

At 2002 Exemplar Awards Dinner... Honorees, Supporters Personify "To Lead is to Serve"

The reason for the theme "To Lead is to Serve" was abundantly evident on May 30 in Washington, DC, as over 300 equal justice supporters gathered to celebrate leadership and service at NLADA's 2002 Exemplar Awards Dinner.

Highlighting the evening was presentation of the 2002 Exemplar Awards and Kutak-Dodds Prizes to four individuals who, even among the many thousands of dedicated equal justice professionals across the country, have distinguished themselves as exceptional leaders in their commitment to the goal of access to justice for all.

Numerous among the dinner guests were individuals and organizations that have served the cause of equal justice through unflinching service at the local, state and national levels. The full list is extensive, but among them were: members of NLADA Board of Directors and Defender, Civil and Client Policy Groups; Dinner Committee Co-Chair Thomas Yannucci of Kirkland & Ellis (Dinner Committee Co-Chair Kenneth C. Frazier of Merck & Co., Inc. could not attend due to a death in his family. See page 15 for a full list of dinner committee members); members of the Legal Services Corporation (LSC) Board of Directors; LSC President John Erlenborn; former LSC President Alex Forger; American Bar Association Associate Executive Director, Governmental Affairs Office, Robert Evans; John Pickering, of Wilmer, Cutler & Pickering; Harold Rock, chairman emeritus of the Robert J. Kutak Foundation; former NLADA Corporate

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This year's Kutak-Dodds Prize winners, Fred Fuchs (l), attorney, of the Legal Aid of Central Texas; and Harry Fulton (r), chief of Mental Health Division, of the Public Defender Service for the District of Columbia; with Harold Rock (c), chairman emeritus of the Robert J. Kutak Foundation, at the NLADA Exemplar Awards Dinner.

Supreme Court Grants Certiorari in Washington IOLTA Case

On June 10, the United States Supreme Court granted certiorari in *Washington Legal Foundation v. Legal Foundation of Washington*. The petition for certiorari filed by the Washington Legal Foundation asked the court to reconsider the November 2001 decision of an en banc panel of the U.S. Court of Appeals for the Ninth Circuit upholding the IOLTA program in Washington State under the Fifth Amendment to the U.S. Constitution.

A brief in opposition to the petition for certiorari, filed on May 8 by attorneys for the Washington State IOLTA program (Legal Foundation of Washington),

opposed the petition on several grounds, including that the Ninth Circuit's analysis was consistent with the case law on both the "takings" and "just compensation" issues of the Fifth Amendment.

The brief also asked the Supreme Court not to consider petitioners' request to rule on the issue of the propriety of granting injunctive relief in this case. The Supreme Court order does not limit the grant to any particular questions presented by the Washington Legal Foundation.

The Supreme Court of Washington also filed a brief in opposition to the

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MESSAGE TO MEMBERS

By Jean Faria
Chair, NLADA Board of Directors



There are hundreds of professional organizations to join and to which to give one's time, talent, effort and money. Of all the choices I have made in

the allocation of those resources, none has been more gratifying and rewarding than my choice to become an active member of NLADA.

For many reasons, both personal and professional, I have chosen this year to begin limiting my extracurricular activities. NLADA survived the culling process because, more than any other organization, it serves the needs of my clients, my work and my spirit.

NLADA is a unique organization consisting of Client, Civil and Defender individual and program members. Its members share their vision, skills, tenacity, dedication, innovation and repeated successes with each other. Through our combined efforts to serve low-income people and assure their access to equal justice, we have created an innovative, effective and supportive organization and community.

Many NLADA members belong to other excellent professional organizations that help develop our profession and assist the communities we serve. However, no other group provides me with a community of my peers: those who provide legal services to our low-income clients or clients living in poverty.

For the last 18 years, I have provided legal services to indigent clients as a public defender, either as a trial lawyer or as the director of a statewide agency. Currently, I am an assistant federal public defender. As the course of my career and my professional needs have

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changed, so has NLADA and its ability to meet those needs.

As a criminal trial lawyer, the training programs, Web site, publications and community of peers have become invaluable resources for my professional needs and development. The American Council of Chief Defenders (ACCD) was created as a new section within the organization to attract the leaders of the best public defender programs in the country. The ACCD is a network of some of the most creative, talented and experienced members of the public defender community. In addition to this valuable resource for chief executives of defense systems, NLADA has launched the National Defender Leadership Institute (NDLI.) (See page 24 for an article on the latest developments in this important project). For the public defender or assigned counsel transitioning from being a trial lawyer to a manager and leader, NDLI teaches the skills necessary to ensure that government programs operate efficiently with the guidance of people who can be held accountable for providing competent services. Finally, NLADA evaluations and technical assistance programs provide Defender agencies with valuable information and tools they use to educate legislators, budget officers and other government officials as to the benefits of a well-managed and adequately funded office.

For the first time this year, ACCD members went to Capitol Hill to call on Congress and other federal policy makers to support "balanced justice." Several of the ACCD members also par-

ticipated in another first: the historic state and federal defender conference on Quality of Criminal Defense Representation. The meeting generated such interest that the work of that conference is continuing.

When I joined NLADA, I did so with the belief that the organization would serve my needs as a Defender, which it has. However, one of the unintended and most valuable consequences of my membership was my introduction to and involvement with the legal aid and civil rights community. I was overwhelmed by the welcoming and accepting attitude of my Civil counterparts and by the innovative and collaborative nature of their work.

Over the years I have had the good fortune to meet many of the clients, paralegals, lawyers and directors of Civil programs. Listening to the Civil Policy Group reports at the NLADA Board of Directors' meetings, I am continually reminded of the tremendous amount of good work being done by our members and NLADA staff, such as:

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Washington Watch - Civil

Bush's College Roommate and Brother of Former LSC President Among LSC Board Nominees

By Julie Clark
NLADA Senior Vice President for
Government Affairs and Support

On April 9, President George W. Bush sent five nominations to the Legal Services Corporation (LSC) Board of Directors to the Senate.

LSC's bipartisan board of directors is comprised of 11 members. By law, no more than six may be affiliated with the same political party and each board member nominated by the president must be confirmed by the U.S. Senate. Once confirmed, the Bush appointees will replace the longest-serving board in LSC history, the majority of whom were

appointed by President Clinton during his first year in office.

Appointments to LSC's board must be approved by the Senate Health, Education, Labor and Pensions Committee, and are also subject to confirmation by the full Senate.

The five names announced by President Bush were Lillian R. BeVier of Virginia, Robert J. Dieter of Colorado, Thomas A. Fuentes of California, Michael McKay of Washington State and Frank B. Strickland of Georgia.

Lillian R. BeVier of Virginia, is currently the Henry L. and Grace Doherty Charitable Foundation professor of law teaching "Constitutional Law: Speech and Press," "Seminars on Ethics,"

"Copyright Law," and "Property" at the University of Virginia. BeVier had been nominated by former President George H.W. Bush for the U.S. Fourth Circuit Court of Appeals, but the Senate never acted on her nomination, which lapsed when former President Bill Clinton was elected in 1992. BeVier is also on the Board of Visitors of the Federalist Society and is on the National Advisory Committee of the Independent Women's Forum. She was previously an associate professor of law at the University of Santa Clara Law School and practiced with Spaeth Blasé Valentine & Klein in Palo Alto, California. BeVier has a bachelor's degree from Smith College and a J.D. from Stanford University.

Robert J. Dieter of Colorado, has been a clinical professor of law at the University of Colorado since 1990. He also is the author of *Colorado Criminal Practice and Procedure* and was President Bush's college roommate for four years at Yale University. Dieter previously served from 1983 to 1994, as the director of the Legal Aid and Defender Program at the University of Colorado, where he also worked as an associate clinical professor from 1979 to 1989. From 1973 to 1975 he was a deputy district attorney in Delta, Colorado. Dieter has a bachelor's degree from Yale University and a J.D. from the University of Denver.

Thomas A. Fuentes of California, is currently senior vice president of Tait & Associates, an engineering and construction company, and chairman of the Republican Party of Orange County, California. He is a trustee of the Phillips Foundation, founded "to advance constitutional principles, a democratic society and a vibrant free enterprise system," and is also on the board of the Claremont Institute, whose mission is

GAO to Initiate Review of LSC

The Legal Services Corporation (LSC) has received notice that the General Accounting Office (GAO) is initiating a review of the operations of LSC in the following areas: 1) the extent to which LSC has implemented the recommendations of the GAO in its September 1999 report on case service reporting; 2) any access-to-records problems encountered by the Inspector General and Office of Compliance and Enforcement in carrying out their oversight responsibilities; and 3) the genesis and purpose of the State Planning Initiative and related formation of State Justice Communities including what procedures and controls exist to ensure that funds are used to support eligible persons, and that competition for federal grants is encouraged.

The review was requested by the Subcommittee on Commercial and Administrative Law of the House Judiciary Committee, chaired by Representative Bob Barr (R-GA).

Status of LSC Appropriation for FY 2003

In mid-April, 14 members of the Senate wrote to the Commerce, State, Justice appropriation's subcommittee chairman and ranking member, Ernest Hollings (D-SC) and Judd Gregg (R-NH), requesting a \$45 million increase in FY 2003 funding for the Legal Services Corporation (LSC). The letter was signed by all the Democrats on the Health, Education, Labor and Pensions Committee, which will oversee the confirmation of nominees to the LSC board, and by Judiciary Committee members Richard Durbin (D-IL) and Maria Cantwell (D-WA) and longtime supporter Ron Wyden (D-OR). The senators asked for additional funding to "ensure that the doors of justice are open to those in our society who are unable to afford legal representation."

On May 3, as follow-up to the initial request for increased funding of LSC and in conjunction with the annual American Bar Association (ABA) Day in Washington, DC, Oregon senators Gordon Smith (R) and Ron Wyden (D) sent a letter to Senators Hollings and Gregg asking for the \$45 million increase.

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Equal Justice Conference Draws More than 700 to Ohio

The fourth annual NLADA/ABA Equal Justice Conference, “The Legal Community, A Leader in Working to Secure a Better Future,” drew more than 700 civil legal aid advocates to Cleveland, Ohio on April 18 – 20. Private attorneys, directors of pro bono programs, directors and staff of legal aid offices, a wide range of funders, law school representatives, access to justice program staff and volunteer leaders, judges and others attended.

Workshops explored many facets of substantive law, pro bono delivery, management and fundraising, delivery innovation and technology. In addition to the workshops, special meetings included groups such as Street Law, Power of Attorney, the National Federation of Paralegals, community-based problem solving experts and court-based pro se programs. Additional affinity group meetings included pro bono managers, LSC/Non-LSC staff programs, hotline programs, technologists and outreach and self-help services.

A highlight of the conference was the stirring keynote address delivered by Gene Nichol, Dean of the University of North Carolina School of Law. (See page



Equal Justice Conference staff (l to r): Aissa Hill, Tamaara Mason and Aiyana Bullock, welcome EJC participants to Cleveland.

6 for the text of this speech.) Dean Nichol challenged participants “to look more broadly at their commitments to equality,” especially in light of the events of September 11. In recognizing that the American system of justice does not begin to meet the needs of low-income people, Nichol noted, “We carve ‘Equal Justice

Under Law’ on our courthouse walls. It’s our cornerstone.” Yet, “the system we have is powerfully, dramatically and fundamentally at odds with who we say we are.”

ABA President Robert Hirshon told conference attendees, “What you do is the most important thing our profession does.” Hirshon also presented several ABA awards recognizing outstanding contributions to pro bono delivery:

- Steve Reyelts of Duluth Minnesota received the William Reece Smith, Jr. Special Services to Pro Bono Award; and
- Two individuals – Judy Williams, formerly of the Montana State Bar Pro Bono Program, and Phyllis Thornton of the Mississippi Volunteer Lawyers Project — received this year’s National Association of Pro Bono Professionals, Pro Bono Coordinator of the Year award.



