



A PEF MEMBER EXPERIENCE

Megan Otis, a Sr. Physical Therapist with OPWDD was charged with two counts of Neglect (Category 2) for allegedly: (1) failing to train staff on a service recipient's transfer plan; and (2) failing to ensure proper equipment was available to staff to transfer that same service recipient. The charges arose out of an incident in May 2021, where two direct care workers were transferring the service recipient from a shower trolley to his wheelchair, when he fell out of the sling and hit his head on the floor. Unfortunately, the service recipient passed away a month later from bleeding on the brain. Justice Center then commenced an investigation and inexplicably found that Megan Otis had committed neglect based on alleged inaction.

"Category two" findings can have direct consequences. Two such findings within three years "shall result in permanent placement of the member on the vulnerable persons' central register," thereby prohibiting providers of services to vulnerable

persons from hiring or allowing that member to work with service recipients (Social Services Law §§ 493, 495).

Neglect consists of three elements: (1) the member had a duty to act; (2) they breached that duty; and (3) the breach resulted in injury/impairment or the likelihood thereof.

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The case was assigned to Lippes Mathias LLP, Attorneys at Law who worked effortlessly for the protection of Meghan Otis and her rights as a state employee and member of PEF. "The legal counsel representative walked me through every step of the process, so I understood my options and I knew what to expect each step of the way," said Otis.

Lippes Mathias LLP, a firm committed to providing high caliber legal advice and client service excellence argued and submitted evidence that the Justice Center failed to prove

each requisite element, for both counts. "The legal counsel was very knowledgeable and put my mind at ease," said Otis. As a result of the firm's efforts, Administrative Law

Judge (ALJ) found that, under the facts presented, Otis did not even have a duty to train staff or provide the equipment which was allegedly unavailable to them. As such, the ALJ found the Justice Center failed to prove each count of Neglect and that the charges should be sealed. “I was thrilled that justice was served, and the truth prevailed,” said Otis.

This winning Justice Center case decision is being shared by both John M. Tuppen, Counsel for the law firm of Lippes Mathias LLP and Megan Otis, Sr. Therapist with OPWDD, in hopes that the sharing of such story will encourage PEF members to take advantage of the Justice Center benefit made available through the PEF Membership Benefits Program. Doing so could save one's job, reputation, and emotional well-being.



JUSTICE CENTER OVERVIEW

The Justice Center for Protection of People with Special Needs (“Justice Center”) is a law enforcement agency created by New York State Legislation, which has oversight of six (6) agencies serving “vulnerable people.” If a PEF member is the subject of a report alleging acts of serious abuse or neglect, an investigation is conducted by the Justice Center. During the initial stage of the investigation, the member is entitled to representation under Article 33 of the PEF/State collective bargaining agreement.

The PEF Membership Benefits Program (PEF MBP) provides legal representation for a Justice Center substantiated case to active, dues-paying PEF members, through the appeals process of a substantiated finding of the Justice Center. An attorney from Lippes Mathias LLP, Attorneys at Law is assigned to the member to represent him/her through the appeals process from the hearing to the administrative decision (Stages 3 through 6). Members must remain active, dues-paying members throughout

the entire process for all legal fees to be paid.

Once the initial stage is concluded, the Justice Center determines whether the report against the member is “substantiated” or “unsubstantiated.” If the report is “substantiated,” the member may appeal the determination through an administrative review process.

The Justice Center benefit is an extremely valuable benefit for PEF members who are employed in any one of the six (6) agencies over which the Justice Center has oversight. One never knows if he/she will need representation to protect oneself against allegations of acts for serious abuse or neglect. It could happen to anyone at any time. It could even happen to you.

HOW TO GET REPRESENTATION

If you or a PEF member you know is the subject of a Justice Center investigation, or receives a substantiated report from the Justice Center, immediately contact the appropriate PEF Field Representative. If you do not know who your Field Representative is, please call PEF at (800) 342-4306. The Field Representative will help the member through any interrogation (Stage 1) and will send the case to an attorney for representation through the Justice Center for Stage 3 and beyond. Don't wait. Your job, reputation, and emotional well-being could be in jeopardy.



Scan the QR code to learn more about the Justice Center benefit.