

STRIKING TO SAVE LEGAL SERVICES: INTERVIEW WITH JOTA BORGMANN AND BRIAN SULLIVAN OF MFY LEGAL SERVICES

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In February 2015, the staff members of MFY Legal Services¹—including support staff, paralegals and attorneys—went on strike for more than three weeks.² The union was represented at the bargaining table by the three members of the Bargaining Team, all long-time staff members of MFY: Jota Borgmann, Brian Sullivan and Jessica Cepin³. In this interview from August 19, 2016, Brandon Davis, a former paralegal and union delegate at MFY, speaks with Borgmann and Sullivan. Cepin was unavailable to be interviewed.

BRANDON: What was the strike really about?

BRIAN: We had three main goals: parental leave, pay equity and fair compensation for our lowest paid staff, and creating working conditions that encourage people to stay for the long haul and provide better services to our clients. Grafting concrete demands onto those goals, that meant securing a fair parental leave policy, adjusting the pay scale for support staff, and fair raises coupled with adjustment to retirement contributions.

JOTA: Part of the strike was also about maintaining healthcare benefits. Management tried to say during bargaining that it was no big deal to not have any out-of-network coverage. Several shop members raised the issue that if you need mental health services, you have to go out of network. That was big for us.

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1. MFY Legal Services was founded in 1963 as the legal arm of Mobilization for Youth, an anti-poverty organization. The organization currently provides legal assistance to low-income New Yorkers in: housing, public benefits, consumer, employment, civil rights, disability rights, and family matters. ABOUT MFY, *MFY Legal Services*, <http://www.mfy.org/about/about-mfy/> (last visited Nov. 20, 2016).

2. Danielle Tcholakian, *Legal Aid Lawyers Strike Over Higher Raises and Parental Leave*, dna info (Feb. 2, 2015, 11:47 AM) <https://www.dnainfo.com/new-york/20150202/civic-center/legal-aid-lawyers-strike-demand-higher-raises-longer-family-leave> (last visited Nov. 20, 2016); see also Jota Borgmann and Brian Sullivan, *Demanding a Race to the Top: The 2015 Strike against MFY Legal Services in Context*, 19.2 CUNY L. REV. 198 (2016), <http://www.cunylawreview.org/wp-content/uploads/2016/09/Demanding-a-Race-to-the-Top-The-2015-Strike-Against-MFY-Legal-Services-in-Context.pdf>.

3. Jota Borgmann is a senior staff attorney specializing in disability rights. She has worked at MFY Legal Services since 2008. Brian Sullivan is a staff attorney specializing in housing rights. He has worked at MFY Legal Services since 2007. Jessica Cepin is an administrative assistant. She has worked at MFY Legal Services since 2001.

BRIAN: We won all three of our goals. We did have a parental leave offer on the table before the strike, but it was not as robust as what we ended up getting. We got an adjustment to the 403(b) contributions, a better pay scale for everyone, and most importantly, we got the adjustment to the support staff and paralegal salary scales. We didn't make it all the way on parity for support staff, so there's more to fight there.

BRANDON: When people think of a union, they often think of owners profiting off of employees' labor. That's obviously not the case of a nonprofit like MFY because there's no profit. So can you be more specific about what you think Management wants, and how that differs from what we want? What's the role of a union in a workplace where there's no profit?

BRIAN: That's an issue we're constantly hashing out with our members. My take on it is this: our organization exists in a competitive funding environment. There's a marketplace for Requests for Proposals, everyone's bidding, and the basic structure encourages a race to the bottom. A lot of legal services organizations do really great stuff, and everyone wants their organization to grow, but because you're bidding against competitors for the same pot of money, pushing work standards lower is a way to make an organization more competitive. So there are real pressures on Management to deliver more results for less money. We don't want to totally depersonalize this struggle, but there are structural problems driving Management's bargaining strategy. Every Executive Director is going to face this pressure. And particularly in an era when austerity is on the agenda and there's a constant assault on social services, both within government and a broader effort to push down living standards, that's going to affect us. And it's going to affect us not just as workers, but also as people who can provide these services, while our clients are constantly being told they have to live with less. We get caught in the middle of that.

What does Management want? When they say they want to run a fiscally sound organization, I believe them. But they're willing to make compromises that we're not. And that's why structurally, the union is always better positioned to fight for our clients—our working conditions are their service conditions. The Chicago Teachers Union coined this: "Our working conditions are your children's learning conditions." When our working conditions are cut back, we can do less for our clients. We'll have less experienced staff. What we want are more robust social services, more experienced advocates fighting on behalf of clients, and more knowledgeable support staff fielding challenging calls.

JOTA: While we don't question that there is a desire to be fiscally responsible, and while there isn't profit, MFY has reserves—extremely healthy reserves. We know they've grown by millions of dollars even before and after the financial crisis that resulted in MFY not hiring in the face of attrition. So there are still choices being made about how money is spent. There is still a choice to maintain this huge level of reserves instead of spending on the client needs that we see every day. A concrete way to meet clients' needs is to hire more staff who

directly serve them—case handlers and support staff. But our support staff levels have remained fairly stagnant, which affects our case-handlers’ ability to efficiently and effectively serve people. We have way more people coming to us than we can actually serve.

