

# LegalFront

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## Pro Bono Section Award Winners Announced

A commitment to delivering legal services to the poor through the development of pro bono initiatives has been an integral part of many State Bar Sections. Some sections have sought to instill a lifelong devotion to pro bono by funding grants for summer interns to work directly in underserved communities. Other sections design CLE seminars directly aimed at showing attorneys how to apply expertise from a specific practice area to provide direct legal services to the poor.

In recognition of these efforts, the Supreme Court Task Force to Expand Legal Services Delivery (Task Force) sponsored the Pro Bono Section Award. The *Pro Bono Section Award* was established in 2007 to recognize State Bar Sections that develop and create innovative pro bono projects that extend services to underserved segments of the population. As identified by the State Bar, a large-, medium- and small-sized section received a \$1,000 prize to invest in their statewide pro bono project. Funding for the awards was generously provided through a grant from the Texas Bar Foundation.

At the Council of Chairs meeting on April 11, Karin Crump, Task Force Chair, congratulated the Family Law Section (large-sized section), Appellate Section (medium-sized section) and the Poverty Law Section (small-sized section) for their creative approaches to expanding the delivery of legal services to poor Texans.

Large-sized section winner: The *Family Law Section* works jointly with local legal aid programs to identify remote areas in the state where there is limited pro bono assistance available for family law cases. In select rural areas, the section hosts free CLE seminars. Through the presentation of relevant family law articles, the Family Law Section extends its expertise to attorneys living outside of metropolitan communities in exchange for the

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*Eden Harrington,  
on behalf of the  
Poverty Law Section,  
with Karin Crump*



*Marcy Hogan Greer,  
on behalf of the  
Appellate Section,  
with Karin Crump*



*Warren Cole,  
on behalf of  
the Family Law Section,  
with Karin Crump*

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attorney's commitment to taking at least two pro bono cases from legal aid in the next year. With its \$1,000 award, the Family Law Section will develop a video or webcast of its CLE seminar so that the seminar can be shown in remote areas of the state.

Medium-sized section winner: In consideration of the needs of low-income clients and their Section's mission, the *Appellate Section* crafted an innovative approach to promoting pro bono among their membership. The Appellate Section partnered with the Supreme Court of Texas and the Third Court of Appeals in Austin to match clients who are financially unable to procure legal representation with volunteer Texas lawyers who agree to serve without expectation of compensation. In both of its pro bono programs, the clients obtain qualified legal counsel to help them navigate the often complex appeals process, while the attorneys gain valuable experience and exposure to the appellate courts. In the Supreme Court of Texas program, the Supreme Court refers cases to the Appellate Section's program when the Court requests full briefing on the merits and there is at least one party who is proceeding pro se because of his or her financial circumstances. Parties represented by counsel at the petition stage may also request to participate in the Appellate Section's program if the Court requests a merits briefing. In the Third Court of Appeals program, the Austin Court of Appeals has indicated it will give priority to program

cases for oral argument. A special subcommittee of the Section's Pro Bono Committee also screens, selects and finds volunteer lawyers to represent pro bono clients. The Appellate Section will use their award to enhance the program through increased publicity and also to pay for requests to expedite copies of key portions of the record, which are used to determine whether the program can place a case and provide pro bono assistance.

Small-sized section: The *Poverty Law Section* hosts a monthly CLE seminar on the "First Friday" of each month, focusing on different areas of poverty law that are current and/or requested by members. The topics have been as diverse as consumer law, family law, ethics, immigration law, landlord-tenant law and public benefits, but what truly sets the CLEs apart is their constant focus on legal services to indigent clients. The Poverty Law Section intends to use its award to expand the CLE series by webcasting future CLEs.

The Supreme Court Task Force to Expand Legal Services Delivery will seek nominations beginning next January for the second annual Pro Bono Section Award. For more information about the Supreme Court Task Force to Expand Legal Services Delivery or the Pro Bono Section Award, please contact Hong Tran at [htran@texasbar.com](mailto:htran@texasbar.com).

In the inaugural year of the Pro Bono Section Award, the Supreme Court Task Force to Expand Legal Services Delivery (Task Force) received several impressive nominations detailing each section's efforts to expand access to justice for all Texans. The Task Force commends each nominated section (listed below) for their significant pro bono contributions.

*Corporate Counsel Section*  
*Litigation Section*  
*Consumer and Commercial Law Section*  
*Insurance Law Section*  
*Paralegal Division*

## Pro Bono Champion Richard L. Tate, Tate Moerer & King, L.L.P.



**You've served on the Texas Access to Justice Foundation board since 1993 and as chair since 1999. Why did you get involved with TAJF?**

Because of some experiences growing up in North Carolina, ensuring that the courthouse door is open to all who need it has long been a priority to me. ... An article I was reading in the *Texas Bar Journal* said volunteers were needed for various activities and TAJF was included. I wrote a letter to the court clerk stating my interest and soon received a call from Chief Justice (Thomas) Phillips saying that I would be appointed to the board.

**What have been some of your proudest achievements with TAJF?**

These are the accomplishments of the whole board, not just me, but some of the things I'm proudest of are keeping the IOLTA program afloat and viable during declining interest rates, facilitating new sources of revenue, and establishing strong working relationships with our providers in the field and with the Texas Access to Justice Commission, and in particular, with Commission Chair Jim Sales. He is a bright light on the horizon for us.

**What advice would you give new lawyers wanting to do pro bono work?**

If they're looking for a career that allows them to come home every day and say they did something to make the world a better place, then (pro bono work) is the career for them. It is a career occupied by a number of incredibly bright lawyers who have made some incredible sacrifices (to do this work). They are the true heroes in this effort.

**What have been your most memorable pro bono experiences?**

One was visiting a colonia in the Rio Grande Valley and seeing how one of our service programs, Texas RioGrande Legal Aid, had taken on developers and corrected drainage and other environmental issues. It was a hands-on accomplishment by a group of fine lawyers with TRLA. Another was the recent order by the Texas Supreme Court implementing the new IOLTA "comparability rule."

**How does the IOLTA Comparability Rule help provide low-income Texans with greater access to legal aid?**

It greatly enhances the amount of money that is available to provide basic civil legal needs to poor Texans. It bridges a tremendous funding gap between the amount of legal services needed by low-income Texans and the amount that can be provided. Our Supreme Court made a strong statement regarding its commitment to access to justice when it implemented the rule.

## Technology Committee Honored by Supreme Court of Texas

In recognition of their commitment to access to justice, several members of the Access to Justice Commission's Technology Committee were honored at a recent meeting with Letters of Commendation from the Supreme Court of Texas. Nick Altizer (Director of Information Services, Lone Star Legal Aid), Mark Hendrick (Director of Information Technology, Baker Botts, LLP), Scott Preston (Chief Technology Officer, Fulbright & Jaworski LLP), Dennis Van Metre (Chief Technology Officer, Vinson & Elkins), Lynn McGuire (Chief Information Officer, Andrews Kurth LLP) and Kirk Scruggs (Director of Information Technology, Bracewell & Giuliani LLP) were each

recognized for their recent efforts devoted to securing baseline equipment for civil legal services providers in Texas.

On behalf of the Supreme Court of Texas, Justice Harriet O'Neill presented the awards and expressed her appreciation for the countless pro bono hours contributed by each member. Justice O'Neill congratulated the entire Technology Committee for their accomplishments and personally thanked the chief information and technology directors who shared their expertise, time and skills.



*Supreme Court of Texas Justice Harriet O'Neill (Center) pictured with members of the Technology Committee. Also pictured are Commission Chairman Jim Sales (third from left) and Hong Tran, Texas Lawyers Care (far left).*

## Access to Justice for Victims of Violent Crime

By Texas Supreme Court Justice Harriet O'Neill



*Editor's note: The following was written in recognition of National Crime Victims' Rights Week, which was observed April 13-19.*

Every day throughout Texas, victims of domestic violence and other violent crimes are struggling to regain control of their lives. In addition to dealing with the emotional trauma of the experience, they often face complicated legal issues resulting from the crime. For example, victims of domestic violence may need protective orders; abuse victims may need assistance with housing issues; and children left parentless due to a crime might be faced with conservatorship issues.

For those who cannot afford a lawyer, these crucial needs go unmet. But help is available. Legal aid organizations provide free legal assistance to low-income Texans with civil matters, including problems arising due to violent crimes.

National Crime Victims' Rights Week (April 13-19) is an appropriate time to shine a light on the programs to which people can turn. During this week, a special toll-free hotline (1.800.622.2520) will be available to provide information and referrals for low-income victims of violent crimes in Texas who

need legal help. The hotline is available 9:00 a.m. to 5:00 p.m. central standard time and gives callers the opportunity to speak to a licensed Texas attorney. If more assistance is needed, callers will be referred to local legal aid organizations. In addition to the hotline, people with Internet access may visit [www.TexasLawHelp.org](http://www.TexasLawHelp.org), a Web site offering a free database of legal aid providers.

Thanks in part to funding from the Texas Access to Justice Foundation and the Texas Office of the Attorney General, legal aid organizations are giving hope to thousands of victims of crime and their families each year. Legal aid offices offer a wide range of services, including securing protective orders, obtaining child custody and support, providing assistance in applying for Crime Victims' Compensation funds, obtaining access to mental health services and much more.

As an example, Della\* has custody of her 13-year-old niece and 16-year-old nephew. The children's father is deceased and their mother is unable to care for them. The nephew was stabbed in the neck by gang members and suffered brain damage. Della lacked the legal authority to make medical decisions for him, so she sought assistance through legal aid. A legal aid organization helped Della obtain the authority to make medical decisions for her nephew and assisted her in filing a claim with the Crime Victims' Compensation Fund. With legal help, Della was able to give her nephew the comfort and medical care he needed.

If you know a victim of crime—or if you have been a victim—you know how hard the aftermath can be. Victims of crime should not have to face the justice system alone. Resources are available. Those who need help should call the hotline. Getting the support of a skilled lawyer during this trying time can help provide access to justice and peace of mind.

*Justice Harriet O'Neill was elected to the Texas Supreme Court in 1998 and re-elected to a second term in 2004. She is a member of the Texas Access to Justice Commission and a liaison to the Texas Access to Justice Foundation.*

\*Name changed to protect the privacy of the client.

## New Initiative Provides Valuable Information for Public Interest Law Students



*Clarissa Trevino Lavalais, a law student at Texas Wesleyan, addresses fellow students about her participation in the Commission's Access to Justice Internship Program.*

The Texas Access to Justice Commission (Commission) has teamed up with the Law Student Division of the State Bar to increase awareness regarding the Commission and its efforts, the Student Loan Repayment Assistance Program (SLRAP) and internship opportunities available through the State Bar Sections. The initiative is spearheaded by Denny Sheppard, of Texas Young Lawyers Association (TYLA) and the Law Student Division, and Catherine Nahay, of Texas Lawyers Care and the Commission. Leslie Chaggaris, a second-year law student at Texas Tech Law School, organized the first presentation of this initiative.

Following the presentation, Chaggaris commented on the new initiative's success and stated, "Texas Tech School of Law was thrilled to work with the Texas Access to Justice Commission to get more information to Texas law students about public interest work. Our law students benefited tremendously from learning more about the available resources for public interest attorneys in Texas. We had an amazing turnout and look forward to continuing this program in the future."

With more than 50 law students in attendance, information was presented on the importance of public interest law, the numerous internship opportunities available, and the ins-and-outs of the SLRAP. Legal Aid attorney and SLRAP recipient, Kara Garcia, of Legal Aid Society of Lubbock, shared her experience as a public interest attorney and discussed the significant benefits of the loan repayment program.

A second presentation took place in March at Texas Wesleyan University. Dean Cynthia Fountaine, Interim Dean and Professor of Law at Texas Wesleyan University, praised the new initiative, explaining, "Providing and improving access to justice are important aspects of our school's mission of public service. I hope each of our students gains an appreciation for his or her own civic and professional responsibilities to work to improve access to justice in our community, in our state, and in our country."

Based on the initiative's initial success, additional presentations continue to be scheduled. The initiative aims to complete presentations for all nine Texas law schools and to complete the remaining presentations within the 2008 spring and fall semesters. For more information about this exciting new initiative, contact Catherine Nahay at [cnahay@texasbar.com](mailto:cnahay@texasbar.com).