Conference attendees dance the night away at the "Rock Hall" in Cleveland.

Champion of Justice Howard Eisenberg Dies

Those who wish to share remembrances of Eisenberg are invited to send them to NLADA where they will be compiled and shared with the Eisenberg family and the equal justice community. Photographs are also welcome. Please send remembrances and photographs to: "Howard Eisenberg Remembered," c/o NLADA, 1625 K Street NW, Suite 800, Washington, DC 20006. They may also be e-mailed to communications@nlada.org.

The equal justice community suffered a profound loss in June when Howard Eisenberg, former NLADA executive director, died of complications

Innovations Award Given to Four NYC Organizations

During the Equal Justice Conference, the NLADA Innovations in Equal Justice Award was presented to four organizations in New York City for their extraordinary collaboration in response to the unprecedented need for help arising in the city after September 11. On NLADA's behalf, Lorna Blake, executive director of the IOLA Fund for the State of New York, presented the award to Legal Services for New York City, the Legal Aid Society of New York, the Association of the Bar of the City of New York and ProBono.Net. Blake lauded the recipient organizations for the thousands of cases they handled even in the midst of struggling with the tremendous impact of the events on their own operations.

from a heart attack. He was 55 and is survived by his wife, Phyllis, a daughter, Leah, and two sons, Nathan and Adam. Memorials are suggested to the Marquette University Law School.

At the time he died, Eisenberg was dean of Marquette University's Law School, a position he had held since 1995. Eisenberg, who was Jewish, was the first non-Catholic to serve in that position. He joined the Marquette faculty as dean and professor in July 1995 after an unusually varied legal career. A native of Chicago, he attended the University of Wisconsin Law School after which he clerked for Wisconsin Supreme Court Justice Horace Wilkie. From 1972 until 1978 he served as the chief state public defender for Wisconsin and wrote the current state public defender statute.

Eisenberg left Wisconsin in 1978 to become executive director of NLADA. From 1983 to 1991 he was professor and director of clinical education at Southern Illinois University School of Law in Carbondale, Illinois. He served as dean and professor of law at the

University of Arkansas at Little Rock from 1991 until he joined the Marquette faculty.

Marquette president Father Robert Wild said Eisenberg "lived a philosophy to always be available to others, to be ready to help, especially those who are unable to help themselves."

Eisenberg had recently been chosen by Wisconsin Governor Scott McCallum to co-chair a task force on Ethics Reform in Government. McCallum said Eisenberg was "an important and powerful voice in American legal circles and in the Milwaukee community. Everyone who knew Howard couldn't help but be impressed by his integrity, intelligence and dignity."

Over the years, Eisenberg argued more than 300 appellate cases before state and federal courts, including two cases before the U.S. Supreme Court.

"Howard was probably the hardest-working person I've ever worked with, and it was all work that was done for the benefit of other people, not for the

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Message to Members

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national advocacy regarding the Legal Services Corporation (LSC), including the Resources Committee's work on the impact of 2000 decennial census on the redistribution of LSC funding and active participation in the negotiated rulemaking process established by LSC to develop proposals for revisions regarding eligibility and aliens; co-sponsoring the 4th NLADA/ABA Equal Justice Conference; continued work by the Project for the Future of Equal Justice, via the *Campaign for Equal Access: Bringing Justice Home*, to increase public awareness of the value of legal aid; the recent SPAN study on building effective state justice communities; the NLADA/LSC co-sponsored National Conversations on Diversity; monitoring IOLTA litigation; and the beginnings of

a civil complement to the National Defender Leadership Institute.

NLADA is evolving to meet the challenges we face in providing equal access to justice for the poor. I urge those of you who have not logged on to our Web site www.nlada.org to do so. Among the many services listed, you will find: Advocacy; the NLADA Insurance Program; Training and Conferences; the Annual Conference; Technical Support and Capacity Building, Publications, Member Sections and Member Discounts.

As members of this organization we should take pride in our accomplishments and reach out to our colleagues to share the wealth. Please take the time to ask one colleague to join NLADA this year, to strengthen the voice calling for equal access to justice for the poor. It's good for our clients. It's good for our work. It's good for the spirit.

University of North Carolina Law Dean Issues Call to Action at Equal Justice Conference

Remarks of Gene Nichol, Dean of the University of North Carolina School of Law, delivered at the ABA/NLADA Equal Justice Conference, Cleveland, Ohio Thursday, April 18, 2002.

I am delighted to be here—to speak to this tremendous gathering. Not only because of its size, but, for me, more inspiring, because of the work you do. All across the country, living out Vaclav Havel’s definition of hope, which he characterized not as naïve belief that everything is going to work out well, or as a prediction of future success, but as a predilection of the spirit, a predilection of the heart. A conscious choice about the way to live your life. To believe that we can make a difference in the quality of our private and public lives. Embracing the nobler of hypotheses. That is what you do every day—and in many cases you teach others to follow the same path. I’m honored to be among you.

We’re on an academic calendar where I work. So the year is coming to an end. I was thinking about that as I was deciding how to talk about all this today. And this has certainly been a year to force self-examination. From September 11, to the war in Afghanistan, to the murders in Grundy, Virginia, to the terrors of Israel and Palestine. Over and over again, we’ve been forced to stare hard at what we do, and ask whether this is the way we believe in spending our lives. Whether these are the contributions we mean to make.

And we face these questions in a world much changed. Changed, I think, more than we can say. We have had a look at real courage. We’ve seen that it doesn’t take place on a sports field or in the stock market or in a dot-com—but in the sound of heavy boots pounding up a staircase as a building tumbles down. In the face of a widowed mother speaking of, and to, her fallen husband. And the heroes look more like us than Arnold Schwarzenegger. We’ve been reminded that you’re not best measured by a job or a school or a product or a salary or a pedigree, but by the demands of character and courage. We’ve had a powerful, unyielding,

And why should it be that the most powerful nation in the world – with the greatest rhetorical commitment to equality – should allow 40 million of its members to suffer without health care? With the number rising every day? While every other major industrial nation provides universal coverage? Lincoln said that “the central idea of America” is the notion that the weak would gradually be made stronger and eventually all will have an equal chance.” Are we still committed to Lincoln’s “central idea,” or have we literally taken his aspiration off the table?

unavoidable lesson in what matters.

We have seen, too, that our virtue as a nation is still in the making. Our course is not set. It’s not unalterable. We, too, have to do our part. Our contributions are on the line. And they’re contested. We don’t know, finally, what their nature will be. Many people my age and younger have been forced to think, really think—sometimes for the first time—what it means to be an American. And we’ve seen—at least on our good days—that despite years of scandals and political corruption, the dominance of greed, the retreat from the public sphere, the great mass of us have not given up on the notion of an American ideal.

We live in times of crisis. That’s true. But our finest, most enduring efforts at self-definition have come in times of crisis. Jefferson defined a national mission at the outset of Revolutionary War. Lincoln, intentionally, pointedly, rededicated it at Gettysburg. Roosevelt offered a new vision of our relationship

to government with the Four Freedoms speech. Dr. King charged us at the Lincoln Memorial, in the midst of struggles in Birmingham and Selma. Lyndon Johnson spoke the words “we shall overcome” to a joint session of congress in demanding the Voting Rights Act; but only after Fannie Lou Hamer sang them, bloodied, in the streets of Mississippi. In Colorado, where I used to live, lesbians and gay men found the power of their community only after passage of a spiteful anti-civil rights law.

Tony Kushner has written “there are moments in history when the fabric of everyday life unravels...allowing for incredible social change within a short time. Life can be transformed for good or bad. It can go either way.” So we’ve been in a physical fight for a time – and it will continue, perhaps here again, in Afghanistan, across the globe. But there’s another fight too. A fight to decide what kind of country we will be during and after the war on terrorism. It is, I believe, a struggle as real and as vital as our physical efforts to protect ourselves. Because we can lose our national charge, our national identity and commitment, our self-definition, by turning our backs on what we believe in. And that loss is as great and as tragic as a loss on the battlefield. So this fight is on the table as well. And it’s like the Irishman said: “Is this a private fight or can anyone get in it?” And the answer for all of us has to be—“come on, get in.”

In some ways, the fronts of this battle are obvious. Obvious because we understand that it betrays American constitutionalism when people are detained, without trial, merely on the word of a fevered attorney general. And when hundreds of immigrants are held — often without hearings, sometimes without counsel, often without clear notice, under gag orders or secret

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Gene Nichol Remarks

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proceedings. With restrictions on attorney-client privilege, with profiled questioning, with limitations on judicial review, with the nation's chief law enforcement officer calling his critics traitors and supporters of terrorists. Failing to understand, perhaps, that abandoning constitutional liberty is not a very effective way of protecting it.

But it's important too, to look more broadly at our commitments to American notions of liberty and equality if we're to make full use of this period of forced self-examination. What has happened to our essential, constitutive commitment to equality – we might ask – when the greatest economic power in history allows 20 percent of its children to live in poverty? When almost all major industrial countries, in this regard, put us to shame? As if any theory of justice or virtue could explain the exclusion of innocent children from the American dream.

And why should it be that the most powerful nation in the world – with the greatest rhetorical commitment to equality – should allow 40 million of its members to suffer without health care? With the number rising every day? While every other major industrial nation provides universal coverage? Lincoln said that “the central ideal of America” is the notion that the weak would gradually be made stronger and eventually all will have an equal chance.” Are we still committed to Lincoln’s “central ideal,” or have we literally taken his aspiration off the table?

And as we think about a powerful recommitment to American ideals, we should go further and look more broadly. Can there really be equal opportunity when all over North Carolina, (and Colorado) and the rest of the nation – we have rich and poor public schools – not just private schools mind you, but rich and poor public schools? Because it is apparently thought acceptable for government to treat some of our children as second and third and fourth class citizens.

And is there really respect for equal human dignity in a system of capital punishment that is often about race, and often about mental incapacity, but always about poverty?



We carve ‘equal justice under law’ on our courthouse walls. It is the cornerstone of our system of adjudication. We swear fealty to it every day. For decades, we’ve announced as a fundamental principle of our constitutional law “that there can be no equal justice where the kind of trial a person gets depends on the amount of money he has.” But the vineyard in which we operate has little in common with what we say.

And can there be a real democracy if citizens are forced to pay, in order to play? Like Barney Frank told me once, “we’re the only people in the world who insist that our elected officials go up to strangers, ask them for thousands or hundreds of thousands of dollars, get it, and are completely unaffected by it. Achieving a “state of perfect ingratitude.” When, of course, we know it’s not so. And we seem satisfied to let our economic system swamp and dominate our political one.

But for our purposes, there’s one departure from our foundational values, from our essential notions of

Americanism, which is even more stark than these. Or at least closer to our arena. We carve ‘equal justice under law’ on our courthouse walls. It is the cornerstone of our system of adjudication. We swear fealty to it every day. For decades, we’ve announced as a fundamental principle of our constitutional law “that there can be no equal justice where the kind of trial a person gets depends on the amount of money he has.” But the vineyard in which we operate has little in common with what we say.

Think, for a second, about a set of facts that we all know, at least in the back of our minds, to be true. Lawyers cost money. Some have it. Lots don’t.

Yet unlike many industrial nations, we recognize no general right to representation in civil cases. Less than 1 percent of our total expenditure for lawyers goes toward services for the poor. Legal aid budgets are capped at levels making effective representation of the poor a statistical impossibility. Even at that, they’ve been cut by large

margins over the last decade.

