

THE LAWYERS' CAMPAIGN FOR EQUAL JUSTICE



SUPPORTING LEGAL AID IN OREGON

Spring 2005

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Federal and State perspectives highlighted at 14th Annual Awards Luncheon

Legal Services Corp. President Helaine Barnett and former State Senator Neil Bryant describe Oregon's role in promoting bipartisan support of legal aid

by Matthew Jones

In her keynote address to the 14th Annual Awards Luncheon of the Campaign for Equal Justice Helaine Barnett praised Oregon's legal community, "I am delighted to be in Oregon and to have this opportunity to recognize the efforts of the Campaign for Equal Justice in raising essential funding to support legal services for the poor. Oregon is a model for all states in developing and maintaining bipartisan support for legal services, in obtaining substantial funds for legal services for the poor, and in the delivery of high quality legal services to the poor." Over 350 Campaign supporters, including First Lady Mary Oberst, Senator Gordon Smith's state director Kerry Tymchuk, and former State Senator Neil Bryant, attended the annual awards luncheon at the Portland Hilton Hotel on March 2nd to celebrate the 2004 Annual Fund Campaign: 'Protecting Oregon Families'.



Former State Senator Neil Bryant

Multnomah County Circuit Court Judge and American Bar Association Secretary Ellen Rosenblum introduced Helaine Barnett. "In 2004 Helaine was selected to head the LSC based on her exemplary 37 year career of providing legal services to the poor in New York City. I have been lucky to get to know Helaine in our work together at the ABA and I can tell you from my personal experience how fortunate the American people are to have her—along with her wonderful qualities of deep knowledge and understanding of legal services, her brilliance, her warmth, and her vision—for this critical position."

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Advocating in Oregon

JEREMY BOWMAN

by Jane Wilcox

Today, Jeremy Bowman benefits from the use of a fully functioning power wheelchair thanks in part to the assistance of Lane County Law and Advocacy Center attorney Tim Baxter. Jeremy lives in Eugene and attends Lane Community College a few blocks from his front door. He is able to take the bus to medical appointments, visit friends, shop, and go to the movies. At twenty-five, he is a young, active person.

As the result of an accident at age 18, Jeremy Bowman lost the use of his legs and has limited use of his upper body, shoulders and arms and so he relies on a power wheelchair for mobility. Despite the challenges of disability, he wants the chance to plan for his future and he wants to get an education so that he will be able to earn a living someday.

"After a while the chair quit completely. It became a piece of furniture."

Jeremy has a place to live and he has the assistance of a caregiver, Lisa Sanders, who helps him with daily tasks. He received a power wheelchair in 1999 through the Oregon Health Plan. The chair served him well for five years, but by October of 2003 Jeremy's power chair began to break down. The tilt/recline function, important for preventing pressure sores, stopped working. Jeremy requested repairs from Lane County's managed care provider, Lane Individual Practice Association, who denied his request at that time.

At the end of December, he enrolled at Lane Community College and moved into a modest accessible home a few blocks from school. One day when class let out, the chair would not move. Power wheelchairs are too heavy to push more than a short distance. It was five hours before he was able to leave the classroom and that was only possible because one of the college staff took time to make temporary wiring repairs. Jeremy made it home. "Barely," he said. It was February and he went to the Lane Individual Practice Association to ask once again if they would authorize repairs. This time the provider said yes, but they would only fix the battery and the bearings, not the power function. It made no sense to Jeremy.



PHOTO: JACK LIU

It didn't make sense to Jeremy's doctor either. She agreed to help appeal the decision. Forms were filled out and hours spent on telephone calls. In March, Jeremy was still waiting for a repair authorization when his chair stopped dead in the middle of a busy downtown street. He telephoned home for help, a passerby pushed him to the curb, and Lisa was able to get him back to the house. She says, "After a while the chair quit completely. It became a piece of furniture." It was near the end of winter term and without a wheelchair Jeremy couldn't return to school. Lisa pushed him into the living room or out onto the porch every morning and, as she said, "parked him there for the day." Winter term ended and most of spring term went by without a resolution.

In May 2004, Jeremy's request was denied. The providers stated they would not pay for repairs because the power chair was not intended to be used outside of the home. The letter said, in part, "You were notified that there should be no continued expectation that your power chair will be maintained at such level to provide year around community access." The letter also suggested that he buy a specially equipped van for non-medical activities. Like most people with disabilities, Jeremy lives on a limited income. When he read the letter, he felt that he'd reached a dead end.