### Free Ethics CLE Available on Access to Justice

Are you interested in a one hour FREE ETHICS CLE presentation regarding access to justice issues in Texas? Texas Lawyers Care is available to provide presentations to local bar associations and other attorney groups discussing the many ways attorneys can get involved to increase access to legal services for poor and low-income Texans. To schedule your FREE ETHICS CLE, contact Lisa Villarreal-Rios at [tlcmail@texasbar.com](mailto:tlcmail@texasbar.com) or 512-427-1855/800-204-2222, ext. 1855.

## Benefits for Pro Bono Attorneys

**State Bar Malpractice Insurance Network** pays premiums for professional liability insurance for more than 55 legal aid and pro bono programs throughout Texas. The insurance covers staff attorneys and pro bono volunteers for cases taken through the programs. Texas Lawyers Care administers the network.

**State Bar Pro Bono Mentor Program** provides up to 5 hours of MCLE credit (including 1 hour of ethics) to attorneys participating as a mentor or “mentee” in a State Bar approved program. Application form and guidelines are available from Texas Lawyers Care.

**Free Custom CLE** for pro bono and staff attorneys, including popular advanced continuing legal education programs produced by the State Bar. Unlike other videos, the Custom CLEs are available almost immediately after the live event. Texas Lawyers Care lending library policies apply to this program. Other TexasBarCLE videos also are available through Texas Lawyers Care. For more information about Custom CLE, visit [www.texasbarcle.com](http://www.texasbarcle.com).

**Free Membership in the Pro Bono College of the State Bar** for attorneys who contribute a minimum of 75 hours of eligible pro bono legal services in a year. Benefits include a certificate signed by the State Bar president and the chief justice of the Supreme Court of Texas; a one-year free subscription to the TexasBarCLE Online Library (a \$295 value); a subscription to the *LegalFront* newsletter published by Texas Lawyers Care; recognition at the State Bar Annual Meeting; and reduced tuition to the 3-day Annual Poverty Law Conference sponsored by Texas Lawyers Care.

**Tuition Scholarships** to TexasBarCLE events through nomination by approved pro bono programs.

**[www.TexasLawyersHelp.org](http://www.TexasLawyersHelp.org)** is the new statewide advocate website for legal aid and pro bono attorneys in Texas. Register now!

*Please contact Texas Lawyers Care at 512-427-1855, or 1-800-204-2222, ext. 1855, or via email at: [TLCmail@texasbar.com](mailto:TLCmail@texasbar.com), for more information about these programs or for a list of volunteer opportunities in your area.*

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## Volunteer Effort Leads to First Win in 2008 for ProBAR Children's Team

By Diane Eason

Emily Jones, the Executive Director of the Texas Access to Justice Commission and Director of the State Bar's Legal Services Division, was responsible for the ProBAR Children's Team's first asylum win in 2008. The South Texas Pro Bono Asylum Representation Project (ProBAR) of Harlingen, is a national effort to provide pro bono legal services to detained immigrants and asylum seekers in South Texas.

Jones volunteered to take her first ProBAR case during the latter half of 2007, representing a 16-year-old Guatemalan girl, Eva [not her real name], who was detained and seeking asylum. Jones traveled to the Valley several times to interview Eva, prepare her for the hearing, and represent her before the Immigration Court. ProBAR staff assisted with translation during visits while Jones surprised her client by breaking into Spanish from time to time. Jones completed the remainder of the work from Austin, including drafting the child's declaration,

obtaining an expert declaration, researching country conditions to prepare an index of documents, and drafting a pre-hearing brief.

With no prior immigration experience, Jones received support from her mentor, Robert Etnyre of Houston, a private attorney and long-time ProBAR supporter and volunteer; a ProBAR paralegal assigned to the case to assist Jones; and the Children's Pro Bono Coordinator who provided guidance, reviewed materials, and assisted with case strategy. Jones also had previously received a one-day training through the TYLA/ProBAR Unaccompanied Children's Project, which is now available on DVD by contacting ProBAR.

Jones and her client developed a strong bond, and Eva knew her attorney would always show up with a “good heart” and some bubblegum – her favorite treat. At the final hearing, Eva walked out of the courtroom with tears streaming from her eyes and a smile on her face, exclaiming, “Now I know things are

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going to be better.” Overwhelmed with gratitude for her volunteer attorney’s assistance, Eva said, “Although I have no money to pay you for your help, I will pray that God will pay you a hundred times over.”

The victory was emotional for everyone involved. Jones told the ProBAR staff, “I am so happy for Eva. I know she will need a lot of help and counseling to deal with the horrors she has had to endure, but at least she has a fighting chance now. Thank you for allowing me to be a part of that.”

About her volunteer experience with ProBAR, Jones said, “My work on Eva’s case was an incredible experience. ProBAR does such important and impressive work, and between them

and Bob Etnyre, a truly amazing human being, my part was, well, not easy but certainly manageable. I’ve done pro bono work of some kind throughout my legal career, but nothing else has ever been so rewarding.”

Individuals interested in learning more about ProBAR’s Children’s Team may contact the office at 956-365-3775 or via e-mail at [probar@sbcglobal.net](mailto:probar@sbcglobal.net).

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*Diane Eason is the Children’s Pro Bono Coordinator at ProBAR, a joint project of the State Bar of Texas, the American Bar Association and the American Immigration Lawyers Association.*

## Ten-Year Members of the Pro Bono College

The Pro Bono College of the State Bar of Texas, which was started in 1992, recognizes attorneys who have exceeded the State Bar’s aspirational pro bono goal and have made tremendous contributions through their pro bono efforts by providing a significant number of eligible pro bono hours during the previous year. The following are profiles of some of this year’s ten-year members.

### **Avo Butler**

Avo Butler entered the practice of law in order to help women and children and considers doing pro bono work part of her life. Butler, who practices in Sherman, began taking pro bono cases early on in her practice when she realized that some people needed legal assistance but could not afford it. She continues her pro bono work today through the Private Attorney Involvement program at Legal Aid of NorthWest Texas and feels a satisfaction in helping those that need, but cannot afford, legal services.

### **H. Clyde Farrell, III**

H. Clyde Farrell, III, has been doing pro bono work since he started private practice after leaving the Office of the Attorney General in 1993. Farrell’s five years at Texas RioGrande Legal Aid, prior to his employment with the Consumer Protection Division of the OAG, inspired him to make public interest work a permanent part of his practice. His favorite part of his pro bono work is working with the clients – he feels that attorneys not involved in pro bono work are “missing out.” He describes the ability to make a difference for someone to truly be a “delight.”



### **Kelcie Hibbs**

Kelcie Hibbs of Fort Worth has always believed in giving back to the community, and therefore, has always committed time to pro bono matters. Much of Hibb’s pro bono work takes place at the local shelter where she provides legal services for people in abusive relationships. Coming from a family background that includes a long line of ministers, she has learned that it does not take much to help others. Hibbs, who has been practicing since 1982, says her favorite part about pro bono is the ability to actually make a difference in another person’s life.

**Stan Putman, Jr.**

Stan Putman, Jr., whose Austin practice consists of a mix of personal injury law, wills and probate and some family law, entered the legal field with the purpose of trying to help people. For him, helping people goes hand in hand with helping those that cannot afford to pay. Recognizing that everyone needs a little help sometimes, he stresses the importance of doing “what you can, when you can, with what you have.”

**Justice Felipe Reyna**

Justice Felipe Reyna, appointed in 2003 to the Tenth Court of Appeals in Waco, was taught when he was growing up that it is always better to give than to receive. This philosophy led him to donate his services to the number of individuals he encountered in his private practice that were in need of legal services but did not have the means to pay for them. Justice Reyna encourages all attorneys to get involved in pro bono efforts, adding that when it comes to pro bono work, there are always “good returns.”

**Billy Flanary**

Billy Flanary – who has practiced for nearly 40 years – feels that, as professionals, lawyers have the responsibility to provide assistance to those who are needy. In addition, Flanary describes a self-satisfaction in knowing that he is putting something back into the community. Flanary hopes that, with experience, young lawyers will realize that there really is gratification in helping others.

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## 2007 Pro Bono College of the State Bar of Texas

Jerald Lewis Abrams	Christine Andresen	Charles Ernest Baruch	David Paul Blanke
Joseph E. Ackels	Jason C. Arnette	Kyle G. Basinger	Jonathan Scott Blum
Johnny Wayne Actkinson	Claudene Tyler Arrington	George F. Baum	William D. Bonham
William B. Adair	Laura Arteaga	Melba Sampson Baxter	William Bonilla
Jeffrey Dale Adams	Scott J. Atlas **	G. Ward Beaudry	Margaret Therese Boren
Charles Dewitt Adams	Kelly Ausley-Flores	Sean Michael Becker	Duana Jenise Boswell-Loechel
Bernardino Agosto	Claudia P. Avalos	Bradley E. Beckworth	David Alan Bosworth
Pallavi Bhalla Ahluwalia	Christopher V. Bacon	Joshua Jay Benn	Timothy Wililam Bouch
Amber Akers	John Charles Ball	Cecil Eugene Berg	Shannon Lee Boudreaux
Ronald Z. Aland	Stephen Ballantyne	Pamela K. Bergman	Tricia Steele Boutros
Rick M. Albers	Stephanie Jo Bandoske	Tony Ray Bertolino	Linda Alice Brandmiller
Stewart J. Alexander*	Rama Bar-Adon	Cecil R. Biggers	Elizabeth Brandon
Eben R. Alexander	Kathleen Person Barina	William Travis Biggs	Sarah Brandon
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Michael Hal Anderson	David Barranco	Blair Allan Bisbey	Samuel Louis Braunstein
Vika Newsom Andrel	Nora Barrera	David B. Black	Alan M. Bristol
Michael Gino Andreozzi	Jayne Jones Barstow	Robert E. Black	Patricia Ann Britton

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Fran Brochstein	Geoffrey Neil Courtney	Leila Mariam El-Hakam	Marlene Gonzalez-Ruiz
Marcus James Brooks	David Clay Cowan	Alfred W. Ellis	Jodilyn Marie Goodwin
Jerald Keith Brown	Sharron Lynn Spriggs Cox	Barbara M. Ellis	R. Norvell Graham
Jimmie Lee J. Brown	Allen Craddock	Chad Phillip Ennis	Harold Laverne Graham
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Susan Perry Burton	Geron Bryant Crumley	Jim Farrar*	Brian Cooper Guequierre
Kimberly Ann Butler	Jimmy Leonard Culpepper	Harry Clyde Farrell*	Jerry Guerra
Avo Stevens Butler*	David Michael Curtis	Fermeen F. Fazal	Richard A. Gump*
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Mark Elic Callender	Justine M. Daly	Albert Filidoro	Joseph Richard Gutheinz
Rae Venable Calvert	John Carter Danish	Patrick John Filyk	Wendy Louise Newman
Denise Lasalle Campbell	Daniel David	Larry Finstrom	Hackler
Joe B. Cannon	Tracey B. Davies	Billy Keith Flanary*	Carl D. Haddad
Jack G. Carinhas	Michael P. Davis	N. Scott Fletcher	Mark Stephen Haenchen
Lewis A. K. Case	Benjamin H. De Vries	William D. Fong	Melissa Brook Hagan
Alicia Conner Cashell	J. Gordon Dees	Frederick P. Forlano	Jennifer Paige Hall
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Susan Chmielowiec	Ali Dhanani	Wayne N. Frost	Kendyl Hanks
Chong Hui Choe	Jana Diminnie	Kirkland Alan Fulk	Lawrence W. Hanson
Martin Jay Cirkiel	Amy Catherine Dinn	Michael A. Gaitz	Ronald Evans Harden
Barry David Clar*	William K. C. Dippel	Michelle Heron Galindo	Ara Ayles Hardig
Richard Lee Clark	Dawn Tracy Greensage	Eduardo Garcia	Linda Dorothy Caire Hargrove
Andy Cline	Dittmar	Alicia Garcia	Sterling Alan Harmon
Kelly Jack Coghlan	Scott R. Donaho	Clark Garen	Kelly R Harrington
Joel Efreem Cohen	James D. Doyle	Jerikay Gayle	John Weldon Harris
James Patrick Cohoon	J. B. Dozier	Michael D. George	Rick J. Harris
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Teresa Ann Coles	Claude Ducloux	Joe R. Gilbreath	Ronnie E. G. Harrison
William Madison Colgin	Bernadette L. Duffey	Claude Giles	Wayne Allen Hayenga
William B. Connolly	Charles L. Duke	Stephen Alfred Giovannini	Bernard L. Hebinck*
Joseph A. Connors	Keith Best Dunbar	Augustus Robert Glaser	A. Chris Heinrichs
Brooks William Conover	Orville Orlando Dunk	Kip Glasscock	Charles L. Henke
David Conrad	Kristy Lee Durkovic	Linda Marie Roberts Glover	Katharine Henkel
Marion Cooper	Suzanne M. Duvall	Lynne Marie Gomez	Jenny L Henley
Ralph Edward Cooper	Kristy N. Eddings	Hector Rene Gonzalez	Amy A. Hennington
Ann Eileen Coover	Cristy Lynn Corbino Edwards	Henry Gonzalez	Charles Herring