We have one lawyer for every 380 people generally, and one legal services lawyer for every 4,300 persons living in poverty.¹ We fence folks out even further by creating categories of unworthy poor; and placing restrictions on the most efficient avenues for representation. Study after study shows about 80 percent of the legal need of the poor is unmet. It is almost as bleak for middle-income Americans. New York’s state bar study a couple of years ago found that we leave the poor unrepresented on the most crushing problems of life – divorce, child custody, domestic vio-

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The Equal Justice Job Bank – An Easy, No-Cost Way to Cast a National Net Without Leaving Your Desk

With the arrival of its new Web site, NLADA launched a highly sophisticated online communications hub for the whole equal justice community. One of the most beneficial and easy-to-use features of www.nlada.org is the new **NLADA Equal Justice Job Bank**. This database is designed to provide a resource for the civil legal aid and indigent defense communities that makes it easy for visitors to the NLADA Web site to both advertise and find available positions in civil legal services, defender organizations, pro bono, public interest law firms, nonprofits and academia across the country.

The online job bank pioneered by the Equal Justice Network at www.equaljustice.org in 1999 proved to be highly successful. With the launch of the new www.nlada.org, that job bank has been combined with NLADA's. This new, upgraded version of the job bank is interactive, and incorporates lessons learned from the administration of the Project's job listings. For example, the Equal Justice Job Bank on NLADA's Web site allows registered users to post information directly to the job bank's database, eliminating the delay created when listings have to be sent to the Web master for him or her to post.

Follow These Easy Steps to Post Your First Job Opportunity

1. From anywhere on www.nlada.org click on the "Jobs" link at the top of the page.
2. On the left side of the Job Opportunities page click on "Post/Update a Job."
3. Log in. In order to post a job, you must log in as a Registered User. If you have already registered, sim-

ply enter your User I.D. and password at this time. (Note, this is not the same as your NLADA member number; you create your User I.D. and password in the process of becoming a Registered User of the Web site.) If you are not yet a Registered User of www.nlada.org, click on the "Create a Registered User Account" link to register and to choose your User I.D. and password. The process for becoming a Registered User is quick and simple; all you need to do is fill out the online form. Once registered you can use your account not only to post jobs but also to contribute other content to the site, such as links, upcoming trainings and conferences, and documents in the e-library.

4. Once you are logged in you will be taken to the post and update page. Filling out the on-screen posting form is easy. The best part is you can simply cut and paste from your word processing document directly into the form.
5. When you're done with the form, click on the "Submit Job Posting" button at the bottom of the page. If all of the required information has been submitted, a fully formatted Web page will be generated to display your posting. If any required information has been omitted, the system will ask you to complete the missing information and resubmit the form.

If you would like, you can specify a submission deadline for the position. If you do so, the job posting will be visible to job seekers only until that date. If you do not specify a deadline, the job posting will remain visible for six

months. In either case, you have the opportunity to update your job posting for up to six months after it is posted. If, for example, you wish to extend the deadline of a job posting after it has passed, you can return to the post and update page, click on the job listing and modify it. After six months, job postings are purged from the system.

6. Once a job is posted, it is immediately available to users visiting the site. The most recent job postings are shown on the right side of the main "Jobs" page. To confirm that your job has been successfully posted, click on the "Jobs" link at the top of the page to return to the main "Jobs" page and look for your posting at the top of the right hand column.
7. If you see something you want to change in the listing after it has been posted, simply click on "Post/Update a Job" again. As long as you are logged in under the same User i.d., clicking on "Post/Update a Job" will provide you with a link to update any jobs you have posted within the last six months.

Searching the Job Bank

The entire database of current job listings is easily searchable in a variety of ways – e.g. by state/territory, civil or defender or job type, such as legal, administrative or advocacy. The main "Jobs" page contains all of the search options for the database.

Search by State

The simple search option is by state or territory. To search this way, click on the desired state on the map to show all of the open job listings available there.

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Member Benefit Spotlight

eTapestry Offers 10 Percent Discount on Fundraising Software

NLADA has partnered with eTapestry, a Web-based donor management database system, to provide a discounted offering and a new benefit to program members. NLADA program members will receive a 10 percent discount on the eTapestry service.

eTapestry is a leading provider of Web-based software for managing donor, prospect, and member records. As a complete fundraising application, eTapestry handles all giving and pledge records, manages mailing list functions, provides detailed query capabilities, and produces numerous reports for managing fundraising activities. Because eTapestry is Web-based it also eliminates much of the cost and administration associated with traditional software. All backups, system upgrades, and maintenance are performed automatically, and the data can be accessed from any Internet connection allowing users to work from the office, the road, or at home. In addition, other Web services such as online giving and event registration can be incorporated into an organization's Web site and have the data automatically update eTapestry.

NLADA believes eTapestry will be an excellent tool for members' fundraising needs. Over 15 NLADA program mem-

MFY Legal Services finds security with eTapestry

When power surges caused computer hard-drive meltdown and data loss for many Manhattan nonprofits in the aftermath of 9-11, MFY Legal Services—located six blocks from Ground Zero, deftly switched to its virtual office.

Like other nonprofits, MFY took advantage of cell phones and remote e-mail with employees establishing offices in their homes or the nearby bar association to escape the noxious fumes from the smoldering rubble of the former World Trade Center towers.

But, unlike many nonprofits, MFY Legal Services' data was unaffected by the tragedy. Its donor data is managed by eTapestry and sits on secure servers, backed by two municipal power supplies and diesel generators in Indianapolis. The nonprofit's other office data is backed up every day.

"I didn't even worry about my data," said Bobbie Kraus, development director of MFY Legal Services. "September is the beginning of our annual mailing. Nothing was interrupted because of 9-11."

bers have already implemented eTapestry.

Pricing for eTapestry is based on number of account records and number of concurrent users. There is no upfront purchase with eTapestry. Instead users pay a low monthly fee (prices range from \$30/month to \$250/month – for complete pricing visit the eTapestry Web site at

www.etapestry.com). NLADA program members will receive a 10 percent discount off listed prices. For additional information, contact eTapestry at info@etapestry.com, 888-739-3827, or visit www.etapestry.com.

For more information on this and other NLADA member benefits, contact Jane Ribadeneyra, member services director, at (202) 452-0620 ext. 234 or via e-mail at jriba@nlada.org.

Job Bank

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Search for a Specific Type of Job, or View Only the Latest Postings

The advanced search option makes it very easy and quick to narrow your search. For example, you can search the database for a list of opportunities organized by job type (Legal – Civil; Legal–Defender; Administrative/ Financial; Communications/ Development/ Fundraising; Fellowship/ Internship; Law School/Clinic Faculty; Policy Development/Advocacy; or Other). Or you can view only the postings added to the database in the last week, month or

three months. You can even combine all the search criteria into one query and search by state or group of states for listings of a specific job type posted within a specified period of time.

We hope you find that the national job database is a useful tool that is convenient to use. Please share ways that it can be enhanced. Already, we have made improvements to the system based on feedback received.

New opportunities are added to the job bank almost every day. If you fill a position or find a job based on a listing on our Web site, we would love to hear about it! Drop us a line anytime at info@nlada.org.

Eisenberg

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benefit of Howard," Chuck Goldner, who served as Eisenberg's associate dean at Little Rock, told the *Milwaukee Journal Sentinel*. "I have never known another attorney who I thought was more dedicated to the idea of justice. . . . He loved the law, and he loved using the law to do the right thing." Memorials may be sent to the Marquette University Law School.

Information in this story was gathered in part from the Milwaukee Journal Sentinel and the Marquette University Web site

SPAN Update

Meeting of Access to Justice Chairs Rich in Insight for State Efforts

By Robert Echols, SPAN Consultant

The first-ever National Meeting of State Access to Justice Chairs was held this past April in Cleveland, in conjunction with the 2002 Equal Justice Conference. The purpose of this meeting was to provide an opportunity for Access to Justice leaders to learn from the experiences of leaders in other states and to discuss their questions and concerns with peers. It was convened by SPAN, a joint project of the ABA Standing Committee on Legal Aid and Indigent Defendants (SCLAID) and NLADA. SPAN's mission is to support state Access to Justice partnerships. Over 60-state Access to Justice leaders from 35 states participated in the meeting, including 26 who were chairs or other officers of statewide Access to Justice-related entities. Some common insights stemming from the meeting were:

- A growing majority of states have in place a formal structure involving the bar, the courts, legal aid programs and other key partners, charged with providing coordinated leadership to expand access to justice for low-income people.
- These state Access to Justice partnerships have had major successes in expanding funding for civil legal aid, increasing pro bono services, improving access to the courts for low-income people and ensuring that a full range of services are available to a broad range of low-income clients.
- The single most important factor about whether Access to Justice efforts in a state will succeed is whether there are people who are willing to provide ongoing leadership.
- Judicial involvement, especially at the state Supreme Court level, greatly increases the effectiveness

of Access to Justice initiatives, enhancing credibility and visibility.

Following a welcome from ABA President Robert Hirshon, a distinguished panel of experienced leaders discussed insights that they have developed from their Access to Justice work. The panelists included Chief Judge Robert Bell of the Maryland Court of Appeals; Jack Londen, immediate past chair of California's Access to Justice Commission; Sarah M. Singleton, co-chair of the Legal Services and Programs Committee of the New Mexico State Bar; John R. Jones, chair of the Texas Access to Justice Commission; and Robert N. Weiner, chair of the Pro Bono Committees of both the DC Bar and the ABA. SCLAID Chair L. Jonathan Ross was the moderator. In the afternoon, the participants worked in small, self-selected discussion groups, according to the characteristics of each state's Access to Justice structure.

Other important points made by panelists and participants over the course of the meeting included :

- Volunteer leaders should realize that their efforts must be ongoing and that their personal commitments may extend well beyond their terms of office. At the same time, one of their roles is to look for and nurture new leadership.
- Access to Justice Commissions can function most effectively as a catalyst or "matchmaker," bringing together constituencies and organizations to develop new initiatives, with the appropriate entity taking responsibility for implementation and operation — keeping the Commission free to promote other new efforts.
- Access to Justice entities should place a priority on developing openness, inclusiveness, and trust

among the constituencies involved. Keeping focus on the goal of providing the best delivery system for poor people will help overcome differences among the participants.

- Formal Access to Justice structures, along the model of state Access to Justice Commissions, are more likely to promote sustained effort and accomplishment than informal, ad hoc partnerships.
- To promote buy-in from institutional partners, bring all key and powerful players into the process. Make sure everyone is at the table. Disseminate information broadly. Regular statewide Access to Justice conferences can be very effective in obtaining buy-in from major constituencies and building and maintaining energy.
- Participation by leaders from outside the legal community, such as representatives of labor, education, business, social service, and community groups, can bring new perspectives and broaden the base of support for Access to Justice initiatives.
- Ensuring meaningful client input into delivery system planning is difficult but essential. Involving partners with links to client communities can help to accomplish this.
- Access to Justice efforts must be sustained and continuing. Successes will create new challenges—maintaining gains, building the energy to launch an effort to get to the next level, nurturing new leadership.

One of the most striking initiatives described during the meeting was a joint tour by the Texas Supreme Court and the Texas Access to Justice

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New Access to Justice Resources

All available on the SPAN Web site, www.nlada.org/Civil – click on SPAN: Access to Justice Partnerships.

The SPAN Report: Access to Justice Partnerships, State by State, updated as of March 2002 — a survey of the status of Access to Justice structures and initiatives in the 50 states and the District of Columbia. This edition of the report has also been printed in hard copy, available free from SPAN (contact span@nlada.org).

12 Lessons from Successful State Access to Justice Efforts, a discussion draft prepared by SPAN with input from experienced Access to Justice leaders around the country.

Chart of Significant Fundraising for Legal Services, prepared by the Project to Expand Resources for Legal Services (PERLS), updated to reflect funding into 2001. The chart is online at www.abalegalservices.org/sclaid. A link to the chart is also available from the SPAN Web site.

SPAN Update, a quarterly publication reporting on Access to Justice initiatives around the country, distributed electronically and available online on the SPAN Web site.