Many would have given up at this point, but Jeremy was referred to attorney Tim Baxter at the Lane County Law and Advocacy Center. Knowledgeable about disability cases, Baxter was familiar with the many problems elderly and disabled people were having

"I think Jeremy's experience, our ability to help him, and his recognition that he was part of something larger, changed him some."
Tim Baxter, Lane County Law and Advocacy Center

getting assistance from Lane Individual Practice Association. He thought that the refusal to repair the chair because it was used outside of the home was unreasonable and he believed that the Oregon

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CAMPAIGN FOR EQUAL JUSTICE BOARD NAMES SANDRA HANSBERGER EXECUTIVE DIRECTOR

by Jane Wilcox

Sandra Hansberger has been named Executive Director of the Campaign for Equal Justice and the Oregon Access to Justice Endowment Fund. A Clinical Professor of Law at the Northwest School of Law of Lewis and Clark College since 1988, Hansberger has had a rich and varied career teaching and supervising law students at Lewis and Clark's low-income legal clinic and serving on an array of legal services boards and committees of the Oregon bar. Campaign Board member Ira Zarov says, "We are looking forward to working with a leader of Sandy's caliber. Throughout her career she has been a champion of legal services for people in need."



Sandra Hansberger, our new Executive Director

A graduate of Pitzer College in Claremont California and the Lewis and Clark Law School, Sandy Hansberger's career has centered on promoting access to justice for low-income people in Oregon. "I had worked for legal aid in California after I graduated from college and I was very interested in social work and law-related work as a means to address poverty and inequity." "In law school," Hansberger says, "I decided

for a while that I was going to do business law. I clerked at a firm that did commercial law and I quickly realized that this was not the place for me." After moving to Portland and beginning in private practice, Sandy felt that she still had not begun to practice law as she had originally intended. "I started doing pro bono cases through the Volunteer Lawyers

Project and found that I got more satisfaction from those pro bono cases than from the cases in my practice." From there, she steered her career toward helping low-income clients, working for the St.

Andrew Legal Clinic, and then the Lewis and Clark Legal Clinic. She also served on the Boards of Oregon Legal Services and the Campaign for Equal Justice.

Work with low-income clients shaped Hansberger's beliefs about the law. "It just becomes so apparent that the need is tremendous and the need continues. What

that means is that lawyers need to step up to the plate." Speaking of the ethical foundation for raising funds from the legal community, she says, "I think lawyers have a unique obligation to contribute. We have a special duty because we were trained to help people and because we regulate our profession, that is, we don't permit other people to step in to do the work we do. As long as lawyers have the privilege to practice, we have an obligation to make sure that people get access to the system. That is why I am so excited to be

"I think lawyers have a unique obligation to contribute."

in this position--to try and help increase funding, to increase access, and to encourage Oregon lawyers to keep doing

the right thing." She adds, "I'm looking forward to working with the very talented and dedicated staff of the Campaign for Equal Justice, legal services providers, the Campaign's dedicated leadership, bar organizations, and especially our very big hearted and supportive Oregon lawyers." ■

Briefly...

National News

US District Court rules in *Dobbins v Legal Services Corporation*

On December 20, 2004, a federal judge in New York's Eastern District struck down the "private money" restriction that limits the assistance legal aid lawyers are able to give to the poor. The restriction, one of seven enacted by Congress in 1996, prohibits legal aid programs from using privately contributed money to provide services the federal government does not permit. Judge Frederic Block, in *Dobbins v Legal Services Corporation*, held that the restriction on the use of private funds violates the first amendment. Legal Services Corporation has appealed the decision. The district court decision, if upheld on appeal, will increase efficiency and allow legal services programs to serve more of the people who need their help.

Legal Services Corporation requests \$363.8 million for FY '06

On February 5th, the Legal Services Corporation board approved a \$363.8 million budget request to the federal government for fiscal year 2006. That same week, the Bush administration proposed \$318 million for legal services, a dramatic reduction from the \$329 million proposed in the previous three budgets. In FY 2005 Legal Services Corporation requested \$352.4 million and the final appropriation was

\$330.8 million following two across-the-board budget cuts. The proposed cut in FY '06 would mean reductions in service nationwide.

In Oregon, the proposed cut would cause a loss of funding in the range of \$150,000, depending on how the cuts were allocated, about half the annual cost of a small rural office. Legal Aid Services of Oregon Executive Director Tom Matsuda commented, "At a time when more of Oregon's public and private funding sources for legal services are stepping up to support greater access to the justice system and when Oregon's Congressional delegation has shown strong bipartisan national support, the administration's proposal is a disappointing retreat from the growing federal/state partnership for equal justice."

