

# LegalFront

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## Technology Improving Legal Aid Service Delivery

Texas faces unique challenges in the delivery of legal services to the poor. The state has almost four million people living below the federal poverty level, many of whom need or will need free legal assistance. Additionally, the sheer size of the state creates difficulties in providing services in remote or rural areas.

As the need for civil legal aid increases, technology will play a more integral role in ensuring that low-income and poor Texans are able to attain access to the justice system.

In 2003, the Texas Access to Justice Foundation and the Texas Access to Justice Commission launched TexasLawHelp.org, a Web site featuring free civil legal information, self-help forms

and a database of legal aid offices. As more and more people, including those of limited means, turn to the Internet for self-education, providing free legal resources online greatly expands the ability of poor Texans to understand and exercise their rights.

At the local level, the Lubbock office of Legal Aid of NorthWest Texas (LANWT) is utilizing a Victims of Crime Act (VOCA) grant to serve victims in remote areas. With the funding, LANWT has instituted video conferencing intake. Because attorneys are able to save the time and expense of traveling, videoconferencing is making it possible for more victims, such as those who have experienced domestic violence, to meet with attorneys.

While efforts such as these have met with great success, many legal aid offices have been operating with the most minimal and archaic of equipment. Recognizing the need to level the technological playing field, the Texas Access to Justice Commission established the Technology Committee to help legal aid offices elevate their capabilities through the use of technology.

Over the last year, the Committee analyzed the status of technology in legal aid offices throughout the state and provided recommendations on how to bring these offices up to speed with hardware and software. The Committee recognized that without adequate equipment and computer programs, legal aid providers could not reach optimal effectiveness and efficiency in the delivery of legal services.

The Committee collected and evaluated detailed information from each organization funded by the Texas Access to Justice Foundation about their technology program. After analyzing the results, the Committee developed a plan to help providers

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*Andrea Sloan and Heath Riddles unpack their new technology equipment at the Texas Advocacy Project.*

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maximize their technology tools to better serve their clients. The Committee realized that, because of limited funds, many providers needed updated equipment for their growing client base. As a result, the Committee examined the costs and benefits of purchasing computers, printers, scanners and software for each legal aid organization in Texas.

Upon completion of the analysis, the Texas Access to Justice Foundation's board of directors voted to make a one-time, bulk purchase of equipment and software and donate them to the legal aid organizations. Legal aid organizations will be responsible for maintaining a baseline level of equipment in the future.

Paul Furrh, executive director of Lone Star Legal Aid, said that technology has been a priority of the organization for several years. "This grant allows us to continue to fill our needs in this important area," Furrh stated. "We have made a decision to use this grant to allow our lawyers greater mobility in serving our clients in our rural communities, allowing these advocates to have access to all of our resources while away from their offices."

The new equipment will enable legal aid service providers to improve efficiency through networking and information sharing, automating case management systems, and upgrading outmoded equipment. Equipment such as laptop computers will enable advocates to work on cases remotely.

David Hall, executive director of Texas RioGrande Legal Aid (TRLA), said the new equipment and software licenses will make it easier to serve clients and gain access to new resources that will help them navigate the legal system. "Texas RioGrande Legal Aid is proud to work with the Commission and Foundation to serve low-income Texans," Hall said. "With this support, TRLA attorneys will be able to take advantage of the latest technology to provide justice for all."

The following individuals provided pro bono services to the Texas Access to Justice Commission's Technology Committee by helping develop the statewide technology plan: C. Lynn McGuire, chief information officer, Andrews Kurth LLP (Houston); J. Mark Hendrick, director of information technology, Baker Botts, LLP (Houston); C. Kirk Scruggs, director of information technology, Bracewell & Giuliani LLP (Houston); Scott Preston, chief technology officer, Fulbright & Jaworski LLP (Houston); and Dennis Van Metre, chief technology officer at Vinson & Elkins

(Houston). Additionally, Nick Altizer, director of information services for Lone Star Legal Aid (Houston), and Ryan Gravelle, general counsel for BSG Alliance Corp. (Austin), also serve on the committee and donated countless hours to the project. Jeff Edwards, of Whitehurst, Harkness, Ozmun & Brees in Austin, serves as the Technology Committee's chair.

Hendrick, of Baker Botts, said the Committee's accomplishments thus far in terms of technology and training support are exciting. "It has been proven that customer service is enhanced with the use of state-of-the-art technology," Hendrick said. "Being able to assist in providing this kind of technology to Texas legal aid organizations through the efforts of the Commission and Foundation has been a privilege and an extremely rewarding experience. I look forward to the future as the Committee continues to focus on improving these agencies' technology as they strive to provide the best possible aid to those in need of legal representation."

Linda Brandmiller, executive director of Catholic Charities of San Antonio, said that prior to the donation, employees were sharing computers, and systems were crashing due to a lack of memory. She also said the new equipment will allow for greater productivity. "Combined, the new hardware and the database system will kick start our immigration program into the 21st century, with the ability to document, track and remotely access client files in ways we could hardly even dream of just a few short months ago."

In addition to the Herculean task of analyzing and making recommendations for 37 legal aid offices, the Technology Committee has also instituted training classes for legal aid staff on utilizing Microsoft Word to better serve clients. The Committee held 16 three-hour trainings in four cities and online in 2007, and they intend to offer additional training during the summer of 2008. Attendees raved about the trainings, calling them excellent, beneficial and informative.

The Texas Access to Justice Commission's Technology Committee is committed to helping legal aid organizations utilize technology to run their offices more effectively and better serve their clients. The Committee will continue to evaluate the status of the legal services providers' technological programs and identify ways in which to increase their capabilities.

## Technology Resources for Legal Services Providers

### Websites of interest for legal services technology staff:

- ✓ LSC's **Technology Initiative Grants** program (<http://tig.lsc.gov/>) promotes full access and high-quality legal representation through the use of technology. The TIG program supports projects that develop, test and replicate technologies that enable programs to improve client access to high quality assistance in the full range of legal services, and to improve program efficiency.
- ✓ **TechSoup** (<http://www.techsoup.com/learningcenter/index.cfm>) is the technology place for non-profits. TechSoup provides a range of technology services for nonprofits, including news and articles, discussion forums, and discounted and donated technology products.
- ✓ **Tech Republic** (<http://techrepublic.com.com/>) provides real world advice on how to make technology work in business.
- ✓ The **National Technology Assistance Project** (<http://www.lsntap.org/>) provides technology services (training, information, and assistance) to the poverty law community to support the effective use of technology initiatives that benefit clients. NTAP acts as the community's clearinghouse on all technology training and helps coordinate all technology trainings of NLADA, LSC, and MIE. NTAP is developing virtual trainings on specific technologies for small groups of people to discuss, learn and share. This is a web portal to technology services and information tailored to a legal aid audience. This site strives to be a resource for information on virtually every aspect of technology and poverty law that enables nonprofit legal aid providers to use technology to serve low-income clients more effectively.

### Websites of interest for pro bono Corporate Counsel and Corporate Law Departments:

- ✓ **Corporate Counsel Practice Page** (<http://www.texaslawyershelp.org/corporatecounsel>) is designed for pro bono volunteers from corporate legal departments in Texas.
- ✓ **Corporate Pro Bono** (<http://www.cpbo.org/>) provides information for in-house lawyers and their companies interested in starting or expanding a pro bono program.
- ✓ **Pro Bono Institute** (<http://www.probonoinst.org/>) at Georgetown University Law Center provides information, training, and consulting to large law firms and corporations interested in making a commitment to pro bono.

### Websites of interest for legal services practitioners and advocates:

- ✓ **TexasLawyersHelp** ([www.TexasLawyersHelp.org](http://www.TexasLawyersHelp.org)) is a statewide site for legal aid and pro bono advocates in Texas. This site is an online forum for the Texas legal aid community, providing information and resources for legal aid attorneys, pro bono volunteers, and other advocates interested in increasing access to justice throughout the state of Texas.
- ✓ The **ABA Center for Pro Bono** (<http://www.abanet.org/legalservices/probono/home.html>) is a project of the ABA Standing Committee on Pro Bono and Public Service. It offers a library of materials for pro bono program administrators and volunteers as well as technical assistance, news, and training resources.

### Websites of interest for clients:

- ✓ **TexasLawHelp** ([www.texaslawhelp.org](http://www.texaslawhelp.org)) is an online resource for free and low-cost civil legal assistance in Texas.

## Pro Bono Champion – Justice Harriet O’Neill, Supreme Court of Texas



### What is your most memorable pro bono experience?

While visiting a legal aid provider in El Paso, I visited with a woman who had for years been the victim of terrible domestic abuse. Hearing her describe the hopelessness and fear in her life, and how a volunteer lawyer had turned it all around, really brought home to me the desperate situation faced by so many who do not have access to legal help. Since then I have had occasion to visit with many others whose lives have been profoundly impacted by lawyers willing to dedicate their time, and I am always moved by their experiences.

### What do you think is the biggest challenge for lawyers wanting to provide pro bono services?

The greatest challenge is finding the time. We all struggle to balance our personal and professional lives. Providing pro bono services may involve learning new areas of the law or working with clients after traditional work hours — both of which compete with lawyers’ abilities to meet other pressing needs and responsibilities. But there are pro bono opportunities available that fit those time constraints — lawyers just need to ask.

### What are some ways the judiciary can support and participate in pro bono work?

Although we cannot represent clients, members of the judiciary can still participate in pro bono work in a number of ways. I serve on the Texas Access to Justice Commission, which

the Court created in 2001 to develop and implement initiatives designed to expand access to, and enhance the quality of, justice in civil legal matters for low-income Texans. Judges can also support pro bono work by serving on boards and committees that aim to meet the needs of low-income and poor Texans or improve the administration of justice by removing barriers to court access. Just demonstrating that judges value the good work volunteer lawyers do goes a long way to enhance the Bar’s willingness to provide pro bono service.

### How important is the IOLTA program to helping low-income persons receive legal aid?

The Interest on Lawyers Trust Accounts (IOLTA) program is a critical source of funding for legal services to the poor and has been since it was created by the Supreme Court of Texas in 1984. The Texas Access to Justice Foundation, also created by the Court in 1984, distributes IOLTA funds to legal services programs to increase access to justice for poor Texans. The Court recently amended IOLTA Rule 7 to create a “comparability rule” that requires attorneys to place their IOLTA funds at financial institutions that pay rates comparable to those paid on non-IOLTA accounts. The banks have cooperated tremendously. Some banks — called Prime Partners — have agreed to pay even higher interest rates than required to participate in the program. The result is that IOLTA is expected to become a much larger funding source for legal services to the poor.

### What is the Texas Supreme Court doing to support efforts to provide legal services to families and persons in need?

The Texas Supreme Court has contributed to the organizational infrastructure of the legal services community and the clients they serve by creating such entities as the Texas Access to Justice Commission, the Texas Supreme Court Task Force to Expand Legal Services Delivery, and the Texas Access to Justice Foundation. These entities work with the Court’s strong support to instill a sense of pro bono commitment throughout all practice areas and to ensure that adequate resources are available for legal aid and pro bono programs. Additionally, the Court is responsible for the promulgation of rules that affect many poor Texans. Examples include its recent amendment of the IOLTA “comparability rule,” and of Rule 145 of the Texas Rules of Civil Procedure governing Affidavits of Indigency. Most significantly, the Supreme Court has helped raise public awareness of how important access to our court system is and the important public service that volunteer lawyers provide every day.

# Report to Supreme Court of Texas

*On November 30, 2007, Jim 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 2007. Excerpts from the report follow.*

## Resource Development Update

### *IOLTA Comparability Rule Implementation*

The Texas Access to Justice Foundation (hereinafter, the "Foundation") has completed the initial phase of implementing the IOLTA Comparability Rule. To date, approximately 535 banks have become eligible to hold IOLTA accounts in compliance with the requirements of the new rule.

The Foundation has hired a Banking Manager to oversee and manage the success of the IOLTA Program. The Banking Manager is charged with monitoring banks to ensure their compliance with IOLTA eligibility rules. He is also tasked with fostering relationships with Prime Partners and potential Prime Partners to cultivate this critically important revenue stream.

## Awards Committee

The Awards Committee, chaired by Allan Van Fleet, developed and proposed several new awards, which the Commission unanimously approved. These awards are intended to recognize volunteers who have demonstrated the highest standards of integrity and pro bono service in the legal profession.

The Law Student Pro Bono Award recognizes a law student who has demonstrated his or her commitment to the delivery of legal services to poor and low-income Texans. A law school dean, clinic professor or legal services supervisor may nominate a law student. Law students may also self-nominate. At the fall 2008 attorney swearing-in ceremony, the Supreme Court of Texas will recognize one nominee from each participating law school, as determined by the Commission, who best exemplifies pro bono commitment. One of those nine outstanding law students will be selected as the award winner. The winning student will also receive a \$2,000 stipend from the Commission.

The Law School Commitment to Service Award recognizes a law school that advances most prominently the delivery of legal services through clinics, public interest programs, student involvement and other initiatives. The award recipient will be the

law school that has most distinguished itself by actively educating and involving its students in access to justice issues, thereby promoting the core concepts of a lawyer's ethics and moral responsibility for public service. The award is open to all accredited law schools in Texas. Both law school-related awards will be presented annually during the fall attorney swearing-in ceremony beginning in 2008.

## Communications Committee

The Commission and the Texas Access to Justice Foundation together have retained the services of a public relations firm to create and implement public awareness campaigns for the two organizations. Elizabeth Christian & Associates, a well known public affairs agency, will work with the Commission and Foundation on efforts to increase awareness of and support for access to justice. The Communications Committee, a joint committee of the Commission and Foundation, met in Austin with Elizabeth Christian & Associates to explore opportunities for communications initiatives over the next year. The Commission recently recruited several of the principal Communications officers from law firms. These include Mark Curriden of Vinson & Elkins, Mike Cinelli of Baker Botts, Darrin Schlegel of Fulbright & Jaworski, Cindy Martinez of Texas RioGrande Legal Aid, and Kim Kimmey of Bracewell & Giuliani. All bring to the Committee extensive talents and expertise in communications and media relations. The involvement of these individuals will significantly enhance the Commission's efforts to inform the public, increase lawyer awareness and promote the access to justice initiatives of the Commission's strategic plan.

### *Voluntary Access to Justice Contribution*

The Commission and the Foundation have worked to increase contributions via the State Bar of Texas dues statement. The Communications Committee developed and distributed newsletter articles to bar association publications statewide. 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 these efforts, the decline in contributions that occurred during the past several years was reversed. An increase in donations this year resulted in more than \$520,000 for legal services to the poor.

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### **Continuing Legal Education Committee**

#### *Supreme Court Recognizes Volunteer Trainers*

The Supreme Court of Texas presented letters of commendation to the following individuals for their leadership in developing and implementing the Trial Advocacy Evidence Academy:

Dan Bishop, Austin	Lewin Plunkett, San Antonio
Larry Boyd, Houston	Jorge Rangel, Corpus Christi
Thomas Brown, Houston	George Shipley, Houston
Dicky Grigg, Austin	Terry Tottenham, Austin

These Texas Fellows of the American College of Trial Lawyers donated their time, talent and unique skills to enhance the trial advocacy techniques of legal aid lawyers. The Commission simply could not have achieved this level of sophisticated training without them, and the Texas Supreme Court's letters of commendation clearly acknowledge this contribution. These exceptional lawyers volunteered for the academy because they understand and appreciate, as the Court does, the importance of the in-court work that legal aid lawyers do every day for the poor people of Texas.