Aimee Hess	David E. Keltner	Desi Martinez	Michael Murphy
Kelcie Augusta Hibbs*	Roland C. Kemp	Mario J. Martinez	Ayesha Mutope-Johnson
Stephen Hicklin	Meredith Lea Kennedy	Elizabeth Martinez	Dinesh Nayar
Daniel Earle Hinde	Brian Allan Kilpatrick	Jani J. Maselli	John Arthur Nechman
Reginald A. Hirsch	Alexander Han Kim	Michael Glenn Mask	Kay Ann Nehring
Vinh Ho	John Andrew King	Susan McMillion Mason	William Neil
Justin Allen Hodge	David Charles Klimaszewski	Cynthia E. Masson	Judy L. Ney
Michael R. Hoelscher	Richard H. Klitch	Michael D. Matheny	Lan Tuyet Nguyen
Iliana Noemi Holguin	Tama Brooks Klosek	Mary Lauren Mathews	Chukwuedo Ngwolo
Michael Holland	Nancy Randolph Kornegay	Daniel Mathis	Amy A. Nichols
Jack H. Holland	Jeremy Adam Kruger	Michael Leroy May	Mary Nix
Mary Jo Holloway	Joseph J. Labella	L.L. Mick McBee	Lori Lynn Noack-May
William O. Holston	William Morris Lamoreaux	Kate Hilton McConnico	Ralph Edward Northcutt
Charles A. Hood	Mark W. Laney	Kevin John McDonnell	Knox Dillon Nunnally
Patricia Jo Hopperdietzel	Rebecca Dyann Donald Lange	Duston Kenneth McFaul	Stephen Martin Nutt
David Horton	Keith Lamar Langston	John Greer McGarr	Robert M. O'Boyle
Maxie Lynn W. Houser	Monica Larkins	Genevieve Bacak McGarvey	Michael G. Oddo
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Marisa Barrera Cruz Hurd	Adam B. Lecrone	Julie Clegg McKain	Jana Anise Ortega
Jill Hutchison	Gary Edwin Lee	David L. McLane	Victoria Nooner Ozimek
Nada Leza Ismail	Jennifer Kathryn Legrand	Jessica Christine Mederson	Elizabeth Pannill
Stephen J. Jabbour*	Monica Lerma	Judy Harris Meeh	H. O. Quannah Parker
Patrick Richmond Jackson	Kevin Paul Lewis	Karen Hensley Meinardus	Paul Stanley Parker
Kevin Thomas Jacobs	Robert Walton Liles	Feroz Farook Merchant	George P. Parker
Veronica F. Jacobs	Edward E. Lindsay	Kevin Richard Michaels	Jena Parker
Claudine Rae James	Amy Dalaine Long	C. Randall Michel	Jenny C. Parks
Carol Hurd Jewett	Ivan R. Lopez De Victoria	Wendy Miller	John M. Parras
Darryl Johnson	Elias V. Lorenzana	Stewart Ransom Miller	David M. Patronella
Brandy Johnson	Roxie Lormand	John Mitcham	Stephanie K. Patten
Frances Jones	Michael Lowenberg	Jill Williford Mitchell	Nicholas H. Patton
John Robert Jones	Eric Christopher Luggar	Shirlee D. Mitchell	Jesus Humberto Payan
Mark B. Jones	Amber MacIver	Ebb Bailey Mobley	Gary Don Peak
Margaret Renee Jones-Johnson	Francis Steven Mahoney	Jason Christopher Moore	Kent Bryan Pearson
Leo John Jordan	Charles Mais	Bradford L. Moore	Melynda G. Pearson
George A. Juarez	James R. Makin	Sandra S. Moore-Duarte	Christopher Leigh Peele
Mosea Jun	Roberto Maldonado	Heriberto Morales	Richard Pena
Abigail Guenther Kampmann	Edward F Mallou	Teresa Morales-Ahnberg	Fernando Xavier Pena
Norri Michelle Katzin	Kurt A. Malmquist	Ira L. Morgan	James David Penny
Thomas C. Kayser	Lyla Malolepszy	James B. Morgan	Dayla Sarai Pepi
Duane Francis Keating	Norman Maples	Larry Creston Morris	Della Fay Perez
Terrence M. Keel	Martin Garcia Marasigan	Nick Aden Moutos	Lori Peterson Perez
Jay Donald Kelley	Rosemary Morales Marin	Charles Jeffrey Mulliner	Daniel J. Perkins
Lannie Todd Kelly	James Marlin Marsh	Martin Bert Muncy	Christopher Perri

*Continued on page 12.*

*Continued from page 11.*

David Wayne Person	Phyllis Royal**	Russell Bryan Smith	William V. Wade
Ira Perz	Bernard L. Royce	Meridel Solomon Solbrig	Stephen Rolfe Walker
Michael A. Petersmith	Peter Alan Ruman	Jose Ricardo Soliz**	Lindsey Walker
Kennon Lathem Peterson	Holly O'Neal Rumbaugh	Margaret E. Spain	Pamela Ann Walker
Robert M. Phillips	Robert C. Russell	Larry Robert Spain	Dennis R. Joe Wall
Marsha Phillips	Seth Alton Russell	Jerry L. Spence	Dan Gibson Walton
Anson David Phipps	Thomas Anderson Sage	David Lee Spiller	Ike N A Waobikeze
Evan Edward Pierce-Jones	Wendy Trahan Salinas	Darrel Dwayne Spinks	Victoria G. Warner
Anthony E. Pletcher	Tommy Sanchez	Gregory Glen Spivey	E. Steve Watson
Lori Renee Ploeger	Benjamin Sanchez	Mark Raymond Spradling	Gail Weatherby
Matthew Brian Ploeger	Thomas E. Sanders	Beth Watkins Squires	Daryl Gail Weinman
Karen Denice Poe	Ronald L. Sands	Rashaun Nicole Stagg	Sheldon Weisfeld
Nancy Gene Pofahl	William A. Sansing	Cynthia Marcotte Stamer	Ira Daniel Weizel
Iris Brite Porter	Paul C. Sarahan	Cari L. Starritt-Burnett	Jack H. Welge
Roger T. Powell	Charles A. Saunders	Michael G. Steinheimer	Jennifer Wells
Jennifer Anne Powis	E. David Sawyer	Sterling W. Steves	Karen Tucker White
Wayne Henry Prescott	Daniel R. Scarbrough	Jeffrey Alan Stocks	Todd W. White
Gina A. Price	Clay B. Scheitzach	Neal S. Sundeen*	Scott Ryan Wiehle
Wayman Lee Prince	Edward J. M. Schroeder	Jane K. Swanson	Robert Alexander Wilkins
Deborah Jean Pritchett	Willem G. Schuurman	Catherine L. Tabor	Kevin W. Willhelm
Stan M. Putman*	Earnest Wayne Scott	Howard Patrick Tagg	Catherine Williams
Julie H. Quaid	Terry H. Sears	Richard L. Tate	Marvin Justine Williams
Roman Richard Rainosek	David Kenneth Sergi	Harold Joseph Taylor	Steven John Williams
Andrew Garcia Ramon	Ruth Gomez Serra	Terisa G. Taylor	Barbara Lombrano Williamson
Jad Powers Ratliff Harper	Phillip G. Shaffer	Donald P. Teague	Michael J. Willson
Sean Michael Reagan	Lindsay O. Sharpe	James Earl Teague	Dennis Jared Windscheffel
Thomas W. Reardon	Walden E. Shelton	Wesley Glenn Terrell	Michael Y. Wong
Melissa Reid	Gregory Don Sherwood	Maria Marcelina Teveni	David Ronald Woodcock
Joseph Reina	William Stephen Shires	Jason Napoleon Thelen	David Kent Wooten
Rebecca Lynn Reitz	Rosa Lydia Shirley	Joel Lance Thollander	Tacie Zelhart
Richard Stephen Resslering	Nancy Shivers	Johnny W. Thomas	Ronald D. Zipp
Gianni Ret	William B. Short	Robert Thomas	
Frumencio Reyes	William Kenneth Shortreed*	Linda A. Thomson	
Sandra Martinez Reyes	Joe Edward Shumate	Steven W. Thrasher	* Denotes 10 Year Membership
Felipe Reyna*	Hannah Demarco Sibiski	John William Tinder	** Denotes 15 Year Membership
Damon C. Richards	Pamela Jackson Sigman	Travis Torrence	
J. Jesus Rios	Kimberly Britt Sikes	Victoria E. Touchet	
Delma Rios-Salazar	Michael R. Silberstein	Bruce Coulson Tough*	
Judith Ann Ritts	D'lisa Simmons	Michael Dennis Tracton	
Roberta Andrea Ritvo	Fred A. Simpson	Lameka Anne Trahan	
Terry David Roberts	Michael Worsham Simpson	Rebecca Contreras Trevino	
Sylvia Ann Robertson Brauer	John Sims	Gregory Lee Underwood	
Sandra Garza Rodriguez	Michael Skadden	Robert Collin Underwood	
Regina J. Rogers	Timothy Sloan*	Louis Charles Van Cleef	
David Edward Rohlf	Ronald Julius Smeberg	Lisa A. Vance	
Glen A. Rosenbaum	Michael Joseph Smith	Lal Varghese*	
Paul William Rosenbaum	Catherine Bukowski Smith	Terry Lynn Velligan	
Avelyn Marie Ross	Shelton Smith	Stacey Neumann Vu	

## Dallas Groups Unite to Help Vickery Meadow

From dreaming to doing describes the scene at Sam Tasby Middle School on January 31 when over 25 attorneys and dozens of non-lawyer volunteers joined together to open the first “Vickery Meadow Legal Clinic” in Dallas. The Vickery Meadow area of Dallas consists of three-square miles containing over 35,000 people, many of whom have limited incomes and resources. Yet, the area is bordered by much more affluent areas, including Park Cities, Lake Highlands and Preston Hollow.

Despite award-winning pro bono efforts by the Dallas Bar Association throughout Dallas County, the area had an unmet need for legal services. It also presented a challenge because not all potential clients in the area could be served under the existing partnership of the Dallas Volunteer Attorney Program (DVAP) and Legal Aid of NorthWest Texas (LANWT). The Dallas Bar Association Pro Bono Committee set out to meet that challenge. Catholic Charities of Dallas, Inc. Immigration and Legal Services, Human Rights Initiative of North Texas, Inc., and Central Dallas Ministries - Legal Action Works all stepped up, contributing their efforts to the cause. Joining with DVAP/LANWT and the Dallas Bar, these agencies provided the umbrella for a complete set of pro bono legal services to meet the needs of this community.

Another challenge in the provision of legal services for this area, however, was gaining credibility in the community – a melting pot of people from many different backgrounds and parts of the world. Vickery Meadow Learning Center, which teaches English to non-native adult speakers, educates their young children and provides empowerment courses and opportunities to its students and the community, stepped in to assist. With the Learning Center’s help, the Sam Tasby Middle School was secured for the clinic. The school proved to be a fitting location given that its namesake, Sam Tasby, was the lead plaintiff in the quest to desegregate Dallas schools. Without help from incredible lawyers, Tasby’s dream of desegregated schools would not have become a reality. Vickery Meadow Learning Center also helped to publicize the event and to give credibility within the community to the fledgling clinic.