Commission of the immigrant “colonials” along the Rio Grande, where they met and talked with community residents. Participants felt that the visit had a major impact on educating the group about the challenges faced by the residents.

Justice Without Borders

Wisconsin PD's Convene First International Defender Summit

By Cait Clarke
Director, NLADA National
Defender Leadership Institute

The Wisconsin State Public Defender's office convened in May the first international summit of “Justice Without Borders: Inaugural Summit” to promote worldwide the right to quality legal representation for the criminally accused. The participants came from India, Israel, Thailand, South Korea, New Zealand, Philippines, Japan, American Tribal Nations, Italy, Slovenia, Scotland and the United States. The initial mission of Justice Without Borders is “to promote, through the exchange of information, ideas and expertise, meaningful legal representation of each individual throughout the world who faces deprivation of life or liberty.” This groundbreaking international summit of defender leaders, academics, judges and others concerned with promoting the right to counsel met in Racine, Wisconsin at beautiful Wingspread, the Johnson Foundation's Frank Lloyd Wright-designed facility.

In this exceptional setting, Justice Without Borders participants, including NLADA, learned of the overwhelming challenges confronting most indigent defense systems.

The overarching goal of this first meeting was stated as: “to identify the barriers to the provision of meaningful legal services to the accused in the countries participating at the summit, and to begin to design approaches for overcoming those barriers so as to advance justice globally.” The three days of meetings, meals and informal networking opportunities at the conference center taught participants how unique the challenges are facing every country represented. At the same time, however, participants noted the remarkable amount of commonality in practice among some defense practitioners and, more importantly, how the majority of participants shared a common vision of a truly global equal jus-

tice future.

Some countries were just beginning to establish public defense services while others were revamping existing procedures or assigned counsel programs. The rich discussions of tremendous challenges – from the lack of any counsel for refugees living in “no-man's lands” between borders to the many murders of public defense lawyers in India – did not stop the group from finding common ground. There are several pressing issues they would like to address in future conferences and training programs. At the end of the summit the group established subcommittees to strategize and plan for future action. The subcommittees are: a management committee; an infrastructure committee; a core values committee; a funding committee; a communications committee; and a summit agenda committee charged with developing the Justice Without Borders mission statement.

The driving force behind this extraordinary effort to globalize the right to counsel for all includes Nicholas Chiarkas, director of the Wisconsin State Public Defender's office, Randy Kraft, the agency's public information officer, and several other very talented and dedicated Wisconsin Public Defender staff members who hope to provide counsel in much broader ways than in only the Wisconsin criminal courts. They are reaching out to others far beyond the Wisconsin state lines. At the end of this first international summit, participants perceived that there really could be “borderless advocates of equal justice” and they have begun to achieve this worthwhile vision for the criminally accused around the globe.

The next International Summit for Justice Without Borders is tentatively planned to take place in New Delhi, India at the end of 2003.

For more information, visit www.justicewithoutborders.org.

Dearth of Qualified Interpreters Raises Courtroom Barrier

California Commission on Access to Justice Launches “Language Access Project” to Help

By Kristina Horton-Flaherty

Reprinted with permission from the California Bar Journal

Some must use their children as interpreters when facing an eviction or other pressing civil matter. Some show up in court unable to communicate with the judge or court staff. And some — fearing a language barrier — simply do not show up for court at all.

Those who speak little or no English in California — and those in the legal system who seek to understand them — face numerous, complex challenges. Generally, for example, only those involved in criminal and juvenile cases are entitled to a court-appointed interpreter. Those in most civil cases are not. And while more than 200 different languages are spoken in California, there are still far too few qualified court interpreters to meet the need even in mandated cases, court officials say.

In light of widespread concern, the California Commission on Access to Justice has launched a “Language Access Project” aimed at working with the Judicial Council, local courts, legal services providers and community-based organizations to find ways to overcome a variety of language barriers in the legal system.

“The demand, in terms of the need for interpreters, exceeds the supply by extraordinary orders of magnitude,” said Walnut Creek attorney Geoffrey Robinson, who chairs the commission’s language access committee. “Recognizing that a plethora of certified court interpreters are not going to magically appear overnight, we’re looking at other solutions to the problem that will enable people to have meaningful access to the courts.”

Robinson, a partner with McCutchen, Doyle, Brown & Enersen, also points out, “access to justice doesn’t begin and end at the courthouse door.” It starts, he suggests, with the ability to understand legal proceedings, legal documents and various consumer information, and the ability to communicate well enough to obtain legal help.

“Recognizing that a plethora of certified court interpreters are not going to magically appear overnight, we’re looking at other solutions to the problem that will enable people to have meaningful access to the courts.”

More than 35 percent of California’s residents speak a language other than English at home. Even for the criminal and juvenile court caseload alone, there are not enough certified or registered interpreters — 1,300 in all — to go around. And 20 counties do not have a single certified court interpreter living within the county.

“I don’t think there is anybody anywhere that underplays the importance of understanding court proceedings,” said Lesley Duncan, supervising analyst for the Administrative Office of the Courts’ Court Interpreters Program.

Although the courts spend \$69 million annually on court interpreters, “It doesn’t even come close to addressing the need,” Duncan says.

Another stumbling block is the high level of skill required to become a certified court interpreter. The pass rate — while similar to that of such exams nationwide — is just 14 percent. The Judicial Council certifies court interpreters in various “designated” languages and “registers” interpreters in less common languages. Currently, certification is available in eight languages. In addition, examinations are being prepared for five more newly designated languages. Certified court interpreters work as independent contractors at \$265 a day.

Mentoring workshops

Seeking ways of addressing the shortage, the Judicial Council has sponsored — with some success — mentoring and preparatory workshops for people whose failing test scores meet certain criteria. In

addition, it has funded the development of educational curriculum for higher-education and extension programs. Recently, said Duncan, a pilot program was launched to provide interpreters via telephone for short proceedings. “We’re desperately seeking bilingual, bi-literate folks,” she says.

Carlos Cerecedo, president of the California Court Interpreters Association, sees education as the answer. Instrumental in setting up the nation’s first bachelor’s program in interpreting and translating at California State University in Long Beach last year, Cerecedo is on a crusade of sorts. “Once this first year goes by, I’m going to start knocking on the doors of junior colleges,” he said.

What he envisions for 2010, he says, are masters and doctoral programs in interpreting and translating, and a stronger emphasis on language programs for youngsters. He also would like to see a required 15-hour course for law students on language issues and how to use interpreters. Recently, he helped launch such a course at the Santa Barbara and Ventura Colleges of Law.

California is “the Ellis Island of the 21st Century, and we have not realized the responsibility that comes with that,” he says. “This is an issue that has to be resolved. It can be resolved with education.”

And expanding the ranks of qualified court interpreters is not the only challenge in such a diverse state. Just talk to Gregory Drapac, the Los Angeles County Superior Court’s manager of interpreter services.

On any given day, some 425 interpreters are at work in more than 50 courthouses throughout Los Angeles County, Drapac says. Each day, calls from courts with unexpected needs pour in. Sometimes, the request involves first identifying the speaker’s language from a 900-page listing of the world’s languages. Drapac’s pool of interpreters speaks more than 100 different languages. But to find interpreters of less common languages, a

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Interpreters

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full-time assignment clerk does Internet searches, posts jobs in chat rooms, calls educational institutions and contacts consulates. Sometimes, if the case is serious, an interpreter is brought in from another country. Recently, an English-sign-language interpreter — as opposed to an American-sign-language interpreter — was flown in from overseas.

It is always a juggling act. Still, when an interpreter cannot be located, court proceedings wind up delayed or even continued.

A 1998 survey of court administrators around the state suggested that at least 3,500 court matters were postponed that year for lack of an interpreter. In some cases, a court will resort to using an ad hoc interpreter because it is the only option available. In 2001, an Administrative Office of the Courts (AOC) study of the state's largest courts found that non-certified, non-registered interpreters were appointed in some 15 percent of court matters.

Delays are common

When an interpreter is legally mandated, the court must use a certified court interpreter for a "designated" language, except when "good cause" can be shown. In such cases, at the very least, the court must appoint an interpreter of some kind. In most civil matters, however, the judge may simply delay the case to give the non-English-speaking person time to find an interpreter.

"One of the issues is that for an indigent person who can't afford an interpreter, there's currently no real funding in place to deal with the issue," Robinson says. "How many people default because . . . there are simply too many barriers to mounting any sort of defense?"

Courts, community-based organizations and legal services providers are exploring various ways of assisting those who speak little or no English. Some local courts have added bilingual staff to help the public. The Judicial Council, through the AOC, is also translating its self-help Web site and all domestic violence forms into various languages.

In addition, some organizations around the state have developed collabo-

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Work Begins on Civil Leaders for Justice Institute

The Leaders for Justice Advisory Council convened in Washington in early May for a two-day conference. Nearly 40 leaders gathered to develop a vision and lay the groundwork for a national leadership institute to train and support a strong and diverse cadre of civil legal aid advocates and supporters. Diverse in age, ethnicity, race, gender and job functions, the conferees represented a broad range of institutions. The council included managers and staff attorneys from state and local legal aid programs, private attorneys, law school faculty, bar association staff, civil rights advocates, professional training consultants, and leaders from national and state advocacy and support organizations.

Sponsored by NLADA and the Project for the Future of Equal Justice, the meeting grew out of a series of conversations last year on diversity and leadership hosted by NLADA and the Legal Services Corporation (LSC), as well as discussions at the Summit on Access to Justice for All last fall convened by the Project for the Future of Equal Justice. The Leaders for Justice initiative also represents an effort to develop a corollary in the civil justice community to the National Defender Leadership Institute.

Michael Kelly, a senior fellow at the Center for Applied Research in Philadelphia, facilitated the meeting. A design team consisting of Camille Holmes, Cait Clarke, Bonnie Allen, Ellen Hemley and Lillian Moy assisted Kelly in developing the meeting agenda and format. The meeting was based on a highly interactive design that engaged participants in several questions including: (1) What are the greatest challenges facing the legal aid community today? (2) What are the greatest challenges facing poor people today? (3) What skills, capacities and abilities do leaders need to face these challenges? Council members grappled with these questions in small groups and through one-on-one interviews. The group then engaged in an "idealized

design" exercise to develop an ideal leadership development initiative. Subsequently, the council undertook the process of translating the idealized design into reality by discussing practical constraints, such as staffing, funding, institutional relationships, where the institute would be housed and its scope.

By the close of the meeting, several preliminary recommendations had surfaced, including: (1) a commitment to a collaborative effort to develop a national leadership institute that involves leaders from various national organizations, including the American Bar Association, Equal Justice Works, the LSC, the Management Information Exchange and NLADA, as well as state and local leaders; (2) the design of a leadership skills training curriculum for legal aid advocates, supporters and allies; and (3) the development of a Web-based clearinghouse of information on leadership-related topics.

A final report on this initial meeting will be published this summer. After the report is finalized, a smaller design committee with broad representation will be formed to address questions and details about structure and functions of the leadership institute.

For more information about the Leaders for Justice initiative, please contact Bonnie Allen at (202) 452-0620 ext. 221, or via e-mail at b.allen@nlada.org. Or, contact Camille Holmes at (202) 906-8007 or via e-mail at cholmes@clasp.org.

Exemplar Awards Dinner

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Advisory Committee (CAC) chairs Andrew D. Hendry of Colgate-Palmolive Company, and John W. “Jack” Martin, Jr., former general counsel of Ford Motor Company; and CAC member James J. Johnson of The Procter & Gamble Company.

Exemplar Awards Dinner a Record-Breaker

Another cause for celebration was the success of the event at raising funds in support of NLADA’s work on behalf of equal justice efforts across America. The event broke all previous records, raising more than \$345,000 from corporate, law firm and individual NLADA supporters. (See page 17 for a full list of 2002 Exemplar Awards Dinner supporters.)

