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Poverty Law Section Awards Hail a 'Warrior,' Recognize Impact of Work

Hailed as “a magnificent warrior for those who do not have a voice,” Randy Chapman was awarded the Noble Award for Lifetime Achievements in Poverty by the Poverty Law Section during its annual meeting last April.

Chapman, well known by those who provide legal services to the poor, is the Executive Director of the Texas Legal Services Center in Austin. “We brag about the work you do,”

said presenter Jim Sales, Texas Access to Justice Commission Chair.

Chapman is credited with establishing several hotlines, including the Legal Hotline for Older Texans, the Crime Victim’s Legal Hotline and the Disaster Relief Hotline, and for his tireless legislative and policy work that has resulted in improved and increased services for the poor. “I don’t think he sleeps while

the legislature is in session,” said Sales. “They know him and they know he’s there.”

PLS also awarded several Impact Awards, which recognize professionals for significant work in poverty law practice.

Kevin Dietz, Texas RioGrande Legal Aid, and John Kennedy, Legal Aid of NorthWest Texas, were recognized for their work

Section Awards cont. p. 4

The Chair’s Corner

Greetings! The Poverty Law Section exists to improve legal services provided to low-income Texans. We have more than 400 members: most work in legal aid or other public interest law settings, others do pro bono work for the poor but work in private practice, for governments, businesses or in the academic world. Some are retired from the work world and volunteer for legal aid programs.

The Section produces a monthly CLE program called First Friday, a one-hour teleconference with

materials available at www.povertylawsection.com. We are always looking for topics and speakers.

The Section’s annual meeting is held in conjunction with the Poverty Law Conference sponsored by the State Bar’s Texas Lawyers Care. At this meeting, we recognize the outstanding contributions of advocates who advance the cause of poverty law in the state and federal legislature, the courts and through administrative advocacy.

The Poverty Law Handbook has been completed and is available in several formats.

We are looking for ideas for additional chapters. Send your ideas to Bruce Bower at bbower@tlsc.org.

Our Section’s work is mainly through its committees. Visit our Website for a listing of the committees and their charges. There are many prospects for getting involved. For more information, contact me at getter@lanwt.org.

Thanks for all your good work in the noble practice of poverty law.

—Roger Gette, Chair

How Social Workers Can Help You Practice Law

Many problems facing today's attorney require an interdisciplinary approach, touching on fields of practice such as child welfare, juvenile justice, mental health, domestic violence, immigration and housing. Social work and law converge, not just in the lives of our clients, but also in the nature of the advocate. Yet few, if any, articles exist that have been written by attorneys about working with social workers. The intent of this article is to show the value of working with social workers and utilizing their skills when you represent clients.

Social workers are trained in how to overcome barriers when a client is reluctant to open up to someone who seems "in authority," like a lawyer. When talking with their attorneys, clients sometimes withhold vital information they believe could harm

their legal situation. I once represented a woman who was being evicted for too many noise violations. She told me it was just her nosy, elderly neighbors complaining. But the property manager told me that my client's boyfriend regularly beat her. The manager filed the eviction lawsuit as a last-ditch effort to get my client help. I tried to speak with my client about this, but she didn't want to confide in me. She did agree, however, to speak with our social worker, where she discussed the abuse and asked for help.

Here are three quick tips for how best to utilize social workers in your practice:

- 1. Sign the release forms.** Always ask your clients' permission and have them sign a release of information form so you can talk with their case manager.
- 2. Remember that you are not a**

social worker. Work to identify your client's needs that are best met by a nonlegal advocate, but don't take on those needs yourself. Do not ignore what your client is saying about her feelings, but put the client in touch with someone trained to address them.

- 3. Remember the Golden Rule.** Learn how to best communicate with your client's social worker, counselor or case manager so that both of you can do what you're good at in order to help the client. Remember: Social workers do not think like lawyers, which means you may need to ask them to take extra steps when their work touches on legal matters, such as obtaining proof of mail delivery or fax transmission.