Catholic Charities and DVAP provided training sessions for lawyers willing to volunteer and, proving how big-hearted Dallas attorneys are, participation was higher than expected. Many participants were first-time pro bono volunteers, excited about this new opportunity to serve. Mary Abeyta, a long-time community advocate, agreed to be the Administrative Director and recruited people to assist with the initial screening forms. Catholic Charities called upon its volunteers to find translators in a multitude of languages. The final piece of the puzzle was filled by kind volunteers from the National Council of Jewish Women who agreed to serve as greeters for the potential clients.

After more than a year of planning, all that remained was opening day. As it approached many questions remained: Would clients know about the clinic? Would clients come? Would they feel comfortable coming? While planning the clinic, a decision was made that forty people could be accommodated – and, on its inaugural day, the clinic was nearly at capacity.

Volunteers are currently being sought to take the cases and the participating agencies are collaborating to ensure that each volunteer attorney is properly mentored. The community is already buzzing with desire for the next clinic. In keeping with the goal to start small and build, only four clinics are planned for this year and the hope is to have more in the future.

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*Contributed by The Dallas Bar Pro Bono Activities Committee, in collaboration with the Dallas Volunteer Attorney Program; Legal Aid of NorthWest Texas; Catholic Charities of Dallas, Inc. Immigration and Legal Services; Human Rights Initiative of North Texas, Inc.; and Central Dallas Ministries – Legal Action Works.*

## Baylor Law Students, Lone Star Legal Aid Collaborate on Benefits Assessment Project and Increased Outreach

By Jonathan Vickery



*Baylor Law Students Ryan Latham (standing on left), Josh Borderud (seated) and Meredith Riggs (standing on right)*

Law students with the Baylor Public Interest Legal Society, a student group founded in August 2007 at Baylor Law School, recently contacted the Waco office of Lone Star Legal Aid (LSLA), seeking information on volunteer opportunities. The students – Josh Borderud, Meredith Riggs and Ryan Latham – hoped to volunteer to help clients of LSLA, persons with some of the greatest unmet legal needs in Texas. The law students are now part of the LSLA “Benefits Assessment Project” and are also assisting on a new initiative for identifying needed advocacy for remote rural communities.

Sheryl S. Swanton, Managing Attorney for the Waco office of LSLA, has long recognized that just because a client presents one type of legal problem at the door, this does not mean they do not have other problems that also need to be addressed. In the same way that a patient might present a sore throat and be found to have a heart condition, a family might be concerned about a divorce and at the same time experience serious food and nutritional issues.

Many low-income Texans have trouble making ends meet each month, even if they have a job. After paying for rent, utilities, transportation, and child care, there may be little left over to buy nutritious food. But it does not have to be that way. Thousands of low-income Texans — families, people who are elderly or disabled, and even single adults without children are eligible for assistance in the form of food stamps from the Texas Health and Human Services Commission (HHSC) to buy nutritious food. However, many people are unaware of this program, do not realize that they are eligible, or are wrongfully denied.

The Baylor law students are volunteering their efforts to help ensure that LSLA clients have access to the benefits they are entitled to. The students will review clients’ files with their consent and evaluate the client’s case utilizing an online benefit screening tool called the “Texas Food Stamps Benefit Estimator for Federal Fiscal Year 2008,” which is offered by HHSC at their web site. The students will enter the client’s income & asset information into the calculator and make an unofficial determination of the client’s eligibility. They will then assist each tentatively eligible client with their food stamp application and its submission. This direct targeted outreach will result in providing increased assistance for needy families to secure crucial nutritional support for them.

In addition to this project, the Baylor law students will be working to help identify and address issues and problems facing remote and rural communities in underserved areas. To accomplish this, the law students will help identify providers, client groups and leaders and social service agencies in targeted underserved communities, with the goal of setting up meetings to solicit input and ideas on the issues facing communities. They will then help plan and develop workshops located within the LSLA service area, creating additional opportunities for law students to volunteer. The workshops will be designed to allow the law students to assist with training and the dissemination of important information, as well as accepting applications for assistance.

Baylor Law School has been providing the Waco office of LSLA with externs for many years. Currently, Baylor law students, Laura Morgan and Sorana Ban are working as externs for the office. The externs help with interviewing applicants to gather additional fact information, providing legal information under an attorneys’ supervision, researching legal issues for the staff attorneys and filing documents in court.

LSLA works with area law schools to foster student participation in public interest law and pro bono activities. In addition, LSLA helps area law schools develop lasting partnerships in the public interest community by creating programs that promote public interest and pro bono work.

For more information, contact Sheryl Swanton at Lone Star Legal Aid at 1-800-299-5596.

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*Jonathan Vickery is Director of Grants at the Texas Access to Justice Foundation and at the time he wrote this article was Director of Grants at Lone Star Legal Aid.*

## 2007 Pro Bono Summit a Success

Legal Aid of NorthWest Texas (LANWT) held its First Annual Pro Bono Summit on Friday, December 14, at the Tarrant County Bar Association. The primary purpose of this meeting was to provide a forum for key stakeholders to help identify and implement strategies that will increase pro bono services through volunteer participation. It was also an opportunity for the participants to view the Private Attorney Involvement (PAI) plan and discuss both its implementation and ramifications. Rebecca Greenan, Chairperson of LANWT's Board of Director's Access to Justice Initiative Committee, gave heartfelt opening remarks on why pro bono participation is crucial in filling the gaps of justice.

The keynote speakers for the event were Dallas Attorney Elaine Mosher from the Mosher Law Firm, and Stephanie Edelstein, Program Counsel for Legal Services Corporation in Washington, D.C. Ms. Mosher, a former staff member of the Dallas Volunteer Attorney Program, spoke on why she enjoys pro bono work. "I would like to say that I do pro bono work because I am an unselfish person, but I do pro bono because it's fun," she admitted. "You meet the greatest people in the whole world and it is a pleasure to work with people who are so giving and kind."

The meeting, coordinated by Kathy Duncan, Director of Pro Bono and Bar Relations, brought together representatives from the fourteen Equal Justice Volunteer Programs (EJVP) of LANWT, who spoke to the fifty eight participants in the audience regarding their goals for the coming year. Each coordinator

voiced a need to promote more pro bono awareness and to increase the number of volunteers working in the pro bono field.

Coordinator Ellena Simmons of Fort Worth, whose goals include securing funding for a two day Family Law Seminar to accept 100 pro bono family law cases, was encouraged by the Pro Bono Summit. "People really care about the work the coordinators are doing, and my goals for 2008 are realistic." She added, "All of this is possible, and we have come this far because of Kathy."

The afternoon sessions involved brainstorming ideas to increase volunteer participation. Ideas that were submitted included more judicial involvement, a media campaign to promote pro bono work, and increased outreach into the community. "It was clear from the presentations, discussions, and recommendations that LANWT is thinking strategically about how to enhance the PAI efforts," Stephanie Edelstein said.

LANWT CEO Jesse Gaines was pleased with the results of the Pro Bono Summit. "We have received several positive accolades from the Board of Directors, staff members, and the general legal community in regards to the positive effects of the Pro Bono Summit in getting legal and lay volunteers to do more to provide free legal assistance to low income clients."

An added bonus to the pro bono summit this year was the addition of door prizes for the participants. The ten \$20.00 gift certificates were donated by Bailey Hydraulics of Fort Worth.

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*Contributed by Legal Aid of NorthWest Texas.*

## Equal Justice Volunteer Program Honors Tarrant County Volunteers

Legal Aid of NorthWest Texas (LANWT) recently hosted its 24th Annual Pro Bono Luncheon in December. The event, held at the Fort Worth Club, honored attorney and lay volunteers for their commitment to pro bono services.

Awards were presented to volunteers who contributed the most hours during the past fiscal year. Recipients included attorneys, paralegals, law firms and lay professionals from both rural and urban communities.

At the luncheon, the following volunteers were recognized:

**Attorney of the Year:**

Urban: Leslie Johns – 105 Volunteer Hours

Rural: Norman Maples – 41.5 Volunteer Hours

**Outstanding Volunteer Attorney:**

Urban: Robert Roberts – 36.75 Volunteer Hours

Rural: Charles Webb – 21.10 Volunteer Hours

**Lay Advocate Volunteer:**

Urban: Jacklyn Crisp – 104 Volunteer Hours

Rural: Helen Blackwood – 37 Volunteer Hours

**Outstanding Pro Bono Attorney:**

Sharon Sherman – Accepted 11 cases and completed 26 pro bono cases

**Outstanding Equal Justice Volunteer Attorney:**

Clifford F. McMaster – Completed 13 pro bono cases

*Continued on page 16.*

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Outstanding Staff Attorney:  
Tiffany Doiron – 27.5 Participating hours

Outstanding Firm of the Year:  
Small: Sherman Law Office – 201.70 Volunteer Hours  
Large: Kelly, Hart & Hallman – 104.85 Volunteer Hours

LANWT also took the opportunity to honor individuals who deserved recognition for their exemplary contributions. Private attorneys Mark G. Daniel and Dee Kelly, Jr. received the prestigious Whitfield J. Collins Special Recognition Award for their work with the Tarrant County Bar Association “Pro Bono Challenge” project. The Whitfield J. Collins Special Recognition award honors recipients who have made tremendous contributions to the pro bono effort and who exemplify the mission of the Equal Justice Volunteer Program. Daniel and Kelly, Jr. were instrumental in creating the Pro Bono Challenge, which challenges lawyers to commit to ten pro bono hours through LANWT.

*Contributed by Legal Aid of NorthWest Texas.*



*(Left to Right) – Jesse Gaines, CEO of Legal Aid of NorthWest Texas, Hon. Cliff Davis, Melody Wilkinson, President of Tarrant County Bar*

## LSC Hosts 8th Annual Technology Initiative Grant Conference

The Legal Services Corporation (LSC) hosted its 8th Annual Technology Initiative Grant (TIG) Conference in Austin from January 31 through February 2.

Prior to the conference, LSC and the State Justice Institute (SJI) hosted a two-day training on creating plain language forms. Twenty-five people from 19 jurisdictions, including Guam, attended to learn how to create court forms using plain language. The training was led by Maria Mindlin, CEO of Transcend, a language consulting firm.

Highlights from this year's conference, which set a record for attendance, included a “Return On Investment” session led by Beth Kanter, an expert on non-profits and technology, who discussed ways that legal aid programs can gauge the cost/benefit ratio of technology investments. Ben Baumann from Isovera, an internet consulting firm for non-profits, and Liz Keith from Pro Bono Net discussed ways that legal aid programs can measure and improve the impact of their websites. Rick Borstein of Adobe Systems demonstrated how lawyers can use Adobe Acrobat to increase efficiency. Craig D. Ball, a certified computer forensics examiner, discussed how computer forensics and e-discovery

can be used to make the case. Cynthia Martinez from the LSC-funded Texas RioGrande Legal Aid (TRLA) discussed how her program's new blog is generating media attention and helping to spread TRLA's message. Judy Wilson from the LSC-funded Northwestern Legal Services led a session on how she used evidence from the social networking web site MySpace.com to win a child custody case.

Staff from the Legal Services National Technology Assistance Project covered many conference sessions on the organization's blog, available at: <http://lsntap.org/&q=blog>. According to one blogger, LSC's TIG Conference “has become THE technology conference for the poverty law community... The conference is chock full o' sessions that are direct[ly] relevant to doing technology in the poverty law community.”

LSC is currently compiling materials from the conference to make available on the Technology Initiative Grant website: [www.tig.lsc.gov](http://www.tig.lsc.gov).

*Information provided by the Legal Services Corporation.*

## SafeHaven Receives Grant to Assist Immigrant Domestic Violence Victims

In 2006, The Women's Shelter in Arlington and Women's Haven in Fort Worth merged, creating SafeHaven of Tarrant County. SafeHaven is now able to serve a larger population of victims from numerous locations and is also able to provide additional services. SafeHaven provides shelter, support groups, individual counseling, men's programs, transitional living, advocacy, children's programs, court accompaniments, and legal services. The legal program was initially created in 1999 and employed one attorney to assist victims with family law issues. In 2006 the program provided legal services to 324 victims and the number of victims seeking assistance continues to rise.

In December of 2007, SafeHaven was fortunate to collaborate with the Fort Worth Police Department in applying for and receiving a grant through the Office on Violence Against Women (OVW) for the purpose of assisting victims with immigration issues. Cody Jordan assumed the position of immigration attorney and began accepting clients last month. The new grant will allow SafeHaven to further meet the legal needs of victims and their children who had previously lived with domestic violence.