### **Law School Advisory Committee**

The Commission's Law School Advisory Committee is comprised of the deans of the nine Texas law schools. The Committee created a law school consortium as part of its strategic plan, in which the law schools work collaboratively to increase the number of access to justice-related field experiences for law students, especially in areas of the state where there are no law schools. The Committee created the Access to Justice Summer Internship Program as a two-year pilot project in 2006. In the summer of 2007, the Commission expanded the program to include more students and a larger area of Texas. Law students interned in South and East Texas at the offices of Lone Star Legal Aid, the Texas Civil Rights Project and Texas RioGrande Legal Aid. The interns worked for a minimum of seven weeks in offices in Angleton, Beaumont, Bryan, Tyler, San Juan, Corpus Christi, Eagle Pass, Edinburg, Laredo and Weslaco.

Students, supervising attorneys, and faculty instructors reported that the program was incredibly successful once again in 2007. Student feedback confirms that the program made a major impact on them. As a result of the extraordinary success of the pilot programs, the Committee unanimously decided to continue and to expand the program. The Commission anticipates expansion of the program statewide and to involve

more law students. This has prompted the Commission to intensify its efforts to solicit increased outside funding for the additional student stipends.

### **Technology Committee**

Jeff Edwards, chair of the Technology Committee, has provided leadership to the Committee to improve the technology for all recognized legal service providers by establishing a baseline level of technology for each organization. The chief information officers of Andrews Kurth, Baker Botts, Bracewell & Giuliani, Fulbright & Jaworski, Vinson & Elkins and Lone Star Legal Aid were recruited to the committee to lend their unique and comprehensive technological expertise and talents to assess the technology needs and recommend viable solutions for each legal service provider statewide. They have energetically and enthusiastically embraced the task of improving and expanding the technological capabilities of Foundation grantees.

### **Supreme Court Task Force to Expand Legal Services Delivery**

At the Commission's request, the Court amended its order creating the Task Force to Expand Legal Services Delivery, chaired by Karin Crump, to include four new members. The Administrative Director of the Office of Court Administration, Carl Reynolds, was appointed as a permanent member of the Task Force. The Chair-elect of the Military Law Section and Chair of the Poverty Law Section were each appointed to serve a two-year term on the Task Force, beginning in August. The Chair-elect of the Government Lawyers Section will be appointed to serve a two-year term on the Task Force beginning in August 2008. These new members will work with existing members to coordinate a statewide effort to expand civil legal services in underserved areas of the state.

### **Conclusion**

The Commission continues to focus on the challenges ahead and defining its vision to make access to justice a reality for all Texans regardless of economic circumstances. The Commission is especially grateful for the work and the continuing critical support of the Supreme Court of Texas and the State Bar of Texas. The formidable challenge of achieving meaningful access to the justice system for all Texans could not be accomplished without the incredibly strong and unwavering support of the Court. It is this staunch support of the Supreme Court that sustains the Commission's visionary effort to really make access to justice accessible and viable for every Texan.

## The Bernardo Kohler Center Partners with Texas Lawyers for Immigrant Justice

In July of 2006, the Bernardo Kohler Center (BKC) launched its Court Legal Access project. This program, working together with the broader legal community to provide legal representation, offers free legal assistance to immigrants seeking asylum or other forms of relief before the immigration courts. The BKC conducts initial case-screenings, and then matches clients with legal volunteers for representation. The primary focus has been to provide legal representation to unaccompanied juveniles.

One of the BKC's first cases was on behalf of young Rafael Martinez\* and his teenage relatives. Despite the controversy surrounding reform and enforcement of U.S. immigration laws, it is difficult not to sympathize with Rafael's plight. Shortly after Rafael was born in Honduras, a violent Honduran gang assassinated his father, and his mother left Rafael in Honduras with an uncle while she fled to the United States. When Rafael was five, his uncle passed away, and the gangs threatened Rafael and his teenage relatives who now cared for him. Left with no other options, Rafael and his caretakers fled to the United States. However, just across the border, Rafael was stopped by United States Immigrations and Customs Enforcement who initiated proceedings to deport him, alone, back to Honduras where the gangs had threatened him and where he had no family to care for him.

Rafael made his way to Austin, where he was subsequently reunited with his mother. It was at this point that Rafael's family contacted the BKC and director David Walding reached out to the BKC's network of pro bono attorneys for help. Brian Range and Scott Morris, both litigation attorneys at Wilson Sonsini Goodrich & Rosati in Austin, Texas, agreed to take Rafael's case. Although the attorneys' primary expertise was in intellectual property litigation, they teamed with the BKC to navigate the complex immigration bureaucracy and apply their creativity, legal analysis, litigation and advocacy skills on behalf of their young client.

To secure his legal immigration status, Rafael's attorneys first argued in immigration court that he was entitled to asylum based on the gang threats directed at Rafael's family and that without family in Honduras, he would become a homeless street child. After submitting extensive briefs, expert declarations,

oral argument and witness testimony, Rafael awaited a decision from the immigration court on his asylum application. However, while he was waiting, immigration officials used Rafael's address from the asylum proceedings to locate Raphael's mother and question her about her immigration status. After this questioning, Rafael's mother fled and abandoned Rafael once again. Thus, Rafael's very brief reunion with his birth mother came to an end.

Given this second abandonment, Rafael's attorneys filed and successfully prosecuted a Texas State Court action to terminate the mother's parental rights. As a result, Rafael is now legally an orphan under the care and legal conservatorship of an uncle. As an orphan, federal law provides Rafael with an opportunity for legal residency status under federal law as a Special Immigrant Juvenile. After more than eighteen months of legal proceedings in both federal and state court, Rafael's attorneys now hope and expect that Rafael's residency application will be granted before his seventh birthday.

The pro bono service provided for Rafael is just one example of the immigration matters handled by volunteer attorneys in conjunction with the Bernardo Kohler Center. Through the BKC attorneys have sought asylum for other orphaned or abused children, an undercover police officer threatened by Latin American gangs, and others fleeing political persecution in countries such as Nepal, Colombia, Ethiopia, and El Salvador. The BKC has counted on volunteer attorneys from numerous firms in Austin including Wilson Sonsini Goodrich & Rosati, Akin Gump Strauss Hauer & Feld, Diamond McCarthy, Jenkens and Gilchrist, Tindall and Foster, Winstead, and from private attorneys as well. The BKC hopes to expand its network of pro bono attorney volunteers to assist more detained children. Attorneys interested in participating or obtaining more information, should call the BKC at (512) 535-3499.

(\*Names have been changed for the confidentiality and safety of the clients.)

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*Contributed by the Bernardo Kohler Center.*

## Immigration Clinic Works For Detained Families

By Jerry de Jaager

*Alerted in the summer of 2006 that immigrant families were being detained at a former prison in Taylor, Texas, UT Law's Immigration Clinic spent the last year utilizing a combination of advocacy, activism, and litigation to change life for residents at the controversial facility.*

Taylor, Texas, about thirty miles from Austin, advertises itself as “a vibrant, growing community of . . . friendly people living the good life.” The community newspaper announces a farmers market, a fajita cook-off, movies in the park, and youth competitions in fishing, swimming, tennis, and miniature golf.

Amid Taylor's idyllic Americana sits the T. Don Hutto Family Residential Facility, a former medium security prison that now serves as a detention center for immigrant families, including children, awaiting decisions about asylum in the U.S. or other immigration-related issues. Corrections Corporation of America (CCA), a for-profit company, runs the facility. CCA is the fifth-largest operator of corrections facilities in the nation—behind only the federal government's prison system and those of three states.

When Barbara Hines, director of the Law School's Immigration Clinic, first visited the facility in the fall of 2006, she discovered that life has been anything but idyllic for the children detained there. The facility was surrounded by fences topped with razor wire. No direct sunlight entered the building. During detentions that lasted as long as a year, the children were kept in cells at least twelve hours a day, required to wear prison uniforms, given twenty minutes to eat their meals (with no additional nutrition available beyond what was served at mealtimes), and provided about one hour a day of education.

Hines, who has worked on immigration law issues for three decades, said she was stunned by the conditions she encountered at Hutto. “I have seen a lot in many years of doing immigration law that disturbed me,” she said, “but this is the most disturbed I've been about any immigration policy in a really long time. I just couldn't believe that there were children in prison uniforms behind barbed wire. Imprisoning families who have fled their home countries under fear of persecution from their own governments, and detaining them in jail-like conditions, was an indescribable trauma for many of the children.”

Elise Harriger, [University of Texas School of Law] '08, a student in the Immigration Clinic who also visited Hutto to work on cases there, was similarly distressed by what she saw. “It was a prison, plain and simple. Children, even babies, wore prison uniforms and lived in cells with narrow slits for windows. I had to keep reminding myself that I really was in the United States. It seemed so terribly wrong,” Harriger recalled.

According to advocates, there was little or no privacy in bathrooms or showers at Hutto. Many of the children said that they were threatened with being separated from their parents if they did not respond immediately to the orders of their uniformed guards. There was no pediatrician onsite, and many children's medical conditions worsened while they were in custody. Advocates say the children had virtually no toys or age-appropriate books and were not allowed to keep writing implements and paper in their cells. In many cases, the children's mental health deteriorated substantially.

None of the detainees were charged with crimes, and none had violent histories. Among them were families from Lithuania, Romania, Iraq, Somalia, and several Latin American countries.

The Hutto facility opened in May of 2006. Frances Valdez, [University of Texas School of Law] '05, who was then the Clinic's Clinical Fellow, began receiving calls for assistance in August. Because the detainees have no right to a publicly funded lawyer, the Clinic fields many such requests—it is one of very few organizations with expertise in this area that provides free legal services. Valdez recalled, “The first call I got was from a frantic Nicaraguan woman in the Valley saying her daughter and her daughter's baby were being held at a prison in Taylor. That was when we first learned families were being detained at Hutto.”

As Clinic students began meeting with Hutto detainees to help them with their asylum claims and other cases, Valdez also worked to raise public awareness of those detainees' circumstances. At an Austin meeting convened by the national organization Detention Watch Network to discuss general detention issues, she asked those in attendance to focus on Hutto, and the group Texans United for Families was formed as a result. In December of 2006, Valdez and others organized a vigil at Hutto, and that event ignited media attention. Valdez recalled, “Suddenly we were receiving calls from everywhere, not just Texas media but national media, too.”

With twelve students, the Immigration Clinic could handle only a relatively small number of cases for individual Hutto detainees. “We were overwhelmed,” Hines recalled. “We realized that we were going to need more help.” Other organizations providing individual services, such as the American Civil Liberties Union, were also finding their resources barely sufficient to meet the needs of individuals there.

In March of [last] year, the Immigration Clinic, along with the American Civil Liberties Union and the international law firm LeBoeuf, Lamb, Greene & MacRae, filed lawsuits on behalf of twenty-six children detained at Hutto against Michael Chertoff, secretary of the U.S. Department of Homeland Security (DHS),

and six officials from U.S. Immigration and Customs Enforcement (ICE). The lawsuits charged that the children were being imprisoned under inhumane conditions, and in contravention of a 1997 federal settlement agreement, *Flores v. Meese*, that requires immigration authorities to house children in the least restrictive conditions possible and to meet certain basic standards in their care and treatment. All twelve students from the Immigration Clinic participated in developing the case.

In an April ruling consolidating the twenty-six cases into one trial, the District Court Judge hearing the case—1963 [University of Texas] Law School graduate Sam Sparks—warned the defendants that they faced an uphill struggle to justify their actions, writing: “The Court finds it inexplicable that Defendants have spent untold amounts of time, effort, and taxpayer dollars to establish the Hutto family detention program, knowing all the while that *Flores* is still in effect.”

In an apparent response to the suit, ICE accelerated the process of issuing bonds for asylum seekers who passed interviews regarding their credible fear of harm or repression if they returned to their native countries. Those bonds freed some of the detainees and their children from the facility.

Other changes also began taking place at Hutto after the suit was filed, changes that former Clinic student Elizabeth Wagoner, [University of Texas School of Law] ’07, described as nearly farcical. “It would have been funny if it weren’t so tragic,” Wagoner recounted. “For example, they painted a big mural on one wall, with castles and happy dragons and blue skies and puffy clouds, and it said *Bienvenidos a Hutto—Welcome to Hutto*—as though this would bring some sort of pleasure to children who were, in my view, being cruelly mistreated and many of whose parents were experiencing serious distress as a result of their penal confinement and the confinement of their children.”

As the trial was about to begin in August, a settlement was reached. All twenty-six of the plaintiff children had been released before the trial date—six of them just days earlier. They are still in the U.S., now living with family members who are U.S. citizens and/or legal permanent residents while their asylum claims are being pursued.

The defendants agreed to insure that living conditions at Hutto—where, as of the writing of this article, approximately 200 people are still detained—met appropriate standards. U.S. Magistrate Judge Andrew Austin, [University of Texas School of Law] ’85, was assigned to monitor those conditions, pursuant to a 127-item checklist included in the settlement.

“In my opinion, Hutto should be shut down,” Valdez said. “But at least now the children can wear regular clothes instead of prison uniforms, they can go outside, and there are no more clanging iron cellblock gates.”

Hines and her students still provide legal services to individuals detained at Hutto. Even with the settlement in place and changes beginning to occur, Hines said that it is still very difficult to go there and see families held in such confinement. “The conditions at Hutto are not just distressing,” she said. “They are fundamentally in conflict with what Congress intended as a proper way to deal with detained families.”

Before 2001, apprehended immigrant families (a category that includes asylum seekers, who are placed under arrest and considered to be in the U.S. illegally until their status is determined) most typically were released with an assigned date to appear in court. After 2001, in an environment that placed heightened emphasis on security, government policy called for the detention of more apprehended immigrants, including those accompanied by children, to provide a greater likelihood that they would appear for their court dates.

The first facility to house detained immigrant families was established in a former nursing home in Berks County, Pennsylvania in 2001. With about eighty-four beds, it is run by the county. The much larger Hutto is the only other facility used to detain families.

In a joint report published earlier this year, the Lutheran Immigration and Refugee Service and the Women’s Commission for Refugee Women and Children, while declaring “the system of family detention is overwhelmingly inappropriate for families,” observed that children at the Berks County institution were generally treated more humanely than those held at Hutto.

The House committee overseeing the budget for the Department of Homeland Security (DHS) has regularly described detention of families as a last resort. In 2005 it wrote: “The Committee expects DHS to release families or use alternatives to detention such as the Intensive Supervised [sic] Appearance Program whenever possible. When detention of family units is necessary, the committee directs DHS to use appropriate detention space to house them together.” In the Intensive Supervision Appearance Program, currently underway in nine American cities, immigrants are generally equipped with electronic bracelets and supervised by caseworkers to insure compliance with the terms of their release.

In 2006 the committee reiterated its expectation that “if detention is necessary,” DHS should “house these families together [in non-penal, homelike environments until the conclusion of their immigration proceedings.]”

Hines and her students take pride in the services they provide to individual Hutto detainees, and in their substantial part in obtaining the settlement that is changing the conditions of detention there. But many feel strongly that detention of families is an inappropriate policy and that even if detention must be used, the Hutto facility is the wrong place to do it.

