

**FORTY YEARS OF EQUAL JUSTICE
WITH LEGAL ACTION OF WISCONSIN**

A History

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From its beginnings, the sole mission of Legal Action of Wisconsin has been the achievement of equal justice for its clients through creative and effective legal representation. Accomplishing fundamental change in the systems and agencies which affect low-income people in Wisconsin, and acting cooperatively *with* clients has always been included in that mission. In the mid-60s, community activists, both clients and nonclients, believed that there was an acute need for a community-oriented law firm which would go beyond the daily, individual legal problems of economically-disadvantaged persons, and would challenge the features of systems which kept those persons from achieving self-sufficiency. In 1968, those activists acted to meet that need, forming both Freedom Through Equality and Milwaukee Legal Services. These two groups would later merge and become Legal Action of Wisconsin (hereafter "Legal Action").

Since that genesis, clients, lawyers, paralegals and support staff at Legal Action of Wisconsin have acted with a strong sense of that mission, and have achieved equal justice for their clients. Legal Action staff, and volunteer attorneys providing pro bono services, have represented and served over 400,000 clients -- gaining public benefits for them, custody of their children, better jobs and relief from evictions. Legal Action is set apart by its commitment to doing more than simply meeting these individual legal needs. It has strived for more, going beyond individual representation and affecting changes in the rules of the games in which clients must play. School systems, health care systems, public benefits agencies, prison systems and the agribusiness industry are all playing fields which have, to some extent, been levelled by Legal Action. Its work has resulted in changed rules, improved procedures, greater income for clients -- it has achieved equal justice.

This equal justice was achieved in cooperation with the private bar, with community organizations, with dedicated individuals and, most importantly, with Legal Action's clients, whose courage and convictions have brought legal victories bettering their lives and those of their children. For forty years, Legal Action of Wisconsin has upheld the basic democratic principle that all people are entitled to equal justice under law.

DEVELOPING A PARTNERSHIP WITH THE CLIENT COMMUNITY

In the mid-1960's, a group of clients and community activists took action to fundamentally change the nature of the legal services being provided to the low-income residents of Milwaukee. This group recognized the need for attorneys who were empathetic with low-income clients, who were not reluctant to take on cases which would challenge and change existing law, and who would be willing to represent community organizations. Their petition for change, and the rapid response to it by what was then the Board of Legal Services, Inc., together with a parallel effort by the founders of Freedom Through Equality, Inc., constituted the birth of Legal Action of Wisconsin. It was then, in 1968, that the cornerstones for Legal Action were laid: rapport with the client community, house counsel for community organizations, and the achievement of fundamental changes in the law for the benefit of low-income persons. For the next forty years, these three precepts would be the hallmark of Legal Action's work.

MILWAUKEE LEGAL SERVICES

In 1967, a "Milwaukee Plan-Legal Services" was being implemented by an organization named the Board of Legal Services, Inc., an organization which was governed by its own Board of Directors. That organization was receiving funding from the Office of Economic Opportunity ("OEO"), and worked with the private bar to provide legal services to low-income persons. At that time, health insurance for its employees cost \$6 per month for family coverage, and \$4 per month for single coverage. The income eligibility standards for clients were \$51 per week for a single person and \$87 per week for "a married couple, with two children." Community groups were becoming more active at this time, and legal problems were becoming more sophisticated.

In the summer of 1968, an Ad Hoc Committee consisting of the CAP Residents Council and the United Welfare Recipients approached the Community Relations-Social Development Commission regarding its members' vision of improved legal services for low-income persons. In response, the Board of Legal Services held a hearing at which community activists presented their recommendations. These activists had three major objectives: a willingness to bring cases which would change existing

law (test cases); the creation of resident advisory committees for the two neighborhood offices; and a mandate that one-third of the board members of the Board of Legal Services be chosen by representatives of the poor.

The Board of Legal Services appointed a seven-member committee, including members of the CAP Residents Council, to discuss these requests. In less than a month, the Board responded positively to eight of the nine recommendations of the CAP Residents Council, including meetings with attorneys and community residents aimed at improving rapport.

Board members recognized the importance of this community rapport immediately. During the selection of a Chief Attorney for the South Side Office, a board member, Jim Urdan, stated that, right or wrong, the objections of the poor should be listened to. Urdan recognized the need for good rapport with the poverty community and believe that the most important thing that the new Chief Attorney could do was outreach to the community.

The final recommendation was honored soon thereafter. In the fall of 1968, the Board chairman stated that the emphasis on test cases was changing, and that, in the future, test cases would play a greater role in the program. He noted a new direction occurring in Washington (at OEO) away from individual problems and individual representation and into "impact" work and test cases. In response, he recommended the formation of a "test case division," which the Board approved and which included recommendations of the CAP Residents Council on possible law reform test cases. Thus was born the partnership between community activists and legal services lawyers in initiating law reform efforts to fundamentally improve the lives of low-income people.

In October of 1969, the organization changed its name to Milwaukee Legal Services, Inc. ("MLS") and hired Bob Munro as its Director. In November, a Director was hired for the law reform unit, then renamed the "Appellate Section."

FREEDOM THROUGH EQUALITY

Many of the same community activists who had pressed for change with the Board of Legal Services approached another group of concerned Milwaukee lawyers. Ted Seaver, Tony Oberbrunner and others worked closely with Lloyd Barbee, Jim Shellow, Richard Perry and other lawyers to form this firm. They were to hire lawyers who would have the time and the resources to challenge existing laws in such areas as

school desegregation, voting rights, school financing, voter registration, reapportionment and welfare rights. The activist-lawyer partnership that was formed resulted in the creation of Freedom Through Equality, Inc. ("FTE"), whose motto and sole mission was "Law Reform and House Counsel to the Poor."

Jim Walrath was the first staff attorney for FTE. He was soon followed by John Scripp, Steve Steinglass, Richard Klein, Eric Schulenburg, Pat McMahon, John Ebbott and Sara Bales. These lawyers, and their successors, brought class actions challenging welfare department procedures, prison disciplinary procedures and conditions, jailing solely on account of indigence and many other laws which harmed low-income clients.

These lawyers also represented many active community groups, such as the Milwaukee Tenants' Union and the Wisconsin Welfare Rights Organization. Clients were very active on FTE's board, sometimes packing the boardroom in demonstrations over certain issues. FTE attorneys immersed themselves in the client community, getting to know community leaders and acting as legal counsel when clients petitioned their government through marches, demonstrations and negotiations.

MLS-FTE MERGER

From 1969 until 1973, Milwaukee Legal Services and Freedom Through Equality operated independently, but with cooperation among the respective staff members. In 1969, an evaluation by the National Legal Aid and Defender Association recommended that the two law firms merge at the end of 1970, and that they ultimately merge with the Legal Aid Society of Milwaukee. In 1971, the Board of MLS formed the Frautschi Committee to explore the relationship of the three firms. They recommended that merger be explored. In October, as an example of the cooperation between MLS and FTE, when funding was on a continuing resolution basis, FTE gave \$4,000 of its unexpended funds to MLS. A short time later, OEO placed a special condition on FTE and MLS funding that required them to report on the progress of merger discussions by January 31, 1972.

In May of 1972, the Board of Governors of the State Bar of Wisconsin recommended that neither law firm be funded unless merger was accomplished. In September, the MLS Director reported some coordination at the staff level between FTE and MLS, especially in the area of legislative advocacy. By December, a joint staff

meeting had been held. Notwithstanding all of this, there was some reluctance to merge on the part of both groups.

In the midst of all of the discussion around the merger, a funding crisis occurred. It was brought on by President Nixon's appointment of Howard Phillips to head the OEO. Phillips decided to "impound" the money which Congress had appropriated to be spent on legal services. Many cries of "He can't do that" were heard. It turned out that, in fact, he couldn't do that. Four FTE lawyers worked through the night on a lawsuit seeking to enjoin the impoundment and obtain the release of the money. In the morning, as they were putting the finishing touches on the pleadings and were about to go to the federal court to file, they received a phone call notifying them that a legal services law firm in Washington, D.C. had obtained the injunction, and that the District Court had declared Phillips' actions illegal.

In May of 1973, more pressure to merge was coming from OEO's Office of Legal Services, which was threatening to fund a single grantee for Milwaukee, which could be neither MLS nor FTE. By June, merger was being seriously discussed. The MLS Executive Committee was meeting with an FTE Merger Committee, and the staffs were meeting jointly to recommend terms of merger. One question to be closely examined was the provision of law reform in a merged firm. The MLS Policy and Program Committee declared that there was a need for both neighborhood work and law reform. All agreed that legislative advocacy should continue.

Merger occurred on October 1, 1973. The Freedom Through Equality office was closed. The staff confronted the problem of integrating individual representation with law reform work and giving each area appropriate resources and attention, and preventing resentment between the staff working in the two areas. Their solution was to create "priority committees" in each priority area of law. These priority committees would include the most experienced and the least experienced attorneys as members. Senior attorneys would be expected to handle an individual service caseload, and junior attorneys would have the opportunity to work on "law reform" cases under the tutelage of the senior attorneys, as well as represent clients in individual service cases. Thus, younger attorneys would be gradually worked into law reform advocacy, learning how to do complex federal court litigation from experienced attorneys. There would be no separate "law reform unit." This system was unique in legal services, and evaluators would often question it. Nevertheless, the system proved serviceable, and remains in effect today.

The 1970s: DECADE OF CHANGE & PROGRESS

This decade saw an explosion of legal action by the well-established community-legal services partnership. Freedom Through Equality and Milwaukee Legal Services lawyers immersed themselves in the communities they served, establishing close relationships with community activists and community organizations. Those organizations had sophisticated leaders who could identify legal issues which would fundamentally affect the lives of their members and all economically disadvantaged people. The Milwaukee Tenants Union, with Ted Seaver and Mary Gundrum; the Wisconsin Welfare Rights Organization, with Henry Mahaney, Lucille Berrien and Cassie Downer; the United Migrant Opportunities Services (UMOS), with Lupe Martinez and Salvador Sanchez; the Concerned Consumers League, with Hollis Stewart; the Latin American Union for Civil Rights, with Ernesto Chacon and Roberto Hernandez; We Are Inmates Too (WAIT), with Ann Rudd; La Guardia, with Lalo Valdez; the Inner City Development Project, with Mary Anne McNulty and Jack Gleason; the Independent Learning Center, with Janice Ereth; the Sixteenth Street Health Center, with Ginny Schramm and Tammy Stark; the American Indian Movement, with Russell Means. Freedom Through Equality and Milwaukee Legal Services lawyers worked with all of them, as partners, and did wondrous deeds. There was a powerful sense of community and vitality in those times.