The mission of OVW, which is under the Department of Justice, is "to provide federal leadership to reduce violence against women, and to administer justice for and strengthen services to all victims of domestic violence, dating violence, sexual assault, and stalking, [which] is accomplished by developing and supporting the capacity of state, local, tribal, and non-profit entities involved in responding to violence against women."

The Ft. Worth police department and SafeHaven partnered to aid in the disconnect between domestic violence victims and any immigration issues those victims may have.

The number of immigrant victims of domestic violence is truly staggering. Too often these victims feel trapped in their abusive relationship, as their abuser almost uniformly creates a severe apprehension of immigration repercussions should they attempt to report the domestic violence to the proper authorities.

The goal of SafeHaven's immigration program is to assuage these fears and provide immigration relief to victims who otherwise felt trapped by their abuser. Until recently, the immigrant victims who reached out to SafeHaven in order to obtain assistance for their abusive relationships were forced to obtain immigration services from over-burdened outside sources. Now, with the creation of SafeHaven's immigration program, victims can feel secure by staying within the communities of SafeHaven to obtain all the assistance they likely need to move forward with their lives.

SafeHaven ultimately hopes to reach out to more immigrant victims of domestic violence to give them the courage to break free from their abusive relationship without the fear of immigration repercussions an abusive partner may have used as a threat. SafeHaven's goal has always been, and will continue to be, aiding victims of domestic violence; with the addition of the immigration program SafeHaven will now be able to expand its aid to a previously under-served population within Tarrant County.

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*Contributed by SafeHaven.*

## Partnerships for Serving the Poor

With more than 1,000,000 eligible clients and only seventy attorneys on staff, the provision of civil legal services to the people in the Houston area is a difficult task for Lone Star Legal Aid (Lone Star) to accomplish. When disasters strike the Lone Star service area, as happened with Hurricanes Katrina and Rita, the difficulty in serving existing clients, in addition to the new clients that have relocated to the service area, is exacerbated. However, private attorneys in the Houston area have always stepped up in times of crisis.

While the efforts of these attorneys are essential in times of crisis, clients also continue to require assistance with day-to-day

legal needs. To help address those needs, Lone Star is striving to establish on-going partnerships with firms in the Houston area. One of Lone Star's most successful partnerships to date has been with the Houston firm of Beck Redden & Secrest. This firm has agreed to assist eligible Houston clients facing eviction actions and other landlord-tenant disputes. It has proven to be a win-win proposition for the clients and the firm.

Beck Redden attorney Fields Alexander, who chairs that firm's pro bono efforts, has stated that Beck Redden is delighted to assist Lone Star in defending these landlord-tenant disputes. "This is a perfect pro bono opportunity for us. First and foremost,

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we are helping to fulfill a vital community need by assisting people who really need a lawyer and cannot afford one. The prospect of a family being evicted, being thrown out on the street, is a dire one for Lone Star's clients. We owe it to them and to the community to do what we can to help. Second, these cases present wonderful training tools for our young lawyers, who are chomping at the bit to get into court and in front of a jury. They are fast-paced and are, at their core, contract disputes, and yet they also have real and immediate impact on people's lives. They are fun to try, and can require a good deal of creative advocacy. I've tried several of them myself. The bottom line is that we are honored to team up with Lone Star to assist their clients in these sorts of landlord-tenant disputes."

Lone Star has also formed a partnership with Vinson & Elkins to assist clients desperate to restructure their debts and finances. Duston McFaul, a bankruptcy attorney with the firm, and his paralegal, Cindy Whitman, have lead this effort and assisted several Lone Star clients with severe financial problems. In addition to handling bankruptcy actions where appropriate, they have counseled clients on legal issues enabling them to avoid court proceedings. Mr. McFaul's expertise has lessened the burden on Lone Star staff to assist these clients. He relays,

"It's nice for us to be able to lend a hand to those in real need, and the firm's dedication to pro bono matters runs very deep. Lone Star does rigorous screening work, so even if you're with a large firm with a corporate focus, potential conflicts are not as daunting as they may seem. Many of those needing help have debts that have already been purchased by collectors and others may have just one mammoth liability resulting from a serious medical ailment. Our practice is focused on corporate chapter 11 bankruptcy work, but Cindy began her background as a paralegal working with a trustee on consumer cases. So it's an understatement to say that she has been a tremendous asset in our assistance to Lone Star and its clients."

Lone Star is constantly looking to develop similar programs with other firms in Houston. Once Lone Star has been successful in getting more firms on board in Houston, its long-term goal is to export these relationships to assist clients in the smaller cities of East Texas who do not have access to these resources. It is these partnerships that will serve to make a true difference in providing equal access to the justice system for the indigent members of the Lone Star service area.

*Contributed by Lone Star Legal Aid.*

# TexasLawHelp.org

Free online legal resource  
for low-income Texans.



## Lubbock Program Honors Pro Bono Volunteers

The Lubbock Pro Bono Awards luncheon was held January 22, in conjunction with the Lubbock County Bar Association and the Equal Justice Volunteer Program's monthly luncheon. The following awards were presented during the program:

2007 John Crews Pro Bono Lawyer of the Year Award –  
Professor Wesley J. Cochran, Texas Tech University

Nominations for the John Crews Pro Bono Award are based on the number of cases accepted, number of hours contributed and the number of clinics attended.

2007 Legal Clinic Volunteer Attorney Award –  
Professor Gerry Beyer, Texas Tech University  
2007 Legal Clinic Volunteer Law Student –  
Alma Gonzales, Texas Tech University  
2007 Legal Clinic Volunteer Lay Advocate Award –  
Jamie Sorley, St. John's Methodist Church

Nominations for the clinic awards are based on the number of clinics attended and the number of hours contributed.

Certificates were also awarded in recognition of attorneys that met the 50 Hour Annual Aspirational Goal for Pro Bono Services to indigent persons as recommended by the State Bar of Texas. These certificates were based on the number of hours reported to the coordinator during the past year on cases handled through the Equal Justice Volunteer Program of Legal Aid of NorthWest Texas and/or the number of hours contributed at the legal clinics.

2007 50 Hour Annual Aspiration Goal –  
Professors Wendy Ross and Larry Spain, Texas  
Tech University

In addition, 2007 Clinic Sponsors Certificates of Appreciation were presented to:

Gaines County Neighborhood Center, Seminole  
Mae Simmons Community Center, Lubbock  
St. John's United Methodist Church, Lubbock  
Texas Tech University School of Law, Lubbock

Finally, several firms were recognized for their contributions to the Saint John's Legal Clinic. Each month, LANWT contacts law firms, specialty bar associations, and law schools to seek their assistance with sponsoring the St. John's Legal Clinic. These organizations graciously volunteer their attorneys as well as their support staff. Most of these groups have been volunteering at the St. John's Clinic since its inception. The following were recognized for their contributions to this effort:

McCleskey, Harriger, Brazill & Graf, Lubbock  
Texas Tech University School of Law, Lubbock  
West Texas Bankruptcy Bar Association, Lubbock  
Mullin, Hoard & Brown, Lubbock  
Crenshaw, Dupree & Milam, Lubbock  
McWhorter, Cobb & Johnson  
Lubbock County Young Lawyers Association  
Craig, Terrill & Hale

LANWT wishes to express its appreciation to the Lubbock County Bar Association for their continued support in sponsoring the Pro Bono Awards Luncheon.

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*Contributed by Legal Aid of NorthWest Texas.*

## Labor and Employment, Litigation Sections Announce 2008 Internships

Each year the Labor and Employment and Litigation Sections of the State Bar create summer internship opportunities for law students by funding internships at legal services organizations or programs in Texas. The awards allow students to receive hands-on training in their respective area of law while helping the clients they serve. Interested programs apply directly to the sections for funding and once awarded, the selected organizations recruit law students from accredited law schools in Texas. Each intern receives a \$4,000 stipend. The students are required to spend a minimum of ten weeks during the summer working at

a legal aid, pro bono or other non-profit legal services organization or program in Texas.

This year, the Labor and Employment Section funded internships with the Equal Justice Center and Texas RioGrande Legal Aid (Weslaco). The Litigation Section awarded funds for internships to Texas RioGrande Legal Aid (Edinburg), Family Violence Prevention Services (San Antonio), NAACP (Houston), Lone Star Legal Aid (Tyler), Diocesan Migrant and Refugee Services (El Paso), and Advocacy, Inc. (Dallas).

## Two Ways to Sap Equitable Subrogation

By *Chhunmy Chhean*

The Texas Supreme Court's lenient treatment of a home equity lender compels housing lawyers to scrutinize equitable subrogation, a doctrine usually associated with the insurance business.<sup>1</sup> Equitable relief should not be available to lenders who violate the law, either by failing to fulfill Texas State Constitution requirements or by acting as predatory lenders. Two defenses against equitable subrogation are discussed here: an exception within the doctrine and the clean hands maxim.

In home equity lending, a lender who fails to cure a violation of home equity loan laws must void the lien and return all principal and interest paid on the loan. Tex. Const. art. XVI, § 50(a)(6)(Q)(x). Equitable subrogation predates this provision, and Texas courts historically granted the equitable remedy to lenders. After section 50(a)(6)(Q)(x) of the Texas Constitution's enactment, though, it was unclear if lenders guilty of violations could request equitable subrogation.

In *LaSalle Bank Nat. Ass'n v. White*, the Texas Supreme Court clarified that the doctrine did apply in favor of a lender who made an unconstitutional home equity loan.<sup>2</sup> LaSalle Bank failed to cure a known legal violation, and the Court saved the bank anyway. Consequently, the prior debt amount paid by LaSalle Bank was due back to the bank by the borrower. The Court held equitable subrogation survived article XVI, section 50(e) of the Texas Constitution because section 50(e) "need not be read to prohibit equitable subrogation of valid liens."<sup>3</sup> *LaSalle Bank* may have lost the difference between its bad loan and the valid loan it paid off, but LaSalle Bank did not suffer the full penalties codified by voters in the amended state constitution. LaSalle Bank, though, need not be the definitive case for equitable subrogation, especially because it fails to explore the two exceptions discussed below.

In review, equitable subrogation states a third party who pays a debt at the request of the debtor may, under certain circumstances, be subrogated to the creditor's security interest for the debt that has been discharged.<sup>4</sup> However, the payor may not be a "volunteer," and if "superior or equal equities of others would be prejudiced" by permitting the payor to be subrogated to the original creditor, then equitable subrogation will be denied.<sup>5</sup> A party who pays off a prior debt on property is not considered a "volunteer."<sup>6</sup> The applicability of equitable subrogation depends on the case's particular circumstances.<sup>7</sup> A party pleading subrogation must plead and prove the right to subrogation, and failure to plead subrogation at trial could result in waiver of the remedy.<sup>8</sup>

The first defense against the doctrine concerns superior or equal equities, and it considers whether or not intervening interests are prejudiced. The relevant time is at the time of the transaction supporting subrogation.<sup>9</sup> According to *Med Center Bank v. Fleetwood*, the prejudiced party would have to lose a "legal right" or "vested interest" in order to deny equitable subrogation.<sup>10</sup> The *Fleetwood* court noted that though the "exception language has been often cited as part of the general principles of subrogation," the exception has rarely been used; and where the exception did work, the party seeking subrogation had paid only part of the prior debt.<sup>11</sup> *Fleetwood* suggests other potential situations that may warrant the exception: when an additional debt has priority or parity with the intervening interest; when there is a material change in the terms of the superior interest; or there is other pecuniary loss resulting from subrogation.<sup>12</sup>

Texas courts are willing to be persuaded against applying equitable subrogation in favor of lenders, but the reasons disfavoring application should be framed in terms of borrowers' financial loss. While courts have seldom applied this exception in the past, courts may alter that position given that major media, government agencies, and others have uncovered unsavory lender practices.