And then the other choice, to add to Brian’s point, is just about feeding into the race to the bottom as opposed to choosing to demand excellence, to be part of a political movement, and to identify this organization with the community we serve, as part of the same political struggle. I don’t see a lot of lobbying on the policies that result in the race to the bottom I mentioned earlier—where organizations are considered more competitive because their staff is more disposable. I think if there were this great advocacy, we would know about it. It would be movement-based advocacy for the right kind of policies so our clients get the right kind of services. They could respond to those concerns about “fiscal responsibility” from the corporate board or from funders by leaning on us and listening to us.

BRANDON: What is the difference between an organization like MFY that has a “wall-to-wall” union (including all non-Management employees) and other legal services providers that have no union⁴, sometimes to the chagrin of their employees?

BRIAN: In my perspective, working conditions are better at unionized organizations. Those other organizations are in competition for recent law school grads, so their standards can’t fall too far below what unionized shops provide, but in many respects the unionized shops have better compensation and benefits packages. There’s a certain level of self-preservation and self-care that’s possible at a unionized shop that’s not always possible at non-unionized workplaces. There tends to be a martyr syndrome that develops at some non-unionized organizations where you have to give endlessly. Having the security and protections of a union allows you to push back, not in a selfish way, but in a more far-sighted way: what’s good for my clients is to not run myself to death in the first few years of my employment, but to develop the skills that only come from many years of doing this sort of thing. Some of the broader-scope political engagement that’s possible at a unionized organization is less possible at a non-unionized organization.

I also want to say that we stand in full solidarity with all the staff at non-unionized providers. We in no way consider them competitors or anything like that. More competition is bad for us, not good for us. We want all of us to do better. We want all our clients to get better services. That solidarity has to be the starting point before we assign any particular value to which place is better to work at.

BRANDON: What do you expect the next issue to be? How do you think things have changed since the strike? What are the ongoing issues that will be brought up at the next bargaining session?

4. Some non-unionized legal services providers in New York City include The Bronx Defenders, Brooklyn Defender Services, and New York Legal Assistance Group.

JOTA: Unfortunately, the atmosphere hasn't changed. So far, we do not see a change in Management's treatment of employees.

BRIAN: If anything, they're less willing to listen or compromise than they were before the strike. Some of the bullying conduct has actually increased significantly, particularly if you're a new member. Getting a bad evaluation, or getting probation extended—things we almost never saw before—are much more common occurrences now. In terms of attitudes towards employees, it's unfortunately worse. I don't know if that's a conscious tactic. But if it is, it's backfiring, because people don't like to be treated that way. And when you've been treated that way, one option is to withdraw and to just accept that, and ultimately look for a new job. But if you have the ability to push back, you will—and people are.

In terms of what's going to be on the table, I don't know. I suspect they'll try to roll back the wins. I don't think they'll try to decrease the support staff scale. They'll try to give us a low raise and to lower the 403(b). Even though the fiscal situation has only improved—a lot.

JOTA: There are challenges with growing, because unions require organizing, and there are a lot more people to organize. It's certainly a challenge we've shown we can rise to. We fortunately have passionate people who are willing to put in the time, which is another reason why it's so baffling to me that this is how they choose to treat new staff members. It takes energy away from the work on both sides, and it makes everything harder for everyone for no good reason. So we have to deal with that growth. We have a lot of people who started after the strike, so there is some disconnect, but then they see how management treats us—extending probation for new employees, for example. I think we have a lot of momentum to build on. It's had a lasting impact on the folks who were already around in terms of how they see their work, how they think about their coworkers, and the importance of a union.

BRIAN: This job tends to attract people who have a strong sense of what's fair and right in this world, and are willing to fight for that. We do have a lot of work to do, but I'm confident, like Jota, that we'll get it right.

One thing we didn't mention before: the strike was led by members. The Bargaining Team was really careful about our strategy and did a lot of work, but every major decision came back to what members wanted. I feel like that's not very common in the labor movement, and it gives a sense of empowerment that I hope we'll be able to build on in the future.

JOTA: I wish Jess Cepen, support staffer and Bargaining Team member, was here, to get her perspective on it, but a large part of why we went on strike was for a smaller group of people—specifically, support staff. I don't think you can get more principled than that, and that's why it felt immensely good to do it. I didn't feel like we as a Bargaining Team were ego-driven or self-interested, and therefore we gained the trust of the shop. What I saw afterwards was support staff signing up to be delegates. Once you say “No, we reject this devaluation of this subset of

people,” that in turn leads directly to more engagement. I hope that we continue to fight for the least valued and the most oppressed within our shop. That will exponentially increase their engagement and our success.

BRANDON: What are the main takeaways from the strike and the bargaining process? What can other legal services organizations—both unionized and non-unionized—learn from the strike?

JOTA: My takeaways are that it feels good to fight for what is right even if it comes with immense personal sacrifice. There can't be a more effective way to fight than to organize with others to achieve shared goals. But that means looking out for everyone and not just yourself. You have to act as though your fates are tied together, because they are. This is true of any social justice fight.

When we decided to strike, we learned what a rare tactic that is these days amongst unions. What that says to me is that unions need to get more organized. They need to look out for and connect with each and every member. Only then they will be able to use all of the tools and leverage at their disposal.

I would strongly encourage legal services staffers *and* managers to think about how they contribute to the race to the bottom and how this impacts their work, their clients, and their working relationships. There is certainly plenty to do, so why are you competing with your colleagues instead of collaborating and supporting one another? Training new people takes immense time and resources—don't you want people to stay and serve our clients longer and better?

Legal services is hard work. We have to lift each other up to keep doing this work. And if we all support each other, we'll have more victories.