In housing, we worked with the Milwaukee Tenants Union creating the legal tools to use against unresponsive landlords. In 1970, in *Dickhut v. Norton*, the Wisconsin Supreme Court held for the first time that retaliatory evictions because of tenants' complaints about building code violations were illegal. We pursued several strategies to get code violations corrected. A rent-withholding ordinance was passed which permitted tenants to pay their rent to the Office of the Building Inspector. This rent would then be used for making repairs of housing code violations which were being ignored by the landlord. We had to return to the Wisconsin Supreme Court to get the building inspector to enforce the ordinance.

We didn't stop there. Shortly after Legal Action opened its Madison office, we represented the Madison Tenants Union as *amicus* in *Bullen v. Fellner*, which established that the landlord's failure to correct housing code violations could be raised as a defense in an eviction action for non-payment of rent. In Milwaukee, rent abatement, anti-lockout and essential services ordinances were passed, but it was clear

that administrative rules and statutory changes were needed -- two projects that eventually bore fruit in the 1980s.

For public housing tenants, FTE and MLS litigation established, in *Brown v. HACM*, the right to an administrative hearing before the housing authority terminated a tenancy, and struck down, in *Neddo v. HACM*, arbitrary admission criteria. HUD's policy permitting excessive security deposits in the section 8 program was corrected in *Cleveland Terrace-Main Street Gardens Tenants Council v. Pitt*, and the Seventh Circuit held, in *Holbrook v. Pitt*, that section 8 tenants are third party beneficiaries of the contract between HUD and the landlord.

In public benefits law, we worked with the Wisconsin Welfare Rights Organization to oppose arbitrary and capricious reductions and terminations of assistance to children and their families. Our attorneys accompanied Milwaukee County Welfare Rights Organization members on peaceful demonstrations which called attention to the plight of low-income persons, and dealt with the police so that there was no violence and no unnecessary arrest.

Legal Action's litigation in the 1970s changed virtually every aspect of public benefits law in Wisconsin. *Alvarado v. Schmidt* held illegal the 1969 reduction of welfare benefits. Dozens of illegal eligibility criteria were struck down by the Wisconsin Supreme Court or federal courts: *Donaldson v. Schmidt* (denial of AFDC to stepchildren); *Doe v. Schmidt* (denial of AFDC unless applicant divorced or prosecuted absent parent); *State ex rel. Arteaga v. Silverman* (GA "1-quit rule"); *Garcia v. Silverman* (GA "2-quit rule"); *State ex rel. Sell v. Milwaukee County* (denial of GA unless vehicle tags surrendered); *State ex rel. Tiner v. Milwaukee County* (denial of GA to AFDC recipient to buy fuel oil). Procedural rights to timely processing of applications, pre-termination due process hearings, and timely hearing decisions were established in *Ward v. Schmidt* (AFDC and MA); *Burlingame v. Schmidt* (continuing assistance); *Guerrero v. Percy* (right to prompt decisions in appeals); *Rumpel v. Califano* (rights of WIN registrants); and *Whitelaw v. Silverman* (food stamps).

In the area of family law, MLS, like many newly organized legal services organizations in the 1960s, did hundreds of uncontested divorces and struggled with the difficult job of creating priorities to focus on the issues in family law affecting low-income people. Attorneys worked closely with community groups to set up *pro se* clinics for uncontested divorces, and to establish what was a novel concept at the time - - supportive shelters for victims of domestic violence. Impact litigation focused on child

support: getting it from those who could afford to pay support, and protecting from irrational punishment those who could not afford to pay. In *Redhail v. Zablocki*, argued by Bob Blondis, the United States Supreme Court struck down as unconstitutional a Wisconsin statute that prevented low-income people from remarrying if they had any arrearage from a support order. In *Brotzman v. Brotzman*, Legal Action attorneys established the right to counsel for indigent payors in contempt proceedings. In *Whitwam v. Whitwam*, Legal Action attorneys, representing *amicus*, helped establish that judges could not order support to be paid if -- but only if -- the custodial parent applied for public benefits.

In the area of consumers' rights, we worked closely with the Concerned Consumers' League. MLS and FTE attorneys, working with the CCL, advocated in the legislature and obtained the passage of the Wisconsin Consumer Act, one of the most progressive and protective such statutes in the nation. In the mid-1970's, with energy prices escalating rapidly, Legal Action began to participate in Public Service Commission rate cases, and obtained administrative rules to prevent utility shut-offs during the winter months.

When migrant farmworkers marched, with UMOS, from Milwaukee to Madison to petition state government for more protection and better housing and working conditions, FTE/MLS lawyers Ness Flores and John Ebbott marched with them, acting as negotiators when they reached Madison. *Castaneda v. Carriveau* increased the protection accorded migrants recruited in Texas to work as seasonal laborers in Wisconsin, and *Abraham v. Beatrice Foods* shifted the burden of no work due to bad weather from worker to employer. Working with UMOS and other migrant advocacy organizations, MLS attorneys helped secure the enactment of the Wisconsin Migrant Labor Act in 1977. These protections have been used for over 30 years to guarantee income to workers and their families who are recruited from other states but are unable to work because of floods and other weather conditions.

In the area of employment law, Legal Action attorneys used class actions to open up public employment opportunities to African-Americans, Hispanics and Native Americans. *Washington v. Block* was the first class action challenging hiring for the Milwaukee Fire Department. *Crockett v. Green* opened up the skilled trades jobs with the City of Milwaukee. *Jones v. Milwaukee County* resulted in the hiring and promotion of minorities, for the first time, to literally thousands of jobs.

Some of the issues raised by community groups and tackled by Legal Action attorneys during the 1970s do not fit the classic mold of "poverty law" issues. When a community group wanted to stop an interstate freeway from destroying decent, affordable housing, MLS attorneys used environmental laws in *Northside Tenants Rights Coalition v. Volpe* to halt the freeway. Five years later, even the government decided not to build it. Working with the Spanish Center and other community groups, MLS attorneys helped set up the first community credit union, which made credit more available to low-income community residents. The 1975 federal court injunction obtained in *Bartels v. Biernat* under the Rehabilitation Act of 1973 required Milwaukee County to make its buses handicapped-accessible for the first time. The landmark case of *Lessard v. Schmidt* re-wrote the law in Wisconsin on the rights of persons with mental illness, and *Kidd v. Schmidt* extended those rights to juveniles.

In the penal institutions, groups like We Are Inmates Too worked with FTE/MLS attorneys to improve justice for inmates and their families. *Krause v. Schmidt*, *Taylor v. Schmidt* and *Stewart v. Jozwiak* resulted in administrative rules ensuring the basic fairness of prison disciplinary procedures. In *T.S. v. Schmidt*, the disciplinary rules at the juvenile facility in Wales were dramatically improved.

In the 1970s, Legal Action achieved success in the enactment of the following major laws and rules:

- Wisconsin Consumer Act, the most progressive consumer act in the nation, which is still a model for other states
- Relief of Needy Indian Persons Act, converting general relief on the reservations, which consisted of nominal assistance, to grants at AFDC levels, the right to fair hearings, and the right of tribes to administer their own programs.
- Bilingual Bicultural Education Program – the creation of a new categorical aid program, requiring special classes for students with limited English speaking ability and the right to be taught substantive courses in their own language
- Bilingual Bicultural Education Administrative Rules within DPI for the implementation of the new statutory program
- Domestic Abuse Laws – Passage of the laws that created the authority for issuing restraining orders and injunctions and the making of grants to agencies to serve victims.
- Administrative Code on Landlord Tenant Affairs within the Department of Agriculture, Trade and Consumer Affairs – creation of regulation of landlord tenant affairs through administrative rules, after several attempts at legislation failed

MOVING FORWARD: EXPANSION OF GEOGRAPHICAL AREA & SERVICES MIGRANT FARMWORKER PROGRAM

While lawyers from FTE and MLS had done some representation of migrant farmworkers, Wisconsin did not have specific funding for legal services to migrants until Ness Flores secured one of the original national OEO migrant grants for UMOS. This original grant allowed Ness to operate at UMOS, where he co-counselled with FTE/MLS attorneys. Then, in 1973, OEO required that all migrant legal services efforts be housed in legal services offices. This resulted in the transfer of the migrant project from UMOS to MLS in June of 1974. The UMOS attorney became an MLS staff member in the Southside Office.

By 1975, the Migrant Project had two lawyers, with John Ebbott as the first director. The Project also placed five law students throughout Wisconsin to represent migrants under attorney supervision. In 1976, Tom Hochstatter took over the directorship of the Project. Throughout the 70s, the Project was active in securing fundamental change in the laws protecting migrants, and did a substantial amount of work to prevent the exploitation of immigrant farmworkers. Project staff were also active participants with Ness Flores in the drafting and passage of the Wisconsin Migrant Labor Act.

STATE-WIDE EXPANSION

Except for the Migrant Project, until 1973 MLS services were limited to the Milwaukee area. During that year, MLS obtained a food advocacy grant from the Community Nutrition Service, administered through the Dane County Community Action Program. As a result, an office was established in Madison to house the project. This, as it happened, was the first step in MLS' expansion beyond Milwaukee.

In 1976, the newly-formed Legal Services Corporation ("LSC") replaced the OEO Office of Legal Services to administer federal money for legal services. Money was made available by LSC for programs to expand into unserved areas in 1977. In Wisconsin, the LSC initially considered expansion into Green Bay and Dane Counties. LSC wanted existing legal services firms to serve the new areas.

In the fall of 1976, MLS received notice that it would be funded to serve Dane County. This was to be the next step in establishing a regional program for

southeastern Wisconsin. The MLS Board established an Expansion Committee, headed by Richard Perry. Since MLS was expanding, the name "Milwaukee Legal Services" no longer seemed appropriate, and the Board and staff searched for a new name. "Legal Action of Wisconsin" was born.

A Dane County Program Committee - a community advisory board - was established. Space was leased at 31 South Mills, the current Madison office location, and staff began working there in May of 1977. The first Managing Attorney in the Madison office was Patricia McMahon.

