Rachael Baker has fond childhood memories of lip-sync contest victories, courtesy of Joan Jett and the Blackhearts and Kool and the Gang, at the OTLA annual convention in Sunriver. Her father, Albany lawyer and OTLA officer, Jim Egan, took the family every year and was not surprised when his eldest daughter became a legal aid lawyer. This summer, Baker and Egan were on familiar turf at the 2003 OTLA convention when they made the first pitch of the 2003 Campaign for Equal Justice.

Baker described her experiences as a staff attorney in the Bend legal aid office, representing survivors of domestic violence in Klamath and Lake counties and working with community advocates. In keeping with the theme of this year’s annual Campaign, Baker is someone who truly champions justice and changes lives.

Egan asked his fellow trial attorneys to continue their tremendous generosity, and also to consider giving a percentage of their victories to the Campaign for Equal Justice. He described how he relies on legal aid to handle matters for his own clients who may be low-income and who have legal issues relating to housing, public benefits, or domestic violence.

As the Campaign kicked into high gear in the fall, the father-daughter duo of Egan and Baker were followed by other equally able spokespersons at kraft-off events around the state.

Oregon First Lady, attorney Mary Oberst, wrote to every lawyer in the state on behalf of the Campaign for Equal Justice. She described how she relies on legal aid to handle matters for his own clients who may be low-income and who have legal issues relating to housing, public benefits, or domestic violence.

When the Beaverton job offer came through, Ratcliff moved her family and threw herself into the business on her own for two years until it was sold. She ran the business on her own for two years until it was sold. She helped the owner find a buyer when he was ready to move on. “It was nice to have somebody have so much confidence in me.”

That job, while it lasted, had been excellent, but Ratcliff wanted employment that would put her children in friendlier schools and a better living environment. She found the position she was looking for in Beaverton. “The ad for the job seemed perfect,” she said, “It was a personal growth company. I was really grateful to get that job.” However, like many other Oregonians, she was forced out of the position she had held for two years and must now look for work in a very tight job market. Legal Aid advocate Rachael Brown assisted Kathryn Ratcliff when her unemployment benefits were denied and Ratcliff and her children were at risk of losing their home.

When the Beaverton job offer came through, Ratcliff moved her family and threw herself into the business, for a period of time in sales and customer service, and later in the company’s recording studio. She tried to go along with the pressure to work extra hours without overtime pay. It seemed to be common practice in the business. After training in the recording studio, during a fellow-worker’s vacation, Ratcliff worked particularly long hours and additional weekend hours. When the next paycheck did not reflect the hours she had worked, Ratcliff assumed it was an error and took it to her supervisor. He responded that there really wasn’t that much money involved and that the head of the company didn’t believe in paying overtime. Although she made it clear that the answer did not satisfy her, Ratcliff received no other answer.

Within a few months, Ratcliff lost her job. During that time, fellow employees tried to press her to quit and the atmosphere grew increasingly tense. She tried to hold on – seeking private job counseling, trying to master as many aspects of the job as possible, submitting to required “job coaching” sessions. Her firing, in mid-February 2003, was unexpected. The supervisor explained that her fellow employees had demanded she be fired and that it was reported she had verbally attacked fellow employees the previous day. She replied that there had been no such incident. The supervisor assured her the company would not fight her claim for unemployment benefits. As she left, he hand her a check for a small amount he identified as “overtime pay.”

Ratcliff knew that she would have to find a new job quickly. She applied for unemployment and was working with the employment office, calling frequently to check the status of her claim. Word came back that her claim had been denied. The employer said she was fired for misconduct. When Ratcliff went to apply for food stamps, the clerk heard about the denial of unemployment benefits, and suggested that she go to the Legal Aid office in Hillsboro. There she met advocate Rachael Brown.