— Bernadette Segura and
Kelli Dunn Howard
Contributing Writers

Importance of Rule 145 Affirmed by Texas Appellate Court

A litigant who files a pauper's affidavit cannot be ordered to pay additional fees if she qualifies to have court costs and filing fees waived, according to a Texas appellate court.

With *In re Carla Kaye Villanueva*, a decision issued by the 6th Court of Appeals, the Texas Advocacy Project's Justice Initiative won a significant victory for victims of domestic violence--with implications for all indigent litigants.

Carla Kaye Villanueva, a participant in the Project's Assisted Pro Se Program, sued for divorce and filed an affidavit of indigency along with her original petition. Her husband had agreed to the divorce and to child custody terms.

However, the judge "based

solely on his past experiences with other indigent, self-represented parties" decided *sua sponte* to appoint an attorney *ad litem* to represent the interests of the children and ordered a social study, both of which the Court ordered Ms. Villanueva to pay.

Unless the orders were overturned, the client would have been unable to finalize her divorce, as she could not afford to pay the attorney *ad litem* or social study evaluator. This order infringed upon the client's fundamental, constitutional rights to raise her children and marry or divorce.

Project attorneys won a writ of mandamus ordering the trial court judge to revoke the orders, arguing equal protection and due

process. The appeals court recognized that the trial judge had erected an insurmountable barrier to justice that the Texas Rules of Civil Procedure did not contemplate. In so doing, the Court affirmed that Rule 145 was intended to afford indigent access to courts. Noting that both appointments were discretionary, the Court pointed out that rather than making a distinction between "costs" and "fees," the purpose of Rule 145 is to provide an adequate forum for indigent litigants. The opinion is available at www.6thcoa.courts.state.tx.us/opinions/HTMLOpinion.asp?OpinionID=9939

—Annette Lamoreaux,
Contributing Writer

We want to share the glory: Be a contributing writer!

Contact Shelby Jean at jeans@lanwt.org

Save the Date: Upcoming Meetings & Conferences of Interest

The Collaborative Law Institute of Texas Spring Conference, March 4-5, 2010, Austin, Texas. See www.collablawtexas.org for more information.

Fair Debt Collection Training Conference, Jacksonville, Florida March 5-6, 2010. A two-day training only for NACA members, current NACBA members with practices limited to consumer cases, assistant attorneys general, and legal aid lawyers who may litigate against debt collectors. Online registration at www.nclc.org.

Poverty Law Conference, April 14-16, 2010, Austin, Texas

The 32th Annual conference, designed for legal services advocates and attorneys who provide pro bono civil legal services, provides valuable training on poverty law issues affecting low-income and indigent Texans. Contact TLC at TLCmail@texasbar.com or 800-204-2222, ext. 1855.

Poverty Law Section Annual Meeting: April 14, 2010, Austin, Texas

Held in conjunction with the Poverty Law Conference, the annual meeting runs from 5:30 p.m. to 7:30 p.m.

Working Smarter: Word Tips and Tricks

When you are preparing a document on deadline, working efficiently is a great timesaver. One of the best ways to work efficiently in Word is to make use of the many easy-to-use macros that have been built into Word. In fact, it's possible to avoid completely the use of a touchpad or mouse by making use of keypad macros such as these:

Ctrl+X, **Ctrl+C**, **Ctrl+V** are three macros for Cut, Copy and Paste, respectively. These shortcuts are great timesavers.

Shift+F3 is a helpful macro that toggles the

case from UPPER case, to lower case and to Initial Caps.

Ctrl+Home, **Ctrl+End** are two macros that allow you to move to the top and bottom of a document, respectively.

F8 + arrow keys allow users to select large bodies of text without need for a mouse or touchpad.

Ctrl + Z allows you to undo the most recent change to a document. Keep pressing **Ctrl + Z** to backtrack through and undo the most recent editing changes.

Shift+F5 allows you to move to your last cursor position. Pressing Shift+F5 again takes you to the next-to-last cursor position.