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“I learned some important lessons about the law through this experience,” said Wagoner, in words that are echoed by the other Clinic students. “First, I got to see how a great practitioner like Professor Hines can make the law work quickly to address a big problem. And second, we all saw that there are larger matters of policy that can only be addressed through advocacy and activism beyond litigation. I know that for me, and I think for all of us, those are lessons that will make us

better and more effective attorneys no matter what kind of legal practice we pursue in the long run.”

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*Jerry de Jaeger is a contributing writer for the University of Texas School of Law alumni magazine.*

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Photo credit: Christina S. Murrey

*(left – right) Farheen Jan, clinic student; Elise Harriger, clinic student; Clinic Director and Clinical Professor Barbara Hines; Matt Pizzo, clinic student; Clinic Administrator Eduardo A. Maraboto; and Kate Lincoln-Goldfinch, clinic student, outside the Hutto facility in Taylor, Texas.*

## Houston Attorneys Give Immigrant Children a Voice in a Foreign Land

*By Mindy Riseden*

The courtroom is filled with young, fresh faces that have all recently been on an arduous journey to a foreign country—the United States. Virtually all of these children have fled abject poverty, but some have also sought refuge here because they have been abandoned, abused, tortured, or singled out for mistreatment by their own governments, gangs, or militia. These children, ages 10 to 17, have often traveled thousands of miles in dangerous conditions with scarce food or clothing. Although they do not understand the process, each will appear before an immigration judge in U.S. Immigration Court and face off—alone—against a seasoned lawyer working for the Department of Homeland Security (DHS) who seeks their deportation.

These children have never had the luxury of trusting anyone and therefore give apprehensive looks around the room to the well-dressed, but seemingly friendly people in the courtroom. It is then that a lawyer from Fulbright & Jaworski L.L.P. tells the children that they are in the firm’s mock courtroom and these volunteer lawyers are here to help them. After the 45-minute “Know Your Rights” presentation regarding immigration law, the volun-

teer attorneys then split up and interview the children to determine if a child may have a claim for asylum or some other form of relief. Of the 40 to 60 children that come each month, only one to three present compelling grounds for relief under U.S. immigration laws; other children are simply afraid to come forward.

John Sullivan, a Fulbright partner, normally practices in the areas of complex commercial disputes. Since 2005, however, John has provided representation for many of these young immigrants. He says it is unacceptable that so many children are forced to appear alone in immigration court before a judge, without understanding the language, much less the legal system.

John’s calling to work with immigrant children began with a young man named Young Zheng, who arrived from China in 2003 at age 14. Authorities in the Newark, N.J. airport became suspicious of Young and placed him in detention centers in Philadelphia and later in Chicago. Young, who was born in violation of China’s one child law and qualified as a tax burden to his family per the Chinese government, arrived in the U.S. with false documents via “Snakeheads,” human smugglers hired

by his father. Several months after his arrival in the US, Young learned that he was expected to find menial work in Chinatown in New York City to pay the \$65,000 smuggling debt to which his father had agreed.

After the DHS took Young into custody in 2003, Young spent the following two years living in a detention center and then with his uncle in Ohio. DHS allowed him to live with his uncle and attend school while his case was pending, as long as he continued to check in with the officials. During this time, Young may have been out of the detention center, but he still felt imprisoned at times with the Snakeheads' continuous deadly threats in demanding their smuggling debt.

Although Young continued to check in as required, immigration officers handcuffed him in 2005 without warning and informed him that he was being immediately deported to China. Immigration officers transported Young to Chicago's O'Hare Airport, where he was to board a plane bound for China. As he walked down the concourse, Young envisioned the ruthless Snakeheads waiting for him and began to panic, striking his head repeatedly against the wall of the jet way. This incident derailed the deportation effort for the time being, and DHS sent Young to a high security detention facility in Houston, pending new deportation papers and travel documents.

Once in Houston, John agreed to take on Young's case, naively unperturbed by Young's insurmountable legal position. John, associate Hannah Sibiski and an ever-growing team of Fulbright attorneys and summer associates worked on Young's case in an impassioned effort to prevent his delivery to the Snakeheads in China and, ostensibly, to save his life.

After months and countless hours of work and legal proceedings in five different courts across the country, John and his team finally got the ruling they needed: a 23-page Injunction Order from U.S. District Judge David Hittner of the Southern District of Texas (*Zheng v. Pogash*, 416 F.Supp.2d 550 (S.D.Tex. 2006)). Judge Hittner found that DHS's decision to deny Young the right to go to family court for relief was arbitrary, capricious and an abuse of discretion and, further,

that Young would suffer irreparable injury if the injunction were not granted. Young then prevailed in the family court, which found that his father had abandoned and neglected him by putting him in the hands of Snakeheads at the age of 14 and by disowning all responsibility for him. In the fall of 2006, Young obtained his Permanent Resident Card, which allows him to apply for U.S. citizenship in five years.

Young now lives in a loving home and attends accelerated classes at a local high school, maintaining an all-A average. A fund has been established for Young's education so he can fulfill his dream of attending college and one day becoming a biologist. John, Hannah, and other Fulbright & Jaworski attorneys have dedicated considerable time and energy to this project, which has not gone unrecognized. In 2006, the American Immigration Lawyers Association awarded Fulbright & Jaworski the National Pro Bono Award. Young's case also received repeated coverage in the *New York Times* and the *American Lawyer*.

With all that John and his team have given to this project, John consistently praises all of the other people who have helped them, especially noting invaluable guidance from University of Houston experts such as Anne Chandler, an attorney and professor with the immigration clinic, and Professor Joseph Vail, a former immigration judge. John is also grateful to Cristina Didone at CD Language Solutions, which donated time and interpreters to this project.

John says there is a great need for more help to make the program self-sustaining, and he encourages other attorneys to get involved. He says a lack of immigration law experience or the inability to speak other languages does not prevent an attorney from volunteering. John may be contacted at [jsullivan@fulbright.com](mailto:jsullivan@fulbright.com).

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*Mindy Riseden practices with Crain, Caton & James, P.C. She is a member of The Houston Lawyer editorial board.*

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## Catholic Charities Program Strives to Increase Representation for Detained Children

Under current immigration laws, children who are detained by Immigration and Customs Enforcement and placed in removal proceedings have a right to an attorney at **no** government expense. Many of these children are fleeing notorious Central American street gangs, others have suffered abuse, abandonment, or neglect, are orphans, or victims of human traffickers. These

children, who cannot afford representation, are expected to appear before an immigration judge without legal representation and prove their case.

The Saint Frances Cabrini Center for Immigrant Legal Assistance, an immigration program of Catholic Charities of the Archdiocese of Galveston-Houston, strives to assist these

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children who otherwise would be forced to negotiate the complex immigration system on their own.

The Cabrini Center Unaccompanied Immigrant Children program provides *Know Your Rights* presentations at each of the shelters and conducts legal intake and assessment of each child in custody. In 2007, the Cabrini Center interviewed over 900 children in custody at the Greater Houston area shelters.

Once immigration legal relief is identified, Maria Mitchell, staff attorney for the Unaccompanied Immigrant Children Program and pro bono coordinator, recruits and mentors volunteer attorneys from Houston law firms through a partnership with Houston Volunteer Lawyers' Program (HVLP), and through a pool of over 200 volunteer attorneys who have generously provided pro bono legal representation to clients in other programs at the Cabrini Center.

Attorneys are able to volunteer in a variety of ways. In 2007, pro bono attorneys from the law firm of King & Spalding obtained several Special Immigrant Juvenile Status visas for minors referred through the Cabrini Center Unaccompanied Immigrant Children Program. The law firm of Fulbright &

Jaworski has provided *Know Your Rights* presentations and the Immigration Clinic at the University of Houston Law Center is currently planning on providing the same type of services to children who have been reunified with their family in the Greater Houston area.

Attorneys from firms including Akin Gump Strauss Hauer Feld, Baker Hostetler, Baker Botts, Fulbright & Jaworski, Tindall & Foster, Bracewell & Giuliani, Greenberg Traurig, Godwin Pappas Ronquillo, Greer, Herz & Adams, and Quan, Burdette & Perez along with several solo practitioners have also provided pro bono legal representation for these children.

Attorneys interested in pro bono opportunities with the Cabrini Center may contact Maria Mitchell, pro bono coordinator at (713) 874-6570 or via e-mail at [mamitchell@catholiccharities.org](mailto:mamitchell@catholiccharities.org)

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*Contributed by The Saint Frances Cabrini Center For Immigrant Legal Assistance, Catholic Charities of the Archdiocese of Galveston-Houston.*

## Houston Reorganizes to Serve Unaccompanied Immigrant Children

*By Anne Chandler*

It had come down to this for Maria, a fifteen year old Honduran girl abandoned by her parents in the United States after the family had fled gang violence and desperate poverty in her home country. Could she, through an interpreter, and with only an elementary school education, manage to do what she had been coached to do in a few brief minutes by a caseworker for a national charity: explain to a Houston immigration judge apparently unfamiliar with the exact procedure of a little-known corner of the labyrinth known as section 101(a)(J)(27) of the Immigration and Nationality Act just how it was she was entitled to relief? The story had a predictable unhappy ending. She could not. The judge, burdened with a morning docket of 30 cases, swiftly ordered her deported just as many other immigration judges had done facing similar claims from what we now know as "Special Immigrant Juveniles."

The problem with Maria's attempt to secure the rule of law was not merely the merits of her case. To be sure, that was a contestable matter nestled in contestable immigration policies. The other problem was that she did not have an attorney to represent her in court. And this was no accident. Immigration law specifies that the government shall not pay for free legal

counsel to represent any "aliens," regardless of whether the "alien" is a wealthy immigrant business or a sixteen year-old timid girl like Maria seeking safe harbor.

And while pro bono agencies in Texas were reasonably well set up to handle landlord-tenant disputes, neighborhood issues, debt problems and other more traditional matters affecting the disempowered, they had relegated immigration claims, particularly those involving abandoned immigrant children, to the small handful of busy and already poorly compensated attorneys specializing in this complex field. Maria was the predictable result of that gap. That imperfection might have been perceived as tolerable in the not-so distant past when abandoned immigrant juveniles were a relative rarity in Texas. In recent years, however, as the economic and social situation in Mexico and Central America continued to deteriorate and as immigration to the United States from Africa, China and India continued to expand, it had become a glaring failure in our system of justice. Instead of 100 children, for example, being imprisoned in the greater Houston area on any given day awaiting deportation proceedings, there were now 300. A larger number were likely metaphorically imprisoned in the poverty and vulnerability that almost inevitably occurs when

young children, without education, and often with limited English or Spanish skills, find themselves abandoned in the complexities of modern America.

A collaboration of non-profit organizations, principally the Cabrini Center for Immigrant Legal Assistance of Catholic Charities Diocese of Houston-Galveston, Houston's largest pro bono clearinghouse, Houston Volunteer Lawyers' Program (HVLP), and the state's very finest law firms has now come, if not to the rescue, to at least regularize court representation of abandoned children with possible legal bases for staying in the United States. Some firms, such as Fulbright & Jaworski LLP, have hosted "Know Your Rights" presentations in their wood paneled mock trial courtrooms at their Houston downtown firm. Attorneys from their firm and the community volunteered several hours of their time to explain to the children what their rights are, what they should expect when they appear before an immigration judge, and what laws exist that may provide them a legal avenue to halt their deportation. Other firms, such as Tindall & Foster, LLP, have volunteered to act as attorney of the day, representing dozens of immigrant children that would otherwise have to speak on their own behalf before the immigration judges. HVLP has made representation of immigrant juveniles part of their regular array of cases offered to volunteers. All of these attorneys, many of whom may be brilliant in their own fields, but often lack knowledge of immigration law, are mentored by staff attorneys such as Wafa Abdin and Maria Mitchell of Catholic Charities' Cabrini Center. Wafa Abdin, Catholic Charities Legal director, expresses her appreciation of the partnership with HVLP because it has increased the pool of attorneys that are involved in the representation of unaccompanied minors. Without the involvement of pro bono attorneys, many of the unaccompanied minors that qualify for relief would not have legal representation in immigration court. For many of these minors, it could mean the difference between life and death.

The result of this collaboration has neither been any sort of massive reversal in the flow of children through immigration proceedings or any sea change in the outcome of most immigration cases. There are, however, a number of victories that may seem small when viewed from the large perspective of immigration law and policy, but that are truly cataclysmic in the lives of these children and occasionally transformative in the lives of the attorneys representing them. "Representing these immigrant children in proceedings has benefited many of our associate attorneys by giving them the opportunity to develop their skills at an earlier stage in their careers," says John Sullivan, an attorney at Fulbright & Jaworski, LLP. "Through this pro bono project, many of our associates are getting hands-on experience interacting with clients, opposing counsel, developing legal strategies and

appearing in court. Moreover, it gives our attorneys who have been involved a feeling of professional satisfaction from helping children who are not only at risk but have so very little," says Sullivan. Many get the sort of intensive legal training and client experience that is, frankly, difficult to acquire swiftly in the large firm environment where corporate clients are understandably unwilling to gamble multi-million dollar cases on litigation by novices. And some get the satisfaction sometimes difficult to acquire in commercial practice of using skills and training gained through years of hard work to genuinely and constructively engage in the life of another human being."

HVLP Executive Director, David Mandell, also sees the program as beneficial for immigrants and attorneys alike. "We were leery, at first," he said, "of expanding HVLP's docket over these sorts of cases given the scarcity of attorneys who could mentor them successfully. We didn't think we could just hand over a file to a tax attorney and say, 'here, figure it out.' With some hard work and some bridge-building, however, we've now put together what I would call a solid patchwork of educational materials and in-person support that lets attorneys go swiftly up the learning curve in taking on one of these cases. That's a win for everyone," he says.

Joe Vail, former immigration judge and Director of the University of Houston's Law Center Immigration Clinic, says he is delighted with the communities response to the increased need for representation of immigrant juveniles. "This is the modern Gideon's Trumpet," he says in an allusion to Clarence Earl Gideon, whose case created the constitutional right to counsel in state prosecutions where the defendant faced a year or more in prison. "We are proud to have our students, faculty and attorneys provide a hand to the many in the legal community who want to get involved but just need some support," Vail says. "I understand that it can be scary to get involved in what amounts to life-and-death matters for people whose culture and background can be quite different from our own. All the more so when the area of law involved is complex and unfamiliar. What we can perhaps do most to secure the rule of law, however, is to try to do less ourselves but to instead unleash the bravery of many of our lawyers in all walks of practice by using our knowledge and skills to make their fears manageable."

According to Mandell, the best way for interested lawyers to get involved is to contact Jamie Honeycutt, Pro-Bono Coordinator for HVLP, at [Jamie.Honeycutt@hvlp.org](mailto:Jamie.Honeycutt@hvlp.org).

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*Anne Chandler is a Supervising Attorney at the University of Houston Law Center's Immigration Clinic.*

# Give me Your Tired, Your Poor, Your Unaccompanied Children Yearning to Breathe Free

By Linda A. Brandmiller

Marlon was only eleven years old when he was apprehended by U.S. Customs and Border Patrol, still carrying the leather gloves and rope he had used to tie himself between the box cars on his long trip from Honduras to the U.S. Rigoberto arrived at the government shelter charged with caring for him, with his pockets bursting with small change. Case workers soon discovered that he had been singing his way through El Salvador and Mexico to pay for his travels to the United States.