The second defense to equitable subrogation is the maxim of clean hands, which states, "one whose business violates the public policy of the State... cannot be given relief in a court of equity."<sup>13</sup> Put another way, "a party seeking an equitable remedy must do equity and come to court with clean hands."<sup>14</sup> The lender is probably seeking equitable subrogation because the loan it made was void, probably for violating the constitution or some other law. That violation is a reason for finding the lender's hands unclean. The clean hands defense was not discussed in *LaSalle Bank*, but in the future, a claim that the lender had unclean hands and therefore is barred from pleading an equitable remedy is entirely consistent with the holding in *LaSalle Bank*. The courts agree that protecting homeowners is significant, but they do not want to risk unjustly enriching the homeowner. Equitable subrogation does not ensure against windfalls in these home lending cases, though. Equitable subrogation sanctions lenders' practices that are in violation of public policy, and where lenders have acted in a way that financially injures the homeowner and the public welfare generally, then those lenders should not receive the benefit of the court's equity.

The rationale for the doctrine is it benefits borrowers and lenders because homestead owners gain flexibility in renewing, rearranging, and readjusting the debts on their homes while offering some relief to lenders who fail to comply with the state constitution's requirements. It also works to prevent unjust enrichment. But if the flexibility in renewing, rearranging, and readjusting the debts on the home disadvantages the homeowner because the loan is actually financially injurious to the borrower, e.g. the loan is worth more than the home, then the basis for applying equitable subrogation is destroyed, and the exception should prevail.

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*Chhunny Chbean is a law clerk with Texas RioGrande Legal Aid.*

**ENDNOTES**

- 1 Equitable subrogation is a remedy that enables a party to "step in the shoes" of another. For example, when handling car accidents, insurance companies routinely step in the shoes of their insured when they pursue claims against the other involved parties. In the lender arena, courts have allowed a lender with an invalid lien to step in the shoes of a lender with a valid lien where the proceeds of the bad loan were used to pay off the good loan, e.g., a refinance.
- 2 LaSalle Bank Nat. Ass'n v. White, 2007 WL 4465716. LaSalle Bank made a home equity loan on property designated for agricultural use, in violation of Tex. Const. art. XVI, section 50(a)(6)(I). There was no discussion as to the validity of the original loan.

- 3 Id. at 4.
- 4 First National Bank of Kerrville v. O'Dell, 854 S.W.2d 410, 415 (Tex. 1993).
- 5 Med Center Bank v. Fleetwood, 854 S.W.2d 278, 284-85 (1993 Tex. App.).
- 6 Id. at 285.
- 7 Supra Fn. 3 at 416 citing Providence Inst. For Savings v. Sims, 441 S.W.2d 516, 519 (Tex. 1969) for the proposition that each case is usually governed by its own facts.
- 8 Chase Manhattan Mortgage Corp. v. Cook, 141 S.W.3d 709, 714-15 (Tex. App. 2004).
- 9 Med Center Bank, 854 S.W.2d at 285.
- 10 Id. at 285-86. The Fleetwood court did not find the prejudiced party's loss of the ability to exercise the full extent of his legal rights under his lien to be in itself a legal or vested right.
- 11 Id. at 286.
- 12 Id.
- 13 Wink v. Griffith Amusement Park, 100 S.W.2d 695, 702 (Tex. 1936) holding that an amusement park was not entitled to equitable relief in connection with the amusement park's unconstitutional activities, where the unconstitutional activities rendered the amusement park's hands unclean.
- 14 Truly v. Austin, 744 S.W.2d 934, 938 (Tex. 1988).

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## House Approves Debt Relief for Civil Legal Aid Lawyers

On February 7, the U.S. House of Representatives approved Senator Tom Harkin's, D-IA, loan repayment assistance amendment for civil legal aid lawyers. The amendment was included as section 426 of the College Opportunity and Affordability Act (H.R. 4137), which passed the House by a vote of 354 to 58.

Senator Harkin's amendment would require the U.S. Department of Education to provide loan repayments of up to \$6,000 a year-\$40,000 for a lifetime-to full-time civil legal aid lawyers who agree to remain employed as such for no less than three years. Payments would be awarded on a first-come first-served basis, subject to the availability of appropriations, with priority given to attorneys with less than five years of

employment. The bill authorizes \$10 million for the program in FY 2009.

Harkin introduced the program as a separate bill (S. 1167) in April 2007. Senator Richard Durbin, D-Ill., attached Harkin's bill as a secondary amendment to the Higher Education Amendments Act (S. 1642), which passed the Senate that month.

Though both houses of Congress have approved Harkin's amendment, they will have to reconcile the two bills before sending a version to President Bush for final approval.

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*Information provided by the Legal Services Corporation.*

# How to Erase Texas Criminal Records

By Jerome Wesevich

*"I hope you know this will go down on your permanent record ...."*  
—Violent Femmes (1982)

Roughly 1.1 million people are arrested in Texas every year. Numerous agencies create records after each arrest. Most records are open to the public even if the person is never charged or convicted. A decade ago most records were practically inaccessible because they were not uniformly maintained in computer-readable form. Now, even the oldest and most insignificant records are instantly available for as little as a dime from internet vendors. See [www.napbs.com](http://www.napbs.com). Consequently, even simple employment, housing, education, public benefits, and credit applications now trigger a criminal background check. Records of arrests, warrants, charges and even acquittal may be just as damaging as a record of conviction, and conviction records may be inaccurate. Because the consequences of criminal records are so severe and widespread, advocates should be prepared to identify the small percentage—but large number—of records that qualify for erasure under current law, and to develop efficient ways to apply existing law with limited resources.

## OVERVIEW

As criminal records increasingly affect people in every part of society, laws governing access to records will likely be reexamined for appropriate use in the computer age. Therefore, applicants who do not now qualify for erasure should be advised to periodically reexamine whether new laws may offer relief. Conversely, people who qualify for erasure under current law should be promptly helped in case industry succeeds in imposing new restrictions on erasure.

States have widely divergent laws governing access to criminal records. Margaret Colgate Love usefully catalogues these laws in *Relief From the Collateral Consequences of a Criminal Conviction: A State-by-State Guide* (2006). Still, a person who is troubled by a criminal record from a state other than Texas must be referred to a legal services provider in the state where the criminal record was created. Records of *federal* law enforcement efforts can never be erased, although inaccuracies may be corrected. Federal records questions are rare because federal criminal law enforcement is dwarfed by state efforts.

Texas law provides three ways to erase criminal records: (a) expunction of all records related to certain arrests under Chapter 55 of the Texas Code of Criminal Procedure (TCCP); (b) sealing of deferred adjudication records under Section 411.081 of the

Texas Government Code; and (c) sealing and expunction of records concerning a juvenile suspect under Chapter 58 of the Texas Family Code (TFC). Expunction results in the actual physical destruction of all records maintained by any agency identified in the expunction petition. Sealing essentially ends public access to records, while designated public agencies from law enforcement to educational institutions may still access sealed records. The updated correspondence and pleadings necessary to serve applicants under these three laws are available at [www.trla.org](http://www.trla.org). The final outcome in each case—the “disposition”—must be documented before advocates can tell which law applies.

## METHOD

The following approach will enable Texas legal services providers to efficiently respond to applicant requests for erasure of criminal records:

A. Criminal History. Advocates should seek each applicant’s entire arrest history at the outset because partial erasure of records usually yields no practical benefit. Ordinarily, legal services providers can only afford to represent people with a single episode that qualifies for erasure.

B. Disposition Documentation. Qualification for erasure depends upon final disposition of each case after arrest, as shown in the following chart. Applicants are often wrong about what disposition followed an arrest. Therefore, advocates cannot responsibly advise applicants without *documentation* of the disposition following each arrest at issue. Limited resources prevent legal services providers from retrieving the documents. Applicants should be directed to the district or county clerk’s office, the prosecutor’s office, the sheriff’s office, any court in which proceedings were held, or the organization that proposes to use a record against the applicant. One of these agencies can almost always provide a copy of a document showing what final result followed each arrest at issue. Only as a last resort should the applicant be directed to the Department of Public Safety in search of disposition information because DPS requires fingerprints, takes time, and charges a fee for divulging disposition information. See [www.txdps.state.tx.us/ftp/forms/cr-30.pdf](http://www.txdps.state.tx.us/ftp/forms/cr-30.pdf).

C. Case Evaluation. Once the disposition is known, the response due to the applicant under Texas law is somewhat rote:

Disposition	Response (Current as of 2008)
Conviction	<p>Records resulting in conviction cannot be erased in Texas without a pardon. Passage of time does not change this. Successful completion of sentence, probation, or parole does not change this. Pardons are practically unavailable to poor people because they are rarely granted to anyone, and poor people do not have access to the legal services necessary to apply for a pardon.</p>
Mistake	<p>A conviction record may be erased if it is the result of mistake. This happens when public or private agencies record identification information incorrectly, or when an arrested person provides false identification information. An applicant who claims to be troubled by a criminal record that does not belong to her or him must be advised of two procedures in cases of mistake.</p> <p><u>Public Mistake.</u> Begin by contacting the DPS Error Resolution Unit at 512-424-7256. The applicant may also apply for expunction directly to the district attorney in the county where the applicant resides. TCCP 55.02 § 2a. The district attorney will take fingerprints and a sworn statement from the applicant, and research the record’s accuracy. If the record is inaccurate, the district attorney must get the expunction without charge to the applicant. If the record is accurate, the district attorney may charge the applicant with perjury.</p> <p><u>Private Mistake.</u> If investigation shows that public records are accurate and a private company’s database is inaccurate, applicants should be advised that they may have a civil cause of action against the database company under the Fair Credit Reporting Act, 15 U.S.C. § 1681, <i>et seq.</i> See <i>Philbin v. Trans Union Corp.</i>, 101 F.3d 957, 963 (3d Cir. 1996). Also, TEX. GOV’T CODE § 411.0851 provides a private right of action against private companies that fail to comply with orders that restrict access to criminal records.</p>
Acquittal	<p>Illogical as it may seem, when the state tries and fails to prove its case, the defendant may still be harmed by a criminal record. The defendant is entitled to expunction only if the acquittal occurred in the trial court and the defendant is not subject to prosecution for another offense in the same “criminal episode” as defined by TCCP 3.01. See TCCP 55.01(a)(1) and (c). And, if the acquittal occurs in the Court of Criminal Appeals, expunction is <i>discretionary</i> with the trial court. TCCP 55.01(b). The statute does not address acquittals in lower appellate courts. Defense counsel or the prosecution are required to secure the expunction only upon request by the defendant, but the law is silent as to timeliness of request, and whether public defenders must secure expunctions for indigent defendants at state expense.</p>
Dismissal	<p>Expunction is most often granted following an order of dismissal. Dismissals may be sought for many reasons, including when prosecutors learn information indicating that charges were improper, or when a defendant complies with conditions imposed to divert a case from prosecution. <i>E.g.</i> TCCP 45.051 (deferrals for fine-only misdemeanors). Advocates should seek expunction in every case where an order of dismissal has been entered by a court, and attach a copy of the order to the expunction request. Agencies usually do not contest expunction in dismissal cases, but advocates must be aware of three limits on dismissal expunctions.</p> <p><u>5-Year Felony Rule.</u> If less than five years have elapsed between the date of a person’s felony conviction and a person’s arrest on charges that are later dismissed, records related to the dismissed charge can never be expunged.</p> <p><u>Limitations.</u> Misdemeanors have a two-year limitations period, and TCCP Article 12 lists the limitations periods for felonies, which range from three years to never. The limitations period runs from the date of the alleged offense. If the limitations period has run on a dismissed charge at the time that expunction is sought, and the 5-year felony rule does not apply, the applicant has a clear right to expunction of all records related to the charge. TCCP 55.01(a)(2)(A)(i)</p>

