

# LegalFront

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## Texas Supreme Court Inspired by Progress of Legal Aid Services

The Texas Supreme Court held a public hearing on December 10, 2008 regarding the status of civil legal services to the poor in Texas. The needs and accomplishments of Texas' legal aid organizations were presented to the Court. The Texas Access to Justice Commission, the State Bar of Texas, and legal aid providers across Texas delivered updates on their efforts to aid low-income Texans in accessing justice.

The Texas Access to Justice Commission was created in April of 2001 following the Texas Supreme Court's first hearing on

the status of civil legal services to the poor in Texas. That first hearing occurred in January 2000 and the Court conducted a second status hearing concerning civil legal services to the poor in September 2004. The third hearing to monitor the state's progress in increasing legal services to low-income Texans occurred December 10.

Among many tasks, the Court asked the Commission to identify and assess current and future needs for access to justice in civil matters for low-income Texans. The Court also asked

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*President of the Legal Services Corporation, Helaine Barnett, addresses the Texas Supreme Court.*

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the Commission to encourage, develop, and foster systems that allow for efficient use of legal resources. In addition, the Commission has been charged to address existing and proposed court rules, procedures, and policies that may negatively affect access to justice for low-income Texans.

The hearing began with the President of the Legal Services Corporation (LSC), Helaine Barnett, highlighting the developments and events that have occurred in Texas since the September 2004 hearing. Barnett noted that despite Hurricanes Katrina and Rita passing through Texas over three years ago, Texas legal aid providers continue to provide critical legal services to those affected by each disaster. Even before the catastrophic misfortune of Hurricane Ike, attorneys were helping many Texans resolve issues concerning home repair, consumer fraud, landlord-tenant disputes, and insurance matters. Barnett informed the Court that at least 5.2 million Texans are eligible for civil legal aid from LSC-funded programs because they have an income of less than 125 percent of the federal poverty guidelines. According to Barnett, “the stark reality that we face today is the demonstrable fact that the need for civil legal aid is much greater than the resources available.”

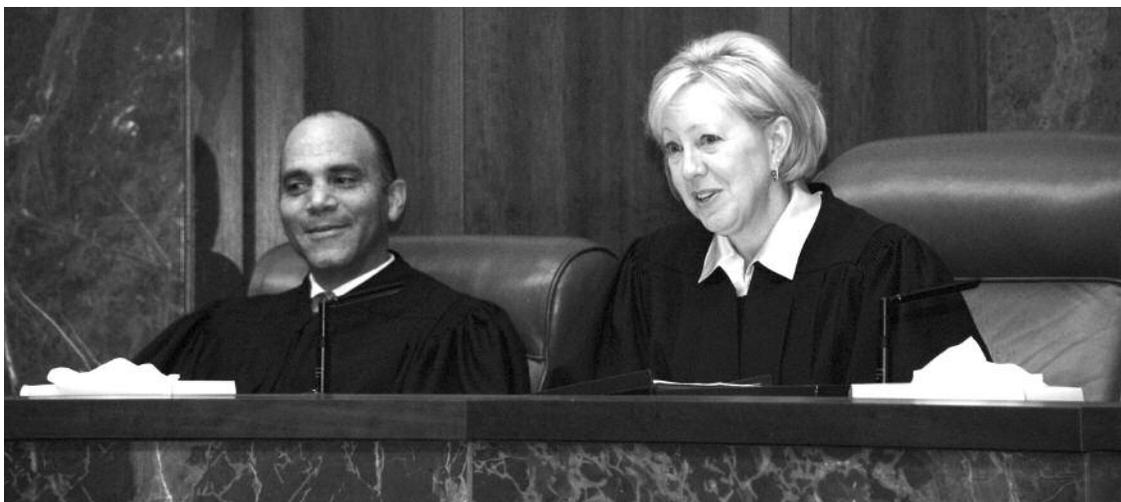
Commission Chair James Sales explained to the Court that only 23 percent of Texans needing legal assistance are able to receive help from a legal service provider. Sales then mentioned that resources are dropping quickly while the number of those needing legal help increases daily. Sales told the Court that rural areas are suffering due to the dispersion of Texas’

population, and legal service providers are being asked “to do more and more with less and less.”

The Court also heard shocking testimony from survivors of domestic abuse. The women recounted their stories of physical suffering, mental anguish, and emotional damage due to the violence inflicted upon them. However, thanks to the efforts of workers at Aid to Victims of Domestic Abuse (AVDA) and Violence Against Women’s Act (VAWA), the women were able to contribute to the community and family by getting back on their feet. One of those women is Yessica Gonzalez. Gonzalez now works with the South Texas Civil Rights Project located in the Rio Grande Valley as a VAWA assistant. Gonzalez helps undocumented victims of domestic abuse as well as their undocumented children obtain legal status. “As a VAWA assistant, I have had the pleasure to see many of our clients fulfill the dream of working and supporting their families,” Gonzalez told the Court.

The Court heard firsthand that the numbers of poor Texans requiring civil legal services is increasing due to the poor economy, natural disasters, and the lack of resources at the disposal of legal aid organizations.

Chief Justice Wallace Jefferson and Justice Harriet O’Neill ended the hearing by thanking everyone present for their time commitment as well as their emotional commitment in providing access to justice. The Justices also emphasized that they are all partners in the effort to aid poor Texans with legal assistance. The hearing was informative and provided the Texas Supreme Court with inspiration and new ideas to expand their efforts.



*Chief Justice Jefferson and Justice O'Neill listen to updates from legal aid providers.*

## Pro Bono Champion – Robert H. Etnyre, Jr. Royston, Rayzor, Vickery & Williams, L.L.P. — Houston



### How did you get involved in pro bono work, particularly asylum cases?

After law school — I graduated from the University of Houston in 1978 — I always had a pro bono case or two, but in the mid-1980s, I met Joe Vail, a Houston immigration lawyer and professor who passed away in June. He became a good

friend ... his loss is a huge one to the immigration bar. You can't replace him. He got everything organized here. [Vail founded the University of Houston Law Center's Immigration Clinic.] At the time, there were a lot of Central Americans coming up due to civil wars in their countries. I took an asylum case and was hooked. It's become something near and dear to my heart.

### Why are asylum cases so important to you?

When you do an asylum case, you are helping people who are at their most vulnerable and destitute. Many were suffering persecution in their home countries, then they get here and are put into deportation. They need someone to act as a guide for them through the system.

### What are some ways you encourage attorneys or law students to get involved in asylum work?

You can help people with their problem, and you've done something good with your law license. In addition to the Immigration Clinic, lawyers can volunteer with Catholic Charities (the St. Frances Cabrini Center for Immigrant Legal Assistance) and YMCA International Services. They've helped refugees for a long time. Going back to Joe Vail, he created an annual seminar jointly sponsored by the Immigration Clinic,

Catholic Charities, and YMCA International. During the seminar, we go from A to Z through the asylum process and provide a manual on all the law. It is our primary recruiting tool. Between 30 and 40 people have attended each seminar and the bulk have taken a case [the next seminar was scheduled for late October]. Once they take one case, they usually take another. We get support from the big firms, but a lot of sole practitioners and lawyers from small firms give very generously of their time.

### How do you balance your regular practice with your pro bono work?

The work immigration lawyers do is admirable, but how they make a living, I can't quite figure out. I always try to keep about five asylum cases going at a time, and they can be time intensive. But that number works well with my private practice, which is primarily admiralty/maritime law.

### What have been some of your most memorable pro bono cases?

They have all been memorable in different ways. I'm so proud of all of my clients who have been awarded asylum. They know they've been given a second chance and, invariably, all of them take advantage of it. They are able to leave terrible circumstances and thrive here. For instance, a man from Pakistan was awarded asylum. He brought his family over, started driving a truck, and now he owns a trucking company. He's done quite well. A young man from Somalia will be graduating from Ohio State University with a degree in chemical engineering. I will be subbing for his father at his graduation. An Albanian woman went on to get her law degree and is now practicing in Houston. Almost all of them stay in touch and keep me updated. Many have become lifelong friends.

## James Sales Receives Fellows Outstanding Service Award

James B. Sales, Chair of the Texas Access to Justice Commission, was presented with the Fellows Outstanding Service Award in February at the Fellows Annual Awards Reception and Banquet in Boston. The Fellows is the American Bar Foundation's (ABF) honorary organization consisting of attorneys, judges, law faculty, and legal scholars who have been elected by their peers to become members of the Fellows. As President of the Houston Bar Association, James Sales initiated the Houston Volunteer Lawyers Program for the working poor, one of the largest pro bono programs in Texas. Sales was also instrumental in the creation of the Houston Bar Foundation and received an appointment to serve as its first Chair. In May 2004, the Texas Supreme Court appointed Sales to chair the Texas Access to Justice Commission, which expands the delivery of legal services to poor and low-income Texans.

ABF President Richard Pena, of Austin, Texas said, "Jim Sales is a larger-than-life true legend among the Texas legal community and has been known for his litigation prowess and for his work with ethics and professionalism. When funding for legal services was on the decline, the Supreme Court called on Jim Sales to save the day. And come to the rescue he did. Jim is an old school lawyer, who never asks what is in it for him, but rather whether he is needed by his profession. He is a lawyer's lawyer and gentlemen's gentleman."

On an annual basis, the Fellows select a Fellow for the Outstanding Service Award, who has, in his or her professional career, adhered for more than thirty years to the highest principles and traditions of the legal profession and to the service of the public. Mr. Sales is a Life Benefactor Fellow of the ABF and served as the Texas State Chair for five years.

## Commission Presents the First Law Student Pro Bono and Law School Commitment to Service Awards

The Texas Access to Justice (ATJ) Commission honored University of Texas School of Law student Jessica Cassidy with the ATJ Law Student Pro Bono Award at the New Lawyer Induction Ceremony held November 18 at the Frank Erwin Center in Austin. The Commission also awarded the Texas Tech University School of Law with the ATJ Law School Commitment to Service Award. Texas Supreme Court Justice Harriet O'Neill presented both of these new awards on behalf of the Commission.

The ATJ Law Student Pro Bono Award was established in 2007 to recognize a law student who has demonstrated his or her commitment to the delivery of legal services to poor and low-income Texans. Nominations for the award were solicited from each of the nine Texas law schools, legal services programs, and law students themselves. As the winner of the inaugural Law Student Pro Bono Award, Jessica Cassidy received a crystal award and a \$2,000 stipend from the Commission.

"Jessica Cassidy's pro bono efforts during her tenure as a law student on behalf of those less fortunate in our society are truly commendable. Her commitment to pro bono legal service is

exactly what the Commission's Law Student Pro Bono Award was meant to honor," James B. Sales, chair of the Texas Access to Justice Commission, said. "Jessica's individual work and unwavering commitment to delivering legal assistance to those otherwise effectively denied access to the justice system reflects the highest credit on the University of Texas School of Law, as well as the legal profession."

Cassidy's legal aid experience is extensive. She served as a Court-Appointed Special Advocate for abused and neglected children and worked as a student attorney in the law school's

Capital Punishment Clinic. She also organized a pro bono legal trip to the Gulf Coast, where law students provided pro bono civil legal services for the low-income community. All of this was in addition to working part-time for Texas RioGrande Legal Aid, Inc. and serving as an officer in the University of Texas Public Interest Law Association.