While these stories are poignant examples of the relentless immigrant spirit exhibited by these young unaccompanied minors, they are not unique. Every year, thousands of children head to the U.S. to reunite with parents and siblings already here, to escape abusive family relationships in their home country, to find work to support themselves and their families or to go to school and make better lives for themselves.

Most often, detained unaccompanied minors come from El Salvador, Honduras, and Guatemala because children from Mexico are generally turned back at the border to be taken care of by their national social service agency. Once apprehended, children are detained at federal facilities funded through the Office of Refugee Resettlement (ORR), Division of Unaccompanied Children Services (DUCS).

Catholic Charities Archdiocese of San Antonio (CCAOSA) is one of 10 pilot projects in the country, funded through the Vera Institute of Justice to screen, educate, and orient children about their legal rights and the immigration court system, and develop, implement, and increase capacity of *pro bono* legal representation before the Executive Office for Immigration Review (EOIR). These sites were selected based on demonstrated need for legal representation of unaccompanied children in the proposed service area, experience providing services to immigrants and children, access to organizational and community resources, and creativity in approach to developing program models. CCAOSA works with three local ORR shelters, with a current capacity to house nearly 70 children. CCAOSA – Unaccompanied Minors Program provides a legal orientation presentation about the legal rights of these children. In addition, all children are individually interviewed in order to assess whether they might qualify for a legal remedy and if it is determined that they may have a basis to remain in the U.S., they are matched with a *pro bono* attorney who is mentored by CCAOSA and who will file the necessary application on their behalf.

Many children fear returning to their home country as a result of persecution for their religion, political affiliation, race, ethnicity or because they fall into a particular social group. Depending on the country conditions and possible proof of these claims, the child may qualify for asylum.

In some cases, the child has been the victim of a serious crime such as rape or assault while in the United States. If a law enforcement agency agrees to certify this claim, the child may qualify for a U-visa.

If the child has been abandoned, neglected or was the victim of abuse, if there is no appropriate family member in their home country or in the U.S. who can care for him, then the child may qualify as a Special Immigrant Juvenile and can be put into the federal foster care system.

Finally, in some instances, the child is identified as a victim of human trafficking. In these instances, they have been coerced, controlled and victimized in a commercial sense (generally as forced labor or in the sex industry) and the child may qualify for a T-visa.

A key component of this program is the recruitment and training of *pro bono* attorneys to accept these cases and assist children in pursuing a legal remedy. CCAOSA is working with large law firms, solo practitioners, local bar associations and St. Mary's University School of Law in order to address the unmet legal needs of these children.

Sadly, these children are voiceless victims. Were it not for the ongoing work of agencies such as Catholic Charities and the tireless dedication of a core of dedicated *pro bono* attorneys who donate their time and skills to assist these young children, they would be destined to fall through the cracks of the political system – certain to be re-victimized.

Attorneys are mentored throughout this process so knowledge of immigration law while helpful, is not a requirement. To learn more about unaccompanied minors or for information on how to volunteer with the program, please contact Melissa Moreno, Unaccompanied Minors *Pro Bono* Program Coordinator at (210) 433-3256 or at [mmoreno@ccaosa.org](mailto:mmoreno@ccaosa.org).

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*Linda A. Brandmiller is the Director of Immigration Services – Catholic Charities Archdiocese of San Antonio.*

## Volunteer Attorneys Partner With ProBAR to Assist Immigrant Children Detained in Rio Grande Valley

A 17 year old boy from Guatemala, Eswin is a typical ProBAR client. At the age of 11, Eswin's father was murdered and at age 14, his mother was struck and killed by an automobile. Eswin's sister worked as a domestic worker in the nearby capital city and would visit him occasionally. After the traumatic deaths of both his parents, Eswin was left to care for his disabled aunt who had suffered a stroke and could not walk or talk. Shortly after his aunt's death, Eswin, at the tender age of 14, decided to try to make it on his own. He moved north, first landing in Mexico where he worked for a towing company for almost two years, sleeping on the office floor at night. He eventually came to the United States hoping to find safety and his dream of once again having a family.

With the assistance of the South Texas Pro Bono Asylum Representation Project (ProBAR), Eswin won the right to remain in the United States. He will live with a foster family through the Office of Refugee Resettlement.

ProBAR is a project of the American Bar Association, the State Bar of Texas, and the American Immigration Lawyers Association. ProBAR is a national effort to provide pro bono legal services to immigrants and asylum seekers detained in the Rio Grande Valley of South Texas.

Currently, over 400 children ranging in age from newborns to 17 years of age are detained without family in the Rio Grande Valley. Mostly from Central America, these children are often fleeing severe domestic violence, sexual abuse, gang brutality, and abandonment leading to dangerous lives on the streets. These children come to the United States with hopes for a safe future. Upon entering the United States, however, these unaccompanied minors find themselves caught in a complicated legal process facing imminent removal to their home countries. Without ProBAR and its many volunteers, the children would face this daunting legal process alone.

Attorneys can volunteer with ProBAR in a variety of capacities depending on time and geographic constraints. For attorneys that are not available to provide full representation for a child seeking asylum, numerous other volunteer opportunities exist. Attorneys can assist with drafting briefs, researching country conditions and compiling supporting documentation – all of which can help a child obtain asylum. For example, Amberly Dattilo, a volunteer attorney in Houston unable to travel to the Rio Grande Valley, partnered with ProBAR's Children's Attorney Gladis Molina to represent a 17 year old child in asylum proceedings. While in Houston, Dattilo researched country conditions and prepared an Index of Supporting

Documents for the child's claim. Molina was able to represent the child in court, with the help of research and supporting documents compiled by Dattilo. Below is an excerpt of a comment written by the 17 year-old child who recently won asylum with the help of Molina and Dattilo.

... [I] want to tell you thank you very much for helping me on my case. Because of you and the other attorneys I won asylum, thank God. I would really like it if you kept on helping the other kids and if you can help them like you helped me... Goodbye, thank you for everything, take care, and keep doing this because God will reward you for all the good things that you do.

Translated by Lauren Fisher, Children's Paralegal

To help attorneys who are interested in volunteering, the Texas Young Lawyers Association and ProBAR created a training DVD, which includes testimonials from volunteer attorneys as well as unaccompanied children who have benefited from the assistance of pro bono attorneys. Additionally, this TYLA/ProBAR Unaccompanied Children's Project training video provides an overview of the immigration system, legal relief, and the process for volunteering. Attorneys viewing this DVD can receive up to 3.5 hours of CLE credit. For more information about ProBAR, contact Diane Eason at the ProBAR Children's Office at 956-365-3775 or via e-mail at [probar@sbcglobal.net](mailto:probar@sbcglobal.net).

*Contributed by ProBAR.*



*ProBAR Attorney Gladis Molina pictured with Eswin*

## Texas Tech University School of Law Hosts Faculty Update

Faculty from the Texas Tech University School of Law held its Second Annual *Law School Faculty Update for Legal Services Attorneys, Public Interest Practitioners and Pro Bono Attorneys* CLE program on September 27-28 in Lubbock. Texas Tech University Law School is the first law school in Texas to offer such a program, which evolved following recommendations from the Texas Access to Justice Law School Advisory Committee. Texas Tech Law created the Faculty Update as another opportunity for law school faculty to contribute their time and expertise in support of the important work of legal services attorneys in the delivery of legal services to poor Texans. By leveraging their resources, Texas Tech Law was able to offer a quality CLE program, without cost to legal services attorneys, on an impressive array of topics relevant to their practice.

Professor Larry Spain, who serves as Director of Clinical Programs at Texas Tech Law School, organized the program. Professor Spain provided an update on recent family law cases of interest and facilitated an interactive discussion emphasizing the application of the rules of professional conduct when working with difficult clients. The seminar showcased Texas Tech Law School's finest faculty on topics such as negotiation skills, trial preparation and file organization, evidentiary issues, the deceptive trade practices act, ethics of client interview and witness preparation, and employment discrimination. The

following faculty members from Texas Tech's law school participated in this program: Professors Larry Spain, Wendy Ross, Patrick Metzger, Angela Laughlin, John Kraemer, Jorge Ramirez and Jarod Gonzalez.

In addition, Maricarmen Garza, an attorney with Texas RioGrande Legal Aid, presented on the overlap between family law and immigration law in the context of providing effective advocacy for domestic violence clients.

The *Faculty Update* was attended by more than 35 attorneys, with legal services staff attorneys from Advocacy, Inc., Legal Aid of NorthWest Texas, Legal Aid Society of Lubbock, Inc. and Texas RioGrande Legal Aid all in attendance. Additionally, private practice attorneys who agreed to take two pro bono cases from Legal Aid of NorthWest Texas attended this CLE for free. Following the CLE, participants expressed positive feedback regarding the program. One participant noted, "Great array of topics...I learned something from each presenter. Wonderful job! Thank you for putting on this CLE, a valuable program."

The *Faculty Update* was a great success and Texas Tech Law will continue to offer this program on an annual basis. In an effort to make the CLE program more widely available to legal services attorneys statewide, Texas Tech Law School intends to explore offering future programs by video conference or through distribution on CD.

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## Texas Appleseed Honors Former State Bar President Eduardo R. Rodriguez and Recognizes Law Firms for Outstanding Pro Bono Service

Texas Appleseed recently presented Eduardo R. Rodriguez, former President of the State Bar of Texas (2005-06) and Senior Partner in the Brownsville law firm of Rodriguez, Colvin, Chaney & Saenz, L.L.P., with the *2007 J. Chryse Dougherty Good Apple Award* at its Good Apple Dinner for championing pro bono legal service and diversity in the legal profession.

"We are pleased to honor an outstanding attorney who has served as a role model to fledgling lawyers and as a mentor to young people on every rung of the educational ladder," said

Texas Appleseed Executive Director Rebecca Lightsey.

In addition to honoring Rodriguez, Texas Appleseed also recognized several law firms for their outstanding service.

Vinson & Elkins LLP received the *2007 Pro Bono Service Award* for outstanding service to the children of Texas through the firm's work on Texas Appleseed's school-to-prison pipeline project.

Texas Appleseed also honored Greenberg Traurig LLP for their exceptional pro bono leadership, including work on the school-to-prison pipeline project and disaster relief, and

recognized Dewey & LeBoeuf LLP for their work on foster care and Mayer Brown LLP for their help on hurricane disaster relief.

“We owe our pro bono partners our deepest gratitude for providing the person power, the commitment, and the hard work to propel these projects forward. Texas Appleseed’s ability to make a difference in the lives of the low income and the disenfranchised in Texas is directly due to the hands-on involvement of our pro bono partners,” said Lightsey.

Rodriguez has an impressive record of success in the legal field that includes a commitment to pro bono and civic involvement. After earning an undergraduate degree from George Washington University in 1965 and his Juris Doctorate from The University of Texas School of Law in 1968, Rodriguez practiced criminal, family, and admiralty law with Hardy & Sharp in Brownsville.

His active involvement in pro bono legal work for the indigent—including serving on the Board of the Cameron County Legal Aid Society—attracted the attention of Governor Dolph Briscoe, who appointed him to the first Texas Advisory Council of the Legal Services Corporation.

In 1998, *Texas Monthly* recognized Eduardo Rodriguez as Best Defense Lawyer in South Texas. In 2000, he received the Honorary Order of the Coif from The University of Texas School of Law, where he has been active in efforts to recruit minority law students and has served as President of both the Alumni Association and the Alumni Executive Committee. He serves as a member of the Development Board of The University of Texas at Brownsville.

The law firms honored at the Good Apple Dinner, held at the Four Seasons Hotel in Austin, have also made outstanding pro bono contributions to Texas Appleseed’s social justice work in 2007.

Vinson & Elkins LLP attorneys Scott Fletcher and Elizabeth Pannill coordinated the efforts of more than 50 pro bono attorneys and paralegals conducting field interviews in Texas school districts as part of Texas Appleseed’s School-to-Prison Pipeline project. This year-long effort examined the intersection between school discipline policies, dropout rates, and juvenile incarceration. More than 30 attorneys and paralegals at Vinson & Elkins volunteered for this project.

Greenberg Traurig LLP sponsored an Equal Justice Works Katrina Legal Fellowship position at Texas Appleseed to address the complex legal issues surrounding relief for victims of Hurricanes Katrina and Rita. Greenberg Traurig attorneys also participated in the school-to-prison pipeline project.

Mayer Brown LLP continued funding a fellowship position at Texas Appleseed for a second year, “ensuring a sustained,

priority response to the legal challenges facing hurricane evacuees,” said Lightsey.

Stephen M. Ryan, an attorney with Dewey & LeBoeuf LLP in Houston, prepared a report for Texas Appleseed on the status of foster care reform in Texas. This report was referenced in recent testimony before the Texas Supreme Court in support of creating a Judicial Commission for Children, Youth, and Families. This report identifies the major challenges currently confronting the state’s foster care system.

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*Contributed by Texas Appleseed.*



*(Left to Right) Jim George, Texas Appleseed Board Chair; Eduardo R. Rodriguez, 2007 J. Chrys Dougherty Good Apple Award recipient; Tom Godbold, attorney with Fulbright & Jaworski L.L.P and former Chair of the State Bar of Texas Board of Directors (2005-2006)*



*(Left to Right) Scott Fletcher, Vinson & Elkins; Jim George, Texas Appleseed Board Chair; Elizabeth Pannill, Vinson & Elkins; Will Alexander, Vinson & Elkins*

## Legal Aid of NorthWest Texas Presents 7th Annual Women's Advocacy Awards



2007 Women's Advocacy Award Recipients (left to right) – Jana Barker, Ebby Halliday, and Lisa Blue

Legal Aid of NorthWest Texas recently presented its annual Women's Advocacy Awards, honoring distinguished members of the community who, through their sustained service and leadership, have made a positive and lasting impact on the lives of women living in poverty. Three awards are given annually. This year the "Business and Civil Leadership" award was presented to Ms. Ebby Halliday. Ms. Lisa Blue received the "Louise Raggio Women's Legal Advocate" award and Ms. Jana Barker, Executive Director of Brighter Tomorrows, received the "Non-Profit Executive" award. Honorees were presented with the awards at a reception generously hosted by Mr. and Mrs. Scott Ginsburg. Proceeds from the 7th annual event will support full-time staff attorneys dedicated to serving low income women who otherwise would go without legal advocacy. Since their inception in 2001, the Women's Advocacy Awards have raised more than \$250,000 to fund free civil legal aid for low income women seeking safety, security and lives free of domestic violence and abuse.

*Contributed by Legal Aid of NorthWest Texas.*

## Street Smart Austin: Educating Austin's Homeless

Texas RioGrande Legal Aid (TRLA) recently launched the new *Street Smart Austin* initiative aimed at educating Austin's homeless on their legal rights. The initiative begins with the release of a "Know Your Rights" guide regarding laws that affect the local homeless community.

Coordinated by Legal Aid for the Homeless and Texas C-BAR, both projects of TRLA, the initiative focuses on legal rights related to issues such as loitering, panhandling, and sleeping and bathing in public areas. The new guide provides information on 25 different legal issues affecting the homeless, penalties for breaking the law, and important community phone numbers. TRLA is working with partner organizations and the law firm of Hunton & Williams LLP to launch similar outreach in Houston, San Antonio, and Dallas. The initiative is being funded by NuStar Energy.