The Legal Action Director, Steven H. Steinglass, suggested that the Board formally consider whether to expand further, and where. This discussion continued when Pat McMahon became Acting Director in August of 1977. The Executive Committee recommended opening offices in the Racine/Kenosha and Walworth/Rock Co. areas, and Legal Action staff drafted an application to the LSC to serve those areas, along with Green County. These actions were not taken without misgivings, however. At the December, 1977 Board meeting, Grid Hall expressed concern that Legal Action was getting very large, and might be increasingly unable to respond to local concerns. Notwithstanding these misgivings, in 1978 Legal Action received funding to set up the Kenosha/Racine and South Central Program Committees. In June, those two offices opened, the South Central Office in Janesville and the other in Kenosha.

Later in 1978, Legal Action submitted an application to LSC for funds to serve nine additional counties. This application conflicted with an application from Wisconsin Judicare to serve this area. Again, expansion was questioned by a board member, this time Loretta Franckowiak. In early 1979, the LSC approved Legal Action's application for four of the counties: Jefferson, Waukesha, Dodge and Columbia. By September, Legal Action was serving those counties, mainly by telephone.

In August of 1979, Pat McMahon, Legal Action's Director, recommended no further expansion by Legal Action for 1980, as Legal Action was at an optimum size. The Board agreed. Legal Action staff was directed to encourage applications by other programs to apply for funding for unserved areas. At this same time, Legal Action began planning for a state support function, a technical assistance program that would assist other legal services programs in the state.

In early 1980, the LSC Regional Office made its final decisions regarding expansion in Wisconsin. Wisconsin Judicare was awarded two additional counties, with

the remainder to be served by legal services programs. This decision provoked bitter criticism from the State Bar, whose President sent a letter to local bar presidents attacking the expansion decision and urging that LSC money be used to pay private attorneys.

Two other legal services firms were established: Legal Services of Northeastern Wisconsin (“LSNEW”), to serve the Green Bay-Appleton-Oshkosh-Sheboygan area, Western Wisconsin Legal Services (“WWLS”), to serve La Crosse, Dodgeville and southwestern Wisconsin. These two firms were later to merge with Legal Action, by command of the LSC.

The 1970s also saw partial unionization come to Legal Action. In late 1976, AFSCME petitioned to represent the secretarial and paralegal staff in the Milwaukee office. By the end of the year, union negotiations were underway. By October, 1977, there was a proposed contract.

In August of 1979, a Legal Action staff attorney presented the position of the Dane County Association of Legal Services Workers to the Board of Directors, requesting recognition as a union. It would be another year and a half before the United Legal Workers would petition the NLRB for recognition. Meanwhile, there would be periodic negotiations with AFSCME.

Throughout this remarkable decade, through the marches, the lawsuits, the petitions, the financial and geographic growth, and the increased complexity of operation, the three foundation stones remained in place: rapport with the client community; house counsel for community organizations; and the achievement of fundamental change in the law. The partnership between the client community and Legal Action retained its integrity.

THE 1980s: THE FIRST DECADE OF STRUGGLE AND UNCERTAINTY

The 1980s were the setting for a struggle for survival on the part of Legal Action, its community partners, and legal services throughout the country that continues today. A conservative national mood produced drastic reductions in federal funding for all organizations serving low-income communities, severe restrictions on legal services and an increasingly conservative federal judiciary. All of these conditions resulted in ever-increasing limitations on the representation of poor people.

These developments, in turn, meant the disappearance of many of the community organizations that worked closely with Legal Action in the 70s. They also meant that legal services lawyers had to wage a desperate, defensive battle for both funding and the freedom to provide effective, creative legal representation. This battle diminished the time and energy available for finding legal solutions to the fundamental problems of the poor. Legal services lawyers were no longer able to represent their clients in a full range of services, including legislative advocacy and work in community coalitions. There were fewer options for legal services lawyers to pursue when representing clients. Federal courts, which had traditionally been receptive and responsive, were no longer readily available to disadvantaged individuals. When low-income people did have access to them, the courts increasingly ruled against them. Legal services lawyers had to use state courts more often -- a system that had been relatively unresponsive to the problems of poor people. Many lawsuits were not filed, and rights were not protected or advanced, because of the dim chances for success.

Through all of this, Legal Action sought to survive while still maintaining a commitment to fight for its clients, who were under the same assault against which legal services was defending. Legal Action staff and those remaining community groups kept their partnerships alive, and the foundation stones of Legal Action - rapport with the community, house counsel, and fundamental legal change - remained intact.

EARLY 1980s

The decade began on a hopeful note when Rep. Robert Kastenmeier's House Judiciary Committee approved a substantial 3-year reauthorization for legal services in 1980. In the early part of the year, expansion activity continued. The LSC awarded most of the remaining unserved Wisconsin counties to staffed legal services programs, with only two of the counties awarded to Wisconsin Judicare. Again this provoked bitter criticism from the State Bar, whose president sent a letter to local bar leaders attacking the expansion decision.

In Congress, the LSC appropriation was reduced. Thirty-four amendments to the LSC reauthorization were introduced by the time it came to the floor, including a prohibition on representation in education cases, a prohibition on legislative advocacy, a provision for each State to veto federal legal services funding, and a requirement that half of the funds in each state go to a program that reimburses private attorneys for

individual representation of poor people. This last amendment was introduced by Wisconsin Representative F. James Sensenbrenner. Rep. Kastenmeier, the floor manager for the reauthorization bill, was forced to pull the bill from consideration because of these amendments, and to start again with the next Congress.

In early 1981, President Carter was forced to veto the LSC appropriation bill because it contained an anti-busing restriction in the Justice Department appropriation. This veto meant that LSC would have to operate on a continuing resolution rather than an actual appropriation for the year. Meanwhile, five of President Carter's nominees to the Legal Services Corporation Board of Directors had been held up in Congress. They would not be approved before President Reagan took office. This left President Reagan with five immediate vacancies to the LSC Board. President Reagan's Transition Team for legal services was dominated by aides to conservative members of Congress. They indicated that it was the intent of the new Administration to severely cut back the LSC funding for legal services.

To address these attacks and to meet these "challenges", "Action for Legal Rights" ("ALR") was revived by the groups who were concerned with legal services: the National Legal Aid and Defender Association, the Project Advisory Group, the National Clients' Council, the National Organization of Legal Services Workers and the American Bar Association. ALR had originated in the 1970s during the effort to pass the original LSC Act. It was independent of legal services law firms, and would now coordinate the survival efforts on a federal level.

At Legal Action, Director Patricia McMahon told the Board on December 1, 1980 that "this is a crucial time for legal services," and that it would require a commitment on the part of the Legal Action Board to devote more time and effort to supporting legal services. She requested that a special committee be appointed to work with her in coordinating survival efforts. Board members Robert Lerner and Hafeezah Ahmad responded by making a motion authorizing this committee. The State Bar of Wisconsin's Board of Governors, under the leadership of State Bar President and former Board member Larry Bugge, passed a resolution affirming support of legal services and the right of clients to a full range of representation.

In 1981, aware that the possibility of severe funding cuts were becoming a reality, the staff formed a Retrenchment Committee, including a Workforce Reduction Subcommittee to deal with the practical problems of cutbacks. This prompted the recognition that Legal Action needed to engage in long-term planning in order to

diversify and expand the funding base. However, long-term planning took a back seat to the immediate survival problems.

Although she was somewhat optimistic about the long-term future of legal services, McMahon reported at the October 1981 meeting that, given the possibility that President Reagan would veto LSC funding, Legal Action had taken steps to meet ethical obligations to its clients. These steps included limiting intake, accepting only those cases which were compelling and which could be completed in a short period of time, and the suspension of acceptance of all family law cases. Legal Action staff was also contacting private lawyers to assure continued representation for those clients whose cases were not completed if funding was vetoed.

Pat McMahon then told the Board:

The goal of Legal Action of Wisconsin has been to provide quality legal services to the poor and to be an aggressive advocate for the concerns of poor persons. The primary strengths of Legal Action of Wisconsin are the experienced and committed staff who have expertise in substantive poverty law areas and a full range of skills to address those issues. LAW has a good reputation and relationship with the client community and with the private bar. It will be necessary for us in the upcoming years to sustain and expand these relationships. We will also need to develop creative solutions and approaches to the radical changes in the laws which affect poor persons. We will need to develop more efficient and effective ways to respond to the increasing demands for representation. This particular meeting of the Board of Legal Action of Wisconsin is significant in that it will set guidelines to approach these issues.

This address to the Board in October of 1981 exemplifies that which makes Legal Action a great and lasting law firm. At the very time that there was contingency planning for a Presidential veto which would end its funding, the Director spoke to the Board with hope for the future, a recognition of Legal Action's strengths, and with concern for protecting the rights of its clients in the face of daunting circumstances.

By early 1982, President Reagan had nominated ten new members to the LSC Board when Congress was in recess. Past LSC Board members sued the new members to enjoin the holding of a Board meeting on March 5. During confirmation hearings on the new LSC Board, one of the appointees, a California judge, had written a letter criticizing Judge Cruz Reynoso and called him a "professional Mexican." The current LSC President, Dan Bradley, a dedicated legal services attorney, resigned.

A 25% cut in funding was imposed by LSC for 1982 on legal services programs. This reduction in funds, adjusted for inflation, has never been restored. Legal Action was forced to implement its Workforce Reduction Plan. Associate Director Tom Donegan reported that there would be a serious reduction in the number of attorneys available to serve low-income clients in each community. A hiring freeze remained in effect indefinitely. Beginning in June, the LSC mandated that 10% of each firm's funding be spent on private attorney involvement. In addition, new restrictions were imposed on the ability of legal services lawyers to represent their clients in the legislature.

In early 1983, Reagan proceeded with four additional recess appointments to the LSC Board, one of whom was forced to resign amid allegations that he had improperly accepted fees. Additional restrictions on representation were imposed. Among them were further limitations on legislative and administrative advocacy, prohibitions on representing aliens, and limitations on class actions. The new LSC Board also passed a resolution requiring local programs to increase their spending on private attorney involvement to at least 12 1/2% of their basic LSC grant. This meant that Legal Action would have to allocate an additional \$31,000 to private attorney involvement.

By June of 1983, Donald Bogard had become LSC President, and had replaced most of the staff at LSC who were committed to quality legal services. He replaced them with people who had little or no legal services experience. The Senate and House appropriations bills were at a low funding level -- \$298 million. Rep. Kastenmeier sponsored an amendment which would restore legal services' ability to fully represent clients through legislative advocacy or through administrative agencies, and to advocate on any bill that would directly affect legal services funding or program operations. The latter had been eliminated in 1982 amendments. At Legal Action, Bob Lerner moved that the Board reaffirm its support for legislative and administrative representation. The motion passed.