“Rachael was great. She helped me learn how to focus on the facts. I don’t think that many people could make it through this process without help.” At the time Kathryn Ratcliff needed to appeal the denial of benefits, her confidence was at a low ebb. Initial attempts to find a job had not been successful and she was still distressed by the conduct of her former employer. Rachael Brown says, “What they claimed was scandalous. Because she was feeling overwhelmed, Kathryn needed some help to disprove their claims.” At the telephone hearing with an Administrative Law Judge in
When Oregon State Bar President Charles Williamson presented a “President’s Special Award of Appreciation” this summer at the biennial OSB conference in Seaside, he recognized the recipients, Hollie and Eric Lindauer, for their efforts to secure additional funding for legal aid. For the past 14 years Eric Lindauer has worked to increase access to justice for the poor, serving as a Campaign for Equal Justice board member and championing efforts in state government to increase funding. Hollie Lindauer, though less in the public eye, has made a valued contribution, providing a comfortable meeting place where lawyers, legislators and friends of legal aid can exchange ideas and strategize on the issue of legal aid funding.

The Lindauer Group, which began in 2000, aims to double funding for Oregon’s legal aid programs by raising an additional $10 million per year, using a combination of strategies. The plan includes campaigning in the legislature for an appropriation from the state’s general fund, building the Oregon Access to Justice Endowment, increasing grant revenues, and increasing contributions from Oregon lawyers, corporations and individuals to the Campaign for Equal Justice. During 2003, partly as a result of the group’s efforts, bipartisan support in the legislature resulted in a filing-fee increase that will mean an added $13 million per year for legal aid programs. Since 2000, the group’s planning sessions have been hosted at the Lindauers’ home. Hollie Lindauer says the idea began with a visit from Linda Clingan and Karen Garst, “We were all trying to think of good ways to help Salem, with a relaxing atmosphere, where supporters of the Campaign could speak frankly and debate how best to achieve the Campaign’s goals.” “Many of the Campaign’s supporters are here in Salem for the grueling legislative session. The idea of the Lindauer Group was really just to provide a change of environment and a relaxing evening during which ideas could be discussed among friends.”

The Lindauers have been hosting the group since 2000. Hollie Lindauer says, “It’s all very home made and that makes it more fun.” More seriously, she notes, “It’s a pleasure for us to open our home to this hard working group of people, to put the best of ourselves to meet so many who sincerely love this state and who are so dedicated to doing their best for Oregon. These are bright, interesting people and delightful, gracious dinner companions.” Hollie Lindauer is an architectural designer. She received a graduate degree from the Rhode Island School of Design and worked for a commercial architectural firm, SOM, in New York and in Boston. Before moving to the west coast, she was a partner in a residential architectural firm in Vero Beach, Florida. Living in Oregon, she continues to work on residential projects.

Legal Aid Funding a Struggle in 2003-2004 by Jane Wilcox

Despite growing bipartisan support in the Oregon legislature and in Congress for funding legal services, Oregon’s legal aid programs face budget shortfalls in the remainder of 2003 and in 2004. Tom Matsuda, Executive Director of Legal Aid Services of Oregon, describes the effects this year of decreased funding. “In June we closed the McMinnville office. We now have one-attorney offices in Newport and Roseburg. That’s the fragile because of staff burnout. All other offices are reducing intake hours and restricting case acceptance in the wake of downsizing. Legal aid lawyers and staff have received no pay increase while taking a combined total of at least 10 days off without pay and covering a greater portion of their health insurance costs. Since I came to Legal Aid Services of Oregon in 2000, the number of staff statewide has gone from 110 down to 87, a 20 percent reduction.” Debra Lee, Director of the Center for Non-Profit Legal Services in Medford says that her staff has not had an increase in three years. “We are finding it difficult to retain long-term staff members and it is these experienced advocates that handle cases most efficiently.”

The filing fee increase signed into law August 29, 2003 is expected, beginning in July 2005, to generate $1 million per year for legal assistance to Oregon’s poor. Increases proposed in the FY 2004 federal budget appropriation for the Legal Services Corporation are a good sign, but Oregon is unlikely to benefit directly in the coming year. Because of the short-term funding challenges, it is important in 2003 and 2004 to maintain as much of the infrastructure as possible until additional funding is secured. David Thornburgh, Oregon Law Center Director says, “The management strategy has been to keep a skeletal structure of local offices intact as long as we can in order to have a local base upon which we can rebuild when the economic recovery comes.” Matsuda says, “It looks like it’s going to be a real challenge. In early estimates for next year, if we were to give all of the staff a modest raise and maintain current staffing, we would be looking at something in the range of a half million dollar deficit.”