Texas Tech University School of Law was honored with the Law School Commitment to Service Award, which recognizes a law school that advances most prominently the delivery of legal services through clinics, public interest programs, student involvement, and other initiatives. Nominations for the award were solicited from each of the nine Texas law schools, legal services programs in Texas, local bar associations, alumni, and

law students.

"Texas Tech's School of Law actively distinguishes itself by educating and involving its students in access to justice issues and promoting the core concepts of a lawyer's ethics and moral responsibility for public service," Sales said. "The school has encouraged both students and faculty to contribute their time, effort, and skill to benefit underserved populations."

Since 2000, Texas

Tech University School of Law has regularly contributed critical legal services to poor Texans through innovative clinics such as the Low-Income Taxpayer Clinic, the Innocence Project Clinic, the Criminal Justice Clinic, and the Civil Practice Clinic. Recently, the school's clinical program partnered with local courts and legal aid agencies to create a Night Court Divorce Project to assist low-income, self-represented divorce clients who would not otherwise qualify for assistance through legal aid. During 2007, 70 students contributed 311 hours to pro bono clinics while 12 faculty members contributed 162 hours.



*Texas Supreme Court Justice Harriet O'Neill and ATJ Commission Chairman James B. Sales present Dean Wes Cochran of the Texas Tech University School of Law and Jessica Cassidy with their awards.*

## CenterPoint Energy Honored with First Magna Stella Pro Bono Award

The Texas Access to Justice Commission in conjunction with the Texas General Counsel Forum has honored the legal department of CenterPoint Energy with the first Magna Stella Pro Bono Award. This award was created in 2008 to recognize corporate leaders and their respective legal departments that promote pro bono legal services within their organization and within the corporate structure at large.

Texas Supreme Court Justice Harriet O'Neill presented the award at the Forum's annual awards dinner on November 13 in San Antonio. Scott Rozzell, CenterPoint Energy's executive vice president and general counsel, accepted the award on behalf of CenterPoint Energy's legal department.

CenterPoint Energy's legal team was chosen because of its outstanding commitment to legal aid in Harris County. The team has been working with the Houston Volunteer Lawyers Program for over 12 years and has in fact accepted twice the number of pro bono cases they committed to handling as an "Equal Access Champion."

"CenterPoint Energy is an incredible example of how a small department of 17 dedicated attorneys can make a significant impact on their community," James B. Sales, chair of the Texas Access to Justice Commission, said. "Such outstanding pro bono efforts truly deserve to be recognized with this prestigious award."

In the last year, CenterPoint Energy sponsored three Drive-Time Legal Clinics, where low-income residents were given the opportunity to receive legal advice and counsel after regular work hours, allowing them to receive much needed civil legal help without missing work. CenterPoint attorneys recently participated in "A Day of Giving," where organizations conducted free legal clinics for low-income residents at multiple locations throughout Harris County.

Attorneys in CenterPoint Energy's legal department have twice been honored by the Houston Bar Association as the "Equal Access STAR Volunteer" of the month for their outstanding pro bono work.

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## New Commissioners Appointed to Texas Access to Justice Commission

The Texas Access to Justice Commission recently welcomed two new members whose efforts will serve to further the Commission's goal of improving access to justice for poor Texans. The Commission, chaired by James B. Sales of Fulbright & Jaworski in Houston, consists of 17 commissioners. The Supreme Court of Texas appoints ten commissioners and the State Bar of Texas appoints the remaining seven. The Commission also has three ex-officio members, appointed by the Texas Governor, Lieutenant Governor, and Speaker of the House.

The Supreme Court of Texas appointed Pamela Willeford of Austin as an at-large member. Willeford has worked on developing education policy and promoting community service in Texas. She was appointed to the Texas Higher Education Coordinating Board in 1995 by then Governor George W. Bush.

Willeford served on the Board for 8 years, and was promoted to chairwoman in 1998. Most notably, Willeford was the United States Ambassador to Switzerland and Liechtenstein between 2003 and 2006. Governor Rick Perry appointed B. Keith Ingram as an ex-officio member. Ingram is a seasoned attorney with experience in general civil and commercial litigation. Ingram was also named a "Texas Rising Star" by Texas Super Lawyers. Pamela Willeford will serve a three year term and B. Keith Ingram will serve at the pleasure of the Governor.

"The Commission's efforts would not be possible without the dedication and expertise of its individual members. James Sales stated, "The Commission welcomes Pamela Willeford and B. Keith Ingram and we look forward to working with them to increase access to justice for all Texans."

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## Commission Welcomes New Executive Director

The Texas Access to Justice Commission is pleased to announce Elma Garcia as its new Executive Director. In June 2007, Garcia joined the Texas Lawyers Care (TLC) department serving as an administrative attorney; later in the summer of 2008, she accepted the position as director of TLC. As a staff attorney and director, Garcia worked on numerous State Bar projects, including serving as staff to the Legal Services to the Poor in Criminal Matters Committee and Managing Editor of the LegalFront. She also worked closely with the Access to Justice Commission and its Committees. We look forward to the road ahead with her prescient leadership, teamwork mindset, and passionate drive for increasing access to justice.

## Report to Supreme Court of Texas

*On December 1, 2008, James Sales, chair of the Texas Access to Justice Commission, filed the Commission's semi-annual report to the Supreme Court of Texas as required by the Court's order creating the Commission. The report covered the period from May through November 2008. Excerpts from the report follow.*

### Corporate Counsel Committee

The Houston Volunteer Lawyers Program (HVLP) and Texas Community Building with Attorney Resources (Texas C-BAR) recently launched the HVLP/Texas C-BAR Corporate Counsel Initiative program. This program has two key objectives – to provide non-profit organizations with sustained access to legal counsel and to provide rewarding pro bono opportunities to in-house counsel. The initiative achieves both of these goals by matching nonprofit organizations with attorney teams composed of corporate legal departments and law firms. Together, the team of attorneys agrees to serve as general counsel to the nonprofit for a year. The program also provides for partnering with the Houston chapter of the Association of Corporate Counsel (ACC) and Jackson Walker, L.L.P. to accommodate attorneys who would like to participate but work for organizations with small legal departments. These individuals create a five-person team to support a specific nonprofit organization.

ExxonMobil and Fulbright & Jaworski L.L.P. have successfully utilized this format to support the legal needs of Avenue CDC, an award winning nonprofit organization that has built affordable housing in Houston's Washington Avenue and Near Northside communities, for the past several years. Other teams include Shell Oil Company, Sutherland, and a soon to be named non-profit; Phillip Cares Foundation, an ACC team, and Jackson Walker L.L.P.; Houston Habitat for Humanity, an ACC team, and Jackson Walker L.L.P.; Project Row Houses, AIG's Retirement Services Law Division, and Jackson Walker L.L.P.; and The Women's Home, Marathon Oil Company, and Baker Botts L.L.P.

In addition, Texas corporations are supporting legal services by sponsoring legal services publications designed to educate underserved Texans. Recently, Texas RioGrande Legal Aid, Inc. and Texas C-BAR developed a booklet, "Street Smart Austin: Know Your Rights," providing useful information about laws that may affect people who are homeless in Austin, Texas. This publication was generously funded by NuStar Energy, who also agreed to fund a version of the "Street Smart" guide for San Antonio. ExxonMobil is sponsoring "Street Smart" guides for Houston and Dallas while CITGO is sponsoring guides for Corpus Christi and El Paso.

### Public Service Information Initiative for Law Students

In the spring of this year, the Commission and the Law Student Division of the State Bar combined forces to increase awareness among law students regarding the provision of legal services to poor and low-income Texans. The initiative is spearheaded by Catherine Nahay, program developer for the Commission and Texas Lawyers Care, and Denny Sheppard, project developer for TYLA and the Law Student Division of the State Bar. Nahay and Sheppard work with law students at Texas law schools and each school's career services office to organize the presentations.

The presentations include information about the Texas Student Loan Repayment Assistance Program (SLRAP), which helps legal aid lawyers remain in their public interest jobs by reducing the burden of their educational debt. The presentations also focus on summer internship opportunities available through the Commission's Access to Justice Internship Program and several State Bar Sections. Law students learn about the critical need for increased legal services to the poor in Texas and ongoing efforts of the Commission and its partners to meet that need. Based on the initiative's success, presentations will continue to be scheduled. The initiative seeks to make presentations at all nine Texas law schools within the 2009 spring and fall semesters.

### Technology Committee

The ATJ Technology Committee, under the leadership of Jeff Edwards, continues to assist legal services programs with their technology needs by establishing sophisticated in-depth technology training programs to improve client services through more efficient and innovative uses of technology. This past summer, the Committee expanded its training curriculum to offer live training sessions on Microsoft Word and Microsoft Excel programs. These sessions were conducted in the months of May, June, July and August in Houston, Dallas, Austin, San Antonio, El Paso and Lubbock, all at no expense to the legal aid staff and attorneys. Volunteers from Andrews Kurth L.L.P., Baker Botts L.L.P., Bracewell & Giuliani L.L.P., Fulbright & Jaworski L.L.P., and Vinson & Elkins L.L.P. provided their firm's training instructors, materials and training facilities. As the program expanded to Lubbock and El Paso, Texas Tech University School of Law and the University of Texas at El Paso graciously donated meeting space to facilitate legal aid providers learning more effective and efficient uses of technology to better serve their poor and low-income clients. The Commission appreciates the support provided by UniversitySite, which generously donated the use of their Training Calendar to assist instructors to track registrants.

The Committee is also exploring a pilot project to provide a help desk capability through use of private firm help desk facilities. The study is designed to test whether this type of program can be properly managed and handled in the context of numerous legal service providers.

#### **FLDS Legal Assistance Fund**

Hundreds of children removed from a West Texas polygamist colony went on a dramatic journey through the legal system in the largest child-welfare case in U.S. history when CPS removed over 400 children from a ranch near Eldorado in Schleicher County run by the Fundamentalist Church of Jesus Christ of Latter Day Saints (FLDS).

Private lawyers from across Texas volunteered their time and expense in representing children pro bono. In May 2008, the TAJF awarded two emergency grants totaling \$100,000 to Texas RioGrande Legal Aid and Legal Aid of NorthWest Texas who stepped in during the crisis to represent the indigent mothers while volunteer attorneys represented mostly the children.

#### **Hurricane Ike and Disaster Relief Efforts**

Following the devastation in the Gulf Coast area caused by Hurricane Ike, legal services and pro bono attorneys throughout the state mobilized to assist those affected by the storm. As a result of Hurricane Ike, 34 counties were declared disaster areas by FEMA. Each of these counties is in the Lone Star Legal Aid service area. Legal relief efforts have been underway not only in the areas actually hit by the storm, but also in the many areas throughout Texas where evacuees fled to escape the storm. The State Bar's disaster relief hotline is activated and continues to route callers affected by the storm to the legal aid office in their area.

Attorneys from the Houston Volunteer Lawyers Program, Lone Star Legal Aid, Texas RioGrande Legal Aid and many others were available in disaster relief centers immediately following the storm to answer questions and provide immediately needed legal advice. To ensure that volunteer attorneys were properly trained, the Houston Bar Association hosted two programs on legal issues related to the hurricane, including FEMA matters. Texas Lawyers Care sponsored a statewide CLE led by the Texas Legal Services Center, which covered services and resources available from FEMA and from the Texas Health and Human Services Commission (HHSC) for people displaced or affected by Hurricane Ike. TexasBarCLE also hosted a webcast CLE, "[Client and Business Information Recovery: Ike is Gone... What Now?](#)" which was available free to those in impacted counties.