The LSC Board had requested an appropriations level of only \$257 million for 1984, a level that was totally inadequate to fund legal services. Congress ultimately decided upon an appropriation of \$275 million, an increase of 14% over the LSC request, but still far below the level preceding the 25% reduction in 1982.

Funding was not the only area that was under attack on the national level. At the June, 1981 Board meeting, Pat McMahon reported that opponents of legal services were levelling charges that legal services attorneys had committed massive abuses.

Phyllis Schlafly and Howard Phillips had so testified before the Senate Appropriations Subcommittee. When questioned closely by Senator Warren Rudman, who would later become a champion of legal services in the Senate, Schlafly and Phillips admitted that they were reporting mere hearsay.

In June, 1983, the LSC Board caused additional difficulties for legal services lawyers by imposing new and onerous regulations on state and national support, on grant conditions, on procedures for questioned costs, on denial of refunding, on eligibility guidelines, on subgrants, and on fees and dues. Unfortunately, these regulations did not relate to improving the quality of representation of low-income clients. Rather, their effect was to lead legal services firms into a bureaucratic maze of red tape, regulations and paperwork, where we remain today. These regulations required an increasing amount of administrative staff, which ultimately meant that resources were taken away from client representation and direct service. The new regulation that concerned refunding was especially troubling because it shifted the burden of proof to the program rather than LSC. To cope with this refunding issue, LAW was forced to increase its administration budget from 11% to 12%, the first of several such increases occasioned by LSC regulations.

This restrictive regulation forced several legal services firms to sue the LSC, and most were successful. The courts issued injunctions, ruling that various LSC regulations had been unlawfully promulgated, that they were arbitrary, or that they violated the 1984 appropriations act. Among other things, the LSC was attempting to take funding away from local grantees without any kind of hearing or other procedure; this attempt, too, was prevented by the courts. Later in the decade, a federal court in California extended an injunction against an LSC regulation which denied to general amnesty aliens eligibility for legal services for a period of five years after receiving amnesty. Local legal services law firms sued the LSC on behalf of their clients, and won the injunction.

Not all of LSC's regulations were struck down, however, and in March of 1984 LSC began to closely monitor Legal Action and other legal services programs to ensure that the new regulations were followed. The monitors chosen by LSC were former IRS and Justice Department criminal investigators and auditors. These monitors were not knowledgeable about legal services to low-income people; nor did they appear concerned about whether or not clients were receiving quality representation. The task of the monitors was to uncover any and all noncompliance, and to do away with the

purported “waste, fraud and abuse” in which LSC was certain we were engaged. During Legal Action's first monitoring session, LSC sent out four monitors who spoke with 40 people. They found no waste, fraud and abuse.

In March of 1985, Legal Action's Administrator, Mike Maher, reported that Legal Action had finally stabilized after the funding cuts of 1982. This bit of good news was short-lived, however, when Pat McMahon reported that Reagan had proposed the elimination of funding for LSC in 1986. The LSC had proposed a freeze on overall spending for 1986 at the 1985 level of \$305 million. LSC also proposed that funding for support centers and migrant programs be reduced and used to fund the “Basic Field” programs, a move which could have divided the legal services community. In what was to become a tradition, the Basic Field programs refused the increases if they were to come at the expense of other programs which were also critical in serving clients. In addition, the Gramm-Rudman deficit reduction amendment would take effect in 1986, posing a new threat to funding.

Another monitoring visit occurred on April 21, 1986. This time, *seven* monitors were sent. Despite having added three more investigators, they again found no waste, fraud or abuse.

By the middle of 1985, Legal Action's Director, Ruth Irvings, reported that the LSC Board was directing more funds to individual, routine cases such as wills and uncontested divorces, and fewer funds to class actions, legislative and administrative representation, and other cases which attempt to solve systemic or repeated problems.

On September 8, 1986, Gilda Shellow became President of the Legal Action Board. Gilda was greeted to the Board presidency by another reduction in service to clients because of the shortage of LSC funds. In-person intake to Janesville was halted. It was replaced with telephone intake and an outreach campaign.

In early 1987, John Bayley was the LSC President, and the LSC was not seeking any increase in funds for legal services from Congress. LSC asked for an allocation of only \$305 million. Rather than advocating for increased funding, the LSC was aggressively lobbying for an end to Congressional restrictions on its discretionary powers over programs. The LSC was more concerned about its power to regulate legal services programs than about funding. It wanted a free hand, especially in taking funding away from programs.

In 1987, the LSC Board proposed new regulations for local boards of directors. These included the ascertainment of board members' political affiliations, limiting

appointment power to state bar associations, and term limits. Congress prohibited the LSC Board from adopting these regulations with a rider to the LSC appropriation. In early 1988, the Board again proposed a similar rule and lobbied Congress for it.

IOLTA

When it became apparent that the LSC funding cuts were going to present a long-term struggle for legal services, the Board of Governors of the State Bar of Wisconsin responded through the filing of an IOLTA (Income On Lawyers Trust Accounts) petition with the Wisconsin Supreme Court to replace some of the lost LSC funds. IOLTA was approved by the Wisconsin Supreme Court in 1986; distribution of funds was expected in late 1987. The four Wisconsin LSC grantees (Legal Action, Wisconsin Judicare, Legal Services of Northeastern Wisconsin and Western Wisconsin Legal Services) formed the "Legal Services Coalition" to submit one combined grant application for IOLTA funds, which were to be administered by the Wisconsin Trust Account Foundation ("WisTAF"). The distribution of IOLTA funds was delayed, however. Legal Action was awarded \$347,470 for 1988 by WisTAF.

This infusion of new funding helped considerably. The LSC cuts had placed Legal Action and its clients in dire straits. Health insurance benefits for staff had increased by 62%. Since 1980, Legal Action's attorney staff had been reduced by almost half. The number of persons eligible for services in our area had increased by 62% between 1979 and 1985. Despite the decrease in available staff, Legal Action was handling 10,000 to 11,000 cases per year. In addition, federal and state funding cuts in other poverty programs left clients with fewer alternative resources.

In the late 1980s, the LSC Board continued its assault on legal services programs. In 1989, the LSC imposed a new threat to legal services - competitive bidding. The 1989 LSC appropriation contained compromise language directing the future LSC Board appointed by President Bush to develop and implement a system of competitive bidding for all LSC grants and contracts, to take effect after September 30, 1989. 1989 also featured an even larger threat - the McCollum-Stenholm Amendments. These were a series of restrictions designed to limit legal services representation to only the most mundane and superficial cases. The restrictions were numerous, and they ranged from limiting the clients that programs could represent all the way to a mandated timekeeping system for staff. Although the House of

Representatives defeated these amendments by seven votes, these restrictions became law in the mid-90s.

In 1989, the Congress approved an LSC appropriation of \$321 million. At the same time, the LSC Board was under fire. Top LSC officials, including LSC President Terrance Wear, had mounted an extensive, year-long campaign to ensure that conservatives would continue to dominate a new Board appointed by President Bush. Moreover, Wear spent \$9,000 on a legal opinion concluding that the lobbying efforts were legal. A *Washington Post* article noted that the conservatives had imposed severe restrictions on lobbying by legal services programs, but that the restrictions did not apply to employees of the LSC. Moreover, the LSC Board President had consulted with outside counsel to attack the constitutionality of the Legal Services Corporation, a project of which the majority of the Board was not even aware.

In another example of the hostile environment that the LSC created for legal services, the *Los Angeles Times* reported that LSC President Wear had gone to San Francisco to personally urge the elimination of IOLTA funding for the National Center on Youth Law. The Center had challenged a new state law that required a minor to obtain parental consent for an abortion. The California Commission voted 22-0 in favor of continued IOLTA funding, despite Wear's efforts.

LITIGATION

In the midst of the hostility and attack on the federal level, Legal Action lawyers and their clients fought to preserve rights established in earlier years.

The decade of the 1980s started ominously. In the 1970s, Legal Action had challenged, in *Jordan v. Wolke*, the overcrowded conditions in the Milwaukee County jail. After a trial, the federal district court in Milwaukee ordered significant improvements, holding that the overcrowding which had been proven was unconstitutional. In January 1980, the Court of Appeals for the Seventh Circuit reversed the district court because of the recent case of *Bell v. Wolfish*. Ironically, within five years, even the elected officials in Milwaukee County acknowledged the problem and spent millions of dollars to build an entirely new jail.

In the area of housing law, Legal Action attorneys had in the 70s appealed to the Seventh Circuit, and successfully established in *Devines v. Maier* that tenants were entitled to just compensation when the city forced them to move. But, in the 1980s, the

Seventh Circuit changed its mind and, in the second appeal in the case, overruled its earlier decision. And, in the area of benefits law, Legal Action's initial victory in *Lesko v. Bowen* was vacated by the United States Supreme Court.

There were also some important victories. In the consumer law area, Legal Action attorneys established in *Palacios v. ABC TV & Stereo Rental of Milwaukee, Inc.*, in the Wisconsin Court of Appeals, that the Wisconsin Consumer Act applied to rent-to-own transactions, and in *Brown v. Barczak* that the Wisconsin garnishment statute was unconstitutional. In *Moore v. Milwaukee County Department of Child Support Enforcement*, Legal Action attorneys reformed the governmental system which collected and distributed child support. In *Jankowski v. Milwaukee County*, the Wisconsin Supreme Court held that Milwaukee County could not attempt to collect the cost of care for persons who had been unconstitutionally committed to the mental health complex.

In *Doe v. Reivitz*, the Seventh Circuit held that children who are United States citizens could not be denied AFDC because their parents were not citizens. In *Buckhanon v. Percy*, the massive cuts in benefits programs ordered by the Reagan administration were successfully challenged because of the illegality of the notices given. Illegal general assistance rules were struck down in *Hoff v. Wisconsin Department of Health and Social Services*; *Kenosha County* (interim assistance); *Hintz v. Dane County* (psychological examinations); *Kabacinski v. Milwaukee County* (arrest warrants); and *Lindner v. County of Dane* ("permanent" address).

In the area of housing law, important due process rights were established for Section 8 tenants in *Cerro v. Community Development Authority of the City of Madison* and *Seales v. Diaz*, and the Wisconsin Court of Appeals adopted Legal Action's arguments in *Rivera v. Eisenberg* (burden of proof in landlord's damages claim) and *Schwalbe v. Eisenberg* (tenant's punitive damages action for illegal lockout). Legal Action's Migrant Project established, in *Valdez v. Grover*, the right to a parent council on migrant education.