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State News

Filing Fee Increase Passes Legislature

In August 2003, the legislature passed and Governor Kulongoski signed into law House Bill 2759, a bill that increases fees paid when cases are filed in Oregon courts. Proceeds from filing fees partially fund the operation of the state court system and help legal aid programs provide civil legal assistance to Oregon’s poor. When the increase is fully implemented in 2005, if the volume of cases continues at the present rate, the legal aid portion of the filing fee increase is expected to generate an additional $1 million per year for legal aid programs. Tom Matsuda, Executive Director of Legal Aid Services of Oregon, noted the bill had strong bipartisan support in the legislature. He says “This would not have been possible without the help of legislators Peter Courtney, Kate Brown, Max Williams, Lane Shetterly, Rob Patridge and Robert Ackerman.” The increase in fees will be phased in, one third at a time, over a three-year period. On September 1st, the first phase of the bill went into effect.

OSB Legal Services Task Force Examines Statewide Structure

The Oregon State Bar Legal Services Task Force, a group of 12 appointees chaired by Steve Walters, Stool Rives LLP, has undertaken a review of the configuration of legal aid programs in Oregon to determine whether the quality of services could be improved through mergers or other structural changes. Although the process was triggered by a request from the Legal Services Corporation, the task force will take the opportunity to evaluate all programs, both LSC funded and non-LSC funded. Four subcommittees of the task force are charged with examining geographic access, effectiveness of services, highest and best use of resources and responsiveness to new and emerging needs. Task force members are united in the belief that one size must be based on two principles: the best interests of the client and the ultimate standard that everyone in Oregon should have relatively equal access to legal services regardless of where they live and their status.

Following initial meetings, all six members of the Association of Oregon Legal Services Programs signed a non-binding letter of intent that requires them, in good faith, to conduct a due diligence examination of the advantages and disadvantages of the concept for reconfiguration recommended by the Task Force. The Association of Oregon Legal Services Programs has recently retained pro bono counsel, David S. Matheson and Michael S. Gadd of Perkins Coie. Matheson and Gadd, specialists in mergers and acquisitions, will assist the Association to create a work plan and complete the study. (Perkins Coie pro bono attorneys also represented Washington legal services programs in Brief v. Legal Foundation of Washington in which the Supreme Court upheld the constitutionality of IOLTA, achieving results worth $150 million annually to legal aid programs nationwide.)

$28,000 Contributed at Marion-Polk Luncheon

On October 9th, the Annual Marion-Polk Campaign for Equal Justice luncheon was held at Mission Mill in Salem. Mary Mertens James, Harrang Long Gary Rudnick PC, introduced keynote speaker, First Lady Mary Osterst. Osterst addressed the importance of equal access to the civil justice system as a value shared by Oregonians. Other speakers included Eric Lindauer, Clark Lindauer Heatherston Edmonds & Lippold LLP, and Jorge Lara of Marion-Polk Legal Aid. At the luncheon 120 attendees contributed a total of $28,000 to the 2003 Campaign for Equal Justice.

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Briefly... By Neisha Satzen and Jane Wilcox

National News

Senators Wyden and Smith request funding increase

In their letter of June 19, 2003 to the Senate Appropriations Committee, Senators Ron Wyden and Gordon Smith wrote in support of a $387.7 million appropriation for the Legal Services Corporation in fiscal year 2004. Their letter states, in part, “We believe that amount is necessary to ensure that civil legal assistance is available to those who are unable to afford legal representation for important, often life-altering legal issues.” Increased funding for civil legal services to the poor is a part of the Senators’ bipartisan agenda.

LSC Budget Still in Congress

The FY04 appropriation of $338.8 million, when approved, will be the second increase in two years to the Legal Services Corporation budget, winning approval from the House Appropriations Committee in July and the Senate in September. Due to unresolved differences between the House and the Senate’s plan for distribution of the increase, the appropriation has been sent to Conference Committee for resolution. The Senate version directs additional funds to states that are slated to lose funding due to changes in poverty population shown by the 2000 census. The House supports distribution of the funds state-by-state according to poverty population.