#### **Voluntary Access to Justice Contribution**

The Commission and the TAJF have worked to increase contributions via the State Bar of Texas dues statement. The voluntary Access to Justice Campaign, which was the lead article in the April issue of the *ATJ Update*, was designed to coincide with the mailing of the SBOT dues statements on May 1. As a result of this continued effort, the decline in contributions that occurred during the past several years was reversed. An increase in donations this year resulted in more than \$540,000 for legal services to the poor.

#### **Continuing Legal Education Committee**

In partnership with the Texas Fellows of the American College of Trial Lawyers (ACTL), the Commission hosted its third comprehensive trial advocacy training program for legal services attorneys. The Trial Academy was conducted May 18-22 at the University of Texas School of Law in Austin. The Commission is extremely grateful to the MD Anderson Foundation for a generous grant, which funded the Trial Academy and provided for reimbursement of travel, lodging and meal expenses for all legal aid attorney participants, in addition to the printing of training materials and related costs.

Thirty legal aid lawyers from throughout Texas were selected and participated in the Trial Advocacy Academy, which is modeled on five distinct phases of a jury trial. During the training, attorney/students observed demonstrations by Fellows of the college. To reinforce techniques and skills, each student participated in a mock trial setting which was videotaped. The Texas Fellows responsible for a particular demonstration phase then provided an immediate, individualized critique of each participant's performance. This year, the Commission incorporated a session on the effective usage of technology in the courtroom, which was demonstrated by attorneys from Andrews Kurth L.L.P. The Commission deeply appreciates the efforts of the twenty-four Texas Fellows as well as Texas Fellow Cynthia Grimes of San Antonio who served as the course director, for contributing their time, extraordinary talent and experience to make the Trial Advocacy Academy a resounding success. The legal aid lawyers not only received the highest caliber of trial advocacy training, but they also were inspired by working with some of the finest trial talent in the state who committed their time, talent and trial skills to help these lawyers develop and enhance their own trial skills.

The Committee currently plans to host another trial advocacy training program for legal aid attorneys in the spring of 2009.

## A View from the Ground

By Britney Jackson

It came ashore after churning in the Gulf for days, unraveling destruction none of us could have ever imagined. In the span of 10 violent hours, on the night of Friday, September 12th, Hurricane Ike flattened most of the Texas Gulf Coast, submerging thousands of homes, prompting rooftop rescues for those who either braved the storm or were stranded by unexpected fast-rising storm surges.

Millions of residents in tiny towns dotting the coastline, as well as major cities like Houston, Galveston and Beaumont were left with the same question—what do we do now?

Lone Star Legal Aid (LSLA) has a service area that stretches from the Texas-Louisiana state line, all the way up through East Texas and all the way down the coastline to Matagorda County. That means all 34 federally declared disaster counties fall in our area. We traveled thousands of miles along the coastline in the aftermath of Ike. In some cases, we worked at the FEMA disaster recovery centers. In other cases, we have walked door to door, and in some cases, tent to tent, to reach clients.

Prior to Ike, our firm closed 10,000 hurricane cases resulting from Rita and Katrina. Today, a little more than three months after Ike, we have already opened hundreds of Ike cases and

reached more than 60,000 people by distributing Ike legal packets translated into English, Spanish, Chinese and Vietnamese containing information regarding everything from benefits deadlines for FEMA and state relief to individual legal rights and local resources for help.

For areas like Chambers County, our legal packets were the first information residents received. In arguably the hardest hit place, an area called Oak Island that is closer to Houston than Galveston, what we saw horrified us. At first, the tiny town looked abandoned, but as families heard the sounds of cars, heads popped out of tents that dotted the landscape of mostly debris. We discovered that FEMA had been there, but decided there was not any real need after getting only a handful of applications from Oak Island, so they left. With no electricity or phones, let alone Internet, applying for FEMA help was impossible.

We met Vietnamese fishermen whose boats and homes were destroyed. We met an Oak Island volunteer fire fighter who, after evacuating his family safely in the hours before Ike, decided to rest a moment before evacuating himself. Instead, he fell asleep and awoke a couple hours later to the bang of someone knocking on the second story front door of his home, which is raised on



stilts. He opened the door, only to be met by raging water that swarmed around him and filled up his home. Though he made it through the storm by holding onto a beam, many others were not so lucky.

Today, three months after Hurricane Ike hit, in this area along with numerous others, you will see plenty of foundations where houses once stood, but now tents populate the slabs.

Government officials came and left. News crews came and left. Today, people do not need any more talk. They need help, real help. They need someone to cut away all of the red tape that keeps them living in tents. This is what legal aid lawyers can do.

In addition to Lone Star Legal Aid's fieldwork, we have established a working group to address insurance issues as a whole. For homeowners with properties of lesser values, legal aid lawyers will not be their last resort, but their only one. Similarly, issues arising from home repairs, insurance settlements or the receipt of a FEMA grant or low interest SBA loan will be surfacing shortly, as home repair scam artists always follow the money.

LSLA attorneys have been meeting with FEMA, HUD and local housing authorities to achieve the best possible results for our client community and to specifically ensure that the poorest of the poor have a voice in the planning and regulatory process that will dramatically impact their housing options for the next 18 months, and longer.

In addition, the real possibility of a net loss of low income federally assisted housing in the coastal counties (primarily Galveston and the Beaumont/Orange area) is an issue we have been working on since Ike hit. We have witnessed firsthand the individual struggles and difficulties of federally subsidized low income coastal housing residents. We have also been working on gathering statewide support, from not only the legal aid community but also the private bar, for a moratorium on evictions, due to the tremendous number of evictions that we predicted, and are now seeing, in our client community.

In addition to evictions, other landlord-tenant issues, including repairs and habitability, closing of premises, and lease terminations are coming in through both the Hurricane Hotline and our community outreach. Finally, we are seeing the full range of public benefits issues, including disaster public benefits, and specifically including processing delays, denials and appeals.

Though it's been more than three months since Hurricane Ike roared ashore and ravaged the Texas coast, in most places, the devastation is still palpable. The sandy beaches of Galveston, Surfside and Bolivar have been reduced to lifeless brown sludge wastelands. Most homes along the Texas coastline are no more—only slab foundations or broken pilings mark where houses once stood. Trees that defeated the battering, relentless 130-mile-per-hour winds are draped with electrical wires, garage doors, American flags and clothing.

The fact is, around the halls of Lone Star Legal Aid, we all have a Hurricane Ike story to tell. Some of our employees lost their houses. Many were devastated by family loss and despair. Almost all of us struggled without power for weeks. But in the true spirit of why all legal aid staffers do what we do, our advocates worked from day one to make sure we reached our clients. Though we do not fight fires, or search and rescue, we are there long after the debris is cleared and the water subsides. We are called to fight for these people. We have a duty to our neighbors, to our communities, and to Texas. We cannot, and will not, allow these people to be forgotten. So far, we've reached tens of thousands, opened hundreds of cases and continue every day reaching more. Lone Star Legal Aid anticipates Hurricane Ike work will continue for years to come.

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*Britney Jackson is the Communications Director for Lone Star Legal Aid.*

## Four Groups Create Online Resource to Provide Information for Disaster Victims



A new web site launched by four national legal organizations will help victims of disasters find valuable information and assistance to speed recovery from hurricanes, fires, floods, or other disasters. The site is sponsored by the American

Bar Association, Legal Services Corporation, National Legal Aid & Defender Association, and Pro Bono Net.

“The site, [www.disasterlegalaid.org](http://www.disasterlegalaid.org), lists information for people who need help and the lawyers who want to volunteer to help them,” said ABA President H. Thomas Wells Jr. “By pooling the resources of our organizations, we can provide services in a timely, efficient manner.”

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The web site seeks to:

- Serve as a centralized national resource for legal aid and pro bono lawyers across the country on legal issues related to all types of disasters
- Recruit and help mobilize pro bono lawyers in the aftermath of a disaster
- Provide accurate and timely information on legal issues related to disasters to the low- and moderate-income public

Helaine M. Barnett, president of the Legal Services Corporation, said, “People affected by disasters face so many difficulties. Our goal is to make it easier for them to find information that will help them rebuild their lives. This site will guide them in finding legal assistance, and the links on the site will allow LSC-funded attorneys and volunteer lawyers to quickly find the information they need to assist persons affected by natural disasters.”

“This comprehensive site provides both individuals steering through the personal aftermath of a major disaster and legal aid lawyers striving to provide their clients with the most complete legal advice possible with a treasure trove of information that they might not consider at first,” said National Legal Aid & Defender Association President & CEO Jo-Ann Wallace. “The site allows legal aid lawyers to point their clients toward information that they might not consider at first. For example, the site offers links to the IRS Disaster Tax Relief site, the Small Business Administration, Disaster Unemployment, FEMA and food stamp applications. Those important links will help the people impacted by a disaster address concerns that surface after the initial shock.”

“In the aftermath of a disaster, lawyers often want to volunteer their services, but aren’t sure how to connect with those in need. The new site will present opportunities for attorneys to get involved and resources to help them be effective advocates,” said Mark O’Brien, executive director of Pro Bono Net.

The new disaster site builds on a prior collaboration – [www.katrinalegalaid.org](http://www.katrinalegalaid.org) – by the four organizations and will provide a link to that site. The Katrina site has provided invaluable assistance to disaster victims and lawyers. Between September 2005 (when it was launched) and the end of July 2008, the Katrina site has had more than 16,000 unique visitors. These visitors made more than 163,000 visits, making more than 376,000 library downloads and viewing more than 231,000 pages.

With more than 400,000 members, the American Bar Association is the largest voluntary professional membership organization in the world. As the national voice of the legal profession, the ABA works to improve the administration of

justice, promotes programs that assist lawyers and judges in their work, accredits law schools, provides continuing legal education, and works to build public understanding around the world of the importance of the rule of law.

The Legal Services Corporation (LSC) is a federally funded nonprofit organization that promotes equal access to justice and provides high quality civil legal assistance to low-income individuals and families. LSC funds 137 programs with more than 920 offices around the nation.

The National Legal Aid & Defender Association (NLADA) champions effective legal assistance for people who cannot afford legal counsel, serves as a collective voice for both civil legal services and public defense services throughout the nation and provides a wide range of services and benefits to its individual and organizational members. Founded in 1911, NLADA is the oldest and largest national, nonprofit membership organization devoting all of its resources to advocating equal access to justice for all Americans. Visit [www.nlada.org](http://www.nlada.org) for more information.

Pro Bono Net ([www.probono.net](http://www.probono.net)) is a national nonprofit that increases access to justice through innovative uses of technology and increased volunteer participation. Founded in 1998 with support from the Open Society Institute, Pro Bono Net has created broad and powerful justice networks across the United States and Canada. With more than 50,000 members drawn from legal aid, pro bono, court and law school programs in more than 30 states and Canadian provinces, Pro Bono Net’s reach encompasses approximately two-thirds of the poverty population and lawyers in the United States.