The 1980s also saw the need to protect earlier victories. Repeatedly, Legal Action had to return to court to enforce laws that had been established in earlier cases. In *Daubert v. Schmidt* and *Ward v. Schmidt*, Legal Action attorneys enforced earlier orders governing the AFDC and Medical Assistance programs. In *Nation v. Silverman*, for Milwaukee County, and *Lara v. Hickey*, for Kenosha County, Legal Action returned to federal court to establish the right to expedited food stamps.

Thus, although it was a difficult decade with a hostile federal judiciary, an openly antagonistic federal administration, and a regressive political mood, Legal Action's vigorous representation of its clients, in partnership with community organizations where possible, continued. The Legal Action staff and Board stayed true to Legal Action's mission and played a vital role in defending clients from an equally withering assault on them, at both the national and local levels.

LEGISLATIVE ACHIEVEMENTS

In the 1980s, Legal Action achieved success in the enactment of the following laws and rules:

- Comprehensive Revision of Public Service Commission (PSC) Rules on Disconnection and Deposits for Gas and Electricity – rules relating to restrictions on disconnection for all consumers and requirements for services for low-income people
- Comprehensive Revision of Chapter 800 of the Statutes on Municipal Court Procedures, replacing incarceration with the suspension of driver's licenses for certain violations, and revamping the procedures that apply in the administration of justice to low-income people
- Good Cause Requirement for Eviction of Mobile Home Tenants – the only area in state law where landlords must show “good cause” in order to evict tenants
- Rent Abatement (and Rent Withholding) for Tenants where the building code violations that exist substantially endanger tenants' health and safety
- Right to Counsel for Defendants in Paternity Actions
- Prohibition Against Discrimination in Employment Based on Arrest or Conviction Records
- Repeal and Comprehensive Revision of Landlord-Tenant Model Lease by Department of Regulation and Licensing
- Administrative Rule Changing the Definition of Migrant Workers from Probationary status (with lower minimum wage) to Regular status (with regular minimum wage)
- Automatic Dismissal for Consumer Credit Transaction Actions Filed with Improper Venue
- Creation of the Crime for Interference with Custody of a Child

- Shift of Burden to Noncustodial Parent Who Wishes to Prevent the Custodial Parent from Removing from the State, in the Best Interest of the Child
- Requirement of Notice to Absent Fathers in Termination of Parental Rights
- Creation of Undue Hardship Exception for Denial of General Relief based on Receipt of AFDC or SSI
- Prohibitions in Administrative Rules of DATCP Against the Adoption of Rules in Mobile Home Parks that Substantially Change the Terms of a Lease
- Enactment of Procedures for Hearings for Expulsion and Suspension of Students
- Prohibition Against Requiring a Tenant to Assume the Utilities Bill for Other Tenants Where Utilities are Shared
- Prohibition Against Discrimination in Residential Tenancies based on Sex or Marital Status of the Head of the Household
- The First Comprehensive Revision of the Domestic Abuse Statutes
- Enactment of Provision Allowing Attorneys To Issue Subpoenas for the Appearance of Witnesses and for the Production of Evidence in Contested Cases in Municipal Administrative Law Cases.
- Enactment of a Provision to Modify Restaurants' Liability in Donating Surplus Food to Encourage Them to Contribute Food to Homeless Organizations
- Comprehensive Revision of Child Support Laws regarding establishment of paternity and making of child support orders
- Amendment of Rules Mandating Paternity Actions in All Cases, Not Just Welfare Cases -- Amendments were offered and adopted to provide that: (1) other relatives living with the child may also oppose the action based on harm to themselves or the child; (2) a clarification that actions shall not be begun if the attorney agrees that the establishment of paternity would be reasonably anticipated to result in harm to the child or relative, or if the GAL determines that proceeding would not be in the child's best interest.
- Enactment of Requirement that Landlords Maintain Accounts for Utilities Where Separate Metering Does Not Exist

1990s: A BRIGHTER TIME - AT FIRST

The 1990s began as the 80s had ended: with a hostile LSC Board and national Administration, a fear of monitoring, and a steady assault on our clients. Happily, however, signs began to appear that the siege was lifting. At long last, a hostile LSC President, Terrance Wear, departed the LSC and was replaced by David Martin. Martin began a rapprochement with programs, promising monitoring that would be less draconian. LSC Board moderates began to exercise more influence. Martin was replaced by Jack O'Hara, who continued to improve relations with the programs.

Then, in November of 1992, Bill Clinton was elected President of the country. Suddenly, the national legal services community could redirect its energies from a survival mode to creating its vision of effective legal services. We held discussions on the newly emergent legal problems of the poor, on reinvolving clients in decisionmaking, and on attempting to ensure that legal services would be, finally, adequately funded. We were, it seemed, out of the woods.

1993 saw the nomination of a new LSC Board and the departure of the old. It saw, in the Comparative Demonstration Project, an LSC effort to evaluate the quality of lawyering provided to low-income clients and to provide assistance and support. It saw a former Reagan appointee to the LSC Board, now a state supreme court justice, recommend the suspension of monitoring and the abolition of the LSC Office of Inspector General. Finally, 1993 saw the rekindling of hope and enthusiasm in legal services advocates throughout the nation.

For Legal Action of Wisconsin, the 1990s also began like the 80s ended. Lawyers and paralegals continued to vigorously defend clients against the effects of welfare "reform". We challenged "Learnfare", a program which cut off food from families when a child missed school; we won a preliminary injunction in the case. We challenged Milwaukee County's practice of warehousing developmentally disabled and chronically mentally ill Milwaukeeans in institutions and then dispersing them to the streets. We won monetary damages against a farmer who treated migrant workers like slaves.

1990 brought a change of leadership at Legal Action, as Ruth Irvings resigned to join a private law firm and Lawrence Albrecht became Interim Director. In July, John Ebbott, a former staff attorney and migrant attorney, became Executive Director. 1990 began fundraising and development efforts, long-term financial planning and a strategic

planning process.

In 1991 and 1992, Legal Action reaffirmed its historical partnership with the client community by greatly increasing representation of community organizations. These were organizations active in creating affordable housing, improving schools, and revitalizing neighborhoods, among other things. The Healthy Start for Children project greatly increased access to health care, as did a lawsuit which removed such bureaucratic barriers as a 30-page application. In 1992, the LSC monitoring visit was much less contentious than earlier visits, reflecting the new attitude at LSC.

Also in 1992, Legal Action began to attract support from national foundations and corporations such as the Northwestern Mutual Life Insurance Company. By 1993, the firm had rebounded from a projected deficit in 1990 and ran consistent surpluses. It used some of that surplus to invigorate its minority recruitment efforts, and realized substantial success. Legal Action improved its technological state, adding fax machines, computer networks and telephone systems which resulted in greater efficiency.

On October 9, 1993, Legal Action celebrated its 25th Anniversary. 600 people attended the event, called the "Blue Jeans Bash." It was a joyous reunion of Legal Action staff, clients, board members and friends, past and present, many of whom hadn't seen each other for many years.

LITIGATION

The early 1990s saw an increase in complicated, significant litigation. With the openly antagonistic forces gone from the White House and the LSC, Legal Action could return to taking the risks sometimes necessary to reform governmental systems. The political climate did not entirely change, and the federal judiciary remained hostile to the claims of our clients, but Legal Action began a renewed effort to make justice a reality.

Legal Action litigation, in *Kronquist v. Whitburn*, first exposed the sham of the so-called "welfare reform" of Learnfare. When confronted with evidence of an error rate of almost 75%, a federal court in Milwaukee shut down the Learnfare program through an injunction until dramatic improvements were made.

Legal Action attorneys returned to court in *Moore v. Milwaukee County Department of Child Support Enforcement* with evidence of wholesale violations of federal regulations regarding the collection and distribution of child support collected

and retained by the state. After more than two years of negotiations, Milwaukee County and the State of Wisconsin agreed to major changes in the reporting and distribution of child support, and agreed to refund more than \$2.6 million to AFDC recipients illegally deprived of child support which had in fact been paid.

In other cases in the public benefits area, Legal Action sued, in *Jordan v. Whitburn*, on behalf of over 1,000 AFDC recipients enrolled in educational and job training programs who needed child care to develop the skills to permit them to improve their employment opportunities, and sued to stop unconstitutional searches of the bedrooms and closets of benefits applicants.

The early 1990s also saw Legal Action adopt new approaches to attack the problem of homelessness. Legal Action attorneys, in cooperation with *pro bono* attorneys from Foley & Lardner, used general relief laws to stop practices in Dane County in *Goodwin v. Phelps*. In *Joan S. v. Gudeman*, the mental health statutes enacted in the wake of *Lessard v. Schmidt* were used to bring the government to confront the housing, as well as the mental health, needs of patients. The duty of local governments to provide housing adequate for health and decency was raised in the Wisconsin Supreme Court in *Clark v. Milwaukee County*.

In the housing area, the Madison Legal Action office was active in developing strategies to protect Section 8 tenants, using both federal statutes regulating the Section 8 program and the Comprehensive Housing Affordability Study. In Milwaukee, Legal Action established, in an individual action in the Wisconsin Court of Appeals, *Franklin v. HACM*, the rights of Section 8 certificate holders, and then enforced those rights in a class action in federal court in *Sauve v. HACM*.

In the early 1990s Legal Action returned to its mission of bringing simple justice to low-income people whose legal problems do not fit traditional poverty law pigeonholes. Legal Action attorneys resisted attempts of the Madison school board to get access to juvenile court records protected by privacy statutes. When a shopping mall in Eau Claire directed the arrest of a number of migrant workers, Legal Action sued, alleging a violation of their civil rights. Legal Action returned to the Court of Appeals, this time representing an *amicus*, to protect the rights of "rent-to-own" consumers.

On December 6, 1993, Legal Action filed *Addis v. Whitburn* in federal court. This was a class action challenging state Medical Assistance rules which excluded hundreds of children from eligibility for medical care. In *Trevino v. Kenosha County*, we were

negotiating to increase General Relief grant levels after a win in October of 1993. In the case of *Rent-A-Center v. Hall*, Legal Action co-counselled with the Legal Aid Society in an attempt to apply the Wisconsin Consumer Act (which Legal Action had helped to pass) to rent-to-own contracts. In December, the Court of Appeals gave us a victory. Also in December, Legal Action won a summary judgment in *Jordan v. Whitburn*, and also won attorneys' fees in the amount of \$37,000.