OSB Legal Services Task Force

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The Oregon State Bar Legal Services Task Force, a group of 12 appointees chaired by Steve Walters, Stool Rives LLP, has undertaken a review of the configuration of legal aid programs in Oregon to determine whether the quality of services could be improved through mergers or other structural changes. Although the process was triggered by a request from the Legal Services Corporation, the task force will take the opportunity to evaluate all programs, both LSC funded and non-LSC funded. Four subcommittees of the task force are charged with examining geographic access, effectiveness of services, highest and best use of resources and responsive-
Lea Ann Easton directs the Native American Program of Legal Aid Services of Oregon (NAPOLS). She has served as a NAPOLS attorney, with a few interruptions, since 1989, beginning a little less than a year after she was admitted to the Oregon Bar. The Native American Program provides legal assistance to individuals and groups who wish to learn about Indian culture and to regain tribal recognition from the federal government after the tribes were terminated in 1954. Of the sixty-four tribes terminated, six have been restored—the Confederated Tribes of Siletz Indians, the Cow Creek Band of Umpqua Indians, the Confederated Tribes of Grand Ronde Community of Oregon, the Confederated Tribes of Coos, Lower Umpqua & Siuslaw Indians, the Klamath Tribes and the Coquille Indian Tribe. Others still seek help for restoration.

Today NAPOLS works on a wide range of issues including governance structures for restored tribes, protection of tribes’ cultural and natural resources and assistance to organizations formed for economic development and cultural support. They also help low-income individuals to resolve questions about the interplay of tribal, state and federal programs regarding health care, child welfare and other needs. Because of their specialized knowledge, NAPOLS staff advises other Legal Aid Services of Oregon regional offices on matters of Indian law.

The Confederated Tribes were restored in June 1989, shortly after Easton came to work at NAPOLS. She says, “I remember one of the Coquille elders that I met when I first started working here and listening to her talk about what was the greatest thing about tribal restoration and she said, ‘I can get my teeth fixed.’ She was finally going to be able to access dental care and get her teeth fixed.”

Easton’s attention to the problems of Indian tribes began when she was growing up in the Dakotas, she says that visiting the reservation was like going into a third-world country. At a party with high school friends on a reservation in North Dakota, in the middle of winter, she recalls she could see through the wallboards. “You could see outside and the only thing heating this place was an old drum and the room and this was family’s home.” At University of North Dakota, she says, “I remember two girls that were from the Blackfeet Tribe’s reservation near Browning, Montana. They were the first members of their family ever to graduate from high school, let alone go to college, and that must have been in 1983.”

During college and in law school at the Northwest School of Law of Lewis and Clark College, Easton’s internships and clerkships developed her interest in using the law to improve conditions for native tribes and tribe members. She said, “Reading history and talking to people about how you effect social change in this country, I saw that there was something you gave you some really good technical tools to help facilitate that change and so I thought it would be a useful set of skills to have.” She externalized with the Native American Rights Fund, working on a voting rights case in Robison County, North Carolina. The county was evenly split among white, black and Native American residents but that balance wasn’t reflected in the government. Easton worked with groups of women who spent weeks manually sorting the polling records to provide statistics for the project and she saw the women begin to meet and for the first time have conversations with their neighbors of other races. She took part in a tribal restoration project for the San Juan Southern Paiute Tribe, scanning 19th century Indian agency reports for Paiute words at an office in Gallup New Mexico and on the Navaho reservation. In Oregon, she clerked for the Columbia River Inter-Tribal Fish Commission. During these assignments she spent time talking with Native people and getting to know about their lives.