*Information provided by the Legal Services Corporation.*



# Lawyers to the Rescue: Texas Attorneys Respond to Hurricane Ike

By Patricia L. Garcia

More than a month after Hurricane Ike made landfall on the Texas coast, evidence of the destruction is all around. Driving into Galveston, boats are strewn across medians. Debris lines the highways and is piled up on sidewalks. A truck sits atop a nearly existing pier. Along the beach, homes are now dioramas while others look like skeletons. Residents walk around in a daze.

But amidst the tangled mess of rubble and wreckage is a glimmer of hope. The Galveston Island Community Center is now the lifeline of the island, with its FEMA Disaster Recovery Center (DRC) open to all who need help. Located along the main thoroughfare, people arrive there early each morning, looking to recover from one of the nation's most destructive hurricanes through hot meals, federal financial aid, and free legal assistance.

Texas' lawyers have done their part to help, sometimes volunteering 10 to 12 hours a day to assist those affected by Ike. "The response has been really impressive," said Debra A. Wray, director of advocacy for Lone Star Legal Aid (LSLA) in Angleton. "The volunteers have come from everywhere to help. They've given up their weekends. It's been amazing to see the way our staff members and the volunteers have pulled together to get things done."

Wray is thankful for the volunteers, who have taken a huge load off of LSLA's attorneys. In the first weeks after Ike, the attorneys dealt with more than long hours. "They put up with some pretty dramatic conditions after the storm. About 48 of our own attorneys and paralegals had no power. They were driving home after dark on streets that weren't safe," Wray said. "Everyone was getting sunburned the first week from being out in the field."

Countless numbers of Texas attorneys came to the aid of those in need and continue to do so. In Houston, volunteer attorneys operated daily a Hurricane Ike LegalLine for questions from the public while others staffed the 11 FEMA DRCs in Harris County. The Jefferson County Bar Association staffed DRCs in its area. Still others from around the state made financial donations. Here are the stories of three lawyers who experienced Hurricane Ike in very different ways, but responded to Gulf Coast residents in need.

## I HATE LAW SCHOOL

In 2000, Barry E. McFadden launched a website, [www.ihatelawschool.com](http://www.ihatelawschool.com), while enrolled at the University of

Texas School of Law. He started the site after becoming frustrated with the lack of a good online source where students could go to find outlines for classes. The website has grown to include not just outlines, but advice on getting into law school, recommendations for commercial study aids, and more.

In addition to offering help to future lawyers, McFadden's web enterprise is now helping those affected by Hurricane Ike. From early October through early November, McFadden, associate general counsel to ExpressJet Airlines in Houston, is donating 100 percent of the commissions that the site earns from sales through Amazon.com to the Gulf Coast Ike Relief Fund. McFadden decided about a week after Ike hit to create the program. "I started it once I had power back at home to allow me to do so," he said. "It seemed like a great chance to help others."

McFadden's own home suffered some damage — leaks, lost power, and a few missing boards — but McFadden is grateful the house came through relatively unscathed. "We were without power for about a week, but, again, we were more fortunate than many, and donating these commissions was an easy way to give back."

## EQUAL TO THE TASK

Joe Hall was ready for Hurricane Ike. An assistant district attorney and criminal investigator in the Gregg County District Attorney's Office in Longview, Hall is commander of the 2nd Battalion of the Texas State Guard's 4th Regiment. In 2005, he was deployed as part of a battalion to Dallas following hurricanes Katrina and Rita. "Those [hurricanes] helped better prepare us for the situations we came across this time," he said. "Instead of mass confusion, we had things go smoother and quicker."

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From Aug. 30 to Sept. 5, the unit was deployed to Marshall for Hurricane Gustav. They returned for another patrol from Sept. 11 to Sept. 24 for Hurricane Ike, helping Orange County special-needs evacuees. The troops also worked with registered sex offenders who were displaced. “We were able to work with the local registration authorities and the Orange County folks to get things done and keep folks safe. ... We were able to work with them to put both the offenders and other evacuees at ease,” he said. While in Marshall, the troops did everything from unload equipment and supplies to set up cots and help people get from Point A to Point B. Their most important role, Hall says, was to comfort the displaced.

“It was a situation where you have to be sensitive to what they are going through,” Hall said. “Some of them knew from watching news reports that their house was gone.”

### HAVE LICENSE, WILL TRAVEL

It took more than three days for William L. Sims to drive his recreational vehicle the more than 1,500 miles from California to Texas, but he was determined to embark on a humanitarian adventure.



*California resident and Texas-licensed lawyer, William L. Sims, with the RV he drove to Galveston.*

“If this kind of work doesn’t make you come alive, then nothing will,” he said. “This is what practicing law is all about.”

The adjunct professor of law at Argosy University in Santa Ana, Calif. — who is licensed to practice law in his native Texas — arrived in Galveston on Oct. 10, ready to help in any way. In the two weeks he volunteered, he quickly adopted the pride of recovering island residents.

On a short tour of the island, there is sadness in his voice when he points out gutted homes and historical buildings that

took a beating. But, as Sims talks of the assistance available to residents like the Blue Tarp Program, which offers tarps to residents to cover damaged roofs and windows, he lights up and speaks of the residents with admiration. “Ike has turned the lives of many in this area completely upside down,” he says. “Yet the majority of those I advise are already on the rebound. They want to put the past behind them. They look forward.”

On any given day, Sims advises anywhere from 50 to 75 people. Like the “Now Open” signs that line a few of the businesses in town, Sims welcomes each client with a cheery “Hello” to LSLA’s makeshift “office” at the Galveston DRC. The table is filled with forms, handouts, brochures, and a box of tissue.

Immediately, Sims gets down to business, quickly putting his client at ease by acknowledging he’s from California, but will do his best to help. “Almost 50 percent of this job is bedside manner,” he says. “You have to comfort them. You need to give them a light of hope.” Even when there was no legal recourse for the client, Sims seems to have perfected the art of delivering bad news. Sympathetic, yet honest, he explains the reasons why without leaving the client discontented.

Sims, a former assistant U.S. attorney and deputy staff judge advocate, says the intensity of the cases — and the sheer number of clients — was, at times, mentally challenging. “We had mental health practitioners at the DRC for the clients. But some days I was so emotionally drained that I would tell the practitioners to stick around because I might need them too.” Despite the challenges, Sims says the experience was “one of the most humbling occasions of my life.”

Sims was dubbed by Lone Star Legal Aid as its “Ground Zero Hero,” but he counters, “The real heroes are the ones who have gone through this and want to get back on their feet as soon as possible. My hat goes off to those attorneys who do this kind of work 24-7.”

*Patricia L. Garcia is the associate editor of the Texas Bar Journal.*

## Want To Help?

- The State Bar has established a clearinghouse where attorneys can request and offer help with needs such as office space, housing and supplies. Email requests and offers to [ikerresponse@texasbar.com](mailto:ikerresponse@texasbar.com) or visit [www.texasbar.com](http://www.texasbar.com).
- To volunteer with Lone Star Legal Aid, contact Harold Desselle, LSLA’s program wide volunteer coordinator; he can be reached at (800) 733-8394, Ext. 1207.
- To volunteer with the Houston Bar Association’s Houston Volunteer Lawyers Program, visit [www.hvlp.org/volunteers/registration.aspx](http://www.hvlp.org/volunteers/registration.aspx).

## LiveHelp—an Online Resource for Low-Income Victims of Hurricane Ike

Responding to the broad range of legal problems resulting from Hurricane Ike, Texas legal aid organizations and the Houston Bar Association developed an online resource to assist poor and low-income Texans affected by the disaster obtain free legal information. The new service, called LiveHelp, is available now and enables Hurricane Ike victims to conduct a live online chat with attorneys recruited by the Houston Volunteer Lawyers Program. From their desks, attorneys answer questions and also refer those seeking help to legal resources specific to FEMA appeals and other disaster-related issues.

LiveHelp is free and can be reached through the website [www.TexasLawHelp.org](http://www.TexasLawHelp.org). Attorneys are available weekdays from 11-5 p.m. When help is not available, online users may leave a message. The TexasLawHelp website also contains information on legal resources for disaster victims.

Houston attorney Andrew Strong spearheaded the LiveHelp project for the State Bar of Texas' Legal Services to the Poor in Civil Matters Committee. The Houston Bar Association, working with Lone Star Legal Aid and Texas Legal Services Center, have provided extensive training to over 200 attorneys who will be offering pro bono legal aid to Hurricane Ike victims. Attorneys interested in signing up to volunteer for LiveHelp can contact the Houston Volunteer Lawyers Program.

Texas is the seventh state to implement LiveHelp on its statewide legal services website for consumers, and the first state to provide LiveHelp assistance using volunteer attorneys.

LiveHelp was developed by Pro Bono Net, a national nonprofit dedicated to increasing access to justice through the innovative use of technology.

Funding for the new technology was made available through an emergency grant from the Texas Access to Justice Foundation. Continued funding for the project is subject to need and availability of funds. Particularly if you are in an area that has been affected by Hurricane Ike, please ensure that your community is aware of the service.



*ATJ Commissioner Daniel Hu accepts \$14,000 for TAJF's Hurricane Ike Relief Fund donated by the Asian American Bar Association (AABA) and the Asian American Bar Foundation (AABF) raised at their annual gala in Houston. Left to right: AABF trustee Emily Kuo, Daniel Hu, AABA President Catherine Than, AABF Chair Quan Vu, AABA Vice President Joyce Kao Soliman, and AABA Committee Chair Stephen Wu.*

## 18th Annual Bill of Rights Dinner at the UT Alumni Center

On October 3rd, the Texas Civil Rights Project (TCRP) celebrated its 18th Annual Bill of Rights Dinner with an evening of song, theatre, and visual arts. Every year the dinner honors the time, commitment, and dedication of the civil rights community, while also helping TCRP to raise funds to support its work for poor and low-income Texans.

Dinner included several musical performances, including songs from "La Causa" by Austin musician Gustavo Rodríguez, a performance by the Austin Jazz Workshop, as well as a special guest appearance by the kids of Paul Green's School of Rock. After dinner, human rights activist and Broadway star Vinie Burrows entertained guests with her powerful one woman show and an interpretive reading from Sojourner Truth.

Sarah Weddington, famed *Roe v. Wade* attorney, hosted the dinner as Master of Ceremonies. As emcee, she introduced the award winners while guests enjoyed the many performances and applauded the evening's honorees.

TCRP was proud to award Ben Sargent with the Molly Ivins "Give 'Em Hell" Award for using his drawing pen and artist's eye as one of Texas' foremost advocates of justice and fairness. Vinie Burrows received the Michael Tigar Human Rights Award for her contributions to the movements of women and people of color, as well as her work in the arts.

The Henry B. González Award went to Dr. Eloisa Taméz, an assistant professor at the University of Texas at Brownsville and a land owner in El Calaboz. Dr. Taméz built a coalition to stand

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*Equal Justice Works Fellow Corinna Spencer-Scheurich presents the Henry B. González Award to Dr. Eloisa Taméz.*

up against the Department of Homeland Security's plan to build a non-continuous wall along the Texas-Mexico border. She has worked to educate landowners about their rights and

led the community's action to resist the Wall. "I am humbled that you place in me such high regard and promise you that I will do everything I can to continue high ideas and standards," Taméz said.

TCRP also extended a special thanks to the recipients of the 2008 Pro Bono Champion Awards. Guests applauded Geoff Courtney, David George, Jeff Edwards, David Grenardo, and Timothy Herman. These attorneys volunteered with TCRP during 2008 litigation to help make Texas a more fair and just place.

