in school. Disabled students—like the plaintiff here who suffered years of isolation due to being deprived of a qualified sign language interpreter—should be able to vindicate their rights under the Americans with Disabilities Act and other civil rights laws."

Rebecca Kanner, a 3L student who worked on the brief, said, "While researching and drafting the amicus brief, I learned about the procedural obstacles that sometimes can frustrate the most compelling civil rights claims. This case presents an important issue because the Sixth Circuit's decision impacts children with disabilities who have been discriminated against by their home school district because of their disability. After accepting a settlement of special education claims from their school district, these children will be unable to obtain other forms of relief under statutes such as the ADA due to a misinterpretation of the exhaustion provision of the IDEA. Writing this amicus brief has given us the opportunity to bring issues to the attention of the Court on behalf of professors who specialize in disability rights and related areas." In addition to Kanner, Bet Tzedek students Sara Lerner (3L), David Rudolph (2L), and Shelley Wu (2L) worked on the brief.

If the Supreme Court grants certiorari and then decides in his favor, the student will be able to assert his claim for monetary damages for 12 years of suffering without any reasonable means of communicating with others.