Opportunities to learn about Indian culture have continued during Easton’s years at the Native American Program. In 1999, she assisted the Burns Paiute Tribe in prosecuting the theft of burial artifacts from a site in Eastern Oregon. She tells the story to highlight the difficulties of establishing trust with clients from native cultures. “It was a challenge to get the elders to trust me enough to talk to me about the case because there are all sorts of taboos against talking about burial practices and talking about where people are buried. For, it seemed like months on end, I went out to the tribal elders’ meetings in Burns and stopped and got pie on the way to the potluck because the archaeologist told me some of the elders really liked pies. I ate whatever they gave me. I ate venison stew. I ate roots. It was all nice food and it was wonderful and very inviting but it’s just, you know, in normal litigation practice you don’t do that. You don’t have a 90 year old tribal elder whose primary language is Paiute shake her hand and tell you to come over and sit next to her and then tell you what to go get for her and when to get it. It felt like I was a kid back in church. When I came back two weeks later, this tribal elder had talked to the other elders and they had decided that they would talk to me. It was a long process and ultimately that case had a good outcome for the tribe. The burial objects were returned.”

“I remember one of the Coquille elders that I met when I first started working here and listening to her talk about what was the greatest thing about tribal restoration and she said, ‘I can get my teeth fixed.’”

**PITCHING IN:**

**Co-counseling A-team Defends Disabled Adults**

by Jane Walco

Stephen Mathieu, Oregon Advocacy Center (OAC) attorney, looks back on the January 2002 case that brought together a high-powered team of public interest lawyers and private lawyers, Henderson et al v Kitzhaber, with a smile. “For me, it was really inspiring to be with this group of lawyers.” Most team members worked pro bono on this complex case that resulted in a good outcome for a group of severely mentally disabled adults. In November 2002, Attorney Charles Merten read that people were being evicted from care centers. Merten called the Oregon Advocacy Center and began a collaboration with Kathleen Wilde, OAC Litigation Director and Mathieu. Together they assembled an experienced litigation team including Oregon State Bar President Charlie Williamson and Lawrence Wobbrock, a specialist in medical law and OTLA Trial Lawyer of the Year. Mathieu drafted the original complaint and coordinated the work of the larger group. Attorneys Kathryn Clarke, Jeffrey Fote, Tooby Graff, Glen Downs and Richard Lane provided in-depth research support and strategy.

The plaintiffs, some elderly, all profoundly disabled by mental illness, lived in two care centers, William Elaine in Portland and Hooodview Residential Care Home in Gresham. In November 2002, each received a notice that their care centers would close and that they would be evicted on February 1, 2003 as a result of state funding cuts. The plaintiffs all require medications they are unable to manage themselves. They cannot manage their money. In addition to mental illness, most need supervision for other conditions such as diabetes and arthritis. All plaintiffs have lived in their care centers for many years. Seventy year old Laurea Sayre, for example, has lived at Hoodview since 1980. The complaint asserts that all the plaintiffs, when evicted, will “suffer psychiatric crises and immediately become homeless and unable to care for their basic needs.” Wilde said, “Unless this is reversed people will die.”

Glen Downs, a private attorney listed by the Bar as “active pro bono”, says, “You could not have rounded up a better team for this kind of case. They worked flat out to win.” Downs joined with Attorneys Clarke, Graff, and Downs said that in Michigan where he had once practiced, applicants to the Bar took an oath, part of what is called the Genevan oath. It says, “I will never reject, from any consideration personal to myself, the cause of the defenseless or oppressed, or delay anyone’s cause for lucrative or malicious.” Lane on what he calls the ad hoc law committee. They researched and developed the legal theories that were the basis of the case. Heather Merfeld, new to the Oregon Bar, read about the case in the Oregonian and telephoned Merten to offer her help. She researched Oregon mental health regulations and procedures for the committee and was given a seat at the table in strategy sessions. Although she had chosen the law with the idea of helping the less fortunate, as she says, “Your passion gets kind of squelched during first year contracts and torts.”

With the trial set to begin January 20, 2003, state officials announced January 17 their intention to continue to fund extended care for the plaintiffs and others in their circumstances until April 1, 2003. Since April, funding has continued and arrangements have been made to move many of the individuals into smaller facilities, 16 or fewer residents, that qualify for federal matching funds. Oregon Advocacy Center and the pro bono team have not cancelled the suit; they have kept it in abatement until June 2005 in case their clients are put in jeopardy again. OAC continues to monitor the residents and facility directors to ensure that the level of care is maintained despite the stress on managers and caregivers due to their own uncertain futures.