TCRP also awarded scholarships to Student Leader Essay Contest winners Grant McClure, Makenna Balvanz, and Isaac Miller-Crews.

The evening was an inspired event and a great opportunity for friends of civil rights to recognize progress in our continuing effort for justice and equality.

*Contributed by the Texas Civil Rights Project*

## TYLA and ProBAR Combine Efforts to Support Immigrant Children in Shelter Facilities

For over two years, the South Texas Pro Bono Asylum Representation Project (ProBAR) and the Texas Young Lawyers Association (TYLA) have combined efforts to provide pro bono trainings, direct representation, and legal rights information to unaccompanied children in removal proceedings. These children, mostly from Central America, are held in shelter facilities in South Texas and elsewhere. These efforts have resulted in the production of a CLE video for pro bono attorneys and representation in several individual cases.

Most recently, on November 6, ProBAR paralegal Violeta Discua-Salamanca traveled to Austin to record a video of her highly regarded legal rights presentation. Ms. Discua-Salamanca, originally from Honduras, has a background in education and journalism. She uses her experience as a certified Honduran teacher to provide culturally relevant and understandable rights presentations to children in various shelters in South Texas funded by the Office of Refugee Resettlement. In an effort to make these presentations available to a wider audience, TYLA offered to produce a video that would be available to other shelter facilities and direct service agencies. The video will show attorneys, paralegals and other advocates how to best connect with kids and create a positive environment for legal screenings. ProBAR recognizes the importance of educating children about their

rights and responsibilities in the removal process and appreciates the opportunity to make this video widely available.

*For attorneys interested in taking a pro bono case please contact Meredith Linsky at [probar@sbcglobal.net](mailto:probar@sbcglobal.net) or by calling (956) 425-9231.*



*(Left to Right) Alfonso Cabañas, TYLA Director from San Antonio; Denny Sheppard, TYLA Staff/Project Coordinator; Violeta Discua-Salamanca, ProBAR Paralegal; Bree Treviño, TYLA Office Manager; Tracy Brown, TYLA Director of Administration; Jeff Chandler, TYLA Director from San Angelo.*

## Texas Appleseed Receives Grant from Hogg Foundation to Protect Rights of Immigration Detainees with Mental Illness

Texas Appleseed, a nonprofit public interest law center, was awarded a \$50,000 grant from the Hogg Foundation for Mental Health to identify, document, and address problems and abuses in the immigration courts system in Texas related to treatment of detainees with mental health conditions.

Texas Appleseed is one of six Texas-based organizations that received a total of \$456,565 in grants from the Hogg Foundation in November. The Foundation awarded the grants to support timely, meaningful projects that address key issues related to mental health and are likely to improve mental health policies affecting Texas residents.

“The Foundation is continuing our longstanding practice of funding projects to address important and relevant mental health issues that directly affect the people of Texas,” said Dr. Octavio N. Martinez Jr., executive director of the Foundation. “The grants also will help build interest in and capacity for mental health policy research and development work among nonprofit agencies, academic institutions, and government agencies in Texas.”

Nearly half of all immigration detainees in the United States – up to 15,000 people at any given time – are housed in Texas. Texas Appleseed estimates that as many as 15 percent have a serious mental illness, yet many are passed through the court system without any recognition of the barrier that mental health issues pose to meaningful participation in the hearing process.

“People with mental illness in Texas’ immigration detention centers desperately need attention and advocacy. We have heard numerous stories of abuse and neglect, ranging from lack of proper medical diagnosis and medication to inappropriate deportation rulings by immigration judges,” said Rebecca Lightsey, executive director of Texas Appleseed. “The Foundation’s grant will enable us to advocate for change in immigration laws, regulations, and court practices.”

Detainees with mental illness face enormous challenges to fair legal representation such as lack of medication or overmedication of detainees prior to their court hearings, failure to include or

consider medical records during court proceedings, and communication problems stemming from the practice of holding brief preliminary hearings for groups of detainees and providing translators via televideo.

Texas Appleseed plans to conduct interviews and document systemic problems, analyze existing data and research, and publish a study that outlines the problems, describes current laws and rules, and recommends policy changes to address the problems. Akin Gump Strauss Hauer & Feld LLP will serve as lead pro bono partner on this project.

Lightsey said the work funded by the grant will help better inform judges and others involved in the immigration detention, hearing and deportation process on how to appropriately handle cases of people with mental illness. Appleseed also will promote the adoption of enforceable legal standards, similar to those in the criminal justice system, to protect the rights of immigration detainees.

“This project will address an often neglected and forgotten group. Mental illness knows no boundaries. As an enlightened society it is imperative that we provide ethical, equitable mental health services to all in need,” Martinez said.

The Hogg Foundation was founded in 1940 by Miss Ima Hogg, daughter of former Texas Governor James Stephen Hogg, to promote improved mental health for the people of Texas. The Foundation’s grants and programs support mental health consumer services, research, policy analysis, and public education projects in Texas. The Foundation is part of the Division of Diversity and Community Engagement at the University of Texas at Austin.

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*Contributed by the American Civil Liberties Union*

## 2008 Angel of Freedom Awardees Stand Up for Human Rights

By Patricia Melton

Human Rights Initiative of North Texas (HRI), a nonprofit agency in Dallas, has announced the recipients of the prestigious 2008 Angel of Freedom Awards: Christina Ann Jonsson and the Philip R. Jonsson Foundation, Diane Couchman of Akin Gump Strauss Hauer & Feld LLP, and the Overbrook Foundation. The awards were presented at the 9th Annual HRI Thanksgiving Event on November 3 at the Trammell & Margaret Crow Collection of Asian Art in downtown Dallas.

### Christina Ann Jonsson and the Philip R. Jonsson Foundation

Chris Jonsson has worked tirelessly to support and promote HRI through the assistance of her family foundation. Chris remains committed and loyal to HRI in expanding the agency's outreach in the years to come. Chris Jonsson remarked, "The Philip R. Jonsson Foundation is pleased to support HRI in doing what we can to help them repair and restore respect to damaged lives, in the belief that our contributions will enrich our country's free and democratic way of life. I am pleased to accept this award on behalf of the Philip R. Jonsson Foundation."

### Diane Couchman

Diane Couchman is Senior Counsel with Akin Gump Strauss Hauer & Feld LLP. Diane is one of HRI's longest serving pro bono attorneys. As the Akin Gump Dallas office's Pro Bono Coordinator, she has recruited attorneys from her firm to represent HRI clients. This year she made a significant impact by hosting and providing invaluable assistance to HRI in the agency's initial training program for the Dallas District Attorney's office and Crime Victims Liaison units of area law enforcement agencies. This type of training is critical to better serve the clients in the HRI Women and Children's Program. Additionally, Diane supervised several Violence Against Women Act (VAWA) cases placed with Akin Gump summer clerks, managed pro bono attorney training, and paired cases with associates and partners. Due to her organization and dedication, the summer VAWA program for Akin Gump has been a great success that HRI hopes will continue to grow over the years. Diane said, "I am honored and thrilled to receive an Angel of Freedom Award. Human Rights Initiative is a great organization with a fabulous professional staff. I would not be receiving this award without the hard work of the many dedicated Dallas attorneys at Akin Gump Strauss Hauer & Feld LLP, who have taken cases from HRI since its inception in 1999 and who have helped many refugees and immigrants obtain freedom in the United States."

### The Overbrook Foundation

The Overbrook Foundation is a member of the U.S. Human Rights Funding Network and has recognized HRI as a leader in providing free legal assistance to people seeking asylum in the United States. The Overbrook Foundation has funded a joint research project with HRI and the University of Texas at Dallas for several years. The results of this research project will create a consolidated picture of asylum-seekers in North Texas and examine trends in the U.S immigration process. Without the strong support of this national foundation, HRI would not have been able to conduct this groundbreaking research that will benefit so many people seeking relief through the immigration process and the professionals that serve them. Steve Foster, CEO of the Overbrook Foundation, said, "We believe HRI's strategies for promoting international human rights for refugees and immigrants who have suffered human rights abuses are exemplary and we are honored to be associated with HRI. We are surprised because the privilege of being able to support this work is its own reward and doesn't require recognition beyond that. We are happy because we know that the particular efforts we are supporting will ultimately help thousands of refugees from around the U.S. in successfully winning asylum."

The mission of Human Rights Initiative of North Texas (HRI) is to provide free legal representation and social services to indigent victims of human rights abuses and to serve as a community resource on international human rights issues.

HRI's clients include victims of human rights abuses seeking asylum in the United States, victims of spousal or child abuse at the hands of a U.S. Citizen or Permanent Resident, immigrant children who often flee from violence and travel to the U.S. alone, or immigrant children that have been abused, abandoned or neglected by their parents in the U.S. These are individuals who have suffered persecution in their homeland for exercising the very freedoms that we take for granted: freedom of speech, of religious practice, of political belief, and of gender roles.

These organizations and individuals have made significant contributions, enabling HRI to better serve its clients and to meet the organization's mission. The generosity of these awardees has made a major difference in the lives of many people living in North Texas.

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*Patricia Melton is Director of Marketing and Revenue Development for the Human Rights Initiative of North Texas.*

## Advocacy, Inc. Ensures Access to Electoral Process

By Dustin Rynders

Advocacy, Inc.'s (AI) Help America Vote Act (HAVA) Project wants to thank everyone who helped make the November 2008 elections more accessible to Texans with disabilities than any previous election. For the first time in a presidential election, accessible voting machines were available at every polling place, making it possible for many more voters with disabilities to cast a private and independent ballot. In preparation of the election, AI's staff and its partner, Coalition for Texans with Disabilities, trained thousands of Texans with disabilities about their voting rights, including how to use accessible machines and request mail-in ballots, interpreters, and accommodations as needed. This work would not have been possible without the local disability rights organizations, self advocacy groups and service providers that recruited audiences and opened their doors.

AI also provided practical resources to every county clerk in the state about inexpensive solutions to make polling places physically accessible and accommodating to the diverse needs of voters with disabilities. In counties where more help was requested, AI offered to survey polling places and provide poll worker training. As a result of AI's trainings and collaborations with county officials, they are glad to report that in an

online survey, 93.5% of those trained and served were able to successfully cast their vote in the November 2008 election.

There were still problems, of course. AI's hotline received complaints about wrongfully denied voter registration applications, mail-in ballot problems, inaccessible polling places, voters with cognitive impairments who were wrongfully denied assistance from a person of their choice, deaf voters who were unable to vote because of communication barriers with the poll workers, and those living in institutions who were inappropriately barred from access to the process by service providers. Thankfully, AI's hotline staff and ground operation were able to resolve the vast majority of these issues on or before Election Day.

As AI turns their focus to educating policy makers about the lessons learned in this election, they would like to thank their partners and volunteers around the state, who share in their success. For more information about voting rights, or AI's HAVA project, call 1-888-796-VOTE.

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*Dustin Rynders is a HAVA Policy Specialist and attorney for Advocacy, Inc.*

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## TRLA Attorney Recognized For Legal Achievements



*Texas Lawyer* has recognized Texas RioGrande Legal Aid (TRLA) attorney Susan F. Zinn as one of thirty extraordinary women in law due to her work fighting for health care for the poor.