To temporarily enlarge or minimize a Web page, simultaneously press Control and + key. To minimize (or return to original size), simultaneously press Control and - key

—*Shelby Jean*

Awards Celebrate Contribution, Impact (cont. from page 1)

PLS award winners have been zealous in their efforts to correct wrongs

in the Yearning for Zion Ranch case, where the state took custody of more than 430 children after allegations of child abuse and neglect surfaced in 2008. Dietz credited both law firms with working collaboratively to win back custody of the children for the client mothers.

Another Impact Award recipient was Texas Representative Elliott Naishtat (D-Austin) for his work in the Texas Legislature on behalf of poor Texans. "He has been persistent in trying to correct wrongs," said presenter Bruce Bower. Susanne Sere, Lone Star

Legal Aid, was honored for her work on behalf of hurricane victims in Galveston and convincing the housing authority to begin rebuilding housing for the poor. "She got a great result," said presenter Paul Furrh.

—Shelby Jean

Tales from the Front: Celebrating Our Colleagues' Success Stories

Michigan grower Van Dyk & Sons settled a lawsuit filed by four Mexican-American migrant workers from South Texas after the workers alleged that the company discriminated against them based on age, sex and national origin. The four workers, employed as lettuce harvesters, alleged that the employer told two workers they were too old for the work and told one worker that she should not take the job because it was not for women. Additionally, the lawsuit alleged that the company subjected the workers to conditions that were worse than those offered to non-U.S. workers and retaliated against them by firing them when they sought legal help. The workers were hired under the federal H-2A program, which allows agricultural employers to request temporary visas for foreign workers when domestic labor cannot be found. The lawsuit alleged that Van Dyk & Sons violated the Agricultural Worker Protection Act, the Immigration

and Nationality Act, the Age Discrimination in Employment Act, and Title VII of the Civil Rights Act. The workers were represented by TRLA and TCRP.

Client husband and wife were being evicted from a home that they had been purchasing under a "rent-to-own" contract from a private seller. After the clients got behind in their mortgage payments, the seller initially agreed to work with them, but then filed an eviction action in justice court. LANWT reviewed the contract and concluded that it met the statutory requirements of an executory contract, which provides the right to cure a breach. The attorney first filed an action in district court, requesting an accounting and pleading for contract rescission, then prepared a Plea to the Jurisdiction filed with the Justice Court, arguing eviction was improper and the JP lacked jurisdiction to rule on a real property matter. The JP agreed

and dismissed the eviction action. The attorney worked with the clients to negotiate a settlement to the dispute suitable to all parties.

Client was married to a U.S. citizen and had four children, all born in the U.S. Her spouse refused to petition for her, using her immigration status to control her. When her oldest son turned 21, he petitioned for her, but later turned against the client and withdrew the petition. By initiating the petition process, however, authorities were alerted that she was in the country illegally, making her even more dependent on her abusive husband. Eventually, the client found the courage to call TCRP, whose attorney submitted a successful VAWA petition. When she received her work authorization, she was finally able to get a job and live free from her husband. After her residency was approved, the client was promoted at her job and got a substantial raise. She also reported that she had bought her own house and a truck. (Cont. p. 5)

Tales from the Front (continued)

Client, desperate for work, was working in the home of two prominent teachers for \$150 per week. Barely able to pay for rent, she continued working for the employer for three months, working upwards of 60 hours a week until the couple refused to pay client her last paycheck. After attending Paso del Norte Civil Rights Project's Economic Justice Workshop, she learned that she was owed upwards of \$3,500 in unpaid minimum wage and overtime pay. She worked with other workshop participants to form the Committee for Labor Justice. The Committee worked with the TCRP to demand that the employers provide her the unpaid wages, even visiting the employers' home to demand payment. Because the employers have not responded to the Committee's requests for negotiation, TCRP is representing client in a lawsuit to recover her wages.

