



Aid in Dying Court Appeal Comes to New York Court of Appeals May 30; Strong, Diverse and Growing Support in Amicus Briefs

The right of terminally ill, mentally competent adults to achieve a more peaceful death is at stake in *Myers v. Schneiderman*, now before the New York Court of Appeals, NY's highest state court. Oral arguments will be held in Albany on May 30. The appeal seeks to reverse lower court decisions that dismissed the case prior to trial. The case seeks to establish the right of terminally ill patients to receive a prescription for medication which they can self ingest to achieve a peaceful death if confronted by suffering they find unbearable.

Wide support for the plaintiffs is demonstrated by a multitude of amicus briefs submitted to the court by diverse parties representing patients and their loved ones, medical, religious and civil liberties organizations as well as national legal associations. Two of these organizations are supporting the legalization of aid in dying as an amicus for the first time.

Kathryn Tucker, Executive Director of End of Life Liberty Project, and co-counsel in the case, said, "We are very pleased to see a large number of important voices joining us in seeking reversal of the lower court dismissal of the case. It is especially interesting to note the appearance of new voices not previously involved in aid in dying cases."

Ms. Tucker noted, "Two new 'friends' of end of life liberty are stepping forward in *Myers*. For the first time in a case seeking to establish access to aid in dying, a state chapter of the National Academy of Elder Law Attorneys (NAELA) is participating as an amicus in support of patients and physicians. The Elder Law Bar represents seniors, the population most likely to confront terminal illness, as well as people with disabilities. NY NAELA's participation is significant as it reflects growing recognition among disability advocates that aid in dying is an important right for those who seek it at the end of terminal illness."

Ed Schallert, a partner at Debevoise & Plimpton, co-counsel in the case said, "For the first time in an aid in dying litigation the National Association of Criminal Defense Lawyers is participating as an amicus. This section of the Bar speaks to the need for the criminal statute at issue to be narrowly interpreted so that it does not reach doctors who only wish to fulfill the final, rational requests of their terminally ill, dying patients. Plaintiffs in New York are asking for the same relief that dying patients received in Montana, where the highest state court ruled that the criminal law did not reach doctors in these situations. There, aid in dying is now largely a matter of best medical practices/standard of care, an important step toward normalizing the practice of aid in dying within the practice of medicine."

New York legislators, who are also sponsoring a bill to establish aid in dying in New York, wrote in their brief to the court, "Justice ought to include empowering a suffering dying patient with the option of avoiding further suffering." Assembly Member Richard Gottfried, Chair of the Health Committee; Assembly Member Amy Paulin, the lead sponsor of the Assembly bill; and Assembly Members Michael Blake, Sandra Galef, Ellen Jaffee, Linda Rosenthal, and Phillip Steck and Senator Brad Hoylman submitted the brief.



Amicus briefs were also submitted by medical organizations, including the American Medical Women’s Association and American Medical Student Association; religious organizations, including the Unitarian Universalist Association and New York Society for Ethical Culture; the New York Civil Liberties Union; survivors of people who would have wanted the option of aid in dying (including well known New Yorkers Betty Rollin and Gail Sheehy); and a coalition of distinguished New York law school professors.

Laurie Leonard, Executive Director of End of Life Choices New York, said “The stories in the survivors’ brief are heartwrenching. One survivor was the partner of a 44-year-old woman with throat cancer who endured surgeries that left her unable to eat, drink, smell, or speak, with an open neck wound that would not heal. In the survivor brief he asks, “Why would our society require the terminally ill either to suffer or to linger in unconsciousness before death?” Denied aid in dying his partner died after suffering through grand mal seizures and was sedated until death.

Ms. Tucker noted, “The brief from a wide range of respected professors of New York’s leading law schools with extensive experience and expertise in constitutional and criminal law is compelling. The brief of national professional associations of physicians reflects the steadily growing support by doctors for this compassionate option.”

The religious perspective brief, which includes the Unitarian Universalist Association, advocates “for the freedom of competent, terminally ill New Yorkers of diverse religious traditions to make their own informed, voluntary decisions about aid in dying.” Mr. Schallert noted, “The religious brief makes clear that while some religions may not support aid in dying, their views should not dictate what people of other faiths may do in making a most private and intimate end of life decision for themselves. New York state legislators urge in their brief that the court clarify the scope of the ‘assisted suicide’ statute, because its reach is unclear and nothing in the law or its history suggests it was the intention of the legislature to outlaw aid in dying.”

The following amicus briefs were submitted to the court in *Myers v. Schneiderman* and can be found in their entirety under New York at <https://www.cascadianow.org/end-of-life-liberty-project/>

NYCLU - filing themselves
Medical Coalition - Covington & Burling
NAELA NY - Drinker - Biddle & Reath
Survivors - Winston & Strawn
Law School Professors - Patterson Belknap
Legislators - Holland & Knight
Religious - Verrill Dana
National Association of Criminal Defense Lawyers - Chaffetz Lindsey
Compassion & Choices - Wilmer Hale
Huntington’s Disease - Alan Pfeffer (personal brief)

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