Zinn is being recognized because of her commitment to helping low-income children secure better health care in Texas. Her journey began in

1993 when she filed *Frew, et al. v. Hawkins*, a class-action lawsuit on behalf of millions of children. Though the case was settled three years later, Zinn has continued to hold Texas accountable for its obligations to low-income children. In 2004, more than

ten years after the case began; her work took her to the United States Supreme Court where she won a unanimous ruling in her favor. As a result of her litigation, the children's Medicaid budget in Texas has increased by more than \$1.8 billion.

A graduate of the University of Texas School of Law, Zinn has worked with TRLA since 1985 and served as the director of the Health Law Project. She continues to monitor the state's actions related to low-income health care in her private practice while working with TRLA on a part time basis.

As a recognized expert on Medicaid, the Child Health Insurance Program (CHIP), and access to health care issues, Zinn remains dedicated to her work with TRLA while also advising the legal aid community and health care advocates on these issues.

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*Contributed by Texas RioGrande Legal Aid.*

## Local Company Accused of Scamming Low-Income Texans

Seven Rio Grande Valley residents are suing McAllen-based company Documents and More for scamming them out of their hard-earned money with the promise of providing legal help.

Represented by Texas RioGrande Legal Aid (TRLA), the leading provider of legal aid in Texas, all seven residents went to Documents and More for help with their divorces after seeing advertisements in the local media. The victims believed they were working with lawyers and legal experts who had a successful record of helping clients with their legal problems. But the help they were given was inaccurate and insufficient.

“Low-income residents are often at risk of being scammed by groups that claim they can help with legal problems for a low price,” said TRLA attorney Cindy Dyar. “But these companies are usually only successful of robbing people of their money.”

One of the victims, Ana Olivia Calderon, sought the company’s help with her divorce after seeing their advertisement in the paper. She paid \$399 for documents that she believed would finalize her divorce. Not only were the forms inaccurate, but a

local court told her that they were also insufficient. After turning to TRLA for help, Calderon revised her documents and was granted a divorce.

According to the lawsuit, Documents and More is being run from the same location and with the same staff as a company formerly known as We the People. The Supreme Court of Texas Unauthorized Practice of Law Committee prohibited We the People from practicing law without a license in 2004 and the company was dissolved in 2007. Several of the lawsuit’s victims were introduced to Documents and More through advertisements for We the People.

Added Dyar, “If people need help with their legal problems and can’t afford an attorney, they should come to TRLA first. We will either help them for free or refer them to someone who can.”

A copy of the complaint can be found at <http://tinyurl.com/54ukwg>.

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*Contributed by Texas RioGrande Legal Aid.*

## Final Regulations Released for College Cost Reduction and Access Act

The Department of Education has released the final regulations that govern the Public Service Loan Forgiveness and Income-Based Repayment programs of the College Cost Reduction and Access Act.

Although the final regulations are significantly similar to the previously issued proposed rules, there are some important clarifications and changes:

- The Department rejected suggestions for annual certification of eligibility, but stated that “we will continue to examine ways to assist borrowers who are interested in, or already employed in public service, to determine and document their eligibility for the loan forgiveness program.” Equal Justice Works continues to advise borrowers to collect and retain records that support the borrower’s eligibility for Public Service Loan Forgiveness.
- The Department announced its intention to develop a form for borrowers to use to apply for the public service loan forgiveness which will include “all the information the borrower and the borrower’s employer need regarding the eligibility criteria, applicable definitions, and procedures for applying for the loan forgiveness benefit.”

Equal Justice Works will work with the Department to develop clear and simple administrative procedures.

- The Department revised the definition of full-time to apply the 30 hours per week annual average as the governing full-time standard when a borrower is working in more than one qualifying job.
- The Department specified that leave taken for a condition that is a qualifying reason for leave under the Family Medical Leave Act does not count in determining whether a borrower meets the full-time definition.
- The Department clarified that Income-Based Repayment eligibility will be based on the amount owed when the borrower first entered repayment, rather than the current amount owed.
- The Department agreed that intergovernmental or public regional agencies are included in the definition of government: “Federal, State, local, or Tribal government organization, agency, or entity” depending on governance and the funding source for salaries.
- The Department determined that an individual serving in the Peace Corps may meet the loan forgiveness payment requirement by declining the economic hardship deferment

during service or by making a lump sum payment on the loan from the Peace Corps transition allowance.

Before issuing these final regulations, the Department considered public comments on the proposed rules. More than 1,700 comments were received and most of the comments addressed the public service loan forgiveness program. A majority of those comments were from law schools, law students, legal aid centers, clinics and associations, public interest attorneys and public defenders.

According to Heather Jarvis, Senior Program Manager at Equal Justice Works and an educational debt expert, the comments to the Department of Education overwhelmingly supported

Public Service Loan Forgiveness as an important tool for recruiting and retaining public servants.

“Reducing the financial barriers to public service is a goal of many in the law school and professional legal communities,” said Ms. Jarvis. “You see those efforts reflected in the comments to the Department of Education and in the Department’s response.”

The final regulations will now be published in the Federal Register and serve to implement the provisions of the College Cost Reduction and Access Act.

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*Contributed by Equal Justice Works.*

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## FEMA Sued for Denying Assistance to the Poor: Hurricane Victims Being Denied Aid in Recovery Efforts

The Federal Emergency Management Agency (FEMA) is being sued for denying disaster aid to victims of Hurricane Dolly by failing to use consistent standards for providing housing repair assistance.

Texas RioGrande Legal Aid (TRLA), the leading provider of legal aid in Texas, filed the lawsuit on behalf of La Union del Pueblo Entero (LUPE) and fourteen low-income Texans who were denied FEMA benefits because of the conditions of their homes prior to the disaster. The only explanation the residents received for their denials was that their homes suffered “insufficient damage.”

According to the lawsuit, it is FEMA’s policy to deny housing repair assistance to homes that were in substandard condition before the storm because any damage during the disaster was caused by the quality of the home. This approach to disaster aid prevents low-income families from receiving assistance that they qualify for and need for their health and safety.

“Many low-income families have built and maintained their homes using the few resources they have,” said TRLA attorney Jerome Wesevich. “Their homes may not have been perfect before the hurricane, but that does not make them any less deserving of aid than a wealthy family.”

After hurricanes Dolly and Ike devastated coastal areas this summer, thousands of Texas families applied for federal aid to rebuild their lives and repair their homes. In the Rio Grande

Valley more than 38,000 families have applied for FEMA assistance after Hurricane Dolly. Approximately half of those families have had their applications denied.

Among the individuals in the lawsuit is Jose Gonzalez, a quadriplegic who has lived in his Harlingen home for twenty years. Winds from Hurricane Dolly caused damage to his roof and, as a result, mold has begun to grow inside his house. Gonzalez’s application for aid and his request for a re-inspection of his home have been denied without explanation. He does not have the financial resources necessary to fix his home without federal assistance.

“FEMA cannot deny assistance to disaster victims just because they are poor,” added Wesevich. “If anything, these families need the government’s help the most.”

The lawsuit marks the third time that TRLA has sued FEMA for its policies while providing disaster relief assistance. A copy of the lawsuit can be found at <http://tinyurl.com/trlafema3>.

Established in 1970, Texas RioGrande Legal Aid, Inc. is a nonprofit organization that provides free legal services to low-income and disadvantaged clients in a 68-county service area. TRLA’s mission is to promote the dignity, self-sufficiency, safety and stability of low-income Texas residents by providing high-quality legal assistance and related educational services.

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*Contributed by Texas RioGrande Legal Aid.*

## Keeping Up With Housing – One Perspective

Who can keep up with everything happening in housing? You're hired to write this column next time. (By the time this comes out in print, half of it will be out of date anyhow.)

### Federal – Homeowners

First, there was the Housing and Economic Recovery Act or “HERA” (HR 3221, 110th Cong.) passed in July 2008 that allowed the feds to better regulate the GSEs (Fannie Mae and Freddie Mac). Of course they did not have time to regulate them because the feds had to take control of them months later to keep people from jumping out of buildings. HERA also created one of many voluntary programs to help homeowners refinance out of bad loans.<sup>1</sup> The program failed like all the others because it was voluntary and did not amount to a pure government handout to the lenders and investors (that would come next). HERA did a host of other things regarding tax credits, local government, funding for the national Housing Trust Fund and other housing issues that I don't have space to explain.

Then there was the emergency two-page bill that Secretary Paulson wanted Congress to pass in a few days giving him \$750 billion with no strings attached. (CNN says it was three pages.<sup>2</sup>) He needed it to buy troubled assets he said (hence the name Troubled Asset Relief Program, or “TARP”). Congress slowed the process a bit and passed a law that was 169 pages named the Emergency Economic Stabilization Act (HR 1424, 110th Cong) in October 2008. Of course a few days later the money just went to lenders, investors and their bonuses, and not to buy a single troubled asset as was promoted. Thankfully, Congress agreed to release the money in stages rather than a lump sum, and so far the lenders have only received about half. The lenders admit none of the bailout money has been used to lend (and help stabilize our economy), but they will not say what it was used on. We don't have a right to know it seems. Expect grandstanding in Congressional hearings coming to a theater near you (all bark and no bite).

Rather than follow the mere suggestions of Congress and other federal agencies, the “private sector” running on our money developed their own worthless plans (e.g., Citigroup, Bank of America [includes Countrywide], Well Fargo, JP Morgan Chase). They all have had various moratoriums, repayment

plans, and modifications options. Countrywide (now a division of Bank of America) was sued for their promises of help that did not materialize – and their lawyers claimed their representations to Congress and public were mere puffery, in simple terms, lies. The industry, using their propaganda front called the Hope Now Alliance, claims they have helped millions avoid foreclosure without releasing details; however, recent studies have found more than half of families “helped” were in default again in six months. (For more on this and other mortgage lending issues see my blog: [www.foreclosurebuzz.org](http://www.foreclosurebuzz.org).) The Hope Now Alliance is simply trying to spin the numbers as much as possible to avoid the imposition of the residential loan cramdown giving bankruptcy judges the right to change home loan terms. So far the industry has beat back Congressional interest, but Citigroup was flipped recently (probably because of the need for more bailout money). By the time this article is printed, it may have become law already. A residential cramdown will change the face of foreclosure prevention in this country to be sure – and will lead to the industry taking real action to prevent foreclosures rather than let the bankruptcy courts do it. But it has not happened as yet.

At present there is a patchwork of plans from the feds and the industry, none of which has been effective. Even if one of these lenders has a prevention plan, it merely applies to the loans they hold (most of the majors are also mortgage servicers – they only collect the money and hire telemarketers to ignore requests over the phone). If an entity merely services the loan and the loan is being held in a securitized trust for example, the investors arguably make the decisions. (The trustee has no power typically in these schemes.) Often there are hundreds of investors and thus there is no way a servicer could contact all the investors to see if one individual borrower can pay this or modify that. These decisions are typically left to the servicers who are bound to their PSA (Pooling and Servicing Agreement). Of course these agreements contemplate repayment terms and modifications but if the deal being offered falls outside of those parameters, then servicers are not likely to pull the trigger. One servicer was recently sued by an investor who felt the servicer was not following the PSA in making a deal to prevent a foreclosure. Of course some investors may sue for not working out more deals with borrowers and that litigation is gearing up somewhere no doubt. In short, voluntary programs that provide changes in

1 See HUD's description at <http://www.hud.gov/news/recoveryactfaq.cfm>

2 [http://money.cnn.com/2008/09/20/news/economy/treasury\\_proposal/index.htm](http://money.cnn.com/2008/09/20/news/economy/treasury_proposal/index.htm)

loans not contemplated by the PSA are likely to fail at least with loans held in securitized trusts (which are where the majority of the troubled subprime loans are being held).