As Richard Troxell, director of Legal Aid for the Homeless, explained, "We are excited to begin a new way of reaching out

to the homeless in Austin. Our goal is to make sure they know their rights and are informed of the laws that affect them."

The Travis County Health and Human Services Department estimates that more than 3600 people in the area are homeless everyday. More than 30% of them are children and only 60% receive access to important services.

"TRLA remains a legal resource for the homeless in Texas," added Austin Branch Manager D'Ann Johnson. "Through *Street Smart Austin*, we will continue to educate those who do not have a roof over their head and the agencies that serve them on the rights and responsibilities of citizens in our legal system."

Individuals and organizations interested in the initiative and distributing the "Know Your Rights" guide should contact D'Ann Johnson at [djohnson@trla.org](mailto:djohnson@trla.org).

*Contributed by Texas RioGrande Legal Aid.*

## Paralegal Division Hosts its First Pro Bono Fair and CLE in Dallas

Increasing paralegal support in pro bono matters will lead to increased resources for poor Texans. Recognizing that paralegals are a key component in addressing the needs of low-income Texans, the Paralegal Division of the State Bar held its first Pro Bono Fair and CLE on November 12 in Dallas.

Stephanie Hawkes, Paralegal Division Director for Dallas and Ellis Counties and coordinator of this CLE luncheon and fair, stated, "The goal of the event was to bring the paralegals to the agencies, so that they could learn about the services offered to the poor and how they, as paralegals, could help, within or outside of their own office."

Keynote speaker, Hon. Elizabeth Lang-Miers from the Fifth District Court of Appeals in Dallas, spoke to attendees about the needs of poor Texans and the ways that paralegals can assist attorneys on pro bono matters. In her presentation to the approximately fifty participants at the event, Hon. Lang-Miers stressed that paralegals possess skills that are invaluable to attorneys. By using their specialized knowledge, paralegals can

help ensure that poor Texans receive the legal assistance that is desperately needed.

Several non-profit legal services agencies were on hand to answer questions about existing pro bono opportunities in the Dallas area, including Advocacy, Inc., Catholic Charities of Dallas, Dallas CASA, Dallas Legal Hospice, Dallas Volunteer Attorney Program, Genesis Women's Shelter, Human Rights Initiative of North Texas and Legal Action Works.

Paralegal Division President Patricia Giuliano emphasized that educating paralegals about the need for pro bono legal assistance and encouraging paralegals to share their talent and expertise by participating in pro bono legal activities is a priority for the division. She further explained that paralegals are uniquely qualified to assist attorneys on pro bono cases because of their firsthand knowledge of the legal process. She urged all attendees to contribute a few hours each month so that paralegals can truly make a difference in the lives of poor Texans.

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## Free Help for Victims of Identity Theft

Texas Legal Services Center has received one of four discretionary grants from the U.S. Department of Justice, Office of Justice Programs, Office for Victims of Crime, to combat identity theft and financial fraud. The grant will fund the Victims Initiative for Counseling, Advocacy, and Restoration of the Southwest – known to its clients as VICARS. "For too long identity theft victims have been left on their own to resolve the destruction left by criminals. The recipients of these grants are blazing new trails in improving crime victims' access to rights, and we are pleased to support their efforts," stated John W. Gillis, Director of the Office for Victims of Crime. The four grant recipients are Texas Legal Services Center, the Identity Theft Resource Center, the Maryland Crime Victims' Resource Center, and Atlanta Victim Assistance's "Stop Atlanta Fraud Empower" program.

Randall Chapman, Executive Director of Texas Legal Services Center, noted, "Identity theft is escalating in the number of crimes committed, the dollars lost to victims and businesses, and the complexity of schemes used to steal identities. This grant will enable us to help victims restore their credit, preserve their identities, and recover financial losses." The southwestern

United States has been disproportionately affected: Texas, Colorado, and New Mexico, are among the top ten states in per capita identity theft victims according to data compiled by the Federal Trade Commission in 2006. "VICARS provides a range of free services for victims of identity theft and financial fraud including assistance with reporting to proper authorities, reacquiring identity, and restoring credit," stated Bruce Bower, Deputy Director of Texas Legal Services Center. The program serves residents of Texas, Colorado, New Mexico, and Oklahoma and is easily accessed through a toll free telephone number.

For more information about VICARS, call 1-888-343-4414.

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*Contributed by Texas Legal Services Center.*

*VICARS is a program of the Texas Legal Services Center supported by Grant No. 2007-VF-GX-K032 awarded by the Office for Victims of Crime, Office of Justice Programs, U.S. Department of Justice. Points of view in this document are those of the author and do not necessarily represent the official position or policies of the U.S. Department of Justice.*

## Lone Star Legal Aid's Former Board Chair Appointed to Fifth Circuit Court of Appeals

Judge Jennifer Walker Elrod, the first Board Chair of Houston-based Lone Star Legal Aid, was confirmed by the U.S. Senate on October 4 to serve on the Fifth Circuit Court of Appeals, which hears cases from Louisiana, Mississippi, and Texas.

Elrod acted as a director of Lone Star Legal Aid and one of its predecessors for several years leading up to her 2002 appointment as a District Court Judge for Harris County, Texas.

Lone Star Legal Aid leaders credit Elrod, a native of Port Arthur, Texas, for her dedication to the agency's client population. In particular, Paul Furrh, Chief Executive Officer, notes that Judge Walker Elrod "has great appreciation and understanding of the issues affecting rural East Texas and its residents."

"Judge Walker Elrod brought freshness to our Board of Directors. Combining her corporate legal background with a genuine concern for low-income clients, she quickly went to work on board committees and earned the respect of both the staff and her fellow board members," said Dwayne Bilton, Chief Operating Officer of Lone Star Legal Aid. "Judge Walker Elrod brought to the district court bench the same scholarly, hard-working, yet caring philosophy that made her successful in her legal career. I am convinced that she will be a tremendous and worthy addition to the federal court system."

*Information provided by Lone Star Legal Aid.*

## Dallas Volunteer Attorney Program Holds Silver Anniversary Pro Bono Awards Celebration

The Dallas Volunteer Attorney Program (DVAP), a joint program of the Dallas Bar Association and Legal Aid of NorthWest Texas, recently celebrated 25 years of pro bono in Dallas. On October 4, DVAP held its Silver Anniversary Pro Bono Awards Celebration at the Belo Mansion to honor law firms and attorneys for their volunteer efforts in providing legal services to Dallas' low-income residents. This year's prestigious Pro Bono Law Firm Award was presented to Baker Botts, L.L.P. for its outstanding pro bono contributions. Robert M. Castle, III, an associate with Bracewell & Giuliani, LLP, received the Pro Bono Lawyer of the Year Award. A special award was presented to the trailblazers who, in 1982, established the first legal clinic in Dallas, which has since grown into five clinics each month, assisting thousands of clients. The founders of that first clinic were Will Pryor, Hon. Brenda Garrett Green, Bill Grabinski, Hon. Merrill Hartmann, and Chris Reed-Brown. The Outstanding Pro Bono Mentor Award was bestowed on Barkley T. Miller, a wills and estate planning specialist who is an invaluable resource to DVAP's volunteer attorneys.

Steve Blow of the Dallas Morning News presided over the ceremony, and Beverly Godbey, the Dallas Bar Association

President, and Stanley Mays, Chair of the Board for Legal Aid of NorthWest Texas, presented the awards to the deserving recipients.

*Contributed by Legal Aid of NorthWest Texas.*



*Among the founders of the first legal clinic in Dallas were (left to right) Will Pryor, Hon. Brenda Garrett Green, Bill Grabinski, Hon. Merrill Hartmann, and Chris Reed-Brown.*

## Human Rights Initiative of North Texas Presents 2007 Angel of Freedom Awards

Human Rights Initiative of North Texas (HRI), a nonprofit agency in Dallas, has recently announced the 2007 recipients of the prestigious Angel of Freedom Awards. This year, Angel of Freedom Awards were presented to the Texas Bar Foundation, Ms. Kathy Haecker and Sidley Austin LLP. The awards presentation took place at the Annual HRI Thanksgiving Event, held November 5 at The Trammell & Margaret Crow Collection of Asian Art in Dallas.

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

Human Rights Initiative of North Texas provides free legal representation and social services to victims of human rights abuses and serves as a community resource on international human rights issues. Each year, approximately 50,000 people from around the world are granted asylum in the United States. Those granted asylum have suffered tremendous persecution and torture in their native lands. HRI also assists indigent immigrants with special abuse issues, such as women and children that are victims of domestic violence.

The Texas Bar Foundation (TBF) has supported the work of HRI since the inception of the agency. TBF was one of the first foundations to support HRI legal programs. Through the years TBF has consistently supported HRI's legal outreach to poor communities, training programs for HRI's extensive pool of pro bono lawyers, and most recently funded video programs that will be used to further explain the legal process for HRI volunteer attorney trainings. HRI is very proud to have the long-term support of the Texas Bar Foundation and looks forward to years of continued partnership. Texas Bar Foundation Board of Trustees David R. McAtee provided the following comment, "The Texas Bar Foundation is deeply touched by this tremendous honor. But truly, the outstanding work of the Human Rights Initiative of North Texas that we have supported over the years is the real angel of freedom for those in need."

Kathy Haecker, a Crime Victims Liaison with the Hurst, Texas Police Department (supporting Hurst, Euless and Bedford), has been critical to reaching many of the clients in need of assistance from HRI in 2006-2007. She initiated contact with HRI in her role as Crime Victims Liaison, seeking assistance for immigrant residents in the mid-cities areas of the Dallas/Ft. Worth Metroplex who have been victims of very serious violent crimes. Ms. Haecker exemplifies the type of relationship HRI seeks to build with

each community and law enforcement agency. Without key partnerships such as this, HRI would not be able to complete its mission. HRI recognizes the considerable contribution Ms. Haecker has made in the lives of these victims and is extremely grateful to her for her role in this life-saving process. Ms. Haecker remarked that she is "amazed, overwhelmed and honored to receive this award." She added that she is "glad to be a part of helping people and thinks it is sad that there are victims like this here in the United States and is happy to be part of doing something about it." She also wished to recognize the police forces in Hurst, Euless and Bedford who made this effort possible.

Sidley Austin, LLP has significantly contributed its talent and resources to assist the clients of HRI. Sidley has a long tradition of providing pro bono services, with a policy that strongly encourages all attorneys to devote time to pro bono legal matters. Sidley has more than 1,700 attorneys around the globe, practicing in virtually every area of substantive law. A majority of the firm's Dallas attorneys have become involved with HRI's legal matters, donating more than \$200,000 in legal services. Without the support of Sidley Austin, HRI would not have had the capacity to assist many of the clients served by this expert legal pro bono team. Jim Bradley, Managing Partner, of the Dallas office, said, "We are honored to be notified that the Dallas office of Sidley Austin, LLP has been selected by the Human Rights Initiative of North Texas as one of the recipients of its prestigious Angel of Freedom awards for 2007. We are pleased to join forces with other volunteers in our community to promote international human rights for those who flee persecution in their country due to religious, political, gender or ethnic issues. The lawyers of Sidley Austin who have donated their time to this important cause are grateful for the support provided to them by the full-time professionals on the staff of the Human Rights Initiative. We look forward to the opportunity to continue to provide pro bono services in the future - to provide hope for those who struggle for freedom and equality from around our troubled world."

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*Contributed by Human Rights Initiative of North Texas.*

## Galveston Judges Support Voluntary Pro Bono

On April 18, 2000, every district, county, and associate judge in Galveston County signed a resolution supporting voluntary pro bono service by all attorneys practicing in Galveston County. On August 15, 2007, the judges in those courts renewed their strong support of voluntary pro bono services.

The twelve judges signed the new resolution, reminding lawyers of their ethical obligation to provide legal assistance to poor people. The resolution encouraged “each and every” attorney practicing in Galveston County to “make themselves available for referrals from the Galveston County Bar Association Pro Bono Committee.” The Committee works with Lone Star Legal Aid (LSLA) to refer cases in many areas of the law including, family, probate, and guardianship.

Steve McIntyre, managing attorney of LSLA’s Galveston office and member of the Pro Bono Committee, said, “We really appreciate the hard work of the bar over the last seven years. I hope this renewed public commitment by all our judges will persuade more attorneys to do pro bono work. Helping those less fortunate and providing legal services to the poor and working poor is a way lawyers in our county can give back to the community.”

For more information about the resolution, contact Michelle Bassett, President of the Galveston County Bar Association, at [mbassett@mebassett.com](mailto:mbassett@mebassett.com) or Jeff Kilgore, President-elect, at [mediate4u@yahoo.com](mailto:mediate4u@yahoo.com).

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*Contributed by the Galveston County Bar Association.*

### POVERTY LAW PRACTICE

## HOUSING UPDATE

*By Robert Doggett*

### *Housing Authority Policy Held Illegal*

On January 3, 2008, a federal court struck down a housing authority policy that required applicants to obtain guardianships for children who were not their own in order to be eligible for assistance. The court has given the housing authority 60 days to come up with another policy that does not violate the Fair Housing Act’s prohibition on familial status discrimination. This decision should open the door for many more poor families, who have children in their custody with written permission of a parent, to obtain affordable housing. Although the court declined to grant the plaintiff damages, the case is a major victory. *Ortega v. Housing Authority of Brownsville*, No. B-06-199 (S.D. Tex. January 3, 2008). For more information, contact Fred Fuchs or Julie Balovich at Texas RioGrande Legal Aid.

### *Texas Supreme Court Trumps Constitution*

A recent issue of *Legal Front* (Vol. 8, No. 3, Summer 2007, p 24), mentioned the case of *LaSalle Bank Nat’l Ass’n v. White*, 217 S.W.3d 573 (Tex. App.—San Antonio 2006, pet. granted). Without needing oral argument, the Texas Supreme Court quickly reversed the entire San Antonio appellate court (sitting en banc) and specifically held that the Texas Constitution does not trump the judicial doctrine of equitable subrogation. So, a client may have an illegal home equity loan, which would normally entitle the borrower to a release of the lien and all payments made on the loan; however, the forfeiture provision in the Texas Constitution does not wipe out the entire debt if

part of it was used to refinance an otherwise valid prior lien. Please note the court must still find equity exists, so discovery into all the bad acts of the lender is warranted. *LaSalle Bank Nat’l Ass’n v. White*, 51 Tex. Sup. J. 259, 2007 Tex. LEXIS 1129 (Tex. 2007).

### *Home Equity Law Changes, But Commissions Need Over Six Months to Comply*

With the passage and adoption of H.J.R. 72 in November 2007, Texas home equity lending law changed (effective December 4). As some of the changes will impact the interpretive rules adopted by the Texas Finance and Credit Union commissions, the commissions have requested that the appellate court abate the case currently challenging some of their rules (*Finance Commission, et al. v. ACORN, et al.*, Third Court of Appeals, No. 03-06-00273-CV). Although the voters approved the changes to the constitution in November, the commissions are requesting that the court abate the case until June 2008 so they have time to modify the rules impacted by the changes to the constitution. (Meanwhile their current rules are arguably valid and safe harbors for lenders to continue to use. Tex. Const. art. XVI, § 50(u).) The commissions have met to issue rules in other matters, and they admit that their home equity rules are now incongruent with the highest law of the state and will of the voters, but they claim to need six more months, it seems, to figure it all out.