State News

Campaign for Equal Justice introduces website

With assistance from FIOS, Inc. the Campaign for Equal Justice and the Oregon Access to Justice Endowment Fund are now accessible on the web. Coming online in October 2004, www.cej-oregon.org offers a full menu of information including campaign events, legal aid statistics, the annual fund client story, newsletter archives and an Oregon Access to Justice Endowment page. A printable form to complete and send with campaign contributions is available on the "How to Donate" page. The Oregon Access to Justice Endowment Fund page presents practical information about planned giving and bequests.

Indigenous Farmworker Project graduates Mixteco Court Interpreter

Marcelina Mendoza says she used to be a "woman of the house" but now that she is also a court interpreter for people whose primary language is Mixteco, she is becoming more comfortable away from the home. In collaboration with the Oregon Department of Justice State Court Administrator's office, the Indigenous Farmworker Project has held two interpreter trainings for indigenous language speakers and another is planned June 11-12, 2005. Thirty-two have attended and many are now working as interpreters.

When court interpreters are available, indigenous workers will be better able to protect themselves from misunderstandings in legal matters. At a recent national conference on serving people with limited English proficiency, the US Department of Justice recognized the success of the Oregon Judicial Department's collaboration with the Indigenous Farmworker Project.

Laf-Off retakes the stage for fall 2005

The **Legal Aid Fundraiser Organized by Fios and Friends** will take the stage for a second year on September 9, 2005 at the Memorial Coliseum. **Kerry Tymchuk** will return as emcee and a new lineup of lawyer-comedians will perform in friendly competition before a panel of Oregon judges. Mark your calendar and join us on September 9th.

Legal Services projects announce grant awards

The **Community Development Law Center** has received a \$200,000 grant from **Meyer Memorial Trust** for their Rural Enhancement and Assistance Project. The three-year grant will be used to strengthen rural nonprofit housing organizations so that these groups can increase the amount of affordable housing available and preserve the scarce affordable housing they presently have. A key activity of the project is to coordinate the preservation of ten to twelve affordable housing projects, 400 units in all, which might otherwise be sold as market-rate housing.

The **Spirit Mountain Community Fund** recently awarded a \$40,000 grant to the **Indigenous Farmworker Project**. Funds will be used for an indigenous language speaking community educator who is knowledgeable on the subject of sexual harassment, sexual assault and other issues that affect farmworkers in the workplace.

The **Center for Nonprofit Legal Services** in Medford announced three grants awards in 2004: a \$15,000 continuation grant from the **Oregon Community Foundation** to carry forward their Partnership for Justice campaign aimed at retiring the mortgage on their office building and establishing an endowment fund; \$9,200 from the **Medford Urban Renewal Agency** for building improvements; and \$50,000 from the **Smart Family Foundation** toward purchase of the building. ■



Dinner honors past, sets sights on future

by Mabsie Walters

ABA President Robert Grey spent a day in Portland last fall. He visited legal aid's Oregon City office and spoke at the Portland legal aid office. Following a reception in the Federal Courthouse, Grey attended a dinner in honor of members of the Campaign's Justice Council, Advisory Committee and Legacy Partners Circle.

It was a day that tied the past to the present. Grey described his time in Oregon as a celebration of the commitment lawyers have made to the cause of justice in this country. He related that it was another Virginian, Justice Lewis F. Powell, who made access to justice one of the American Bar Association's top priorities during his term as ABA president.

"During his tenure, the idea of access to justice was proposed by the Johnson Administration and Lewis Powell's contribution was to work with the administration to come up with a viable method of providing access to our courts." Initially, the idea was not popular in the legal community. Some lawyers saw it as threatening the



PHOTO: JULIE KEEFE

Don Marmaduke provided a local perspective. "When I started practicing law in 1953, legal aid was being done on a local basis primarily by volunteer lawyers...the load was overwhelming." With the war on poverty in the late 1960s, the Office of Economic Opportunity (OEO) started to fund full-time lawyers in urban areas who supplemented and coordinated volunteer efforts. Seeing the need to expand services into rural areas, Marmaduke decided that such an effort must begin with a political process—assessing the need and then trying to establish a program that would adequately fund lawyers who specialized in poverty law. In 1971 OEO provided a small grant to investigate the need for lawyers in rural Oregon. Marmaduke was a member of the team to research the report. "My job was to go around the state and talk to various bar associations and low income groups...and determine the extent of the need and how best to meet it. It was intended to transform what we had been doing on an ad hoc basis into a funded expert group of poverty lawyers who would do the job as it should be done."