### Federal – Tenants

Fannie Mae implemented a program to help tenants whose landlords were foreclosed on – the National REO Rental Policy.<sup>3</sup> [Note that Fannie Mae is now in conservatorship.] For single family homes (it can have multiple units, condos, etc.) it owns as a result of a foreclosure, Fannie has agreed to either lease the properties to the tenants on a month-to-month basis or provide relocation assistance (cash for keys). The occupants must have been tenants before the foreclosure. Fannie will not check credit, require a deposit, or require the tenant show a payment history, and Fannie will renegotiate the rent amount based on current market levels.

HUD recently finalized regulations interpreting the Violence Against Women Act (VAWA) amendments making it clear that a tenant in public housing, subsidized housing or voucher holder who is a victim of family violence can self-certify and avoid termination and eviction for the violence. Thus, even if the federally subsidized tenant is arrested and charged with violence and does not get a protective order, they can self-certify they are a victim of family violence and raise a defense to the termination of benefits, or even an eviction by a private landlord. See 73 FR 72336 (Nov. 28, 2008).

### State – Legislation

The Texas Legislature has come to Austin and will be taking up a variety of housing legislation once again regarding matters like landlord-tenant, the foreclosure process, predatory lending, contracts for deed, lease options, title issues, and affordable housing policy. If you wish to stay informed or provide comments on these changes you may contact me directly or join the Housing Law Task Force listserv operated by Texas Legal Services Center. I will try to post regular updates on the bills that impact the rights of low income homeowners or renters.

### State – Access to Justice Issues in Housing

The Texas Supreme Court had its periodic review of legal services provided to the poor in civil matters late last year and was

interested in learning of various access issues that could be explored to assist low income advocates. The Poverty Law Section spoke on behalf of the advocates and made many suggestions. Several involved common housing problems: 1) frivolous pauper's oath challenges when appealing an eviction, 2) Rule 749b's requirement of rent within five days and the conflict with Section 24.0053 of the Property Code which does not require it, only rent as it comes due, 3) waiver of state e-filing fees for indigent litigants (all the urban counties have e-filing but the costs deter programs from using it), and 4) extending the deadline to appeal one day in justice court when the court closes earlier than 5:00 p.m. on the original deadline.

### State – Recent Housing Cases

#### Contracts for Deed cases

*Yarto & DTRJ Invs. v. Gilliland*, 2009 Tex. App. LEXIS 108 (Tex. App.--Corpus Christi, Jan. 8, 2009). The appellate court affirmed a district court temporary injunction preventing a party from prosecuting an eviction case against an oral contract for deed buyer. This case is worth a read if you are interested in preventing a party from filing or prosecuting an eviction case. Because a defendant can appeal any wrongful eviction judgment, the irreparable harm analysis is tricky and this case may help you thread the needle.

*Zuniga v. Velasquez*, 2008 Tex. App. LEXIS 7825 (Tex. App.--San Antonio, Oct. 15, 2008). Buyers sued under Section 5.079 of the Property Code claiming they had paid enough. They hadn't (by their own admission at trial). They may have overpaid for some things, but it did not matter because they did not plead offset says the court. Arguably hyper-technical, but the court was not thrilled at giving the buyers \$182,000 in liquidated damages and attorney fees for property worth \$37,000. The Plaintiff or their counsel or both thought they hit the lottery it might appear. In the end the Plaintiffs got nothing after four years of litigation. (Meanwhile, plead offset in your contract for deed cases.)

#### Home Equity Loan cases

*Rivera v. Countrywide Home Loans, Inc.*, 262 S.W.3d 834 (Tex. App.--Dallas, Aug. 8, 2008). The appellate court held that a violation of a home equity provision requires filing suit within

3 [http://www.fanniemae.com/newsreleases/2009/faq/FAQ\\_national\\_REO\\_rental\\_policy\\_010709.pdf](http://www.fanniemae.com/newsreleases/2009/faq/FAQ_national_REO_rental_policy_010709.pdf)

Continued from page 21.

four years of the closing of the loan. There are ways around the SOL if your client is facing foreclosure -- for example, Section 16.069 of the Civil Practice & Remedies Code (allowing counter and cross claims after limitations). The problem with this is we don't typically file counter or cross claims to Rule 736 applications allowing foreclosure of home equity loans (the rules arguably do not allow them, but there is nothing expressly in the rules). If one does counterclaim, then there should be a severance of the borrower's action (not a dismissal). Cases also hold that SOL is avoided when the suit is intended to be a "setoff" or a "cancellation" of the debt that is being acted on by the lender. There is also the usual tolling, and discovery issues to affect limitations but these are tougher to argue and prove and the Dallas case hurts these a bit as well.<sup>4</sup>

*In re: Reno*, 2008 Bankr. LEXIS 3239 (Bankr WD Tex. 2008). The court held that the lender did not prove the home equity loan was less than 80 percent Loan-to-Value merely with a signed statement of the borrower stating the amount, and the court found a three percent cap violation by including the origination fees in the calculation. The court failed to rule on whether the loan was attempting to secure personal property

(a trailer) because the parties failed to brief it properly (since the character of trailers has been in flux over the years).

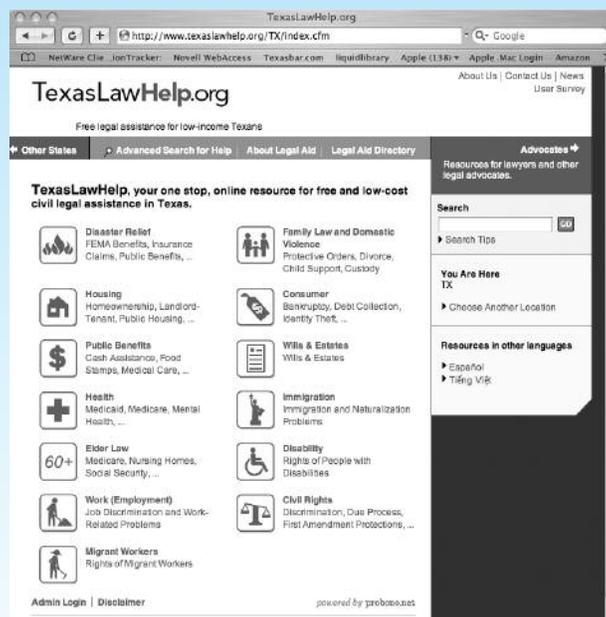
*Maluski v. United States Bank, N.A.*, 2008 U.S. Dist. LEXIS 97107 (SD Tex. 2008). The court held that the yield spread premium paid by the lender and ultimately paid over time by the borrower was not a charge to include in the three percent fee cap. However, the court did find that origination fees were to be included. (Remember, there is a dispute whether origination fees are to be included because the law says these fees are interest and the bankers argue that all interest is to be excluded from the fee cap calculation per the Texas Constitution. The trial court disagreed with that construction in our *ACORN v. Tex. Finance Comm.* case still on appeal in the 3rd Court of Appeals – it was orally argued to the court on Jan 31, 2007.) Also, it does not appear the issue was briefed, but the *Maluski* court allocated the lender credit to the charges included in the cap (rather than the discount points that were not included). The allocation of the lender credit, remember, is often a factual issue – I have found that in closing instructions lenders often apply the credit to their own fees (e.g., discount points). This application causes the loan to bust the cap.

*Robert Doggett is a staff attorney with Texas RioGrande Legal Aid.*

<sup>4</sup> <http://www.lexis.com/research/xlink?app=00075&view=full&searchtype=get&search=398+B.R.+431>

## TexasLawHelp.org

Free online legal resource  
for low-income Texans.





## Texas Bar Foundation

The Texas Bar Foundation awarded the following grants, among others, in October. For more information, or to apply for a grant, visit the Texas Bar Foundation website at [www.txbf.org](http://www.txbf.org).

- Texas Access to Justice Commission** “Access to Justice Internship Program” **\$35,000**  
 This grant funds the stipends for law students participating in the Access to Justice Internship Program, as well as costs associated with the two-day orientation.
- St. Mary’s University School of Law** “The Civil Justice Clinic SSI Initiative” **\$23,000**  
 The Civil Justice Clinic has been providing free legal services to San Antonio’s homeless population for 17 years. Law students provide the representation under the supervision of faculty members. The grant allows the clinic to expand services to the homeless into Webb and surrounding counties, and expand the Bexar County outreach sites; and further their efforts in providing consumer issues, such as identity theft/recovery, and in handling social security claims.
- Texas Legal Services Center** “Legal Assistance for Victims of Hurricane Ike” **\$10,000**  
 The grant funds legal assistance to victims of Hurricane Ike through the training of pro bono attorneys, the distribution of self-help materials, and through direct legal assistance to victims by attorneys at the Legal Hotline for Texans.
- Workers Defense Project** “Workers’ Rights Education Project” **\$8,000**  
 The grant funds an education program for approximately 2,000 immigrant workers. The program will cover workers’ rights and responsibilities under the law.
- Lone Star Legal Aid** “Hurricane Ike Assistance” **\$5,000**  
 This grant is a gift from the State Bar of Texas Real Estate, Probate and Trust Section designated for use by Lone Star Legal Aid to assist individuals to recover from Hurricane Ike.
- Texas Young Lawyers Association** “Healing the Wounds: A Guide to Navigating the Legal System after Surviving Domestic Abuse” **\$38,000**  
 This grant funds the video component of the project designed to educate victims of domestic abuse about protective orders, restraining orders, and divorce procedures. The video will be distributed with other materials related to the project to women’s shelters across the state.
- State Bar of Texas Committee on Law Focused Education** “The Teachers’ Law School” **\$18,950.00**  
 The Teachers’ Law School addresses the need for the growing number of teachers involved in teaching law classes and law magnet programs in Texas. Over a two-day period 25 teachers will participate in presentations, roundtables, and breakout sessions aimed at giving them the tools to help their students better understand and appreciate the values of the American legal system.
- Children at Risk, Inc.** “Human Trafficking Summer Law Institute” **\$20,000**  
 Children at Risk is holding a Human Trafficking Summer Law Institute to train six law students. After training, the law students hold seminars and training events across the state for law enforcement and social service providers, teaching others how to identify a victim of human trafficking and the steps that need to be taken to assist the victim.
- Family Violence Prevention Services, Inc.** “Court Liaison Program” **\$20,000**  
 This grant partially funds an FVPS advocate to be housed at the Bexar County Courthouse. This individual acts as a liaison to the Bexar County Civil District Courts, including the Children’s Courts, and Family Drug Court, providing immediate linkage for victims to shelter services, counseling, legal services, and education related to domestic violence and abuse.
- Jane’s Due Process** “Pro Bono Outreach and Education Project” **\$5,000**  
 Jane’s Due Process, which seeks to ensure legal representation for pregnant minors in Texas, used this grant to update the volunteer attorney manual to include a section on teen dating violence and protective orders. CLE seminars are also included in the program.