“We are tremendously grateful for this strong show of support,” said NLADA President and CEO Clinton Lyons. “Every dollar brought in by this event translates into assistance for civil legal aid and public defender advocates across the country, professionals who have dedicated their lives to providing meaningful access to America’s justice system for millions of people with no place else to turn.”

“NLADA is proud to be the voice and resource of the national equal justice community,” Lyons continued. “But we do not operate in a vacuum; we are all in this together. The generous and continuing leadership and support of our corporate and private bar partners and of our individual donors is critical to NLADA’s ability to serve its constituencies.”

Exemplar Award Winners

The 2002 Exemplar Awards went to two individuals who truly personify the adage “to lead is to serve” – Tom Gottschalk, executive vice president for law and public policy at General Motors Corporation; and Esther Lardent, founder and president of the Pro Bono Institute at Georgetown University Law Center.

Tom Gottschalk

In honor of the 10th anniversary of



NLADA board members, Ben Obregon (l) and Jose Padilla (center) enjoy chatting with President and CEO Clint Lyons at the Exemplar Awards Dinner reception.

the creation of NLADA’s Corporate Advisory Committee, its founder, Jack Martin, presented the Exemplar Award to Gottschalk, its current chair. Even before Martin came to the podium, however, dinner co-chair Yannucci took the opportunity to pay tribute to Gottschalk. “Tom has served as a mentor for us for so many years,” Yannucci said. “He has always been a brilliant lawyer who led by his great personal integrity and his constant sense of commitment to fairness in everything he did.”

Martin, in his introduction of Gottschalk, explained that when he taught a class in professional responsibility at Cornell Law School he emphasized three points to his students: 1) spend some time working for equal justice, 2) try to promote and maintain the independence of the judiciary and 3) have some influence on the positive development of the law. “I very well could have used the record of Tom Gottschalk to illustrate these principles in action,” Martin said. “Tom has been very supportive of NLADA” and of equal justice at the state and local levels, and active in getting others involved, he said. “He speaks out publicly on the kinds of controversial issues you don’t often hear corporate counsel speaking out on,” such as supporting the American Bar Association’s moratorium on the death penalty. And “he speaks out on civil justice issues as well,



Exemplar Award winner Tom Gottschalk with his daughter, Debbie.

trying to seek changes that will positively benefit the system and that will be fair and balanced to both sides.”

“Lastly,” Martin concluded, “Tom is a great example of the fact that a lawyer can serve in a demanding and time-consuming role with great distinction as the general counsel of a major company and at the same time fulfill the responsibility that every lawyer has to devote some part of their practice to public service. I think NLADA has chosen wisely indeed in giving Tom Gottschalk the 2002 Exemplar Award.”

In accepting the award, Gottschalk said, “I hope in some way this recogni-

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Former LSC President Alex Forger (l) and NLADA Corporate Advisory Committee Founder Jack Martin (r) congratulate Exemplar Award winner Esther Lardent.



LSC Board Member Bill McCalpin (l) and John Pickering catch up at the Exemplar Awards Dinner.

Exemplar Awards Dinner

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tion serves to continue the support that corporations should be providing to an organization like NLADA, but also to its member organizations and to pro bono efforts across the country.”

Gottschalk recognized several col-

leagues in the audience who he called “sterling examples” of individuals who serve by their leadership in the area of equal justice. But also, he said, “it is a personal honor for me to cite another true hero of mine,” who was at the dinner. That person was his daughter, Debbie Gottschalk, who has worked for eight years at Community Legal Aid

Society in Delaware.

“It has been inspirational for me to be involved with NLADA,” Gottschalk said in closing. “I genuinely am humbled by this award. I thank you for recognizing me, but more particularly and certainly more deeply, I thank all of you for what you have done tonight and

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Excerpt from the Remarks of 2002 Exemplar Award Winner Esther Lardent May 30, 2002, Washington, DC

It seems in some ways incongruous to me to get an award for doing the work that I do when I feel that, really, awards are given to people who sacrifice, and perhaps suffer, for that. And this is the work that I do. It is work that I don't even feel I choose to do; I think I had to do it. And it brings me such incredible joy.

Fifty years ago this year, as a very small child, I came to this country from Europe. Most of my family had been killed in the concentration camps. My parents had been in the ghettos, and then in Bergen-Belsen and then in Auschwitz, and had survived but had lost almost everyone. They met in a displaced persons camp, got married, gave birth to a child (an extraordinary act of courage given what they had gone through) and then, in another extraordinary act of courage, decided to come to this country because of what this country offered, not so much for them, but I think for their child.

They had no money. They didn't speak a word of English. They were

traumatized by everything they had gone through. And they came here and gave me the gift of this extraordinary nation – its fairness, its justice system. And so I became a public interest lawyer to honor their memory and to make sure that what happened to them would never happen to anyone else.

They knew, and I knew because of them, that discrimination can so easily become genocide.

They understood that incarcerating people without hope was the very antipathy of democracy. And so, of course I became interested in death penalty work and habeas corpus.

They understood that when there are powerless people that there must be people to speak out for them. And so I became involved in poverty law. I think because I had to.

And it's been an extraordinary experience and the right thing for me to do. And I am so grateful for the opportunity to honor them, and to honor so many people who lost so much.

But also, it's just been a lot of fun.

One of the things about working in this area is that you get to work with the most wonderful people in the world. Whether those people are community leaders (like my wonderful friend Rosita Stanley) or people who do public interest work full time. But I must say that I take particular pleasure (and it's been the focus of my work) in working with those people who for whatever reason have not made public interest law their full-time career, but who have an extraordinary passion for justice, a passion that leads them, despite many, many pressures, to make this their life's work as well. It doesn't matter that it isn't full-time. It's as effective and as wonderful as can be.

So, even though my family by birth can't be here tonight, my family of choice, my colleagues at the Pro Bono Institute, those at NLADA, project directors and my wonderful, wonderful partners in the private bar can. I am grateful for that and grateful to you. Thank you.

Exemplar Awards Dinner

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throughout your careers, and for what you will be doing in the future for the cause of justice in this country."

Esther Lardent

Exemplar Award winner Esther Lardent was introduced by national equal justice icon John Pickering, who was one of the honorees at last year's dinner but was unable to attend at that time for health reasons. Pickering began by recalling the story of President Abraham Lincoln's question to Harriett Beecher Stowe, "Is it true, little lady, that you caused this great war?" Then, to the delight of the audience, Pickering said he would like to imagine a scene where President Ronald Reagan, upon meeting Esther Lardent, asks, "Is it true,

little lady, that you have whipped our butt over the Legal Services Corporation? And that you have made Cesar Chavez into a folk hero who is a terrible annoyance to me, to my attorney general Ed Meese and to my rich friends who are growers in California?" Pickering then continued, "I would like to imagine what Esther's reply would have been. But, since this is polite society, I will leave it to speculation."

"It is a great privilege and an honor to say 'Esther, you are the very exemplar of the Exemplar Award,'" Pickering concluded.

In accepting the award, Lardent said "It seems in some ways incongruous to me to get an award for doing the work that I do when I feel that awards are given to people who sacrifice, and perhaps suffer, for that. And the work that I do is work that I don't even feel I chose to do. I had to do it. And, it

brings me such incredible joy."

Lardent then captivated the audience with the story of how her family's history has influenced her life's work. A transcript of Lardent's compelling remarks is on this page.

The 2002 Kutak-Dodds Prize winners were Fred Fuchs, of Legal Aid of Central Texas, and Harry J. Fulton, chief of the Mental Health Division at the Public Defender Service for the District of Columbia. Coverage of the 2002 Kutak-Dodds winners is on page 18.

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Jeffrey A. Rosen • James H. Schink • James D. Senger
Jeffrey T. Sheffield • David Stern & Tracey Hughes
Frederick Tanne • Karen Walker • L. Mark Wine

Texas' Fuchs and DC's Fulton Receive Kutak-Dodds Prizes

NLADA is pleased to announce that Harry J. Fulton of the mental health division of the Public Defender Service for the District of Columbia and Fred Fuchs with Legal Aid of Central Texas are this year's winners of the prestigious Kutak-Dodds Prizes.

Jointly sponsored by NLADA and the Robert J. Kutak Foundation, the Kutak-Dodds Prizes annually honor the accomplishments of civil legal aid attorneys, public defenders or public interest lawyers who, through the practice of law, are contributing in a significant way to the enhancement of human dignity and quality of life of those persons unable to afford legal representation. Each prize carries a cash award of \$10,000. Fulton and Fuchs received their awards at the NLADA Exemplar Awards Dinner in Washington, DC, on May 30.



(l to r): Regina Rogoff of Legal Aid of Central Texas introduces the 2002 Kutak-Dodds Civil Prize winner Fred Fuchs.

Fred Fuchs, Legal Aid of Central Texas

Fred Fuchs is considered a "living legend" in the field of low-income housing. Dedicating 25 years of service to low-income individuals, he is Texas' leading advocate for justice for the poor in the field of housing, community development and tenant rights. In addition, Fuchs is considered by many to be the foremost national expert in landlord tenant law, public housing, urban renewal, Home and Community

Development Block Grants, Section 8 Rental Assistance, fair housing, access of Section 8 Voucher holders to Low-Income House Tax Credit apartments and the Affordable House Disposition program

In a letter of support for his nomination the co-directors, of the Texas Low Income Housing Information Service said, "Over three decades, Fred Fuchs has blocked demolition of public housing, fought mismanagement in government housing programs, opened access for more poor people to housing, fought for and achieved desegregated housing for minorities and defended the rights of tenants. Fred's remarkable depth of expertise, his supreme dedication and his intense caring have ably served to preserve housing and housing rights for hundreds of poor Texans."

Following is an excerpt from Fuch's remarks upon receiving the award:

I am humbled and overwhelmed by this award.

Awards are never earned in a vacuum. They are due to the support and work of others. And I have been very fortunate to work in an office with a director who supported our work, to work with colleagues who were both dedicated and believed fervently in the concept of equal justice for poor people. Most importantly, I need to thank my wife, Jane, who's been my rock. Without her support I wouldn't be able to do this work.

Dr. Martin Luther King, Jr. said 'All work that uplifts humanity has dignity and importance and should be undertaken with painstaking excellence.' We in legal services and in the public defender community must engage our work in painstaking excellence.

That concept is vitally important, it seems to me, to implementing the principles of equal justice and governmental fairness required by a democratic government.

What does our work mean to our clients? Much. Often it means their shelter, their safety, the integrity of their families. For public defenders, their liberty.... And I

say to all of you here in the audience who support legal services for the poor, for the work you've done either politically or with your contributions or on behalf of pro bono clients, thank you on behalf of those clients.



(l to r): Laurie Davis, general counsel, D.C. Department of Mental Health; 2002 Kutak-Dodds Defender Prize winner, Harry Fulton, chief of Mental Health Division, Public Defender Service for the District of Columbia; J. Michael Ryan, deputy chief of Legal Services, Public Defender Service for the District of Columbia; and Jo-Ann Wallace, NLADA vice president and chief counsel of Defender operations.

Harry Fulton, Public Defender Service for the District of Columbia

Fulton's colleagues refer to him as the "dean of mental health law in DC." He has dedicated his entire 30-year professional career to advocacy for the rights and freedoms of people with mental illnesses. During his tenure with the Public Defender Service for the District of Columbia he has defended the rights of hundreds of clients who have been involuntarily hospitalized. Fulton has been an innovative contributor to the practice of law by steadfastly practicing the "continuous representation model," which ensures the same lawyer continuously represents the expressed interests of a client throughout the entire legal proceeding, from start to finish.