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

## New Regs Coming. What did you do to improve them?

By Robert Doggett

Per Senate Bill 1520, property tax loans are now more regulated, but much of the new law is still to come by administrative rule. S.B. 1520, Tex. Leg. 80th, R.S. (effective Sept. 1, 2007). By the time you read this, Rules 89.504, relating to disclosure, and 89.601, relating to limitations on closing costs, will likely have been adopted by the Finance Commission. 7 TAC, Part 5, Chapter 89. Property tax loans are the payday loans of home lending, and the Texas Legislature saw fit to try to eliminate some of the abuses that have been surfacing of late, but they delegated much of their authority to the Office of the Consumer Credit Commissioner and the Finance Commission. (Besides disclosure and a cap, the new law also requires either judicial foreclosure or the hybrid 736 foreclosure application process that had been solely used for home equity loans.) The property tax lenders provided the agency with comments attempting to persuade it that they provide a wonderful service to people and that their closing costs should be capped at a high level so that they can help as many people as possible. Let the market forces keep costs low, presumably. What might you say in response? Or, rather, what did you say in response?

There are hosts of regulations that affect our clients, and we have a unique ability to provide real world comments to agencies. The staff of these agencies actually seek out our comments because we are often the closest to the problem from the consumer side. We are not prohibited from submitting written comments in public rule-making proceedings per Legal Services Corporation (LSC) regulations either — an advocate need only keep track of the time spent and any written materials provided to the agency, charge the time to another source besides LSC, and report the activity on a six month report. You do not have

to be in Austin, have deep pockets, or have hoards of people to submit comments with you to impact an administrative agency. You do not have to list client names or other confidential information. You can merely submit a comment on a proposed rule by letter or even email. Besides property tax loan rules and home equity loan rules, there are manufactured housing rules, car transaction rules, consumer debt rules, tax refund anticipation loan rules, and the list goes on and on (and these are currently being amended by the agencies). The industries affected by these rules are very organized. Why aren't we? In the format of the wonderful Donald Rumsfeld:

1. Are comments to rules important? Absolutely. Agencies listen to comments and sometimes modify the rules.
2. Do the rules affect our clients? Everyday.
3. Isn't somebody doing these already from the consumer side? You would be surprised.
4. Is submitting a comment easy? Yep.
5. Might we divide up different rule categories to different advocate teams? Sounds good to me.
6. Is this one more thing you don't have time for that management may not emphasize? Probably.
7. Should we do this anyway? No doubt.

*Check out [www.foreclosurebuzz.org](http://www.foreclosurebuzz.org) for the latest foreclosure information. If you wish to contribute to the site, contact Robert Doggett at [rdoggett@trla.org](mailto:rdoggett@trla.org).*



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

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## Texas RioGrande Legal Aid Partners with ABA on Standards for Representation in Civil Protection Order Cases

The American Bar Association (ABA) Commission on Domestic Violence has released the first ever standards for legal representation in civil protection order cases.

The new standards focus on the intersection of domestic violence, sexual assault and stalking in regards to civil protection orders, and address how culture, language, immigration status, age and/or disability may affect representation of clients.

Texas RioGrande Legal Aid attorneys Laura Martinez, Ramona Natera, and Kevin Dietz—all domestic violence experts—partnered with the ABA and other organizations to

help develop the standards. In addition, staff from many other LSC-funded programs also contributed to the development of these standards.

“Texas RioGrande Legal Aid is proud to have partnered with the American Bar Association for this project. These standards are an important tool in providing quality legal services to victims of domestic violence and in helping them rebuild their lives and the lives of their families,” said Dietz.

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*Information provided by the Legal Services Corporation.*

# Congress Considers Ways to Help Public Defenders, Civil Legal Aid Attorneys Cope with Law School Debt

By Richard Goemann and Don Saunders

Washington's long, hot summer has provided supporters of loan repayment assistance legislation with real reason for hope for relief for civil and criminal justice attorneys faced with staggering levels of law school debt. For many of these attorneys, debt load and relatively low public interest salaries are impenetrable barriers preventing them from pursuing careers as public defenders or civil legal aid attorneys. As this article goes to press, three major pieces of relevant legislation have either passed or are proceeding successfully through the legislative process.

## I. Income-Based Repayment

The College Cost Reduction Act (H.R.2669), passed by Congress in early September, includes Sections 203 and 401 providing for "income-based repayment (IBR)" options for federal educational debt for public interest lawyers (and many others embarked on long-term public service careers).

Section 203. This provision, created by Senator Edward Kennedy (D-MA), provides a new repayment/forgiveness option, an improved model of the prior "income-contingent repayment (ICR)" program which has been on the books since 1993. Most government-guaranteed loans are eligible for participation under Section 203 and there is no prerequisite requirement to consolidate loans prior to electing an IBR plan. The essential benefit of an IBR plan is that it caps a borrower's payment at roughly 15 percent of her adjusted gross income minus 150 percent of the poverty level.

Professor Philip Schrag from Georgetown Law School, a leading proponent of the legislation, estimates that, for a typical borrower owing \$100,000 with a \$40,000 salary, monthly payments during the first year would be reduced from \$1,151/month to \$309/month. After 25 years, the IBR plan allows the remainder of the loan to be forgiven. This program is most valuable for helping make loan payments affordable for attorneys with particular financial needs during a given period. Few will likely see the 25-year forgiveness period as an incentive to stay in public interest law. The provision is not tied to the performance of public interest work by the participant.

Section 401. In combination with Section 203, this section provides a very promising approach to enabling public interest lawyers to pursue careers in indigent defense or civil legal aid. A borrower may use the affordable IBR repayment level specified by Sec. 203, but if the borrower either has a federal direct loan or consolidates her education debt into a federal direct consolidation loan before starting to repay the debt and then works in full-time public service for 10 years, the remaining

balance is forgiven at the end of that time, rather than after 25 years. The bill guarantees borrowers with government-guaranteed bank loans the right to consolidate to take advantage of this program. Public service includes civil legal aid, public defense, and in addition, all employment by governments and by organizations that are exempt from tax under Sec. 501(c)(3) of the tax law. Borrowers who have direct loans or who consolidate now may start counting the ten years on Oct. 1, 2007.

The provisions of this debt relief and 10-year forgiveness bill hold great potential in helping employers to retain civil legal aid and criminal indigent defense attorneys. The bill can be viewed at [http://kenedy.senate.gov/imo/media/doc/HR2669\\_conf\\_report.pdf](http://kenedy.senate.gov/imo/media/doc/HR2669_conf_report.pdf). An excellent article by Professor Schrag explaining the program and how to use it can be found at: <http://www.law.georgetown.edu/news/releases/documents/Forgiveness.pdf>

A good Web site containing additional information can be found at: <http://projectonstudentdebt.org>

For more information, contact Don Saunders, NLADA director of Civil Legal Services at [d.saunders@nlada.org](mailto:d.saunders@nlada.org).

## II. John R. Justice Prosecutors and Defenders Incentive Act of 2007

The John R. Justice (JRJ) Prosecutors and Defenders Incentive Act of 2007 would benefit the criminal justice system by creating a student loan repayment program for law school graduates who wish to pursue careers as prosecutors or public defenders. NLADA began developing support for loan repayment assistance for defenders in the early part of this decade under the leadership of former Defender Legal Services Director Scott Wallace. Through the years, we have built partnerships with other advocacy organizations and have returned to Capitol Hill, often supported by dedicated members of the American Council of Chief Defenders. It has been that persistence over the years combined with the dedication of the ACCD and our willingness to reach out to both likely and unlikely allies that has brought us to the brink of passage.

The bill establishes a program of student loan repayment for borrowers who agree to remain employed for at least three years, as state or local prosecutors or as state, local, or federal public defenders (note that federal prosecutors are already eligible for loan relief through existing federal programs). It allows eligible attorneys to receive student loan debt repayments of up to \$10,000 per year, with a maximum aggregate over time of \$60,000. The legislation would authorize up to \$25 million per

year for loan repayments. The program would be administered by the Department of Justice. The chief sponsor of JRJ in the Senate is Senator Richard Durbin (D-IL). Representative David Scott (D-GA) sponsored the House version, which was passed earlier this year on the House floor. The House added several amendments to the Scott version, including a cap and sunset provision, which make it less desirable than the Durbin bill. Due to a hold placed upon the bill by Senator Coburn (R-OK), Senator Durbin moved to include JRJ as an amendment to the Higher Education Amendments (HEA) Act (S.1642) on July 23. The HEA was managed on the floor by Senators Kennedy (D-MA) and Enzi (R-WY). The Durbin motion was agreed to by a voice vote, thus moving the consideration of JRJ to the House Committee on Education and Labor.

For more information, contact NLADA Director of Defender Legal Services Richard Goemann at [r.goemann@nlada.org](mailto:r.goemann@nlada.org).

### III. Harkin Civil Legal Assistance Loan Repayment Act

The civil repayment bill, introduced by Senator Tom Harkin (D-IA), authorizes up to \$10,000,000 for aid to “civil legal assistance” attorneys. Participants can receive up to \$6,000 per year up to a total amount of \$40,000 per participant. Under the bill, the Department of Education would be the agency administering the program. During the aforementioned Senate consideration of the Higher Education Amendments Act, Senators Harkin and Ben Cardin (D-MD) moved to include the civil bill as a second degree amendment to the John R. Justice amendment. Senator Durbin agreed to the inclusion and the Harkin civil loan repayment measure was likewise added to the HEA. That bill passed the full Senate on July 24. The amendment is identical in terms to S.1167. That bill can be viewed at [http://www.nlada.org/Civil/Civil\\_GovRelations/Harkin\\_Bill](http://www.nlada.org/Civil/Civil_GovRelations/Harkin_Bill).

### Prospects for the Fall

Now that the Higher Education Amendments Act has passed the Senate, we will turn our attention to the House to ensure the inclusion of similar authorizing language for the John R. Justice bill and the Harkin measure covering civil legal assistance attorneys.

While no House version of the HEA has been introduced to date, proponents speculate that the House will consider its own version of the HEA prior to the fall adjournment. Rep. George Miller (D-CA), chair of the House Committee on Education and Labor, has indicated his intention to do so once the committee takes up the No Child Left Behind legislation.

NLADA is working in coalition with a number of groups in support of both the Durbin/Scott bills and the Harkin legislation. We are acutely aware of the huge hurdles faced by public defenders and civil legal aid attorneys when confronted by their often colossal debt burdens and will take every possible step to ensure the successful passage of both of these bills.

With the income-based repayment and forgiveness provision already enacted and a positive outlook with regard to the two direct payment bills pending in the House, we are very optimistic that some meaningful federal loan repayment assistance will become a reality this fall.

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*Richard Goemann is the National Legal Aid & Defender Association (NLADA) director of Defender Legal Services. Don Saunders is the NLADA director of Civil Legal Services.*

*This article originally appeared in the September-December 2007 issue of the NLADA magazine Cornerstone and is reprinted with permission from the NLADA.*

## FEMA, ABA Enter into New Agreement on Disaster Services

Subsequent to a lawsuit filed by Texas RioGrande Legal Aid (TRLA) against Federal Emergency Management Agency (FEMA), alleging that FEMA was wrongfully limiting TRLA's access to disaster victims, the American Bar Association (ABA) and FEMA have entered into a new agreement on disaster services provided nationwide.

The new agreement eliminates a provision in an earlier agreement that prohibited legal services providers from assisting, or even advising, disaster victims on potential claims against FEMA, or any government entity. The prohibition applied to the disaster hotline maintained by the State Bar of Texas, as well as legal services staff and volunteers who were onsite at FEMA's Disaster Recovery Centers (DRC's). Even before the agreement

was finalized, the State Bar decided that its hotline would continue to forward calls to the appropriate legal aid programs without regard to FEMA's objections.

Because the new ABA/FEMA agreement essentially mooted the First Amendment issues raised in TRLA's lawsuit, TRLA dismissed its lawsuit without prejudice. TRLA hopes that the new agreement can be implemented without any further need for litigation. Indeed, pursuant to the new agreement, TRLA and FEMA worked effectively to assist disaster victims affected by Tropical Storm Erin. TRLA attorneys wish to continue focusing on providing services directly to disaster victims, and hope that the policy choices that led to the past litigation have been reversed so that no further litigation will be necessary.

## Supreme Court Agrees to Hear Texas Right-to-Counsel Case

The United States Supreme Court announced that it has agreed to decide exactly when an indigent defendant has a constitutional right to appointed counsel in *Rothgery v. Gillespie County*, No. 07-440. The Court's decision will have a major impact on the legal rights of poor people across the United States by clarifying when a poor person has the right to see a lawyer after arrest.

The case stems from the arrest of Walter Allen Rothgery in Gillespie County, Texas in July 2002. Though he repeatedly asked for a court-appointed attorney, Rothgery was not appointed one until six months later in January 2003. Appointed counsel promptly proved Mr. Rothgery's innocence and the charges against him were dismissed.

Rothgery filed suit against Gillespie County for violating his Sixth Amendment right to counsel because he could have avoided jail time had an attorney been appointed promptly. A federal district court ruled against Rothgery and that decision was upheld by the United States Court of Appeals for the Fifth Circuit.

The case is spearheaded by Austin attorney Andrea Marsh. Formerly of Texas RioGrande Legal Aid (TRLA) and the American Civil Liberties Union (ACLU), Marsh now directs the Texas Fair Defense Project. Mr. Rothgery's case originated at TRLA and TRLA has remained involved in the litigation as part of its longstanding efforts to protect the civil rights of poor people who become involved in the criminal justice system.

According to TRLA attorney Jerome Wesevich, "The decision by the Fifth Circuit would have allowed people to be jailed for six months without a lawyer. We believe that the Fifth Circuit's opinion violated settled law of the Supreme Court. The Supreme Court's decision to hear the case is a very hopeful sign for everyone who seeks criminal justice, but particularly for poor people in Texas."

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*Information provided by Texas RioGrande Legal Aid.*

## Bankruptcy Judges' New Standing Order Promotes Pro Bono Work In The Southern District Of Texas

*By Johnathan C. Bolton*

Since the year 2000, consumer bankruptcy filings have increased at an alarming rate. Many bankruptcy petitions are being filed by debtors on a pro se basis. Many of those filing are the working poor or other low-income debtors—people who could most benefit from the services of an experienced lawyer.

Prior to 2005, bankruptcy attorneys from small and large firms alike volunteered to provide legal counsel in these cases. However, with the enactment of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 ("BAPCPA") came new provisions in the Bankruptcy Code that wreaked havoc on the ability of attorneys to represent bankruptcy debtors on a pro bono basis.

Specifically, section 101(12A) of the Bankruptcy Code, as revised by BAPCPA, created and defined the term "debt relief agency" and placed a great number of restrictions, affirmative obligations and potential liabilities upon any attorney or law firm bearing that unhappy designation. The term has had a chilling effect on many eligible pro bono bankruptcy service providers.