When asked about his reasons for taking pro bono work, Downs said that in Michigan where he had once practiced, applicants to the Bar took an oath, part of what is called the Genevan oath. It says, “I will never reject, from any consideration personal to myself, the cause of the defenseless or oppressed, or delay anyone’s cause for lucrative or malicious.”

“And so,” he said, “That’s the reason to do it.”

Charles Merten and the Oregon Advocacy Center jointly received the Oregon Trial Lawyers Association’s “Public Justice Award” for their work on this case.
Ratcliff continued

April, Brown helped Ratcliff establish the employer’s pattern of requiring unpaid overtime. Listening to the employer’s testimony, Brown realized that he did not claim to have witnessed Ratcliff’s alleged misconduct. The judge agreed and asked the employer to produce a witness to the behavior. When an employee was eventually found to testify, his story conflicted with the employer’s testimony. The judge upheld Ratcliff’s appeal because, as Brown explained, “even if the employer’s testimony had been credible, his ‘standard of conduct’ was unreasonable.”

Recently, at Rachael Brown’s recommendation, Ratcliff has begun serving on the Washington County Community Action Organization’s Board of Directors as a representative of the client community. Her sons – James, 19, Nicolas, 13, and Patrick, 12, along with Adam, 13, a friend of Nicolas who is homeless, are getting extra time and attention, including family meetings to plan how to handle chores when Ratcliff returns to work. She is pleased to note that James has just started a new job. Ratcliff says she is “nurturing and polishing her relationship with her sons.”

Dinner at Mahonia Hall, July 2003

SEARING THE FUTURE: ANNUAL FUND CONTRIBUTORS GROW THE ENDOWMENT

by Linda Clingan

The Oregon Access to Justice Endowment Fund is growing daily as many annual fund contributors to the Campaign for Equal Justice are making additional contributions to the endowment fund. “It is working just as we hoped,” notes Ed Harnden, Chair of the Endowment’s Board and Co-Chair of the annual fund campaign. “No decline in annual contributions has occurred by those giving to both the annual fund and endowment. People are following the Governor and the First Lady’s lead and making an additional gift,” he said. At this early stage, the Campaign has generated $24,480 in endowment contributions. $50,000 in matching funds is available to encourage these additional gift contributions to the endowment fund. “No decline in annual contributions has occurred by those giving to both the annual fund and endowment. People are following the Governor and the First Lady’s lead and making an additional gift,” he said. At this early stage, the Campaign has generated $24,480 in endowment contributions. $50,000 in matching funds is available to encourage these additional gift contributions to the endowment fund.

New bequests have also been received from Eric and Hollie Lindauer, Lou Savage, Steve and Mabsie Walters, Sid and Muriel Lezak and Charlie and Hollie Lindauer, Lou Savage, Steve and Mabsie Walters, Sid and Muriel Lezak and Charlie and Hollie Lindauer, Lou Savage, Steve and Mabsie Walters, Sid and Muriel Lezak and Charlie and Hollie Lindauer, Lou Savage, Steve and Mabsie Walters, Sid and Muriel Lezak and Charlie and Hollie Lindauer, Lou Savage, Steve and Mabsie Walters, Sid and Muriel Lezak and Charlie and Hollie Lindauer, Lou Savage, Steve and Mabsie Walters, Sid and Muriel Lezak and Charlie and Hollie Lindauer, Lou Savage, Steve and Mabsie Walters, Sid and Muriel Lezak and Charlie and Hollie Lindauer, Lou Savage, Steve and Mabsie Walters, Sid and Muriel Lezak and Charlie and Hollie Lindauer, Lou Savage, Steve and Mabsie Walters, Sid and Muriel Lezak and Charlie and Hollie Lindauer, Lou Savage, Steve and Mabsie Walters, Sid and Muriel Lezak and Charlie and Hollie Lindauer, Lou Savage, Steve and Mabsie Walters, Sid and Muriel Lezak and Charlie and Hollie Lindauer, Lou Savage, Steve and Mabsie Walters, Sid and Muriel Lezak and Charlie and Hollie Lindauer, Lou Savage, Steve and Mabsie Walters, Sid and Muriel Lezak and Charlie