Fulton's colleagues nominated him collectively for the Kutak-Dodds Prizes' defender award, saying "It would be difficult to imagine a more dedicated, compassionate and effective lawyer than Harry Fulton. He is quintessentially an advocate,

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Kutak Dodds Prize

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a skilled, insightful and poignant spokesperson for clients who too often have no other effective voice for themselves. In sum, he personifies all that is worthy of emulation in our profession.”

Following is an excerpt from Fulton’s remarks upon receiving the award:

I was touched and pleased and proud to learn that my colleagues had nominated me for the Kutak-Dodds Prize. In some respects the award envisions the recipient to have a level of altruism and general goodness possessed by Squire Alworthy in Henry Fielding’s novel, “The Adventures of Tom Jones.” You must pardon my literary taste, which runs to novels in the 18th and 19th centuries, but we all know that the good Squire is an ideal man, and we all hope to emulate him.

As I am sure Ken Dodds and Bob Kutak understood before me, practicing law well on behalf of persons without means can only be achieved in context. Motivation, training and possession of altruistic goals is but a modest start. I think success has much more to do with the way Tom Jones pursued his adventures, with the supportive Squire as a moral compass.... My secret has been the opportunity to practice law with like-minded colleagues and friends, access to legal resources, and most importantly, a steady stream of great clients. In short, I have a splendid job.

Public Defender Service is stocked with bright, intensely dedicated lawyers, investigators and social workers who work together to achieve client goals.... The Public Defender Service has resources that allow its lawyers to provide high quality defense. When necessary, there is in this city a strong tradition of law firms offering their lawyers when called upon. Most of the large class action litigation and non-class law reform action initiated by the Public Defender Service over the last few years has been importantly assisted by firm lawyers.

Finally, it is the clients, with their problems and successes, that form the essence of my practice.

Tom Jones, under the Squire’s watchful eye, had wonderful adventures, and so have I.

Public Defenders Go Prime-Time

**Step aside, “Law and Order.”
Watch out, “L.A. Law.”
Public defenders are comin’
through!**

On May 21, the Los Angeles County Board of Supervisors signed off on a deal to create the nation’s first big-time, prime-time, crime-time TV series focusing not on cops, not on prosecutors, not on victims or forensic examiners – but on public defenders.

Los Angeles County Public Defender Michael Judge pitched the show to County Supervisor Zev Yaroslavsky. Longtime Hollywood producer Jay Bernstein will produce the show.

Most defendants “are represented by the public defender’s office – not by the TV lawyers we’ve seen over the years on ‘Perry Mason’ and ‘The Practice,’” Bernstein told the Los Angeles Daily News. “Yet there has never been a series giving credit to these public servants who don’t drive around in BMWs and Mercedes. I just thought it would be good to show that these are real people

and get into the lives of these young people who they are defending.”

Judge told the Daily News that the series would dispel some of the myths about public defenders and provide insight into the often tragic predicaments their clients face in life. “Public defenders have never been portrayed accurately in any of these law shows. They have been referred to pretty much universally as overworked and burned out with insufficient resources to do a proper job,” he said. “They have no face and people have no sense of what they are about, how hard they work and how successful they are.”

The show will provide “a fresh and unique look at the criminal justice system through the lens of public defenders and their clients,” Judge told *Cornerstone*.

Supervisor Yaroslavsky said the series will give the public a better appreciation of the work public defenders do. It will highlight “the important role of the public defender’s office, not just in Los Angeles County, but the role they play in every county in America.”

NLADA National Defender Leadership Institute

*Presenting the 2nd in a Series of
Leadership Trainings*

New Leadership:

A Defender Conference on Building Leadership & Political Outreach Skills

September 18-21, 2002
Omni Austin Hotel Downtown
Austin, TX

For more information, visit the NLADA Web site at www.nlada.org/Training.

Gene Nichol Remarks

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lence, housing and benefits disputes. We think it natural that a commercial dispute between battling corporations takes six months to try while the fate of a battered child is determined in an instant. What passes for civil justice among the have-nots is stunning.

On the criminal side, we often trivialize the right to counsel that we have declared. Public defenders can have crushing caseloads. Rates of compensation for appointed lawyers are often laughable. Thousand dollar caps in felony cases are common. Competitive bid schemes can make it worse—leading to what has been accurately described as “meet ‘em, greet em, and plead ‘em” defense regimes.²

We’ve developed embarrassing rules of constitutional effectiveness—what Deborah Rhode calls a “jurisprudence of dozing” – ruling not only that inexperienced lawyers, but drunk lawyers, drugged lawyers, mentally ill lawyers and sleeping lawyers can pass muster. One court explained that “the constitution does not say a lawyer has to be awake”; another ruled that sleeping “might have been a strategic ploy to gain sympathy from the jury.” This must have provided only modest consolation to the client.

We enthuse about access and equality rhetorically. But we don’t make serious efforts to give them practical content. “Equal justice under law” doesn’t approximate the way the system operates in reality. Average citizens are effectively priced out of the justice system. They are also barred from participating in the closed regulatory scheme that excludes them.

Whether we’re talking about the courts, the legislatures, the law schools or the bar, I don’t think this is the way we meant it to be. It is not what we wanted American justice to become. But whether we designed it, or just maintain it and accept it as given and unalterable—it is what we have. It is the field in which we all toil. Chief justices oversee it. Bar presidents prod it and praise it. Law deans feed it. Most days, I know, all these groups are convinced that we’re powerless to change

We think it natural that a commercial dispute between battling corporations takes six months to try while the fate of a battered child is determined in an instant. What passes for civil justice among the have-nots is stunning.

anything. But in truth we’re not. And we know we’re not. The system we have is powerfully, dramatically and fundamentally at odds with who we say we are.

We have, I fear, all played our parts. Bar committees, judicial commissions and law school conferences raise these issues—though less frequently than one would think. But even when raised, they don’t make their way forcefully into our constitutional law [state or federal], our legislative policy debates, our codes of ethics or our law school curricula and research regimes.

In studying the literature – as best a law school dean can do – I read from one of the most accomplished and solid legal scholars I know—“the best available research indicates that the American legal profession averages less than half an hour of work per week on pro bono services, and under half a dollar per day in support of legal services to the poor.”³ Most lawyers do no pro bono work at all. Recent affluence has eroded rather than expanded support for pro bono programs. Over the past decade, the average revenue of the country’s most successful firms increased by over 50 percent and pro bono hours dropped by one-third. Nationally, service to the poor represents less than one percent of lawyers’ working hours. I can report from personal experience that bar associations

have fought mandatory pro bono requirements with a zeal and passion unsurpassed. Sometimes we operate exactly like a self-regulated monopoly would be expected to.

Courts have, with very narrow exceptions, refused to constitutionalize rights of representation in civil cases. They’ve degraded them in criminal ones. Nor have judges moved in overarching ways to simplify legal processes to make representation less necessary. Mostly, these are sins of omission. Though they sometimes move beyond that—as when some state courts have stepped in, shockingly, to restrict legal clinics even at private law schools. Clinics providing free and effective representation for poor organizations unable to obtain legal help elsewhere. As if a favorable business climate requires that the poor be prevented from asserting even the clearly established legal rights they have.

Few law schools have mandatory pro bono programs, including my own. [Though my assistant dean would kill me if I didn’t mention that we have a vibrant, nationally-recognized voluntary one.] Issues of access to justice are either missing or marginalized in our curricula. Relatively little of our research focuses on what passes for justice among the have-nots. The written work of our faculties rarely involves arenas where people are most afflicted. Our curriculum takes the present deployment of legal resources as a given. Who uses the system is unexplored. Law firms are not topics of study or critique. Despite all the marvelous outreach and pro bono and varied clinical programs expanding in law schools across the country, unequal access to justice has not made it to the core of legal education. The greatest shortcoming of American law schools may be the failure to explore and articulate a theory of the just deployment of legal resources.

These large questions go unasked and unanswered—when surely law schools are in a unique position, and have a unique obligation, to see that issues of access to justice occupy a central place in our study and debate. In the meantime, we add to the problem

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Gene Nichols Remarks

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with tuition increases that outstrip inflation and, for many, the ability to pay. Our students' aspirations become swamped by their debts. We seem caught in our own cycles of status and competition – adding to the costs of legal services and to the fencing out of the underserved.

When we survey this landscape I think we're compelled to say that we would have hoped for more from our nation's justice system. More from our country. We would have hoped we would live up to its national ideals. And I think we would say at the same time that we refuse to believe the charge of equal justice is beyond us—beyond our capacities, or beyond our desires. Because if we reject that, we reject our best selves.

So it's my hope that our future efforts – in the broader legal community – will point more powerfully in these directions. The flight from equality is as great a barrier to the administration of justice in each of our communities as other matters that have received far greater attention – in the bar and in the halls of our law schools; matters like the erosion of ethics and professionalism, the loss of civility, the abuses of discovery and the like. The flight from equality is a greater barrier to justice than any of these matters. Far greater. Even if it has received less of our attention.

It is also, of course, an even more difficult problem to solve. But that's not a reason to turn away. If the problem is great enough, the violation of our constitutive ideals strong enough, the threat to our democratic standards real enough, the gap between our words and our deeds massive enough, then surely we decide to go at it full bore. We experiment, we try, we fail, we regroup, we try again. We try again because we know that what we are, what we believe in is at stake.

And that's why your work here—and our collective work beyond these halls— is so vital. So when you work to develop pro bono programs—in law schools and in the bar; when you work to push your respective institutions

In the crucible of this time of self-examination, it is vital to become fully engaged—as lawyers, as citizens, as activists.

Citizens who believe that our virtue as a people is still in the making. That we are charged, literally, to make real the promises of democracy. That, as Dr. King so often said, “the arc of the moral universe is long, but it bends toward justice.” And, we could add, it is up to us to do the bending.

toward an ideal of equal justice; when you implement technological advances to make the delivery of legal services more efficient and accessible; when you raise money to support legal services offices. When you create and expand loan forgiveness programs; when you step out and lead the way in the private bar; and most of all, when you keep your faith in the work of representing the excluded when all around you are losing theirs; you move at the forefront of this profession—acting to make real the promises we so often ignore.

In the crucible of this time of self-examination, it is vital to become fully engaged—as lawyers, as citizens, as activists. Citizens who believe that our virtue as a people is still in the making. That we are charged, literally, to make real the promises of democracy. That, as Dr. King so often said, “the arc of the moral universe is long, but it bends toward justice. “ And, we could add, it is up to us to do the bending. And that ultimately these aren't matters of right and left, they're matters of right and wrong.

A couple of weeks ago, I read Ralph Ellison's posthumously published novel *Juneteenth*. There, Ellison's main character says this:

“We are a nation born in blood, fire and sacrifice. Thus we are judged, questioned, weighed—by the ideals and events which marked [our] founding. These transcendent ideals interrogate us, judge us, pursue us, in ... what we do, or do not do. They accuse us ceaselessly, and their interrogation is ruthless, scathing...until, reminded of who we are, and what we are about, and

the cost[s] we have assumed, we pull ourselves together. We lift our eyes to the hills and we arise.”

Our constitutive call to equal justice surely interrogates and accuses us. It judges us and finds us lacking. The answers we offer do not satisfy. Not if we are what we claim to be. When Bob MacCrate kicked off a great legal conclave a decade ago, he said: “I sense at times a studied effort on the part of legal educators to avoid responsibility for ... the grievous shortcomings” of the legal system. “I suggest that law schools cannot add 40,000 new lawyers to the bar each year and avoid responsibility for the kind of system their graduates create.” I think MacCrate was right. And what's true for the law schools is true for the courts and true for the legislatures and true for the bar and true even for those seeking to expand the delivery of legal services. We can't escape responsibility for the system of justice we create.

¹ The access to justice arguments rehearsed here rely strongly on the excellent work of Deborah Rhode. See, particularly, Rhode, “Access to Justice”, 69 *Fordham Law Review* 1785 (2001) and Deborah Rhode, *IN THE INTERESTS OF JUSTICE* (2001).