PHOTO: JULIE KEEFE

Marmaduke worked with Charlie Williamson, Doug Green, and the late Steve Lowenstein to produce a report confirming the need. "It was a very good report, but I don't claim credit for it. I learned a lot from that experience and met a great many interesting people. I have learned over the years that I was not cut out to be a legal services lawyer. I call them the high priests of law. They're the people who have the commitment that does not burn out, at least does not burn out very quickly, and I have great admiration for them."

In 1972, Steve Lowenstein presented the report to the Oregon State Bar Board of Governors which placed the matter on the annual meeting agenda. Larry Rew of Pendleton and Judge Owen Panner, who then practiced law in Bend, led the debate at the meeting, and the report and its recommendations were approved by the OSB membership. Over the next few years, legal aid offices were established in Ontario, Pendleton, Bend, Coos Bay, Klamath Falls, and other Oregon rural communities.

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"The conduct and the image of lawyers is what we celebrate today. This is the best of the profession... Let us celebrate and toast democracy in America and the commitment of lawyers to make it better."

"And look what we've achieved. Look where we are today. As Henry [Hewitt] said, we'd love to be so much further, but I believe that every place we exist, lives are improved and conditions are better and this democracy lives another day because of it."

Grey concluded his remarks with a toast. "The conduct and the image of lawyers is what we celebrate today. This is the best of the profession...Let us celebrate and toast democracy in America and the commitment of lawyers to make it better."

Robert Grey is a partner in Hunton & Williams in Richmond, Virginia. The firm has established an office for legal services in one of the city's low-income communities. All members of the firm work out of that office one day a month. Despite the demands of his current position as president of the ABA, he makes every effort to take his turn once a month in the firm's legal services office.



Senator Ron Wyden, Julie Haggerty, Hardy Myers, Eric Lindauer, Linda Clingan and Robert Grey; (Backs to camera: Bob Hirshon and Katherine O'Neil)

Don Marmaduke is a partner at Tonkon Torp in Portland, which he co-founded in 1974. ■

Our thanks to Barran Liebman, Bullivant Houser Bailey and Tonkon Torp for their gracious sponsorship of the dinner.

OREGON Access to Justice ENDOWMENT

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Christmas Tea
Ernie Bonyhadi, Mabsie Walters, Eden Rose and Natalie Rose Brown enjoyed the hospitality of Governor Ted Kulongoski and First Lady Mary Oberst at a Christmas Tea in honor of Endowment Fund Legacy Partners and contributors.



Marc Jolin and Ed Johnson's advocacy aids low-income renters

by Jane Wilcox

Thanks to the efforts of Marc Jolin and OLC attorney Ed Johnson, the IRS has issued guidelines recognizing that low-income tenants living in housing subsidized with federal tax credits must be given appropriate notice of cause for the termination of a lease. In the past, when Congress allocated federal tax dollars to construct low-income housing, the tenant's right to learn the reason for termination of a lease and the right to be heard on the issue were guaranteed by the Constitution. However, until the recent IRS ruling, it was not clear that similar tenant protections were required for housing built under the tax credit statute. Approximately 1.5 million families who live in units subsidized by this program nationwide will benefit from this ruling.



Ed Johnson, Oregon Law Center attorney

PHOTO: JULIE KEEFE

A Portland native, Marc Jolin graduated from Lincoln High School in '87, from Swarthmore in '92 and from University of Chicago Law School in 2000. When he returned to Portland to clerk at legal aid after his first year of law school, Jolin became aware of the tax credit legal issue and its importance for low-income clients in Oregon. After careful analysis of the text of the tax-credit statute and gathering the legislative history, he published a law review article explaining how the language of the federal statute required landlords to identify a good cause for terminating a lease and forcing tenants to move. "Good Cause Eviction and the Low Income Housing Tax Credit Program," 67 University of Chicago Law Review, Pg. 521-546. (Spring, 2000.)

Marc Jolin and other legal services attorneys began to quote the article in briefs. Courts used the analysis set out in the law review article and cited the article when ruling in favor of tenants. None of the courts that considered the legal issues set out in Jolin's article ruled against the tenants.