THEN CAME 1994

1994 started well enough, with the defeat of the Penny-Kasich deficit reduction package in the House of Representatives. Had this passed, Legal Action would have suffered a 6% reduction in its LSC funding - a total of \$172,000. Also, early in 1994 Legal Action received a \$10,000 contribution from the Northwestern Mutual Life Foundation, and we engaged in discussions with the Legal Aid Society of Milwaukee regarding a possible joint fundraising campaign.

On February 17, the federal court in the *Joan S. v. Gudeman* class action approved a class settlement putting an additional \$14 million into community-based services for persons discharged from the Milwaukee County Mental Health Complex. Legal Action and its co-counsel received \$70,000 in attorneys' fees.

On March 24, Legal Action filed a federal lawsuit, *Anderson v. Housing Authority of the City of Milwaukee*, which contended that good cause to terminate tenancies was required for veterans' housing. Our client was a 57-year-old widow who had lived in her apartment for 36 years, and was caring for her grandson.

In April of 1994, things still looked good for LSC funding. The House 1995 budget blue-print called for a 10% increase, and the Senate recommended a 25% increase. At last, the resource-starved legal services firms would be getting some funds to begin to make up for the 1981 cuts. Or so we thought.

In mid-April, Legal Action held a firmwide staff meeting to discuss Legal Action priorities of service. This meeting was, in effect, a major review of the strategic plan which had been formulated in 1992, and which addressed Legal Action's prospective activities for the 1990s. This plan would be severely disrupted by the funding cuts to come.

During the spring of 1994, Legal Action hired five new staff attorneys, the first time in a long time that Legal Action had been able to hire a "Class of . . .". Because of

the staff expansion and brighter funding picture, Legal Action undertook to broaden its work by adding as priorities Childhood Education, Jobs and Economic Development, and Homelessness. Little did we know at the time what disaster November held in store.

On July 19, Legal Action filed *Williams v. HUD*, a federal case alleging that HUD unlawfully permitted Madison landlords to terminate their participation in the §8 subsidized housing program, and thus to diminish the amount of low-income housing stock.

In August, Judge Reynolds granted summary judgment to Legal Action in *S.L. v. Whitburn*, the class action which challenged Milwaukee County's practice of searching the homes of Food Stamp recipients.

At the August 1, 1994 Board meeting, Executive Director John Ebbott was able to report that the Senate had approved an LSC appropriation of \$400 million, and the House \$415 million. A proposed amendment by Senator Phil Gramm that prohibited representation of clients with problems created by "welfare reform" was defeated.

Ebbott reported on a consultant's report which evaluated the implications of a merger among Wisconsin Judicare, Legal Services of Northeastern Wisconsin and Western Wisconsin Legal Services. Ebbott also updated the Board on discussions exploring the possibility of the merger of Legal Action of Wisconsin, Legal Services of Northeastern Wisconsin and Western Wisconsin Legal Services. The Board expressed concern about Legal Action's ability to deal with additional geographic area and offices. One suggestion was to consider merging only the Madison Office with the other two more rural, firms.

In September, Legal Action filed *V.C. v. Whitburn* in federal court. This case challenged Wisconsin's "two-tiered" welfare benefits experiment as a violation of the constitutional right to travel.

On October 24, 1994, the Legal Action Board passed, then rescinded, bylaws amendments which reduced the Board's size from 40 to 30 and changed "Program Committees" to "Community Advisory Committees" composed completely of client-eligible persons. This meeting followed a special meeting of the Board held on October 1, at which there occurred extensive debate about the role of the Program Committees.

On November 8, 2004, there occurred a national election which would spell disaster for legal services.

On Pearl Harbor Day in 1994, the Wisconsin Supreme Court held for Legal Action in *Clark v. Milwaukee County*, a class action, and ordered Milwaukee County to provide an amount of General Relief for housing that would procure minimal standards of health and decency. The Court upheld every single Legal Action contention.

The December 12, 1994 Board meeting was the first meeting following the November elections. In those elections, conservatives swept into national office behind Newt Gingrich and the "Contract for America." Ebbott reported to the Board that the election victors were targeting all "Great Society" programs, including legal services. He listed the new House committee chairs, and stated that most were not friends of legal services. This election was to produce the severe defunding of 1995 and 1996.

Ebbott also reported to the Board on his meeting with a Milwaukee County Board supervisor who was upset with the lawsuits which Legal Action had brought and who threatened to lobby his fellow supervisors to terminate county contracts with Legal Action. Ebbott reported that that supervisor seemed willing to listen to our point of view, and that at the committee meeting wherein our contract was reviewed he cast a quiet vote against us, but did not speak against us or, apparently, lobby his fellow supervisors. This demonstrates yet again the risks of undertaking aggressive litigation to defend the rights of our clients.

At this December meeting, Ebbott reported further on the nascent merger discussions first reported in August. He stated that there was little enthusiasm for merger on the part of the other firms, and that we would instead focus on cooperation, coordination and the statewide poverty law task forces. Merger was viewed as the outer edge of a continuum of coordination efforts. We worked together well this way right up until LSC's "merger mania" of 2001.

By late 1994, Legal Action had obtained a grant of \$150,000 from the Joyce Foundation, and one of \$50,000 from the Public Welfare Foundation. The purpose of the latter was to remove barriers to health care for infants and pregnant women, and thus to reduce infant mortality.

1995 - THE GLIDE PATH TO ELIMINATION

In early 1995, the November election was taking effect. Potential LSC funding changes included a 1995 appropriations rescission, zero funding in 1996 and possible block granting of legal services funding to the states. President Clinton had submitted a

proposed 1996 budget which set LSC funding at \$440 million, a \$25 million increase. The Wisconsin Trust Account Foundation was considering IOLTA funding reductions of 36% for 1996.

At the February 13, 1995 meeting, the Board approved the bylaws amendments which reduced the Board from 40 to 30 members and provided for the direct appointment of client-eligible members by community organizations, beginning in June of 1995.

Also at that meeting, the Associate Director, Jeff Myer, reported on Legal Action's class action involving Milwaukee County's General Relief housing allowance, as well as a major landlord-tenant case. He told the Board that, should Congress totally eliminate LSC funding, taking care of Legal Action's open cases would be a major problem, and that arrangements would need to be made with the private bar to assume the ongoing litigation which could not be finished by Legal Action.

The Board also discussed a policy by which attorneys' fees would be allocated among the three offices. This issue would soon be rendered moot when Congress prohibited legal services firms from claiming or retaining any attorneys' fees at all, thus cutting off a valuable source of revenue for Legal Action.

On March 7, Legal Action filed *Williams v. Stafisz*, a state court class action alleging that the defendant landlord engaged in "bait-and-switch" tactics, showing prospective tenants a nice model apartment, then assigning them to a ratty apartment. Legal Action had in the past represented numerous individual *Stafisz* tenants, discerned this pattern and practice, and determined that it could be more efficiently eliminated through a class action. This case generated extensive local media coverage.

On April 28, Legal Action filed *Holland v. Lorang*, another state court class action. This case challenged the state's "emergency rule" dropping AFDC-Emergency Assistance from \$150 to \$96 per person. The statute provided for \$150. At the same time, Governor Thompson's budget requested that AFDC-EA be cut 30%.

In *V.C. v. Whitburn*, on May 18 the federal government conceded that Wisconsin's "two-tiered" benefits program was unconstitutional.

By the June 5, 1995 Board meeting, Legal Action had learned that the Senate had approved a federal budget bill that would reduce LSC funding by 35% beginning in 1996. The House had adopted a budget bill which would eliminate LSC by 1998. Ebbott told the Board that an internal planning process had been initiated to determine how Legal Action would absorb significant funding reductions of 20%, 30% and 50%,

and that he anticipated that this would be very difficult and painful.

Ebbott also reported that the Legal Aid Society of Milwaukee had agreed to conduct a joint private bar fundraising campaign with Legal Action in the fall of 1995, and that WisTAF would need to make 1996 funding cuts in the range of 25% to 35% due to bank fees which equalled the IOLTA interest revenue.

In August, Ebbott advised the Board that the House had proposed a 33% cut in LSC funding, from \$415 million in 1995 to \$278 million in 1996. This would cost Legal Action 19 positions over three years. The House bill contained severe grant restrictions which prevented poor people's lawyers from using the full range of legal tools available to lawyers for the affluent. The House bill also imposed a competitive bidding requirement on LSC firms.

At that meeting, Legal Action's Development and Information Director, Deedee Peterson, stressed the need for Legal Action to continue to pursue non-LSC funding.

In the fall of 1995, Legal Action was enveloped in "retrenchment" planning, anticipating the draconian funding cuts to come. Because of these cuts, and the fact that Legal Action had raised a half million dollars in new funds since the Development Director position was created, the Board voted to continue that position following Deedee Peterson's resignation.

In August, in *Holland v. Lorang*, the state issued an "emergency rule" raising AFDC-EA to \$150, nullifying its earlier "emergency rule" lowering AFDC-EA from \$150 to \$96, which Legal Action challenged in this lawsuit.

In early September, Legal Action settled *Williams v. HUD*, with our clients receiving everything they sought, especially the right to stay in their \$8 homes.

In *S.L. v. Whitburn*, on October 6 the Seventh Circuit affirmed Judge Reynolds' injunction under the Food Stamp regulations that home visits must be scheduled for a date certain, but substantially narrowed his Fourth Amendment ruling.

Legal Action also appeared *amicus* in the landmark case of *Joni B. v. State* in support of Joni B., represented by now federal judge Lynn Adelman. In that case, the Wisconsin Supreme Court held unconstitutional a statute which prohibited trial judges in CHIPS cases from appointing counsel to represent parents where circumstances made counsel necessary. This is a very strong right to counsel case, and Children's Court judges to this day continue to appoint lawyers for parents.

At the December Board meeting, Ebbott reported that Congress had, indeed, cut the LSC appropriation to \$278 million for 1996. Because of the restriction in the new

bill against advocacy on welfare “reform” proposals, Legal Action was forced to relinquish a \$75,000 foundation grant, and to transfer that grant to a non-LSC-funded organization. 1996 was shaping up to be a disaster.

1996 - A DISASTER

At the February 5, 1996 Board meeting, Executive Director John Ebbott reported that the LSC was funded only through March 15 by means of a “continuing resolution,” and that there was some concern in the legal services community that the LSC would be targeted for deletion from future continuing resolutions. On a brighter note, Ebbott stated that WisTAF (IOLTA) revenues were beginning to stabilize, and even increase slightly, because of the recent effort to reduce bank fees paid by WisTAF to the banks holding the IOLTA accounts. These fees were so high that, whereas in the past year WisTAF’s IOLTA (interest) had come to approximately \$1.5 million, the banks’ fees had eaten away fully half of that, or \$750,000, leaving only \$750,000 to be granted out to legal services providers. The President of the State Bar, John S. Skilton, spearheaded an effort to apply economic pressure to the banks in order to persuade them to reduce their fees to a reasonable level. Happily, this effort succeeded.