² Deborah Rhode, *Access to Justice*, 69 *Fordham Law Review* 1785 (2001)

³ Deborah Rhode, *Access to Justice*, 69 *Fordham Law Review* 1785, 1810 (2001).

Equal Justice Society Holds Inaugural Conference

By Jane Perkins

Co-Director, The National Health Law Program's Health CourtWatch Project

In recent years, the United States has seen the emergence of a new and disturbing trend: a conservative movement aimed at challenging the fundamental guarantees of the U.S. Constitution. Concealing their agendas behind a facade of "intellectual debate," conservative think tanks and legal advocacy groups, backed by millions of dollars from rightwing foundations, have crafted broad-based strategies to roll back the New Deal and dismantle civil and individual rights.

The Equal Justice Society (EJS) hopes to be a catalyst for development of legal thinking and strategies to combat this assault. EJS is a national organization of legal academics, practicing attorneys, policy experts, civil rights advocates and students dedicated to implementing a positive vision of equal justice through the development of progressive legal theory and practice.

On April 5-6, the inaugural conference of the Equal Justice Society was held at Harvard University. Plenary speakers, such as Professor Charles Ogletree of Harvard Law School and The Honorable Theodore McKee of the U.S. Court of Appeals for the Third Circuit, made the case for forming alliances to identify social justice issues, developing a long range plan to address the issues and disseminating research and strategies that can be used by lawyers, advocacy groups, courts, politicians and the media.

The conference discussed recent trends in conservative legal thinking and court opinions. Professors Pamela Karlan of Stanford Law School, Akhil Amar of Yale Law School and Carlos Vazquez of Georgetown Law Center noted that federalist attorneys and judges are transforming legal and civil rights. To date, their efforts have worked to limit or invalidate individu-

als' rights to enforce federal laws designed to secure disability rights, civil rights, women's rights, environmental protection, and voting rights. The speakers characterized recent Supreme Court decisions as "result-oriented" (e.g. *Bush v. Gore* – which declared George Bush the President based on an Equal Protection argument) and "revolutionary" (e.g. *Alexander v. Sandoval* – which disregarded 30 years of court and Congressional precedent in refusing to allow minority individuals to enforce regulations implementing Title VI of the Civil Rights Act), and as "dissing Congress" (e.g. *Garrett v. University of Alabama*, which re-assessed and ultimately disregarded the record accumulated and considered by Congress when it waived states' immunity from lawsuits as part of Title I of the Americans with Disabilities Act).

Participants also listened to presentations from on-the-ground advocates whose casework is revealing some of federalism's emerging threats to civil rights. Professor Erwin Chemerinsky, of USC Law School, and Herb Semmel, director of the National Senior Citizens Law Center Federal Rights Project, discussed emerging trends in civil rights enforcement. Jane Perkins, co-director, The National Health Law Program's Health CourtWatch Project, delivered a presentation on the rightwing assault on Spending Clause enactments, including Medicaid. She focused on three Medicaid cases currently before the Fourth, Fifth, and Sixth U.S. circuit courts of appeals, in which state attorneys general, taking their cue from noted federalist attorney, Jeffrey Sutton, have argued that Spending Clause enactments are mere contracts between the federal and state governments that cannot be enforced by the beneficiaries of the contracts. She also addressed an education/privacy act case, *Gonzaga University v. Doe*, where these same arguments have been made to the Supreme Court by Gonzaga University through their counsel Hogan & Hartsen.

Speakers also addressed emerging issues involving the disproportionate incarceration of people of color and the growing frustration of Native Americans who are experiencing roadblocks to enforcement of their legal protections in both state and federal courts.

More information about the Equal Justice Society is available at www.equaljusticesociety.org.

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As a member of the NLADA community and its risk-purchasing group, you have access to the NLADA Insurance Program's wide array of professional liability products designed to meet the unique needs of the NLADA membership community. As a risk-purchasing group, the NLADA Service Corporation was created to work with an outstanding underwriter and broker to meet your needs at the highest level of quality and the most affordable premiums. Formed in 1994, the program currently serves more than 650 organizations and individuals.

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Interpreters

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rative efforts to help address language barriers. In Alameda County, for example, numerous legal services programs, community-based organizations and the county bar association recently joined together to create a "language bank" of affordable interpreters. In operation for a year, the Legal Language Access Project (LLAP) provides a 36-hour training program that has created some 50 "community interpreters" of more than 20 languages.

While not court-certified, such community interpreters are trained in the practices, skills and ethics of interpreting in a legal setting, says Elaine Chen, LLAP's project manager. Their primary role, she says, is to help clients communicate with their attorneys or legal aid program advocates.

Lack of skills

Chen warns against using ad hoc interpreters — often relatives and friends who may not have sufficient skills — in any legal setting, if at all possible. At the very least, she suggests, attorneys should provide such volunteers with some training.

"There's a lot of risk in using ad hoc interpreters," she says. "Often, it's the ad hoc interpreter speaking more than the client. Or, the ad hoc interpreter might have an interest."

Chen and others suggest that there is simply too much at stake. Stories from attorneys and judges illustrate how a few words can make a difference.

In a recent welfare fraud and forgery case, for example, the judge asked the Cambodian defendant if she had anything more to say. The interpreter, however, reportedly interpreted the judge's words as: "Don't say anything."

Fourth District Court of Appeals Associate Justice Eileen Moore, who chairs the Judicial Council's Court

Interpreters Advisory Panel, tells another story: A victim was testifying in a robbery trial when the interpreter interrupted to explain that the testimony — given in an Asian language — had two possible interpretations. Moore, the judge presiding in the trial, instructed the interpreter to give the jury both interpretations. One was "That belongs to me." The other was "Give it to me or you will die."

The Commission on Access to Justice plans to research the scope of the language access problems in the system and find out how various entities are addressing them.

For those in the legal trenches, the striking need for qualified interpreters throughout the legal system seems to carry a particular urgency.

"It's an important subject," Robinson said. "And it's getting worse in the sense that the demographics are such that the demand is increasingly outstripping the supply."

NLADA Trainings & Conferences

First in NDLI Training Series Helps Defenders Acquire “Nuts & Bolts of Leadership and Management”

By Jo-Ann Wallace, Vice President and Chief Counsel for Defender Operations, and Cait Clarke, Director, National Defender Leadership Institute

More than 80 Defender leaders met in May to improve their management skills at the “Nuts and Bolts of Leadership and Management” conference, the first in a series of conferences offered by NLADA’s new National Defender Leadership Institute (NDLI). A wide range of Defenders – from small rural offices, large urban programs and many in between, and with experience ranging from chief defenders with decades of experience to new managers just transitioning from the courtroom – all gathered in sunny Santa Rosa, California to work on client-centered management strategies.

Incorporating the highly successful “bring-your-own-case” model used in NLADA’s trial advocacy and appellate training, participants used past and ongoing management challenges as a context for developing and improving their skills. The training addressed topics such as developing a consistent approach to management, communication and coaching skills and transferring litigation skills to the management arena in interactive plenary sessions that included faculty “role-play” demonstrations. Participants then worked in small, supportive group settings to apply the plenary teaching immediately to real life challenges facing them in their workplaces, including role-playing particular aspects of their issues. The substantive agenda ended with sessions led by a trainer experienced in “Risk Management” issues.

Participant feedback indicates that the event addressed a significant need well. All aspects of the program drew

National Defender Leadership Institute



praise – from the “high energy faculty” with “respect for various learning styles” that “kept everyone engaged and learning,” to the method of teaching (“the role plays were ... a wonderful tool to externalize problems”) to the peer interaction (“all were eager to put concepts into practice, learn, grow and help one another solve the presented management issues”). Perhaps the most telling remark came from a participant who brought his wife to the conference, planning to spend some of the time touring “wine country.” His wife, who has traveled to conferences with him before, was surprised that her husband decided to forego touring the vineyards to attend “every single conference session.”

Faculty members also had high praise for the event. One faculty evaluation stated, “The Nuts & Bolts training was excellent. Substantively, the topics were well chosen and well presented. Procedurally, the training was very well run and organized ... [T]hank you for the first of, I anticipate, many impressive leadership/management trainings.”

With the well-received Nuts & Bolts conference, NDLI has launched its core training curriculum designed to feature three different types of training events. Nuts and Bolts, which will be held annually, is the basic introductory offering tailored for indigent defense professionals interested in improving their

leadership and management skills. The “New Leadership” conference, offered September 18-21 in Austin, Texas will focus on developing individual leadership plans that incorporate “political advocacy” both inside and outside of defender programs. The third core offering, “Impact Leadership,” will be held in 2003. Participants invited to attend “Impact Leadership” will work on strategies and skills for implementing a specific reform project that they will implement upon leaving the conference.

The long-term NDLI vision includes increasing services to include regional and program-specific training modules and increasing Web-based and on-site leadership and management support. Along with the activities of the American Council of Chief Defenders, NDLI’s training and support of current and developing public defense leaders is a key component in NLADA’s strategy to support increasing resources to

Defenders, Save these Dates!!!

Two Important Events Scheduled for September in Austin, Texas

The **American Council of Chief Defenders** (ACCD) will meet in Austin, Texas at the Omni Hotel, September 17 – 19, 2002.

The “New Leadership” conference, the next event of the **National Defender Leadership Institute** (NDLI), will also be held in Austin, from September 18 – 21, 2002.

More information on both events is available on the NLADA Web site, www.nlada.org

Civil Rights Advocate Gerald Torres to Provide Keynote At NLADA 2002 Substantive Law Conference

The National Legal Aid & Defender Association (NLADA) is pleased to announce that the University of Texas Law School Henry Oswald Centennial Professor of Real Property Law Gerald Torres is this year's keynote speaker for the 2002 Substantive Law Conference, July 24-28, at The Colorado College in Colorado Springs.

Torres previously served as vice provost and associate dean of the University of Texas Law School and is an accomplished writer and academic in the civil rights and environmental law fields. Prior to joining the faculty of Texas, Torres served in the U.S. Department of Justice (DOJ) as the first deputy assistant attorney general for environment and natural resources and then as counsel to U.S. Attorney General Janet Reno. While working for the DOJ, Torres developed Executive Order 12898 on Environmental Justice and established the Office of Tribal Justice to address Indian legal issues. In addition, he served on the National Environmental Justice Advisory Council, a committee of the Environmental Protection Agency. He is one of the first legal scholars to address the disparate impact of environmental regulation on different racial, ethnic and socio-economic groups. He has been directly involved in the debate over the management and legal protection of Native American land and religion and is knowledgeable of every kind of environmental law, including air pollution, agriculture, wetlands, public lands, biodiversity, groundwater, endangered species, water rights, takings and international law.

In addition, Torres is one of the leaders in the development of agricultural law. He was integrally involved in reforming farm finance law in Minnesota during the farm crisis of the early to mid-1980s and helped design the Minnesota statute regulating agricultural contamination of ground water.

Torres has written and lectured extensively on the intersection of issues of race and politics. In this field, he has

focused his scholarly study and expertise on the uses to which race and ethnicity are put for purposes of legal argument and for the construction of social policy, specifically democratic representation. He recently co-authored a book with Harvard Law Professor Lani Guinier, *THE MINERS CANARY: Rethinking Race and Power*, on these topics (www.hup.harvard.edu/catalog/GUIMIN.html). Torres will be available for book signing before and after the keynote plenary session on July 25.

In his capacity as law professor at the University of Texas Law School, Torres is involved with school reform and

planning for diversity in the wake of the elimination of affirmative action. He also has served the local Austin community as the president of the board of directors of the Austin Children's Museum. Torres is a graduate of Stanford University with a Bachelor of Arts degree in political science and received his Juris Doctorate from Yale Law School and his LL.M. from the University of Michigan.

For more information, contact Cynthia Works, NLADA senior counsel, at (202) 452-0620 ext. 220 or via e-mail at c.works@nlada.org.