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	<p><u>Probable Cause.</u> If the limitations period has not run at the time expunction is sought, the expunction petition must argue that the case was dismissed “because of mistake, false information, or other similar reason indicating absence of probable cause at the time of the dismissal.” TCCP 55.01(a)(2)(ii). This standard—“other similar reason indicating”—is thoroughly ambiguous. As long as the prosecution does not actually intend to pursue new charges after dismissing the case at issue, prosecutors typically do not oppose expunction under this standard. If any agency opposes expunction on the ground that TCCP 55.01(a)(2)(ii) has not been satisfied, careful advocacy will be required on what appears to be an issue of first impression, namely the extent to which prosecutors may harm a defendant by perpetuating a criminal record even after formally declining to prove a case. This issue is more likely to be litigated after <i>Texas v Beam</i>, 226 S.W.3d 392 (Tex. 2007) (misdemeanor dismissals cannot be expunged until limitations has run or TCCP 55.01(a)(2)(ii) is satisfied).</p>
Not Charged	<p>A person may be arrested, brought before a magistrate, and accused of a crime, only to have the charges later rejected by the prosecutor. These cases are not “dismissals” because a prosecutor never filed a formal charging instrument in court (called an “information” for misdemeanors and usually an “indictment” for felonies). Even so, record erasure in charge-rejection cases is achieved by the same procedures that apply to dismissals. Instead of a dismissal order, advocates should attach to the expunction petition a letter from the prosecutor showing the charge rejection. Most prosecutors provide these letters. If a prosecutor refuses to document the fact that charges were rejected after arrest, or if a prosecutor argues against expunction, litigation under TCCP 55.01(a)(2)(ii) may be used to explore what basis the prosecutor has for subjecting the defendant to criminal record harms after declining charges.</p>
Deferral	<p>In many cases, prosecutors may agree to defer further action while the defendant is given an opportunity to perform actions that usually include payment of restitution and fines. There are two main types of deferrals.</p> <p><u>Deferred Prosecution.</u> Prosecutors may execute a contract directly with a defendant by which the prosecutor agrees to defer action in a case in exchange for actions by a defendant. These actions may include waiver of any future right to expunction. See <i>In the Matter of Arnold</i>, 34 S.W.3d 583 (Tex. App.—El Paso 2000, no pet.). Many deferred prosecution cases do not involve expunction waiver, so the documents in each case need to be examined. If a defendant has successfully completed the deferred prosecution requirements, the case is usually dismissed and may be expunged as described above.</p> <p><u>Deferred Adjudication.</u> Under this common deferral method, the defendant pleads guilty and the judge defers entry of judgment on the plea until the court determines whether the defendant meets specific probation conditions. TCCP 42.12 § 5. After successful completion, all records resulting in deferred adjudication may be sealed, not expunged. The procedure is buried in Texas Government Code § 411.081(d). Applicants who want records erased for employment and housing purposes should see no practical difference between sealing and expunction. To seal records related to a case resolved by deferred adjudication, defendants must: (a) get a court order showing that the case ended after successful completion of the terms of deferred adjudication (usually called a “discharge and dismissal,” but if the form order only says “discharge,” the case docket may have to be introduced to show that the case ended, i.e. was “dismissed,” after the discharge); (b) wait 2 years from the discharge date for certain violent misdemeanors and 5 years for felonies; and (c) pay at least \$28 in court costs, even if indigent. Even if an applicant satisfies all requirements for sealing (called an “order of non-disclosure”), the court that originally placed the applicant on deferred adjudication retains discretion as to whether an order of non-disclosure “is in the best interest of justice,” so an advocate’s skill may be needed to prove this.</p>

<p>Juvenile</p>	<p>Juveniles may be certified to stand criminal trial as adults, but this usually only happens in cases involving serious harm. If an applicant was arrested for an alleged offense between the ages of 10 and 16, the applicant likely has a <i>civil</i> juvenile record under the Texas Family Code. Many technical requirements apply to erasure of juvenile records. A lawyer is needed.</p> <p>A popular misconception is that juvenile records are automatically sealed. They are not. Only if a juvenile remains free of all criminal charges between the ages of 17 and 21 are juvenile records automatically sealed by unilateral action of the state. TFC § 58.201, <i>et seq.</i> Juvenile records are largely open to the public until age 21, and afterward if further criminal activity is documented. Separate and apart from automatic sealing, applicants may take affirmative action to expunge or seal some juvenile records. TFC § 58.210.</p> <p>Juvenile records may be expunged under TFC § 58.0071. Basically, courts enjoy discretion to expunge juvenile records at age 18 if any officer or prosecutor found an absence of probable cause (the child may suffer from the record until then, even without probable cause). Courts may expunge records at age 21 as long as no adjudication of felony delinquent conduct was entered in the case. Courts may expunge records at age 31 as long as no adjudication of capital felony delinquent conduct was entered in the case.</p> <p>Records of any juvenile’s conviction for one Class C (fine-only) misdemeanor may also be expunged under TCCP 45.0216 and 45.055, but this expunction is not available to any juvenile who was convicted of more than one offense.</p> <p>Finally, juvenile records may be sealed under TFC § 58.003. Subject to pages of technical requirements, this law gives courts discretion to seal some juvenile records related to charges that are: (a) old enough—the statute is ambiguous as to whether “immediate” or two years suffices; (b) not serious—a Penal Code will be needed; and (c) inoffensively disposed. Sealed records later qualify for destruction under TFC § 58.003(l). The pointless complexity of this law suggests that some may have intended that a lawyer be necessary to use it. Ultimately, disparity in access to record erasure is a critical basis for seeking reform of any unfair criminal record law.</p>
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D. Referrals. Anyone who cannot be served with existing resources should at least be educated, especially because internet schemes abound to sell record erasure forms to people who do not qualify. Sample letters explaining Texas law to people who do not qualify, and to people whose qualification cannot be readily ascertained, are available at [www.trla.org](http://www.trla.org). People with mistake or acquittal cases may be referred to court-appointed counsel or the district attorney.

E. Document Preparation. If the applicant qualifies for expunction or sealing, the necessary documents are easy to prepare. They consist of: (a) a signed fact and citizenship statement to the extent required by the Legal Services Corporation; (b) a pauper’s oath that is most effectively presented under Tex. R. Civ. P. 145; (c) a petition for expunction or non-disclosure; and (d) a proposed order. Be sure that the applicant carefully reviews

all documents for accuracy. Some documents must be verified and notarized. The district clerk serves the listed agencies in pauper cases, which is important because service can be difficult. Experience indicates that service difficulties may be minimized by: (a) including both the district attorney and the county attorney in the agency service list regardless of whether the records pertain to what became a felony or misdemeanor case; (b) serving any DPS agency other than the DPS records bureau in Austin; (c) requesting electronic service from the clerk; and (d) getting a hearing set for 30 days after filing, so that the clerk may serve the hearing notice with the petition.

F. Hearing. A hearing should be set for at least 30 days after the petition is filed. In the unlikely event that an agency disagrees with any of the facts alleged in the petition, the agency will notify you in writing before the hearing date. Otherwise, all

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you must do is appear for the hearing with the applicant, review the verified petition in front of the judge, and then the judge will likely sign your order. Hearings are usually unnecessary, and some judges do not hold them, even though statutes arguably require hearings. Only the “best interest of justice” issue in deferred adjudication cases, or complex expunction cases, could require preparation before a hearing.

**G. Result.** Applicants should be advised that if they are ever asked about an arrest that has been expunged or sealed, Texas law allows them to deny the arrest and later proceedings. This denial should not be made in any future criminal legal proceeding, however. Only listed public agencies are required to erase criminal records as described in the order, but even if an agency is omitted from the order, the agency is still required to maintain the records in a confidential status upon receiving notice of an expunction order. Op. Tex. Att’y Gen No. LO-93-88

(1993). If a private person gets documentation of an expunged or sealed arrest, legal services are needed to remedy the resulting harm using the Fair Credit Reporting Act.

#### CONCLUSION

Record erasure cases are simple legally, cumbersome in practice, and critical to tens of thousands of low-income families who qualify under existing record access laws. Ideas have yet to be explored for refining this law, and for making its benefits available to all those who fairly deserve to be unburdened of criminal records.

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*Jerome Wesevich is a staff attorney with Texas RioGrande Legal Aid.*

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## TRLA Lawyers Admitted to U.S. Supreme Court

On February 20, six lawyers with Texas RioGrande Legal Aid (TRLA) were admitted to practice before the U.S. Supreme Court. They are: Julie M. Balovich, Kevin P. Dietz, Cheryl D. Gatford, Mandi Matlock, Carmen E. Rodriguez, and Brian Rogers.

William O. Whitehurst, former Chairman of the American Bar Association’s Standing Committee on Legal Aid and Indigent Defendants, former President of the State Bar of Texas, and co-founder of Bar Leaders for the Preservation of Legal Services to the Poor, moved the admission of the group.

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*Information provided by the Legal Services Corporation.*



*Front row (l-r) – Cheryl Gatford, Carmen Rodriguez, Mandi Matlock  
Back row (l-r) – Kevin Dietz, Julie Balovich, Bill Whitehurst, Brian Rogers*

## The Border Wall: TRLA Helps Rio Grande Valley Landowners in Controversy

Hilaria and Baldomero Muñiz have worked hard to build a stable life for themselves and their children. Having spent decades traveling to Michigan as migrant workers, Hilaria and Baldomero managed to save up enough money to buy a small plot of land in the border town of Los Ebanos, Texas. They raised all of their children in their house along the Rio Grande River and today the couple supports themselves by using the property to raise goats.

But, after having lived on the land for more than fifty years, the Muñiz family is facing the threat of seeing everything they have worked for be taken away by the federal government. Hilaria and Baldomero are being sued by the Department of Homeland Security (DHS) to secure access to their land in the construction of a wall along the Texas-Mexico border.

If the lawsuit succeeds, the Muñiz property could be altered or confiscated by the federal government and the couple would have little say in the matter. But, with the help of Texas RioGrande Legal Aid (TRLA), the Muñiz family is fighting to have a voice in the process and, hopefully, to keep their land from being taken away.

Plans to build a wall along the Texas-Mexico border have received ample opposition from residents of the Rio Grande Valley. Lawyers from TRLA have reached out to border landowners to educate them on their property rights and are currently representing several landowners, including the Muñiz family, that have been sued by DHS.

The efforts come after Homeland Security Secretary Michael Chertoff threatened legal action against residents who refuse the Department's request to survey their land for the construction of a wall along the Texas-Mexico border. More than 600 residents were asked to grant the Department access to their property. Approximately 150 residents refused or did not respond to those requests, prompting Secretary Chertoff to threaten to use the power of eminent domain against landowners that refuse to cooperate.

According to TRLA attorney Rebecca Webber, "Landowners have the right to refuse access to federal officials who demand it without a court order. They should not be scared, punished, or harassed for exercising that right."

In order to educate border landowners on their property rights, TRLA hosted various community education meetings throughout the Rio Grande Valley including in Brownsville and El Calaboz. TRLA attorneys were available to answer legal questions and were joined by attorneys from the South Texas

Civil Rights Project who agreed to provide legal representation to landowners not eligible for TRLA services. Attendees often expressed their concerns over maintaining access to necessary resources, including their water supply, or possibly having to go through a checkpoint just to get into their own backyard.

At one of these meetings, the residents of Granjeno came together to form GLOW (Granjeno Landowners Opposed to the Wall). The group, comprised of a dozen residents who expected to be affected by the wall's construction, were determined to fight government attempts to build the wall on their property. With the levee-wall compromise announced in early February, GLOW members no longer have to fear losing their land.

But other border residents aren't as lucky. Since January, DHS has filed more than fifty lawsuits against Rio Grande Valley landowners who have refused to cooperate with the government's requests.

In several instances TRLA is representing border landowners who have been sued by Homeland Security for land access. TRLA has filed a response in each of these lawsuits alleging that the government's requests should be denied because, by law, the government is required to negotiate access terms before using the courts to begin the eminent domain process.

"It is unacceptable that the Department of Homeland Security would violate federal law when taking people's property," added TRLA attorney Robert Doggett.

TRLA is continuing to offer its legal and educational services to landowners in this situation. Landowners needing legal assistance regarding the border wall are encouraged to contact TRLA at 1-866-757-1570.

For updates to this story and to keep up with all of TRLA's border wall outreach efforts, visit [www.trla.org](http://www.trla.org).

*Contributed by Texas RioGrande Legal Aid.*



*Photo Credit: Celestino Gallegos  
The Muñiz property is located right along the Rio Grande, a location that gives Homeland Security a strong interest in the land.*

## Texas Residents Scammed by Fake Legal Aid Provider

Texas RioGrande Legal Aid (TRLA), the leading provider of legal aid in Texas, recently filed a lawsuit against two brothers and several related organizations for falsely claiming to be a legal aid provider and scamming Texas residents out of hundreds of dollars.

The lawsuit comes after numerous individuals in Texas contacted the companies for help with their legal problems after seeing advertisements in the phone book and on the internet or being referred through directory assistance. The companies, known as National Document Preparation Services, Legal Aid National Paralegal Services, National Paralegal Service, Legal Aid National Services, and Ed Brown Management, often promised individuals unreasonable results, including the ability to obtain a divorce within a day for \$250.