A woman who fled the genocide in Democratic Republic of Congo ended experiencing severe domestic violence at the hands of her husband in the United States. With her legal refugee status tied to her husband's, she spoke only French and her husbandly repeatedly threatened to have her sent back to Africa if she didn't

follow his rules. The last time she was beaten by her husband, one of their children called 911, just like she'd been taught in school. She said her father was hurting her mother and pleaded for help. By the time the ambulance and police arrived, the husband had fled the scene, leaving his wife battered and bruised after he had spanked her, struck her multiple times on her body and face, and pushed her to the ground. She was taken to the hospital, where she was treated for a severe head injury. Shortly thereafter, she and her children moved to a shelter and then to a hidden location. While local agency worked with her on immigration status, LSLA helped the client obtain custody of her children, supervised visitation for their father (which he never exercised), and child support, including a lump sum payment of more than \$11,000 that would help her start over. Today, the client is working toward citizenship and learning to speak English. She found a job and she is pursuing a nursing license.

When the Texas Health and Human Services Commission intercepted a client's Federal income tax refund for a claimed overpayment of food stamp benefits, LANWT's attorney was able to show

that it was client's adult son, not client, who was the food stamp recipient. Instrumental to this proof was that, during the time in question, client's son was living in Central Texas and receiving food stamp benefits while client resided in West Texas and received no food stamp benefits at her home. The client won her case and the state returned the client's refund check to her.

A man who claimed to run a "Christian-based nonprofit" swindled a woman out of her home after Hurricane Rita—and charged her for it. The client claims the man preyed upon her poverty and lack of sophistication. She says that after Rita damaged her home, she responded to an ad promising to help hurricane victims "get back on their feet." Client says that the man told her that this was her "lucky day" because he operated a special nonprofit program that could help her with repairs or put her in a new home. She says he told her to go to a meeting with him and was instructed to bring a copy of her deed. At the meeting, he told her that his company was a Christian-based nonprofit organization dedicated to the recovery of storm victims who were underserved by the government. Client says that the man charged her \$148 to become a member of the "Home Program." Then,

(Cont. p. 6.)

Legal services attorneys assist clients who are often vulnerable to the ill intent of others.

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Tales from the Front (continued)

she says, she and others had to attend seminars he would conduct, which proved to be useless. The man induced her to sign a “Letter of Intent” to sell him her home for \$34,848, with a 2-year grace period before he had to pay anything. Eventually, she says, he gave her a promissory note for \$20,500, but paid her only \$1,500, after which she no longer had a deed to her home. After she lost her home, she was forced to live with her family at a hotel; the man stopped taking her calls. LSLA is working with the client and filed a lawsuit on her behalf to set aside the fraudulent transfer.

When an elderly woman was in jeopardy of losing her home after a fraudulent deed transfer, a LANWT attorney stepped in, exposing the fraud that resulted in criminal charges being brought against the bad actor. Using initiative,

the attorney located a handwriting analyst who, on a pro bono basis, determined that the client’s signature on the deed had been forged. The client, who maintained that she never signed the deed, had been served with an eviction action. The purchaser planned to rent out the home, which he purchased as investment property. The attorney negotiated a deal whereby the client remained in the home pending investigation by the notary public’s bondholder; it was alleged that the notary allowed someone other than the client to sign the deed. Admitting no fault on the part of the notary, the bond company paid a settlement that was shared between the client and the innocent purchaser.

Severely disabled and often homeless, some clients seek legal assistance because the Social Security Administration has

suspended their disability benefits due to an active felony arrest warrant, usually in another state and sometimes dating back more than 20 years. In these cases, SSA often assumes that the client is fleeing prosecution from that warrant. One such homeless person sought legal advice when his benefits were suspended and he was charged with a \$12,000 overpayment for receiving benefits while a warrant was active. LSLA appealed and convinced the ALJ that the client was not fleeing the warrant. The overpayment and suspension were reversed, and the client not only had his benefits restored, but also received more than \$24,000 in back-owed disability benefits.

—Stories were compiled with the help of Legal Aid of NorthWest Texas, Lone Star Legal Aid, Texas Civil Rights Project and Texas RioGrande Legal Aid.

About the Poverty Law Section

The Poverty Law Section is the 43rd section authorized by the State Bar of Texas. Our section includes attorneys who practice or have an interest in poverty law, whether

housing, family, benefits, healthcare access, consumer or the various other areas of law that affect the poor in our communities. Our attorneys include a diverse group ranging from private

attorneys to legal services attorneys to the academic community.

We’re on the Web!

See us at:

www.povertylawsection.com