For example, Section 526 of the Bankruptcy Code imposes potential liability on attorneys in a "debt relief agency" for any statement made by an assisted person in a document filed in a case if such statement "should have been known" to be untrue or misleading. Section 527 similarly requires, among other

things, that a debt relief agency providing bankruptcy assistance must conduct a "reasonable inquiry" regarding the information for inclusion on the petition, schedules or statement of financial affairs. Finally, section 528 requires, among other things, that a debt relief agency "clearly and conspicuously use the following statement in any advertisement: 'We are a debt relief agency. We help people file for bankruptcy relief under the Bankruptcy Code.' or a substantially similar statement." This compulsory "disclosure" seemed especially inappropriate for larger law firms whose bankruptcy sections are almost exclusively oriented toward representation of creditors, creditors committees and trustees in business cases. In many such firms, the only "debt relief" work for consumers had been done on a strictly pro bono basis. For them, the simple way to avoid having to carry the "debt relief agency" moniker imposed by BAPCPA was to discontinue all pro bono representation of consumer debtors.

The Bankruptcy Section of the Commercial Law League of America recently conducted a survey to get a sense of how bankruptcy practitioners have reacted to BAPCPA. Some attorneys surveyed stated that their firms had affirmatively determined that they would do no more consumer debtor work, and some cut out all debtor representation, including those debtors who would proceed under the new chapter 11 provisions

for individuals. A third of respondents said that pro bono representation had ceased because of BAPCPA, and nearly 13 percent said the amount of pro bono work they do has decreased. In a related question, 28 percent of respondents said they had noticed an increase in pro se filings.

On September 11, 2007, all six of the Bankruptcy Judges of the Southern District of Texas entered a standing order (the "Standing Order") that exempts attorneys taking pro bono cases from the new requirements imposed by BAPCPA. The Standing Order decrees that it is:

ORDERED that counsel representing a pro bono debtor in this district are not debt relief agencies or debt relief agents under sections 526 through 528 of the Bankruptcy Code merely because of the pro bono representation. It is further

ORDERED that counsel thus excluded from the definition of "debt relief agency" are not required to comply with the requirements applicable to debt relief agencies under sections 526 through 528 of the Bankruptcy Code.

The Standing Order has re-opened the door for bankruptcy attorneys to once again engage in pro bono work representing the working poor or other low-income debtors in individual bankruptcy cases and has become a model for other Bankruptcy Courts around the state to follow. A copy of the order may be downloaded at

<http://www.txs.uscourts.gov/bankruptcy/genord/2007/go2007-3.pdf>.

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*Johnathan Bolton is a Senior Associate at Fubright and Jaworski, L.L.P.*

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## 'Picking My Brain' About What Seniors Need

*By Ivan Arceneaux*

Galveston County senior citizens are blessed in many ways. One such blessing is the Lone Star Legal Aid contract with the Galveston County Parks and Senior Services Department to provide legal information at the Senior Citizens Centers in Bacliff, Dickinson, Galveston and La Marque. The Lone Star Legal Aid office in Galveston also offers legal services for seniors.

I was honored by their recent request to "pick my brain" about the needs of our senior citizens legal-wise in preparation for planned presentations at the centers. Here goes:

1. The Social Security Act of 1935 was the first law in U.S. history that directly addressed the needs of older Americans. It is like the heart pumping the blood that pumps the lifeblood of being old in America. I recommend a first and frank presentation on the past, present and future of Social Security as it will be a key issue in the 2008 election.
2. The Older Americans Act of 1965 is the bible for those who serve senior citizens. The 10 objectives in its preamble are like the Ten Commandments or like the Bill of Rights and amendments to the U.S. Constitution. Every older American and everyone serving them in any capacity should be familiar with it. A Lone Star Legal Aid presentation focusing on the Older Americans Act can help us all to know more about the act and how it continues to affect us today.
3. Medicare recipients received their 2008 booklet by mail last week. A presentation before the annual December renewal of one's Part D Prescription Drug plan is a must.

With what's left of my brain, I suggest that an attempt be made at these sessions to pick the brains of those seniors in attendance as to what they want and need in the line of informational and inspirational meetings. Toward that goal, I would like to point to the recommendations that came out of the 2005 White House Conference on Aging as the starting point for such a discussion.

Hopefully, all presentations at the senior centers will be widely publicized so that all older Americans in Galveston County have the opportunity to attend. Ideally, the programs need to be taped and filmed so that all baby boomers and the professional service providers and family caregivers who cannot attend a daytime meeting at a senior center can be provided the opportunity to hear and or see these important presentations.

Most of all, my brain tells me that the heart and soul of all talks to older Americans should center on empowering them to be their own advocates. As a follow-up to these Lone Star Legal Aid talks, some organization like the Galveston County Interfaith might want to conduct home meetings on the needs of the seniors in their churches and communities.

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*Ivan Arceneaux is a Galveston County senior citizen activist. He can be reached at [ivan.a@sbcglobal.net](mailto:ivan.a@sbcglobal.net).*

*This article is reprinted with permission from the Galveston County Daily News.*

## Federal Court Approves Settlement in Day Laborer Lawsuit

U.S. District Judge Hilda Tagle approved a settlement reached by day laborers in a lawsuit filed against the City of Brownsville and Brownsville Chief of Police, Carlos Garcia, over violations of the workers' First Amendment rights to protected speech and assembly. The settlement resolves most of the legal issues brought forward in the original lawsuit.

Filed by Texas RioGrande Legal Aid (TRLA), the leading provider of legal aid in Texas, the lawsuit alleged that Brownsville police arrested laborers to prevent them from seeking employment in the 1400 block of Adams Street. Police officials had improperly accused the laborers of criminal conduct to justify the arrests.

In the settlement, the City agreed that laborers will not be threatened with arrest simply for seeking employment. The City of Brownsville stated that the 1400 block of Adams Street will remain a day-labor pick up site, as it has been for decades.

The City also confirmed its belief that the day laborers provide a service that is valuable to the city, local businesses, and families.

According to TRLA attorney Nathaniel Norton, "We are happy that an agreement has been reached that preserves the rights of the day laborers while also ensuring the safety of the area."

Representatives from both parties agreed that the City of Brownsville does not want to prevent people from seeking legitimate employment. As long as employers and employees are not interfering with traffic safety and are conducting legitimate business, the City is not troubled by 1400 Adams Street remaining a day labor pick-up site.

"The City will continue enforcing criminal laws in the area, just as it does everywhere," added Norton. "But day laborers will be able to continue using Adams Street to find ways to provide for their families."

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*Contributed by Texas RioGrande Legal Aid.*

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## Victory Against Hospital that Refused Client Access to Medical Care

Ayana Chestnut didn't feel well. For two days she had been vomiting, shaking, and suffering from severe headaches, high blood pressure, and abdominal pain. Chestnut, who had recently relocated to Texas after Hurricane Katrina, was 26 years old and without insurance. Knowing that her health was in danger, her parents took her to the emergency room at Southeast Baptist Hospital in San Antonio.

After an examination that lasted approximately two minutes, Chestnut was told that nothing was wrong and was sent home. No tests had been ordered and no prescriptions had been written.

As a nurse's aid, Chestnut's mother was concerned by her daughter's lack of treatment and continued to monitor her symptoms. With her health continuing to decline, Chestnut's parents took her to Texas Medical Clinic with the hope that someone would be able to help her. Eventually, Chestnut was seen by a doctor who, upon seeing her condition, waived the clinic's fees and referred her to Southwest General Hospital. There she was checked for having had a heart attack and stroke. She was also immediately put on five different medications and admitted to the hospital's intensive care unit the next morning.

Represented by Texas RioGrande Legal Aid (TRLA) attorney Susan Zinn, Chestnut filed a complaint against Southeast Baptist Hospital with the U.S. Department of Health and Human Services in December 2006. After an investigation, the Department found that Southeast Baptist Hospital violated the Emergency Medical Treatment and Active Labor Act (EMTALA), which requires emergency rooms to make reasonable efforts to provide treatment to patients.

As a result of TRLA's work and the investigation's findings, the Baptist Hospital system has developed a remedial plan that includes training for all emergency room nurses in the evaluation, treatment, and review of patients with high blood pressure. The plan applies to all of the system's hospitals in the San Antonio area and is in the process of initial implementation.

"Hospitals have an obligation to help those in medical need," stated Zinn. "The new requirements will provide additional safeguards that people will receive the attention they deserve when they need it."

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*Contributed by Texas RioGrande Legal Aid.*



## Texas Bar Foundation Awards Grants

The Texas Bar Foundation awarded the following grants, among others, in October. For more information, including information on grant applications, visit the Texas Bar Foundation Website at [www.txbf.org](http://www.txbf.org).

### Texas RioGrande Legal Aid, Inc.

*Legal Access to Rural Shelters Technology Initiative - \$40,000*

The grant will fund technology upgrades for 34 locations/shelters. Technology will include printers, computers, internet access, and travel expenses for IT personnel to provide training on new equipment.

### Texas Defender Service

*Capital Trial Project - \$25,000*

The funding will work toward implementing the standards set in the recently adopted Guidelines and Standards for Texas Capital Counsel. The goal is to ensure that all attorneys trying capital cases in Texas are given the access to information and experience needed to provide all defendants with quality defense.

### Innocence Project of Texas

*Dallas County DNA Project - \$25,000*

The grant will be used to pay for investigations and DNA testing of inmates in Dallas County that have a plausible claim of innocence.

### Alternatives to Guardianship

*Expansion and Continuation of Services for Low-Income Texans - \$20,000*

The grant provides money management training to senior citizens to assist in offering an alternative to a guardianship situation. The organization plans to use the funds to open six additional sites across Texas.

### Human Rights Initiative of North Texas, Inc.

*Pro Bono Case Management Software - \$19,000*

The software includes case management software designed for pro bono use, immigrant forms software, and technical support for one year. The organization is also requesting a projector to assist with training for pro bono attorneys.

### Catholic Family Service Inc.

*Expansion of Rural Immigration Impact Project - \$15,000*

Funds will be used to complete accreditation training for 2 staff people, and hire and begin training for an additional staff attorney. The attorneys travel a circuit around the surrounding counties assisting with immigration and citizenship legal issues.

### Mosaic Family Services, Inc.

*Multicultural Legal Services Program - \$14,000*

The grant will fund rent, online legal libraries, legal software, and legal reference manuals to assist attorneys working for the legal rights of immigrant victims of violence and human trafficking.

### Boat People S.O.S., Inc.

*Citizenship and Immigration Service Center - \$11,060*

The grant will assist the organization in providing legal representation, advocacy, education and outreach services to the Vietnamese community, particularly immigration applications, disability waivers, and disaster victims.

### Community Justice Foundation

*Community Justice Program Bankruptcy DVD - \$10,000*

The Bankruptcy DVD will work in conjunction with weekly legal clinics to advise and assist low-income residents who are considering filing for bankruptcy.

### Las Americas Immigrant Advocacy Center

*Justice for Women and Children Project - \$10,000*

The grant will fund an expansion of the existing project to include educational outreach to pro bono attorneys, school employees and students regarding provisions of Special Immigrant Juvenile Status.

### Nueces County Neighborhood Justice, Inc.

*Bi-Lingual Basic and Family Mediation Project - \$8,000*

The grant will fund training scholarships for bilingual volunteers to become mediators for the organization. Many volunteers are willing to give time, but are unable to pay for the necessary training. In providing the training free of charge to the volunteers, the organization will be able to recruit and retain more bilingual mediators.

### Hidalgo County Bar Foundation, Inc.

*Community Justice Program - \$3,500*

The grant is to purchase two portable Dell computer stations for volunteer attorneys working at the Community Justice Clinics, and for research and document preparation at the Foundation offices.

### Political Asylum Project of Austin

*Immigrant Victims of Family Violence Outreach Project - \$3,249*

PAPA intends to use this grant to cover non-personnel costs for an outreach and education program concerning the Violence Against Women Act (VAWA) that provides legal relief for immigrant victims. Outreach targets victims of domestic violence and social service personnel who work with them.

## EJW/TAJF Partnership Works for Justice

The Texas Access to Justice Foundation (TAJF) supports Equal Justice Works Fellows with projects at TAJF-grantee organizations. The following are projects currently being implemented by the 2006 and 2007 Classes of Fellows. The fellowships are two years in length. The TAJF Board is currently in the process of reviewing applications for the 2008 Fellowship Class. For more information about the EJW/TAJF Fellows Program, contact Lisa Melton at [LDMelton@teajf.org](mailto:LDMelton@teajf.org).

### 2006 Equal Justice Works Fellows

Ramey Ko  
Texas RioGrande Legal Aid, Austin, TX  
Issue Area: Housing/Homelessness  
University of Chicago Law School, 2006



Ramey Ko works with the Housing Group of Texas RioGrande Legal Aid in Austin to educate and assist low-income women who are facing adverse housing consequences as a result of domestic violence. Through direct representation of domestic violence survivors, Ramey seeks to establish firm precedent, under constitutional and fair housing law, to protect women from eviction or denial of housing benefits. The project's legal representation also promotes the enforcement of newly enacted state and federal laws designed to protect victims of domestic violence from housing discrimination.

Additionally, Ramey works with shelters, victims' advocates, housing authorities, landlords and tenants' associations to promote awareness of housing rights and encourage compliance with the law, particularly in rural areas.

Dustin Rynders  
Advocacy, Inc., Houston, TX  
Issue Area: Children/Youth  
University of Houston Law Center, 2006



Dustin Rynders works with Advocacy, Incorporated in their Houston office. Dustin's project helps ensure that students with disabilities are given the positive support that they need to learn and behave appropriately in school.

Under current zero tolerance policies, many students are expelled from public schools and sent to alternative education campuses without the benefit of counsel. Students with disabilities are expelled at especially high rates because of behavior related to their disabilities. Dustin's project will: (1) establish a pilot discipline program using mediation instead of mandatory punishments for minor, misdemeanor offenses; (2) provide direct representation to students with disabilities threatened with expulsion; (3) establish a network of pro bono attorneys interested in representing students; and (4) educate parents and students about their rights.

David Sadegh  
Lone Star Legal Aid, Houston, TX  
Issue Area: Housing/Homelessness  
University of Houston Law Center, 2006



David Sadegh is working with Lone Star Legal Aid to create a permanent tenants' rights organization for the low-income residents of the Houston, Texas area. Though Houston is the largest city in Texas and the fourth largest in the country, it does not yet have an organization specifically devoted to the legal needs of tenants. Even before the availability of low-income housing in the area plummeted as a result of Hurricane Katrina, Houston tenants were often at the mercy of unscrupulous landlords looking to maximize their profit margins. The situation has escalated with the demand for housing giving landlords an even greater incentive to break the law and either arbitrarily evict tenants or subject them to unhealthy and unsafe living conditions.

### 2007 Equal Justice Works Fellows

Jessica Alas  
Montgomery County Women's Center,  
Conroe, TX  
Issue Area: Pro bono development/Pro se  
Loyola University-New Orleans School  
of Law, 2007



Jessica Alas works with Texas' Montgomery County Women's Center (MCWC) providing free legal representation and education to disenfranchised individuals in the rural counties north of the metro Houston area (Montgomery, Liberty, Walker and Waller counties) through the development of pro se clinics and the creation of a pro bono pool of local private attorneys. These counties, whose combined population is well over 500,000 (approximately 15 percent of whom live below the poverty line), have limited access to free legal services. Jessica plans to lay the infrastructure necessary to create a sustainable pro se educational program and spur the interest of local attorneys to donate their services on a continuing basis.