Ebbott also advised the Board that the new Development Director, Sue Conwell, would be working on a statewide “Equal Justice” fundraising campaign, which was to include a dues checkoff and individual and law firm contributions from attorneys. This campaign was to replace, in part, the LSC funds lost in the Congressional cuts. Ebbott reported that the State Bar’s Commission on the Delivery of Legal Services, headed by the same John Skilton, would recommend that the State Bar allocate \$50,000 to retain a fundraiser to organize and initiate this Equal Justice Campaign. This was later to become the Wisconsin Equal Justice Fund, and would raise over \$1 million for legal services.

Ebbott also proposed that a client needs survey be performed as part of Legal Action’s priority setting. The Board approved \$5,000 for such a survey.

At that same Board meeting, the Madison Office union, the United Legal Workers, made a presentation to the Board which proposed that the upcoming funding cuts be dealt with through office-wide part-time work, consisting of a four-day work week, with staggered time off, rather than through layoffs. This presentation was a part of an intense and painful consideration by Legal Action Board and staff as to how to

cope with the tragic funding loss inflicted by the Congress.

In April, the Associate Director position was changed to that of Litigation Director.

Because of the new restrictions, Legal Action had to divest itself of all class actions, ineligible alien cases and prisoner cases by August 1. The ACLU of Wisconsin agreed to assume responsibility for that litigation. This forced divestment was disruptive to Legal Action, the ACLU and the clients being represented.

In May of 1996, the State Bar agreed to provide \$50,000 in seed money for a statewide Equal Justice Campaign, which was to begin in early 1997.

In July, a further threat to LSC funding loomed. The House Appropriations Committee voted for an additional 50% reduction in LSC funds for 1997, from \$278 million to \$141 million. Fortunately, the Clinton White House strongly objected to this, and a House floor vote resulted in a \$250 million appropriation. During the floor debates, Congressman Dan Burton of Indiana expressly cited Legal Action's litigation as a reason for cutting the appropriation another 50%. The higher appropriation of \$250 million passed despite strong opposition from the House leadership, and the favorable vote included 56 Republicans. Of the Wisconsin Republican delegation, Congressmen Gunderson and Klug voted in favor, and Congressmen Sensenbrenner, Neumann, Petri and Roth voted against.

On August 1, the Senate Appropriations Committee approved \$288 million for LSC.

On August 5, Ebbott reported to the Board the negative effects of the funding cuts. He stated that in January of 1997 staff would be down 29% from November of 1994, from 77 to 55 full-time equivalents. The staffing reduction caused a reduction in client representation. He projected that 1996 would show 682 fewer cases than 1995, a 7% reduction, with the full effect of staff reduction not yet felt. Ebbott reported that WisTAF grant amounts were to rise by 31%, and that he hoped for a grant increase for Legal Action.

Ebbott also reported great support from the Racine County community for Legal Action's proposed Racine County office. That support included the Housing Authority of Racine County, the Urban League, the Women's Resource Center, and the Racine-Kenosha Community Action Agency. In addition, the Racine County Bar Association had pledged \$1,200 toward the office. Board member Richard Perry stated that this bar support was significant, as when Legal Action originally went to Racine County the bar strongly opposed our presence there.

Ebbott reported that Northwestern Mutual Life had increased its support for Legal Action from \$10,000 to \$12,000. He told the Board that there was now a need to explore increasing revenues through such things as fee-for-service contracts in areas such as representing parents in CHIPS proceedings, training and legal education materials, and through recouping fees for medical records obtained on behalf of Social Security Disability clients after a successful award.

By October, the LSC appropriation had been set at \$283 million, a \$5 million increase from 1996. So complete disaster was avoided, but the funding level was still far below that in 1981.

1996 saw the beginning of “state planning” efforts nationwide. These efforts were initiated by various leaders in the legal services community on the theory that the devolution of poverty law from federal entitlements down to state-level discretion and the severe funding cuts required planning for “comprehensive, integrated, seamless” statewide delivery systems. State planning was eventually to cause major problems for Legal Action and other legal services firms.

Also at this time, the Fifth Circuit Court of Appeals had rendered a decision questioning the constitutionality of IOLTA in *Washington Legal Foundation v. Texas Equal Access to Justice Foundation*. The second major source of funding for legal services was now threatened.

In the autumn of 1996, Legal Action kicked off its development of a firmwide e-mail and Internet access system, one of whose goals was desktop Internet access for each staff member.

At the end of 1996, at the December 16 Board meeting, Litigation Director Jeff Myer reported that, as a result of the LSC’s first competitive bidding process (mandated by the 1996 legislation), Legal Action had been awarded a two-year contract. He reported numerous staff resignations and reassignments, as well as layoffs in the Madison Office.

1997 - SURVIVING THE THREAT

1997 dawned like other years since 1981 - with a stark threat to the existence of legal services. In Congress, Rep. Harold Rogers had asked, during a House Appropriations Subcommittee hearing on LSC, for estimates of a “close-down” budget for FY 98. He asked for this in the event Congress decided to discontinue legal

services after FY 98. Rogers stated that there was Congressional displeasure at the legal challenges to Congressional restrictions, and he questioned the “political wisdom” of a Texas Rural Legal Aid Voting Rights Act lawsuit. Rogers told the LSC representatives at the hearing: “You’re in a fight for your life.” The hearing focused substantially on how vigorously the LSC was going to defend the litigation challenging the restrictions. On the Senate side, Senator Pete Domenici was guardedly optimistic about LSC’s chances in that chamber.

In one of those lawsuits, *LASH v. LSC*, the federal district court granted a preliminary injunction enjoining some, but not all, of the restrictions on non-LSC funds. The restrictions which the court enjoined included advocacy before legislative and administrative bodies, litigating and lobbying welfare reform issues, and litigation on behalf of prisoners. The court did not enjoin the restrictions denying the use of non-LSC funds in class actions, in claiming attorneys’ fees, or in representation of aliens. The basis for the injunction was that the restrictions interfered with clients’ rights to obtain counsel of their choice and access to the courts, and that they violated the First Amendment rights of the legal services firms, their lawyers, donors, and clients to associate and to petition the government for redress of grievances. The injunction affected only the five legal services firms involved in the litigation. They were the Legal Aid Society of Hawaii, Alaska Legal Services, Legal Services of Northern California, the San Fernando Valley Neighborhood Legal Services and the Legal Aid Society of Orange County.

Executive Director John Ebbott reported to the Board on March 3 that, with regard to the Fifth Circuit decision holding IOLTA to be an unconstitutional taking of property, John Skilton would be writing an *amicus* brief for the State Bar in support of a petition for certiorari. Skilton intended to file a Brandeis brief spelling out the positive uses of IOLTA funds.

Ebbott reported that the statewide fundraising campaign had been kicked off on February 21, and would be called the “Equal Justice Coalition, Inc.” Its goal was \$5 million over three years.

Ebbott reported that the Racine Office would be opened with a ceremony on March 24, and that staff had been hired. The Board approved a contract with Attorney Anne De Leo, former Legal Action Associate Director, to handle non-restricted welfare (W-2) cases for Legal Action clients, made necessary by an anticipated huge increase in welfare service cases caused by “welfare reform.”

Litigation Director Jeff Myer reported to the Board on Legal Action's ongoing litigation, including an education case in Racine County, several tax intercept cases, a Social Security Disability benefits case, a Medical Assistance deductible case in Dane County, a guardianship case and the case against the Milwaukee landlord who used "bait-and-switch" apartment-substitution tactics.

In the spring of 1997, Legal Action applied for the first time for a HUD Emergency Shelter Grant ("ESG") to serve Rock and Dane Counties. ESG funds would become a major source of revenue for Legal Action, and this marked the first time that Legal Action sought to acquire major funds from HUD.

As of early August 1997, the Senate had approved an LSC appropriation of \$300 million on a 99-0 vote, but the House Appropriations Committee was again at \$141 million, a 50% drop from then-current funding. President Clinton had promised a veto if legal services was in the Commerce, Justice and State appropriation at \$141 million, or if it was excluded altogether.

A Harris Poll was released showing that 70% of respondents nationwide believed that civil legal services is necessary, and would favor the allocation of \$1.50 per person per year for civil legal services.

Because of the funding cuts, the number of closed cases for 1997 was projected to be down 20% from 1996.

At the August 4 Board meeting, Ebbott reported that he had recalled a laid-off Madison attorney to work. Litigation Director Jeff Myer reported on three recent cases: a recent Court of Appeals victory in a SeniorLAW case, an education case on behalf of a disabled student, and *Flynn v. Department of Administration*. In the last case, Legal Action was amicus in support of Circuit Court judges' challenge to a legislative transfer of funds away from the court computerization program. Legal Action's *amicus* brief, written by Ebbott, argued that this transfer would harm poor people.

In an effort to ameliorate the loss of staff, Legal Action obtained five Americorps positions through the National Service Legal Corps.

At the October 6 Board meeting, Ebbott reported that the House had voted out a \$250 million LSC appropriation and the Senate \$283 million. These amounts would be reconciled in conference committee.

As this federal funding reduction continued, the four LSC-funded firms' share of IOLTA was shrinking from 78% to 75%, while the share of non-LSC WisTAF grantees rose substantially. Ebbott reported that Dan Tuchscherer, the Director of LSNeW, had,

on behalf of the Coalition (the four LSC firms), sent a letter to the WisTAF Grants Committee. This letter stated that the Coalition was troubled by the declining percentage in a time of federal funding cuts; that funds to organizations with limited and local focus meant fewer resources to LSC providers; that the Coalition was concerned about the breakup of legal services into a host of small and single-issue providers; and that the Coalition really needed at least 85% of the WisTAF revenue in order to begin to serve our clients effectively. This letter received a response from the chair of the Grants Committee which stated that there was “rock solid support for the excellent work” of the Coalition members, that we had the Committee’s “clear and unequivocal support,” but also that the Committee was “exceptionally pleased with the quality of specialized work” which many of the small programs were providing.