## Interest Rate Drop Hits Texas Access to Justice Foundation

On Dec. 16, 2008, the Federal Reserve lowered its benchmark interest rate to an all-time low of zero to .25%. This has caused a devastating realization that funding for civil legal aid in Texas, which depends primarily on interest on lawyers trust accounts (IOLTA), is facing a crisis of epic proportion in funding cuts unlike anything seen in over two decades. Conservative estimates for IOLTA funds in 2009 are approximately \$1.5 million.

The Texas Access to Justice Foundation (TAJF), which has administered the interest on lawyers trust accounts (IOLTA) for nearly 25 years, faces an unprecedented emergency. IOLTA funds are a primary funding source for civil legal aid to the poor in Texas. Forty-one Texas nonprofits rely upon IOLTA funding to support civil legal aid in order to assist low-income families meet very basic legal needs involving shelter, safety, and utilities.

With interest rates at zero to .25%, little or no interest will accumulate which means TAJF and the 41 nonprofit programs will be drastically cut or eliminated. Without IOLTA funds, core services of free legal advice and representation to low-income Texans with civil legal problems such as landlord-tenant issues, foreclosure defense, family law matters, health and employment law, access to public benefits, and consumer issues are in serious jeopardy. We will need to find immediate alternate sources of funding to try to keep legal aid providers afloat without IOLTA funds.

These dire projections come two years after TAJF was able to distribute its largest funding ever – granting more than \$20 million in 2007. That number decreased to \$12.1 million for 2008, and is expected to drop to less than \$1.5 million in 2009.

It is now more important than ever, as the economy spirals downward and the number of persons needing legal services increases, to preserve legal aid in Texas.

### *New Comparability Rule*

The Supreme Court of Texas has acted swiftly in helping battle the dramatic decline in interest income by amending the “Rules Governing the Texas Access to Justice Foundation” on Jan. 13, 2009.

In 2006 the Court required banks holding Interest on Lawyer Trust Accounts (IOLTA) to pay comparable rates to those accounts as they do for similar interest-bearing accounts. Among the alternatives to achieve that, banks could utilize a “safe harbor” that pegged interest to the Federal Reserve Bank’s rate for overnight loans among banks.

“Because the federal overnight bank-loan ‘rate’ is no longer a rate but a range, it no longer provides a reasonable benchmark for comparability,” said Justice Harriet O’Neill, the Court’s liaison to the Texas Access to Justice Foundation.

The amended rule makes the benchmark rate the *highest* of 65 percent of the federal transfer rate, or 65-hundreds of 1 percent (0.65), for banks that choose the safe-harbor option.

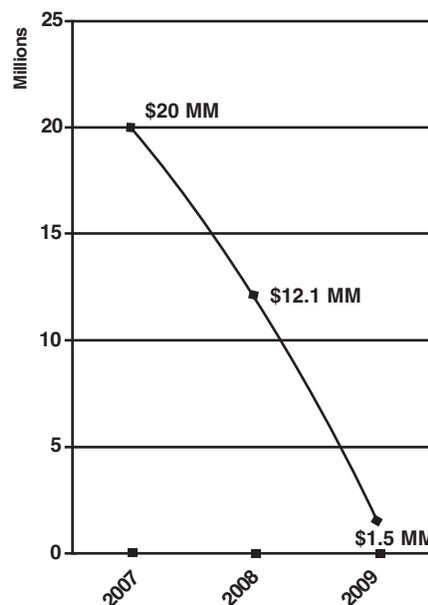
“The rule as amended also affords the Foundation flexibility to determine the appropriate index periodically, based on overall comparable rates in Texas,” Justice O’Neill said. “This will minimize the need for further rule amendments as market conditions change.”

“Without the change,” she said, “the money we distribute to help the poor with their legal problems would cover no more than overhead. And in this economy, when more and more clients face foreclosures, fallout from the hurricanes, and other hardships that may demand legal help, this rule change is a slight but needed boost.”

### *Fundraising Gala*

Please mark your calendar for the Texas Access to Justice Foundation’s 25th Anniversary Gala, May 27, 2009, at the AT&T Conference Center in Austin.

**IOLTA Funding**



## The OAG and TAJF Team Up to Offer More Help for Parents Across Texas

The Office of the Attorney General (OAG) and the Texas Access to Justice Foundation (TAJF) are jointly funding a statewide legal clinic program designed to improve parents' knowledge and understanding of their rights and responsibilities under parenting orders. Parenting Order Legal Clinics (POLC) are being held monthly across Texas so parents can ask an attorney about:

- Rights/Responsibilities as parents
- Parenting time (visitation) with their children
- Changing their visitation orders
- When court is necessary to enforce their visitation orders

The clinics are run at the local level by three TAJF grantee organizations: Legal Aid of NorthWest Texas, Lone Star Legal Aid, and the Texas Civil Rights Project. A staff attorney or pro bono volunteer selected by these organizations conducts the clinic and an assistant attorney general from the local child support office is there to answer questions regarding support issues. Parents are encouraged to bring their orders so they can provide specific language when asking questions.

POLC will have over 30 sites online by February, 2009. As of January 25, 2009, over 285 parents and grandparents had attended a clinic. The response to the sessions has been overwhelmingly positive with one Forth Worth attendee saying, "I learned more tonight than I have learned in the past six years

of trying to work with the system." Attendees routinely express appreciation that the clinics are held monthly so they can attend a future POLC if they have questions about their parenting rights and responsibilities.

Since 2006, the OAG and TAJF have jointly funded Legal Aid of NorthWest Texas to operate a statewide toll free telephone hotline which provides easy access for non-custodial parents across Texas to basic legal information, education, and resources on the following issues: 1) access, visitation, and custody; 2) paternity establishment; 3) child support order process; and 4) modifications and enforcements. More information about this resource can be found at [www.txaccess.org](http://www.txaccess.org). The toll-free number to call for this assistance is 866-292-6636.

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*For more information and a calendar of all Parenting Order Legal Clinics statewide, visit <http://texaslawhelp.org/link.cfm?2412> or contact Lisa Melton at [LDMelton@teajf.org](mailto:LDMelton@teajf.org) or 800-252-3401, ext. 112.*



## The Texas Lawyers' Assistance Program

The Texas Lawyers' Assistance Program (TLAP) was created to help lawyers, judges, and law students whose professional performance may be affected by alcoholism, substance abuse and dependency, depression, stress, burnout, and other similar conditions.

### TLAP's Tips on Managing Stress:

- Consume a healthy diet.
- Exercise regularly.
- Get more sleep.
- Take a walk outside.
- Breathe slowly and gently.
- Set realistic goals and limits.
- Focus on positive events at work and home.
- Balance your life – Make time for work and play.
- Talk with a family member, friend or colleague who will listen and understand.
- Laugh.

## TLC Welcomes New Director

Hong Tran Escobar, previously a Program Attorney with Texas Lawyers Care, has assumed the position of Director. Escobar joined Texas Lawyers Care in April 2006 and in that capacity, she coordinated various State Bar projects, including the annual Poverty Law Conference and Pro Bono Coordinators Retreat. Escobar also worked closely with the Texas Access to Justice Commission and its committees. Escobar is a graduate of Seattle University School of Law.

## Call for Nominations for ATJ Law School and Law Student Awards

Established by the Texas Access to Justice Commission in 2007, the ATJ Law School Commitment to Service Award is open to all accredited law schools in Texas. This award will honor a law school whose curriculum, clinic, faculty and student organizations have made a significant impact on the community as demonstrated by involvement in the advocacy of underserved populations and substantial encouragement and opportunity for active engagement in pro bono legal service (as opposed to general public service).

The Commission also sponsors the ATJ Law Student Pro Bono Award, which recognizes the dedication of a law student who has enhanced the delivery of quality legal services for poor Texans. This award is open to all law students currently enrolled in or graduating from an accredited Texas law school.

Award nomination forms and criteria may be found at the Commission's website at [www.texasatj.org](http://www.texasatj.org) or by emailing [atjmail@texasbar.com](mailto:atjmail@texasbar.com). Nominations for both awards must be received by **May 15, 2009, at 5:00 PM.**

## 2009 Poverty Law Conference

Join us in Austin on April 15-17, when Texas Lawyers Care will host its annual Poverty Law Conference at the Austin Hilton Airport Hotel. The Poverty Law Conference provides excellent training on poverty law issues affecting low-income and poor Texans. The conference features presentations from knowledgeable practitioners in the field. Topics include:

- Ethical Issues for Legal Services Providers
- Assisting Victims of Identity Theft
- Automotive Deficiency Debt and Repossessions
- Debt Collection Defense
- Defending Section 8 Voucher Terminations
- Family Law Issues In the Military
- Hotline Ethics
- Kincare Update
- Obtaining Child Support
- Practical Tips for Effective Legal Writing
- Recent Developments in Payday Loans
- State Court Judicial Review

## TLC Has a New Fax Number

**Effective immediately, Texas Lawyers Care's new fax number is 512-427-4160. Documents sent to the old fax number, 512-477-8302, are forwarded to the new number. Forwarding will continue until May 31, 2009. Thank you!**

## TAJF 25th Anniversary Gala

The Texas Access to Justice Commission will hold a celebration honoring the Texas Access to Justice Foundation's 25 years of existence. TAJF is the leading funder of legal aid in Texas. The Texas Access to Justice Foundation 25th Anniversary Gala will be held May 27, 2009, at the AT&T Conference Center in Austin. The featured guest speaker for the Gala will be CNN Senior Legal Analyst Jeffrey Toobin. The entertainment will be pianist/vocalist/songwriter Marcia Ball.

### 25th Anniversary Gala Sponsorship Levels

#### \$25,000 = Visionary

Two tables of ten with premier seating  
Premier logo & name recognition in the program, logo hyper-link on TAJF and TATJC web sites, *Texas Bar Journal*, *Legal Front*, featured in the *ATJ Update* newsletter & press releases  
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#### \$10,000 = Guardian

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#### \$5,000 = Steward

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Acknowledgment in event PowerPoint presentation

#### \$2,500 = Friend

One table of ten  
Name recognition in the program, listing on TAJF web site, *LegalFront* & press releases  
Acknowledgment in event PowerPoint presentation

*Texas Bar Journal* – monthly magazine mailed to more than 80,000 attorneys

*ATJ Update* newsletter — mailed to more than 80,000 attorneys

*LegalFront* – mailed to 5,000 attorneys

For more information, call 512-320-0099 or [gala@teajf.org](mailto:gala@teajf.org).

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## 2009 Calendar

For more information about events, call Texas Lawyers Care at 800-204-2222, ext. 1855 or e-mail [tlcmail@texasbar.com](mailto:tlcmail@texasbar.com).

### April 15-17, 2009

Poverty Law Conference  
Austin, Texas

### April 21-23, 2009

ABA Day in Washington  
Washington DC

### May 7-9, 2009

American Council of Chief Defenders  
Spring Conference  
Cincinnati, OH

### May 14-16, 2009

ABA/ NLADA Equal Justice Conference  
Orlando, FL

### May 15, 2009

Application deadline for the ATJ Law  
School Commitment to Service Award  
Application deadline for the ATJ Law  
Student Pro Bono Award

### May 27, 2009

TAJF 25th Anniversary Gala  
Austin, Texas

### May 28-29, 2009

Evidence Academy  
Austin, Texas

*The articles in this publication reflect the viewpoints of the authors and do not necessarily express the opinion of the State Bar of Texas, its Sections, Committees, or Departments.*