Jennifer Landau  
 Diocesan Migrant and Refugee Services,  
 El Paso, TX  
 Issue Area: Immigrant Populations/Minorities  
 University of New Mexico School  
 of Law, 2006



Jennifer Landau works with the Removal Defense Unit at Diocesan Migrant and Refugee Services (DMRS), a nonprofit legal organization dedicated to serving immigrant communities in the El Paso border region. Her project was designed to address the dearth of resources available to immigrants who have cases pending before the El Paso Immigration Court, while being held in faraway New Mexico detention facilities. The project aims to expand DMRS's capacity to provide legal services to immigrant detainees with claims for humanitarian relief at underserved facilities. It also endeavors to develop a sustainable local infrastructure for representation. Jennifer will coordinate a pro bono initiative, provide legal orientation and counseling services to immigrant detainees, and advocate for improved access to legal information.

Corinna Spencer-Scheurich  
 South Texas Civil Rights Project,  
 San Juan, TX  
 Issue Area: Consumer Rights  
 Northwestern School of Law, 2004



Corinna Spencer-Scheurich has started the Colonia Consumer Rights Project of the South Texas Civil Rights Project to address the consumer legal needs of extremely low-income people living along the Texas-Mexico border. Her project establishes Consumer Rights Centers located in colonias—poor, unincorporated rural neighborhoods. These centers, led by youth volunteers, distribute and gather consumer information and provide a regular schedule of financial literacy classes. As colonia participants become skillful in navigating traditional financial institutions and savvy in making purchases, they help to educate others. The center participants inform a program of impact litigation based on community priorities. Corinna's project is to affect the way that low income, immigrant families participate in the market, thereby freeing up capital and impacting the cycle of poverty along the border.

Jacob Wedemeyer  
 Texas RioGrande Legal Aid,  
 Eagle Pass, TX  
 Issue Area: Immigration and Labor  
 University of Iowa College of Law, 2007



Jacob Wedemeyer works with Texas RioGrande Legal Aid (TRLA) in Eagle Pass, Texas, along the U.S.-Mexico border. TRLA has a long tradition of representing farm workers in Texas and throughout several southern states. Jacob's fellowship project centers on migrant and seasonal workers, both U.S. and foreign, who work in agricultural and nonagricultural occupations. The project seeks to ensure that employers and government agencies comply with the relevant immigration and labor laws. The project also includes community education and outreach to increase awareness about rights under current law and the effects of future guest worker proposals.

## TAJF Luncheon with the Supreme Court of Texas



*Texas Supreme Court Justice Harriet O'Neill with Betty Balli Torres, recipient of the Harold F. Kleinman award*

On October 18, the Texas Access to Justice Foundation (Foundation) held its annual luncheon with the Supreme Court of Texas. The luncheon, which is held to apprise the Court of statewide and national activities related to access to justice, was emceed by Texas Supreme Court Justice Harriet O'Neill.

Texas State Representative Pete Gallego, Foundation board member, opened the luncheon and welcomed the 100 guests, including representatives from the judiciary, the State Bar of Texas, the Texas Access to Justice Commission, law firms and legal aid programs. Representative Gallego updated the Court

on the Foundation's work throughout the year, including the implementation of the IOLTA comparability rule, which requires attorneys to place IOLTA accounts at banks that pay interest rates comparable to similarly situated accounts.

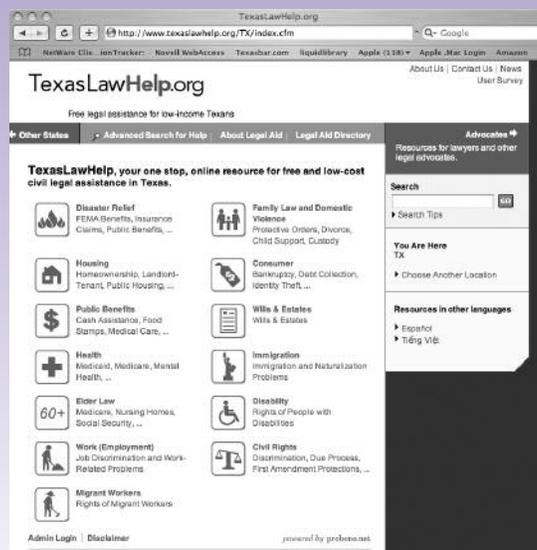
James B. Sales, chair of the Texas Access to Justice Commission, discussed the Commission's successes, including the Technology Committee's efforts to analyze the technological needs of the legal aid community. Judge Lora Livingston provided a report on the work of the American Bar Association's Standing Committee on Legal Aid and Indigent Defendants.

Also at the luncheon, the Texas Access to Justice Foundation awarded Betty Balli Torres the prestigious Harold F. Kleinman award for her outstanding contributions to legal aid for the poor. Torres has served as the Foundation's executive director for six years. She has dedicated her life to public interest work, starting her career as a staff attorney at Legal Aid of Central Texas (now Texas RioGrande Legal Aid) in 1987. She has since held various direct service and administrative public interest positions throughout the state. Under Torres' leadership, the Foundation has garnered multiple successes, including the IOLTA comparability rule.

The Kleinman Award is named after former Texas Access to Justice Foundation Chairman Harold F. Kleinman. The Foundation, wishing to recognize Kleinman's outstanding character, commitment and public service to the people of Texas, created the award to confer prestige and honor upon leaders in the field of access to civil justice.

# TexasLawHelp.org

Free online legal resource  
for low-income Texans.



## Seeking Nominations for the *ATJ Law School Commitment to Service Award* and the *ATJ Law Student Pro Bono Award*

Pro bono service is critical to the development of leadership among law students as they prepare for the practice of law. Not only is providing pro bono legal services essential to meeting the needs of low-income Texas, participation in these cases offers law students invaluable practical experience in every aspect of client representation.

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. The award will honor a law school that has made significant and innovative strides towards increasing access to justice. A law school dean, clinic professor, law student or legal services organization may nominate a law school for the *ATJ Law School Commitment to*

*Service Award* by submitting a Nomination Form to the Texas Access to Justice Commission.

Similarly, the **ATJ Law Student Pro Bono Award** aims to recognize the dedication of a law student who has enhanced the delivery of quality legal services to poor Texans and underserved communities. The *ATJ Law Student Pro Bono 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 on the Commission's website at [www.texasatj.org](http://www.texasatj.org) or by calling (800) 204-2222, ext. 1855. Nominations for both awards must be received by **May 16 at 5 p.m.**

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## Call for Nominations for Pro Bono Section Award

The Supreme Court Task Force to Expand Legal Services Delivery will offer a \$1000 prize for the three State Bar of Texas sections with the best statewide pro bono projects. Recently, the Texas Bar Foundation approved the Task Force's request for \$3,000 to sponsor a competition among small, mid and large-sized State Bar sections for the most creative and innovative pro bono projects.

Sections in each category will compete to develop and implement a statewide pro bono project that promotes legal assistance to underserved populations and encourages private attorneys to engage in pro bono legal work. Through the award

the Task Force hopes to motivate State Bar sections to create self-sustaining pro bono projects that encourage lawyers from specialized practice areas to serve the indigent in Texas.

The three \$1000 prizes will be invested in the winning sections' pro bono programs for the following year. The awards, presented in partnership with the Texas Bar Foundation, will be awarded to the winning sections at the Local Bar Leaders Conference.

Nomination forms must be received by **March 7 at 5 p.m.** For questions about this award or a nomination form, please call (800) 204-2222, ext. 1855.

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## 2008 Trial Academy

The Texas Access to Justice Commission is pleased to announce it will host its third Texas Trial Academy on May 18-22. The Academy will be a five-day intensive trial advocacy skills training presented by faculty of the prestigious American College of Trial Lawyers. Topics will include voir dire, opening statements, direct and cross-examination and closing arguments. Experienced litigators who have distinguished themselves as some of the top trial lawyers in the country will provide live demonstrations of their courtroom trial skills and selected participants will receive valuable feedback while honing their trial skills.

This Academy is open to staff attorneys of nonprofit organizations providing free legal services to low income Texans; however, there are a limited number of spaces available. Applications can be found online at the Texas Access to Justice Commission's website at [www.TexasATJ.org](http://www.TexasATJ.org) or by e-mailing [TLCmail@texasbar.com](mailto:TLCmail@texasbar.com). Texas Trial Academy applications must be received by **February 8 at 5 p.m.** If you have any questions, or need more information, please contact [TLCmail@texasbar.com](mailto:TLCmail@texasbar.com).

## Free Ethics Presentations to Local Bars

Local Bars...are you interested in providing your members with one hour of FREE ETHICS MCLE? Texas Lawyers Care is available to provide presentations to local bar associations regarding legal services to the poor in Texas and how local bar association members can get involved to help. To schedule your FREE ETHICS MCLE, contact Texas Lawyers Care at [tlcmail@texasbar.com](mailto:tlcmail@texasbar.com) or 512-427-1855/800-204-2222, ext. 1855.

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## Justice for All Calendars

Texas Lawyers Care is pleased to announce the publication of the 2008/2009 Justice for All Calendar. Available in English and Spanish, the Justice for All Calendar is a cost-efficient way of informing low-income Texans of their civil legal rights and responsibilities. The two-year calendar also contains useful phone numbers for various social services organizations, emergency services, and hotlines. It is pocket-sized and can be used to record appointments, work assignments, medical events, personal information and other items of importance.

This edition of the Justice for All Calendar was made possible due to generous financial contributions and the hard work of individuals who donated their time and legal expertise to update the topics in the calendar. Texas Lawyers Care would like to thank the State Bar of Texas' Alternative Dispute Resolution Section, Health Law Section, Intellectual Property Law Section, Military Law Section, Poverty Law Section, and the Texas Young Lawyers Association, as well as the Texas Access to Justice Commission, for their sponsorship of the 2008/2009 Justice for All Calendar.

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## 2008 Poverty Law Conference

Join us in Austin on April 23-25, when Texas Lawyers Care will host its 11th 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 will feature presentations from some of the most knowledgeable practitioners in their fields. Proposed topics include:

- Home Equity Defenses
- Housing and Eviction Law Update
- Voucher Terminations
- Nuts & Bolts of Estate Planning
- Primer on Medicare Part D
- Grandparents Raising Grandchildren
- State Court Judicial Review
- EPSDT Program
- Primer on Medicaid
- Creative Strategies for Possession Orders
- Public Utilities Issues Affecting Texans
- Witness Preparation in Family Law
- Preparing a Trial Notebook
- Best Practices for Working with Homeless Clients
- Overview of the ADA
- Identity Theft Update
- Payday Loans
- Consumer Collection Industry
- Special Remedies under VAWA

Advanced registration is recommended and encouraged. Participants who register *on or before* **March 24, 2008** will be guaranteed conference materials. Registrants who register *on-site or after* March 24, 2008 will not be guaranteed conference materials. Late registrants will be provided materials as available.

\* A limited number of rooms have been blocked at the Hilton Austin Airport Hotel at special rates available until close of business **March 24**, or until the room block is full. Please call 512-385-6767 and reference the Poverty Law Conference to receive the special rate of \$119/night (single or double) plus tax.

For the latest updates on the Poverty Law Conference schedule, list of topics and speakers, and online registration, visit [www.texasbar.com/plc](http://www.texasbar.com/plc).

## ProBAR Announces New Location for Children's Team

The ProBAR Children's Team has grown up and moved out! ProBAR's staff can now be found in one of two locations. ProBar director Meredith Linsky, and staff working with adults, will continue to work out of the old office. Members of the Children's Team should be contacted at the new office, which - thanks to the many furniture donations received - is almost fully furnished!

Plans are under way for an Open House to which all - near and far - will be invited! As always, ProBAR thanks you for your time and support!

For other news about ProBAR visit:  
<http://www.abanet.org/publicserv/immigration/probar.shtml>

Children's Team: ProBAR, 706 North 1st Street,  
 Harlingen, TX 78550  
 956-365-3775  
 956-365-3789 (fax)

Adult Team: ProBAR, 301 E. Madison Avenue,  
 Harlingen, TX 78550  
 956-425-9231  
 956-425-9233 (fax)

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## State Bar Committee Seeks Nominations for Awards

The Legal Services to the Poor in Civil Matters Committee of the State Bar of Texas seeks nominations for:

### The Frank J. Scurlock Award

For an attorney who has provided outstanding pro bono work in the field of legal services to the poor.

### The Pro Bono Award

For a volunteer attorney organization that has made an outstanding contribution toward guaranteeing access to the legal system by the poor.

### The J. Chryst Dougherty Legal Services Award

For a legal services staff attorney who has made outstanding efforts beyond normal job expectations on behalf of the poor. This award is presented jointly by the Committee and the Texas Bar Foundation, and it includes a cash stipend.

### The W. Frank Newton Award

For a group of attorneys (e.g., law firm, corporate law department, government attorney office, or law school faculty) whose members have made an outstanding contribution in the provision of or access to legal services to the poor.

The 2008 awards will be presented at the State Bar Annual Meeting in Houston in June. The nominations must be submitted on nomination forms available at [www.texasbar.com](http://www.texasbar.com) or by contacting Texas Lawyers Care. Each attorney nominee must be a member in good standing of the State Bar of Texas. The original plus six copies of each nomination should be sent to the Committee, c/o Texas Lawyers Care, State Bar of Texas, P.O. Box 12487, Austin, Texas, 78711-2487. The street address is: 1414 Colorado, Suite 604, Austin, Texas 78701-1627.

All nominations must be received in the office by Wednesday, **February 27, 2008, at 5 p.m.** A postmark of February 27, 2008 will not suffice. For more information, call Texas Lawyers Care at (800) 204-2222, ext. 1855, or 512-427-1855.

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## Annual Litigation Update Institute

Each year, the State Bar of Texas' Litigation Section awards four scholarships, one per federal judicial district, to legal services staff attorneys and volunteers for the annual Litigation Update Institute. The scholarships cover conference tuition and reasonable travel expenses. This year's recipients were Frank Elder and Sean Jackson, regional attorneys for Advocacy, Inc.; Kevin McCary, staff attorney for Texas RioGrande Legal Aid;

and Ebb B. Mobley, volunteer attorney for Lone Star Legal Aid's Gregg County Pro Bono Project. The Institute, held this year on January 17-18, at the Hyatt Lost Pines in Bastrop, provides continuing legal education on both state and federal law topics, with speakers and participants from across the state. For more information, please contact Catherine Nahay at Texas Lawyers Care, [cnahay@texasbar.com](mailto:cnahay@texasbar.com).



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# LegalFront

**The Newsletter of  
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News, comments, photographs,  
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## 2008 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).*

### **February 8**

Deadline to submit applications for Texas  
Trial Academy

### **February 11**

Student Loan Repayment Assistance  
Program application and information  
available on-line

### **February 27**

Deadline to submit nominations for State  
Bar Pro Bono/Legal Services Awards

### **March 7**

Deadline to submit nominations for  
Pro Bono Section Award

### **March 14**

Deadline to apply for Student Loan  
Repayment Assistance Program

### **April 15-17**

ABA Day  
Washington, D.C.

### **April 23-25**

Poverty Law Conference  
Austin, Texas

### **May 7-9**

ABA/NLADA Equal Justice Conference  
Minneapolis, MN

### **May 16**

Deadline to submit nomination forms for  
*ATJ Law School Commitment to Service*  
and *ATJ Law Student Pro Bono Awards*

### **May 18-22**

Texas Trial 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.*