Oregon Law Center attorney Ed Johnson contacted IRS attorneys, provided copies of the article, explained legal issues, asked them to consider the issue and kept them updated on court rulings. On July 31, 2004, the IRS issued guidelines based on the concepts set out in Jolin's law review article. Oregon Law Center attorneys continue to work with state and national leaders to help support the IRS ruling. ■



Marc Jolin honored with national Housing Justice Award

Former Oregon Law Center attorney Marc Jolin is the recipient of the Housing Justice Award, an annual award established by the National Housing Law

Project and the Housing Justice Network. The award recognizes Jolin's work to strengthen the rights of low-income tenants who live in housing subsidized with federal tax credits (see story at left). The Housing Justice Award was created to recognize an activist new to the field and says, in part, "...you have shown exemplary commitment and initiative in challenging the barriers that stand in the way of safe and decent housing for all."

Marc Jolin, former Skadden Fellow and Oregon Law Center staff attorney, has joined the Portland office of Perkins Coie LLC.

Awards Luncheon continued

2004 Annual Campaign co-chair Ed Harnden announced that Oregon's legal community once again lifted the Campaign to a new record, contributing more than \$810,000 to Oregon's legal aid programs in 2004—a \$40,000 increase over the prior year's record-breaking achievement. "Each year we raise the goal in our effort to close the gap that exists between the need for civil legal services for low-income Oregonians and our ability to provide them," stated Ed. "And each year Oregon's lawyers have responded by giving more."

The day's program also included a speech by legal aid client Debi Westenbarger who spoke of the assistance she received through the Hillsboro legal aid office. Neil Bryant addressed the gathering on the development and importance of bi-partisan support for legal aid in the state legislature. Neil played a critical role in leading the effort to secure funding for legal aid through state filing fees in 1997 to replace money lost due to significant cutbacks in federal funding. The bill passed with almost unanimous support. "Why did we do this?" recalled Neil, "A community is democratic only when the humblest and the weakest person can enjoy the highest civic, economic and social rights that the biggest and most powerful enjoy. Certainly that must include access to the courts." ■

A LETTER FROM LINDA CLINGAN

To my countless friends,

In July of 1990, most legal services lawyers in Oregon didn't think they had a friend in the rest of the bar. Hunkered down, serving clients as fast as they could, no help in sight, they were a pretty isolated crew.

Then I think ahead to recent annual lunches when legal aid lawyers are asked to stand for successive ovations from all of you. The sea change is crystallized in that moment each year. Access to justice belongs to all of us. The truth is, you were there. You were always there. The coming together of the legal community around access to justice, to support the work of legal services, has been a wonderful chapter in the history of Oregon lawyers. And a wonderful chapter in my life. In a personal way, how could I have worked with better people? How could I have had more opportunity to do work I loved each day? How could we have accomplished more? How could the time have gone so fast? At the end, how could I ever say good-bye?

I look around the room in my mind's eye and see all of you and the stories that go with you. The Campaign belongs to all of us, inside and outside of legal services, and in the community too. And the work to be done? We've only just held our own. It will never be done. The pleasure of working with all of you now goes to Sandy Hansberger. And for me, the words of Fats Domino sum it up best, "Though we're apart, you're part of me still." You always will be. Thank you all.

Linda



Linda Clingan and Henry Hewitt

Jeremy continued

Department of Human Services, the department that contracted with Lane Individual Practice Association as a service provider, would also find it unreasonable.

Baxter took the issue to the Department of Human Services in a letter to the Director and described the reasons given by the Lane Individual Practice Association for refusing repairs. In his reply, The DHS Director found that the 'out of home' use policy was an unacceptable reason to deny benefits.

Soon after, Jeremy received a letter from Lane Individual Practice Association stating that he would receive a new power chair and in a short time it was delivered. The long wait was over and Jeremy was able to return to school and regain a measure of independence. Baxter says, "I think Jeremy's experience, our ability to help him, and his recognition that he was part of something larger, changed him some. Since resolving the power chair problem, Jeremy has joined in the Lane County Law and Advocacy Center's ongoing effort to obtain improvements in Lane Individual Practice Association's services to Oregon Health Plan clients." ■

LEGAL AID OFFICES in Oregon

Where We Are

Legal Aid Services of Oregon –

Albany	Newport	Portland
Bend	Oregon City	Roseburg
Hillsboro	Pendleton	Woodburn

- Center for NonProfit Legal Services – Medford
- Lane County Legal Aid Services – Eugene
- Lane County Law & Advocacy Center – Eugene
- Marion-Polk Legal Aid Services – Salem
- Oregon Law Center – Coos Bay, Grants Pass, Ontario, Portland, Woodburn



What We Do

Housing	Employment Law
Family Law	Administrative Law
Domestic Violence	Senior Law