In conjunction with the law firm of Morrison & Foerster, TRLA has been investigating the fake legal aid operation for several months. The investigation has shown that the brothers have operated similar scams throughout the country for more than fifteen years, targeting clients with limited financial resources and English speaking ability. The operation even set up a website to collect donations to help legal aid operations.

“Legal aid is free for everyone who qualifies,” said TRLA attorney Cindy Dyar. “These companies have been taking advantage of people in need by claiming they want to help, charging people for services, and then not providing legal assistance.”

In one instance, client Kristy Matthijetz contacted the organization for help with a divorce and child custody case. She paid \$525 and was told that an attorney would meet with her at the courthouse before her hearing. When no one showed up, Ms. Matthijetz was left to defend herself. Not knowing her legal rights, Ms. Matthijetz lost custody of her daughter.

There are numerous warning signs people should look for to avoid being scammed by a fake legal aid group. First, legal aid services are free for anyone who qualifies. A legal aid organization will never ask a client to pay attorney fees. The only legitimate legal aid organizations in Texas are Texas RioGrande Legal Aid, Legal Aid of Northwest Texas, and Lone Star Legal Aid. National legal aid organizations do not exist.

Several websites are also available to help individuals needing legal assistance. Instead of paying a company for forms, individuals can visit [texaslawhelp.org](http://texaslawhelp.org) for free copies of legal documents. Individuals can also visit the Texas Bar Association’s website ([www.texasbar.com](http://www.texasbar.com)) to ensure that they are working with attorneys licensed to practice in Texas.

Added Dyar, “People need to trust their instincts. If a company is demanding money for legal aid and it seems sketchy, it probably is.”

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*Contributed by Texas RioGrande Legal Aid.*

## South Texas Farmworkers Reach Settlement In Lawsuit Against Watermelon Grower

Twenty-two Texas farmworkers have reached a settlement with three Rio Grande Valley companies over a lawsuit regarding the importation of more than 400 foreign guestworkers into the United States between 2001 and 2007.

Represented by Texas RioGrande Legal Aid (TRLA), the workers claimed that Nowell Borders, L.P., Hargill Harvesting & Packing, Inc., Mata Trucking Company, and Martinez Packing Company misused the U.S. visa program to hire foreign labor and avoid providing housing, transportation, and meals to workers. The companies applied for guestworker visas using the H-2B program instead of the H-2A program which would have required the recruitment of domestic workers at higher wages.

“This settlement signifies a commitment on behalf of all four companies to engage in fair employment practices and respect the rights of American farmworkers,” said TRLA attorney Javier Riojas. The settlement also creates a mechanism for resolving future disputes without resorting to litigation.

John Flanigan, Executive Vice President for Hargill Harvesting and Packing, Inc., stated he was pleased with the

agreement that was reached and enjoyed working with TRLA to resolve the dispute.

The companies compensated the workers for more than \$60,000 in wages and agreed to modify their employment practices so that U.S. workers are hired first and receive equal pay and benefits compared to foreign workers. The companies also agreed to use the H-2A guestworker program that provides more benefits and protections for workers than the H-2B program.

Originally filed in October 2007, the lawsuit also targeted the Department of Labor (DOL) for its failure to enforce the regulations of the guestworker program. The case against DOL is not part of the settlement and is still ongoing.

“The law guarantees that U.S. workers have certain protections over foreign labor. The Department of Labor looked the other way in this situation and the federal government, of all entities, should be looking out for U.S. workers the most,” added TRLA attorney and Equal Justice Works Fellow Jake Wedemeyer.

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*Contributed by Texas RioGrande Legal Aid.*



## ... When we have more, we do more<sup>1</sup>

By Lisa Melton

The Legal Services Corporation’s (LSC) 2006 report, “Documenting the Justice Gap in America-*The Current Unmet Civil Legal Needs of Low-Income Americans*,”<sup>2</sup> demonstrated that there is a significant shortage of civil legal assistance available to low-income Americans.

Asking all LSC-funded programs to document how many clients they turn away (LSC’s “unable to serve” study) established that for every client who receives service, one applicant is turned away. Fully 50 percent of the potential clients requesting assistance from an LSC grantee were turned away for lack of resources on the part of the program. Because only those with LSC-eligible cases who contacted the program for assistance were counted, the study underestimated the unmet need.

In preparing this report, LSC also examined nine recent state legal needs studies and found they demonstrated that less than 20 percent of the legal needs of low-income Americans were being met. Eight of the nine studies found an unmet legal need greater than the 80 percent figure determined by the ABA in their 1994 national survey.

Finally, in adding up the number of legal aid attorneys serving the poor and comparing that to the LSC-eligible population, it was determined that there is one legal services attorney for every 6,861 low-income persons. By contrast, the ratio of attorneys delivering civil legal assistance to the general population is approximately one for every 525 persons, or thirteen times more.

Although state and private support for legal assistance to the poor has increased in the last two decades, level federal funding (actually declining due to inflation) and an increased poverty population have served to increase the unmet demand. In Texas, the need as compared to available federal funds is staggering:

Year	Poverty Population	PP at up to 125%	Actual LSC Grants	Adjusted for Inflation
1980	2,035,873	not readily available	\$19,755,565 <sup>3</sup>	\$49,710,661
1990	3,000,515	3,911,591	\$20,389,257	\$32,345,440
2000	3,007,000	4,172,990	\$25,031,034	\$24,687,346
2007	3,117,609	5,140,000	\$25,951,286	\$25,951,286

Assuming that state and private funding increases were to keep pace, it will take at least a five-fold funding increase to meet the documented need for legal assistance, and a doubling of LSC’s current funding of the basic field grant just to serve those currently requesting help.

The analysis for the report was concluded in August 2005. Consequently, none of the data in the report reflects the vastly increased need for legal assistance that resulted from the impact of Hurricanes Katrina and Rita by a greatly expanded client-eligible population, not only in the states where the hurricane struck, but across the nation where evacuees have been relocated. A national disaster of this magnitude highlights the critical need for civil legal assistance and reaffirms the need for long-term adequate funding.

The passage of the “IOLTA Comparability Rule” in Texas will provide a significant increase in funding. However, the increase will be nowhere near the five-fold increase needed to insure access to justice for all who need it. First, due to federal fund rate cuts, the funding promised by *comparability* has not proved as promising as it first did; current projections indicate that revenue will be half of that originally estimated.

*Continued on page 30.*

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The Federal Reserve has decreased its Federal Funds Target Rate (“FFTR”) six times since August 2007. At the end of 2007, the FFTR was 4.25%; it has since fallen to 2.25%, which is the lowest level since February 2005. Thus, TAJF’s 2007 IOLTA revenue was approximately \$20.0 million, which is substantially less than the \$28.0 million that was projected shortly after comparability was implemented. Currently, TAJF projects \$12.5 million in IOLTA revenue for 2008 and \$12.0 million in 2009.

Second, even at early revenue projection, the funding would have fallen far short of that required to address the 80% of the need that is going unattended. It is as important as ever that legal aid programs in Texas not only continue, but step up their fundraising efforts in order to move closer to the goal of providing justice for all in Texas.

Boards of directors of these programs must establish themselves as fundraising boards. It is a key requirement of non-profit governance and must be attended to with the same diligence and purposefulness as setting the budget, hiring and evaluating the executive director and insuring program services are of high quality and reasonable quantity under the circumstances. Board fundraising should start with individual members. Every member should make a fundraising commitment – it is not the size, but the fact that as a board member you support the organization financially, that matters.

Funds should be raised by every program in every community in which they have a presence. Boards must shepherd this process – as members of the community and fiduciaries of the organization, they are in the best position to do so.

Funds should be raised from the private bar – bar support is a leading indicator of broad-based fundraising success for a legal aid program. Program leadership must be able to answer the question, “What are the lawyers doing about this problem?” when seeking funds from non-lawyer donors. They cannot do so if they do not have financial and pro bono support from members of the local bar.

Start with the bar, but keep going. The bar makes up only a small portion of the people in any given community who believe in fairness. Most people are born believing that things should be fair. Ask a child about fairness; they have an innate sense of what is fair. Fairness resonates with most Americans because fair treatment of people is what we are to be about. It is the cornerstone of our democracy. Talk fairness in real life terms that non-lawyers can relate to and you will find support beyond the private bar.

There are many resources to assist legal aid programs with fundraising. Some are focused specifically on legal aid but many are not – fundraising for legal aid is not so very different than raising funds for other causes because legal aid is often the gatekeeper to services that provide safety, health, shelter and sustenance. Many of these resources are listed below:

Management Information Exchange at <http://www.m-i-e.org/fundraising.htm>

ZimNotes at <http://www.zimmerman-lehman.com/subscribe.htm>

*Boards that Love Fundraising: A How-To Guide for Your Board*, Zimmerman and Lehman

Grassroots Fundraising Journal eNewsletter [www.grassrootsfundraising.org](http://www.grassrootsfundraising.org)

Board Source at [www.boardsource.org](http://www.boardsource.org)

Visiting these sites will lead you to many more resources that can help your organization have more so you can do more.

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*Lisa Melton is Special Projects Manager at the Texas Access to Justice Foundation.*

## ENDNOTES

- 1 In an inspiring presentation to the TAJF Board’s Comparability Planning Committee, Kevin Dietz opened his remarks with, “One thing I have learned, when we have more, we do more.”
- 2 The contents of this article were, in part, copied from this report.
- 3 This is actually 1981 and was the peak year before the Reagan error cuts. 1980 may have been very slightly more or less.

## 2008 Pro Bono Coordinators Retreat

Join us in Austin on September 18-19, 2008 when Texas Lawyers Care will host its annual Pro Bono Coordinators Retreat.

The Pro Bono Coordinators Retreat provides excellent training for any staff person charged with recruiting volunteers to provide pro bono legal services for poor Texans. The retreat will feature presentations from knowledgeable coordinators from across the state.

Early registration helps ensure sufficient course materials, seating and refreshments will be available for all participants. Advanced registration is recommended and encouraged. Late registrants will be provided materials as available.

\* A limited number of rooms are available at the DoubleTree Club Hotel – University Area at special rates until **August 27, 2008**, or until the room block is full. If you plan to attend the retreat, call 512-479-4000 and reference the “Pro Bono Coordinators Retreat” to receive the special rate of \$99/night (single or double) plus tax.

For the latest on the Pro Bono Coordinators Retreat schedule, list of topics and speakers, or a registration form, visit [www.texasbar.com/pbcr](http://www.texasbar.com/pbcr).

### Pro Bono College of the State Bar of Texas

*Outstanding contributions to legal services to the poor*

The State Bar of Texas is accepting applications for 2008 membership in the Pro Bono College. Attorneys who have exceeded expectations in pro bono legal services to the poor by performing a minimum of 75 hours of eligible pro bono service are encouraged to apply.

Benefits include:

- **Certificate** signed by the President of the State Bar and Chief Justice of the Supreme Court,
- **Subscription** to the *LegalFront* newsletter published by Texas Lawyers Care (TLC) providing information on legal services to the poor issues statewide
- **Free** one year subscription to TexasBarCLE's Online Library.
- **Training** in substantive poverty law issues at TLC's annual Poverty Law Conference when registered at the reduced tuition rate
- **Recognition** at the State Bar Annual Meeting, and
- **Membership** of exceptional attorneys who have demonstrated a desire to help address the vast unmet legal needs of the poor by providing access to the justice system.

Join Texas attorneys who are proud members of the Pro Bono College by completing a membership application today.

Visit [www.texasbar.com](http://www.texasbar.com) to download an application or contact us at 800-204-2222, ext. 2155.

Application deadline is December 1.



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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).*

**June 4 – 7**  
National Organization of Social Security  
Claimants Representatives Conference  
Miami Beach

**June 19 – 21**  
NLADA Civil Impact Leadership  
Conference  
San Jose

**June 26 – 27**  
State Bar of Texas Annual Meeting  
Houston

**July 17 – 19**  
State Bar College Summer School  
Galveston

**July 18 – 19**  
State Bar of Texas Bar Leaders Conference  
Spring

**July 29 – 31**  
Center for Legal Aid Education –  
Community Lawyering Training  
Seattle

**August 10**  
Texas Bar Foundation Grants Application  
Deadline

*The articles in this publication reflect the viewpoints of the authors and do not necessarily express the opinion of  
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