



CENTER ON CIVIL JUSTICE
at NYU School of Law



FORDHAM

Feerick Center
for Social Justice



National Center for
Access to Justice

AT FORDHAM LAW SCHOOL

Joint Press Release

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Access to Justice Organizations File Amicus Brief Urging New York’s Highest Court to Preserve Attorneys’ Fees When Lawsuits Prompt Government to Correct Legal Errors

*Organizations Support New York Legal Assistance Group,
Lead counsel in New York Court of Appeals Case Jaquez v. Tietz*

NEW YORK-- Three access to justice organizations—the Center on Civil Justice at New York University School of Law, the Feerick Center for Social Justice at Fordham Law School, and the National Center for Access to Justice at Fordham Law School— have now submitted [a proposed amicus brief](#) urging the New York Court of Appeals to preserve attorneys’ fee awards when a lawsuit prompts a state agency to correct a legal error before a court rules on the merits.

The case is *Matter of Jaquez v. Tietz*, in which the New York Legal Assistance Group (NYLAG) argues that the New York Court of Appeals must preserve the “catalyst theory” under the Equal Access to Justice Act (EAJA). This theory would hold the government responsible for unjustified errors by allowing a party to claim attorneys’ fees when litigation prompts the government to provide the requested relief before a court rules on the merits.

- **David Udell, Executive Director of NCAJ:** “When a lawsuit makes the government correct an unjustified error, the government should not escape responsibility for attorneys’ fees simply because the court did not have to order the correction. Catalyst theory reinforces the rule of law by giving agencies a financial incentive both to fix the problem in the case at hand and to prevent similar errors from harming others in the future.”
- **Lisa Landau, Executive Director of the Feerick Center:** “Ensuring that the government corrects its mistakes as soon as possible is a key component of fairness. This is especially true where government agency action impacts directly on the finances of people who are under-resourced. Allowing for an award of attorneys’ fees under the catalyst theory will help to guarantee that agencies look carefully at their determinations and make decisions that are supportable under the law.”
- **Janet Sabel, Director, Center on Civil Justice at NYU Law School:** “In order to instill confidence in government, agencies must be held accountable for their actions, especially when they engage in sloppy and unjustifiable delays in issuing critical public benefits. The catalyst theory recognizes the need to incentivize government to take their role and responsibility seriously - to make decisions right in the first instance.”

Following an administrative proceeding, a fair hearing decision incorrectly placed the burden of proof on Lucia Jaquez, an SSI recipient with a disability, even though the law, when correctly applied, places that burden on the government. Ms. Jaquez, represented by NYLAG, then went to court to challenge the agency's erroneous decision. After NYLAG filed the lawsuit, but before a court ruled on the merits, the state reversed its decision and directed the city to release funds to Ms. Jaquez.

Ms. Jaquez then sought attorneys' fees under EAJA, the New York law enacted in 1989 to reduce the financial barriers to finding counsel for people challenging errors made by government agencies. The New York County Supreme Court and the Appellate Division, First Department, ruled that Ms. Jaquez could recover attorneys' fees because her lawsuit prompted the government to correct its error. The State is now asking the Court of Appeals to reject that approach, contending that fees should not be awarded unless a court has issued a ruling on the merits.

The amici agree with Ms. Jaquez that the court should preserve catalyst fees to fulfill EAJA's purpose of increasing access to justice by awarding fees to lawyers who challenge unjustified government action. The amici explain that catalyst fees are essential to realizing EAJA's goal of giving agencies a financial incentive to correct the error in the case at hand and to prevent similar errors from recurring in the future, thereby reinforcing the rule of law—the core principle that government itself must follow the law.

WilmerHale attorneys Debo P. Adegbile, Emily Barnet, Marissa Wenzel, Annabel Chosy, and Jose R. Valenzuela, together with NCAJ's David Udell, serve as counsel for amici on the brief.

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