Moving Mountains: Fighting Poverty and Discrimination Through Innovative Advocacy

2002 Substantive Law Conference

July 24 – 28 • The Colorado College in Colorado Springs

This year's NLADA Substantive Law Conference begins with a plenary keynote session by national civil rights leader Gerald Torres. Following the plenary session, participants can attend workshops addressing issues that cut across traditional poverty law specialty areas. On Friday and Saturday, participants will attend one of several substantive training tracks developed by an impressive faculty of trainers from national support centers and experts from field programs. The tracks will provide comprehensive coverage of substantive issues in the following areas:

TRACKS

Consumer Law
Employment Law
Federal Housing Law
Health Law
Education Law
Native American Law
SSI & Social Security Law
Welfare Advocacy Law
Taxation law
Women & Family Law

WORKSHOPS

Community Lawyering
Medicaid Basics
Meeting the Needs of Native Americans
Legal Rights of Homeless People
Holistic Representation
Tax Issues
Obtaining Child Support Services
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NLADA Welcomes Three New Staff Members

The National Legal Aid & Defender Association (NLADA) is pleased to introduce its newest staff members: **Cynthia Works**, senior counsel for training and knowledge management, in the Civil legal services division; **Chris Abraham**, senior Web developer, in the Communications division; and **Josephine Aka**, accounting clerk, in the Finance division.

Senior Counsel for Training and Knowledge Management



Cynthia Works joins NLADA as the senior counsel in the Civil Legal Services division. She will concentrate on developing and presenting

training programs as well as knowledge management. Since joining NLADA, she has spearheaded a number of initiatives with enthusiasm and energy, such as leading the programming for the Substantive Law Conference, advancing the content and electronic distribution of the *NLADA Update* newsletter and ensuring that the division's section of the Web site achieves optimal utility to members.

Works received a Bachelor of Science in Sociology from Texas A&M University, a Juris Doctor from The American University, Washington College of Law, and a Master of Laws, (LL.M) in Trial Advocacy, with honors, from Temple University, James E. Beasley School of Law. Additionally, the director of the LL.M. program and her classmates selected Works to receive the Outstanding Advocate Award. Following her graduation from law school, Works was a law clerk for the Honorable Henry Francis Greene, Associate Judge, District of Columbia Superior Court. Following her clerkship she worked for five years at the District of Columbia's Public Defender Service (PDS). Following her tenure at PDS, she worked for law firms specializing in insurance defense on behalf of corporations and health care

providers. She also served as a guest lecturer at the Howard University School of Medicine, presenting lectures to physicians regarding medical malpractice defense and published in the Howard University Hospital Newsletter.

In addition to the practice of law, she has a solid background in the legal academy. For two years she taught Legal Research and Writing at the George Mason University School of Law. In 1998, she began coaching the Trial Advocacy Team at Howard University School of Law. During her tenure as professor, the team compiled an impressive number of accolades and titles. A few of them include: being named by the National Institute for Trial Advocacy (NITA) as one of the top 16 trial advocacy programs in the nation from 1999 - 2001 and becoming the first historically black law school to win the National Championship at the NITA Tournament of Champions Competition in 1999. The team was also featured internationally on the Swedish Broadcast Network.

During the 2000-2001 academic year Works was a visiting professor, during which time she taught in and managed the Criminal Justice Clinic component of the law school's Clinical Law Center. Works concentrated her legal research agenda and teaching activities in criminal law and procedure, evidence and clinical education. For her writing in the area of trial advocacy and evidence, Works received the Distinguished Faculty Author Award from the president and provost of the university. She also organized the law school's first Trial Lawyer in Residence Program and invited the renowned trial attorney Johnnie L. Cochran to deliver lectures and preside over a mock trial.

In addition to her accomplishments inside the courtroom and classroom, Works has also been an active member of the board of directors of: the Women's Bar Association of D.C., Greater Washington Area Chapter Women Lawyers' Division, National Bar Association, (GWAC), and the Washington Council of Lawyers.

Senior Web Developer

Chris Abraham has joined the NLADA staff as the senior Web developer. He comes to NLADA as an experienced developer of Open Source solutions, which is an equal access and collaborative approach to software development.

Open Source software is one of the ways that sophisticated technology can be made affordable for the equal justice community. The new NLADA Web site is a good example of this software in use. The site is built using Zope, an Open Source platform. Unlike most commercial applications used to build Web sites, because Zope is Open Source, there are no licensing requirements. This means that the components developed for NLADA's Web site, such as the document library, job bank and national training calendar, can be shared with developers building other Zope-based Web sites, resulting in significant financial savings.

Open Source technology is popular with many Web developers because it is easy to read, to redistribute, and to modify the "source code" of an Open Source Web site or a component of that site. When this happens, and when Web developers collaborate by sharing information freely with each other, the software evolves. People improve it. Bugs get fixed. Everybody's end product is better.

Prior to joining NLADA, Abraham headed the North American operations of Beehive Elektronische Medien GmbH, a Berlin, Germany-based Zope development company. In that capacity he provided training and application development to clients and others interested in Open Source technology. Abraham is not just a computer guru, however; he received his bachelor's degree in American Literature from the George Washington University, and in previous lives has been a professional photographer, an entrepreneur, a creative writing instructor, a systems administrator, a Web master, a government contractor and a technologist.

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New Staff

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Accounting Clerk

NLADA welcomes Josephine Aka as accounting clerk in the Finance division. Aka brings an international flavor to the Association, as she is a native of Ivory Coast, Africa, and was raised in France. Before coming to the United States, Aka received a French degree in business with a concentration in accounting. Her goal at NLADA is to ensure that vendor payments and receipts are processed as quickly as possible.

Washington Watch

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“to restore the principles of the American Founding to their rightful, prominent place in our national life.” In addition, Fuentes has served as the director of communications for the Roman Catholic Diocese of Orange County and received the annual ARCO Civic Leadership Award presented by the Mexican and American Foundation in 1989. In 1981, President Reagan appointed Fuentes as a member of the U.S. Selective Services Appeals Board for California. Fuentes has a degree in journalism from Santa Ana College, and he completed his undergraduate studies in government at Chapman University.

Michael McKay of Washington State, is currently managing partner of McKay & Chadwell in Seattle and was on the 2000-2001 steering committee of the Equal Justice Coalition of Washington State. From 1989 to 1993, he was the United States Attorney for the Western District of Washington. McKay also worked as a partner with Lane, Powell, Spears, & Lubersky from 1993 to 1995. He was an attorney with McKay & Gaitan from 1981 to 1989 and was a senior deputy prosecuting attorney in the King County Prosecuting Attorney’s Office from 1976 to 1981. McKay earned his undergraduate degree from the University of Washington and his J.D. from Creighton University. McKay’s younger brother, John, the current U.S. Attorney

Prior to joining NLADA, Aka worked as a customer service representative for Chevy Chase Bank where she was responsible for processing customer transactions. In addition, Aka has worked in the fashion industry in the United States and abroad. Aka was also employed by Eurodisneyland.

Aka aspires to advocate to eliminate AIDS in Africa and is an active supporter of various local and national campaigns for breast cancer awareness.

for Western Washington, served as LSC president from May 1997 to May 2001.

Frank B. Strickland of Georgia, is a partner with Strickland, Brockington and Lewis and serves on the board of directors of the LSC-funded Georgia Legal Services Program (GLSP). He was a member of the Joint Oversight Committee, which was comprised of members of the boards of GLSP and the Atlanta Legal Aid Society, Inc., and which reported to LSC on the programs’ state planning efforts. In addition, Strickland was previously a partner with Holland & Knight in Atlanta and a shareholder with Wilson, Strickland, and Bensen. Strickland also worked as both an associate and partner for Westmoreland, Hall & Bryan. He has served in the U.S. Coast Guard, having retired a Commander in the U.S. Coast Guard Reserve. Strickland earned his undergraduate degree at Vanderbilt University and his J.D. at Emory University.

Based in part on reporting by the Brennan Center for Justice.

IOLTA

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petition.

In a statement on its Web site, the Legal Foundation of Washington says, “We continue to believe that IOLTA is a constitutionally viable program which provides access to justice for low-income people who have no where else to turn.” Executive Director Barbara Clark told *Cornerstone*, “Our counsel and staff for the Legal Foundation are working closely with the ABA, NAIP and the Texas program’s counsel and staff to develop the strongest legal team possible and the most effective legal strategy.” She added that if anyone in the equal justice community has questions they should feel free to contact her at (206) 624-2536.

One of the other arguments in the Washington State IOLTA program brief was that a two-circuit split with the Fifth Circuit’s earlier decision (in 2001 the Fifth Circuit found that the Texas IOLTA program created an unconstitutional taking under the Fifth Amendment) would not exist if the U.S. Court of Appeals for the Fifth Circuit granted the petition for an en banc rehearing in the case of *Washington Legal Foundation v. Texas Equal Access to Justice Foundation*.

This argument became irrelevant on May 31, 2002 when that petition was denied, officially creating a split between the Fifth and Ninth circuits. The Fifth Circuit’s denial of the petition for an en banc rehearing came in the form of an evenly split vote, 7-7 with one justice recusing himself. The seven initial dissenters were Chief Judge King and Judges Benavides, Dennis, Jolly, Weiner, Parker and Stewart. In a strongly worded supplemental dissent joined by Chief Judge King and Judges Benavides, Stewart, Parker and Dennis, Judge Weiner presented a detailed analysis in support of the Texas IOLTA program under Fifth Amendment provisions.

The Texas Equal Access to Justice Foundation has filed a petition for certiorari before the United States Supreme Court, and in the meantime will continue to administer the IOLTA program pending a decision by the Supreme Court.

For more information, contact Don Saunders, director of Civil legal services, at (202) 452-0620 ext. 224 or via e-mail at d.saunders@nlada.org.



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AUGUST 30 IS THE DEADLINE

NOMINATE YOUR HEROES AND HEROINES FOR THESE IMPORTANT EQUAL JUSTICE AWARDS

Each year at its annual conference, NLADA hosts an awards dinner honoring some of the most outstanding members of the national equal justice community and its supporters. This year, the awards to be given during the NLADA Annual Conference, November 13-16, in Milwaukee are the **Reginald Heber Smith Award**, the **Denison Ray Award**, the **Arthur von Briesen Award** and the **Emery A. Brownell Media Award**.

The closing date for submitting nominations is Friday, August 30.

The Reginald Heber Smith Award Given annually, the "Reggie" recognizes the dedicated services and outstanding achievements of a civil legal aid attorney or an indigent defense attorney while employed by an organization supporting such services. This award is named for a former counsel at the Boston Legal Aid Society and the author of *Justice and the Poor*, published by the Carnegie Foundation in 1919.

The Denison Ray Award Awarded biennially, the "Denny" honors an individual who has provided exceptional service to the legal aid community as a staff member, client board member or volunteer of a provider program. This award is named for a career legal aid activist who served as executive director of Legal Services of North Carolina and Legal Aid Society of Northeastern New York and was a long-time leader of the Project Advisory Group.

The Arthur von Briesen Award Given biennially, honors a private attorney who has made substantial volunteer contributions in support of the delivery of civil legal aid or indigent defense representation. The award celebrates the achievements of the first president of NLADA.

The Emery A. Brownell Media Award Awarded biennially, this award gives national recognition to newspapers, magazines, filmmakers, and television and radio stations that have informed the public about the crucial role played by civil legal aid or public defender organizations in ensuring equal justice for those who cannot afford counsel. This award commemorates Emery Brownell, who served as NLADA's executive director from 1940 until his death in 1961.

Nomination guidelines, awards criteria, nomination forms and more information on the awards are available on the NLADA Web site, www.nlada.org. You may also have this information mailed to you by contacting NLADA at (202) 452-0620 ext. 207.