In 1997, Legal Action began a long partnership with the Milwaukee Task Force on Family Violence, serving victims of domestic violence with \$85,000 in VOCA (Victims of Crime Act) funds. This began with one attorney and one paralegal at Legal Action, grew steadily through the years, and continues in 2009.

Because of concern about the dingy and drab waiting room in which clients had to sit, Legal Action in 1997 began a program of construction improvements to that room that would add light and space.

At the end of 1997, the LSC had a new president, John McKay, who spoke to conferees at the national NLADA conference, including several from Legal Action. He stated that the political environment had changed, and that whereas we were threatened with being zeroed out, that had not happened. He had been on a radio program with a congressman who stated that Congress had spoken, and legal services was here to stay. McKay stated that “our job is to make sure that you in the field have resources,” and that “we will write off no one on the Hill.”

At that same national conference there was a NLADA Civil Caucus panel discussion on 1) how best to have an impact while providing critical services and 2) what to do about community involvement. One of the panel members was Hafeezah Ahmad, Legal Action Board President, and the moderator was Shari Dunn, former Legal Action staff attorney.

At the December 15 Board meeting, Ebbott reported on the Project on the Future of Equal Justice, wherein NLADA, PAG and CLASP had obtained \$800,000 to review and reconfigure the delivery of legal services nationwide and within states. Ebbott expressed his concern to the Board that so many resources were going into a redesign

of the system, which result might be to hurt and not help the core legal services providers such as Legal Action. He also reported that the Wisconsin legal services firms had submitted a "Wisconsin position" to NLADA which contained constructive criticism of the Project on the Future of Equal Justice. This in fact was the funding and formalization of "state planning," which was soon to cause so much diversion of resources.

At the end of 1997, the Equal Justice Campaign ("EJC") had obtained \$310,000 in pledges. The State Bar's employee who had been acting as staff for the EJC had resigned, and various EJC Board members proposed replacement staffing which would cost \$100,000 to \$180,000 off the top of the funds raised. The LSC firm EJC board members thought this excessive, and suggested a third alternative in the amount of \$40,000 - \$50,000.

1998 - THINGS IMPROVE, AND "LIFE" AND STATE PLANNING BEGIN; THE OIG COMES TO CALL

By early 1998, President Clinton had made an appropriations request of \$340 million for LSC, a 20% increase over 1998.

The LSC issued "Program Letter 98-1," which required all state delivery plans to be updated by October 1. This program letter marked the entry of LSC as a serious force into the state planning movement.

In early 1998, Legal Action was engaged in litigation which involved payment problems for relatives providing foster care, bad notices to W-2 participants and new federal legislation governing Section 8 renewals.

In the spring of 1998, the LSC imposed a state planning mandate on legal services law firms. Legal Action this year had to again submit a competitive bid for its grant, and the Office of Inspector General ("OIG") notified Legal Action that its staff would be visiting and inspecting for two weeks, from July 13-24. This visit required enormous staff preparation.

The Equal Justice Campaign had secured \$600,000 in pledges by June 1998, and would present a \$100,000 check to WisTAF at the State Bar Convention on June 25.

Legal Action initiated a housing and economic development area as part of the work of the Housing Law Unit. This was to focus on housing and job creation, including using the Community Reinvestment Act as a legal tool. Legal Action was also litigating

fee awards in two cases, *Stern* and a Medical Assistance-deductible case. In *Stern*, the government had appealed the judge's attorneys' fee award to Legal Action. In the MA case, one Assistant Attorney General was fighting Legal Action's fee request despite the fact that an AG colleague had agreed to a similar fee request in a similar case. Attorneys' fees were awarded in these cases prior to the enactment of the LSC prohibition on receiving attorneys' fees.

1998 saw the birth of a new area of legal advocacy: the removal of legal barriers to employment for poor people. Community activists had long complained to Legal Action that the people in the client community were shut out of jobs because they had lost their drivers' licenses. Ebbott asked Litigation Director Jeff Myer, and later Special Projects Director David Pifer, to learn motor vehicle law and the drivers' licensing system, and to begin helping clients to get licenses. This they did. After a period of time in which we provided this representation with our limited existing funds, we submitted a proposal to the Private Industry Council to provide legal services to W-2 participants and noncustodial parents in the Welfare-to-Work Milwaukee Program at a cost of \$520,000 over two years. This project became the Legal Intervention for Employment ("LIFE") Project. In 2008 it was renamed "Road to Opportunity" ("RTO").

By the end of 1998, funding was looking better. The LSC funds for 1999 were increasing 6%, from \$283 million to \$300 million. This appropriation was still lower than that of 1981. IOLTA funding was set to increase 17%.

On December 4, 1998, the LSC submitted its comments to the four Wisconsin legal services programs on their "Wisconsin Legal Services State Planning Report." This draft report had been submitted by the LSC's October 1 deadline, and was the product of numerous meetings between and much work by the Executive Directors of Legal Action, Legal Services of Northeastern Wisconsin, Western Wisconsin Legal Services and Wisconsin Judicare. The LSC requested additional planning efforts on: 1) a statewide integrated intake, advice and referral system; 2) an expanded statewide technology plan; and 3) an examination of the role of judicare attorneys in the statewide integrated delivery system. This was an early stage of the LSC "state planning" drive which was to consume enormous amounts of time and money, generate great contention and consternation, and result in the merger of Legal Services of Northeastern Wisconsin and Western Wisconsin Legal Services with Legal Action of Wisconsin.

At this same time, *Phillips v. Washington Legal Foundation*, a lawsuit similar to the Texas case in challenging the constitutionality of IOLTA funding for legal services, had been filed and was wending its way through the federal courts. This lawsuit, sponsored by a conservative foundation, threatened Legal Action's \$744,000 in IOLTA funding.

At the December 16 Board meeting, Ebbott requested that a new Project Director position which would direct Legal Action's very successful Legal Intervention for Employment program be entitled the "John S. Skilton Chair." The Board agreed that John Skilton had demonstrated selfless dedication to legal services, and agreed to establish a Skilton Chair.

1999 - A SHIFT IN FUNDING, CASE STATISTICS QUESTIONED AND ONCE AGAIN A SOUTH SIDE OFFICE

In early 1999, Legal Action began its "Southside Opportunities Project." Thanks to \$250,000 in annual funding from UMOS, Legal Action for the first time in many years opened an office on the near South Side of Milwaukee. The project was to serve primarily W-2 recipients by removing legal barriers to employment. Ness Flores was hired as the Project Director for the new office. In addition, Sandra Dobbles was hired as the new Development and Information Director.

Also in early 1999, Judge Pat McMahon in Milwaukee and Judge Jones in Madison ruled in Legal Action's favor in *Vu v. DHFS*, a series of cases claiming that Hmong Vietnam war veterans were eligible for public benefits.

On March 19, Legal Action won an appeal in *Anderson v. Anderson*, challenging Milwaukee Judge Haese's issuance of a domestic violence injunction against our client, the victim, without a request or motion by the perpetrator, and without any notice to the parties. The Court of Appeals summarily reversed him.

In *City of Milwaukee v. West Main Condo. Ass'n.*, Legal Action and the ACLU persuaded the trial judge to vacate an earlier order to evict all tenants.

As of April, 1999, concern was increasing about the LSC's state planning purpose and process. National legal services representatives raised these concerns with the LSC Board. They also informed Legal Action that, more than with any other state, the LSC had raised form over substance in criticizing our Wisconsin State Plan.

Also about this time, Legal Action was asked by WisTAF to participate in a pilot project whereby social work students would be placed in our offices to conduct alcohol,

drug and mental health assessments, screenings *and interventions* on clients coming to Legal Action offices for representation. Since the Board viewed it as part of Legal Action's mission to serve clients with drug, alcohol and mental health problems without making judgments as to whether their legal problems are their "fault" or whether they need personal help, the Board declined WisTAF's request to participate in the pilot project.

On June 4, a revised Wisconsin State Plan was submitted to the LSC. It consisted of 78 pages plus appendices. With regard to intake, advice and referral, the plan discussed our several concerns with hotlines and centralized telephone intake, including: waiting in queue; clients dumped to voicemail; problems with callbacks; and staff burnout and turnover. The plan stated that Wisconsin Judicare would move to regional centralized intake, but that the other three firms had an optimal mix of local and regional telephone and walk-in intake, which mix gets a client with a specific legal problem directly to an expert in that legal area.

As to technology, the state plan detailed the advanced technology possessed by Legal Action and stated that the technology of the other three firms should be inventoried so that all systems would be compatible. The plan announced our plans to establish three websites, which would include a brief bank.

As to Wisconsin Judicare, the plan recommended to the Judicare board an examination of the factual bases of LSC's concerns and an evaluation of alternative strategies for meeting critical needs.

On May 17, Legal Action received a report from the LSC Office of Inspector General (OIG) which resulted from the 1998 visit. The OIG's findings were contested fully in Legal Action's response.

At this point, the Equal Justice Coalition, our statewide fundraising body, had reached the million dollar milestone, 25% of which went to an endowment for future permanent, apolitical funding of legal services.

On July 1, Hal Menendez returned to Legal Action staff, his real home.

On the federal level, the House of Representatives recommended a 50% cut in the LSC appropriation, impelled in part by a spending cap imposed by the 1997 "Balanced Budget Act" and a proposed tax cut.

1999 marked a fundamental shift in Legal Action's funding pattern. Funds which formerly were considered as "special project funding" were now becoming as stable and as substantial a source of support for staff positions as LSC and WisTAF "Basic Field"

funding. Basic Field, at its flat funding level, was becoming less and less the source of funding for “permanent” staff positions. Thus, Legal Action management began to look at ways to shift staff from Basic Field to various non-LSC-funded projects. This trend has now continued for 10 years.

As a harbinger of ill things to come, at the behest of the Republican leadership in the House, the General Accounting Office (“GAO”) conducted a study of the Case Service Reports (“CSRs”), the case statistics which we keep, provided to LSC by the five largest legal services firms in the country. The GAO found “substantial errors” in their CSR reporting. Even though the GAO used a 1998 CSR handbook which was not applicable to the legal services firms’ reporting in 1996 and 1997, the LSC did not defend its grantees. Rather, it criticized them. This meant that there would be long-term scrutiny of statistical reporting rather than attention to high quality legal representation.

The GAO report was used by two Wisconsin congressmen as a rationale for voting against an increased LSC appropriation, and the House Judiciary Committee conducted an oversight hearing on CSRs on September 29, 1999. The LSC’s OIG was ordered to do an “intensive review” of CSRs and to provide an assessment to Congress by July 30, 2000 of the accuracy of 1999 CSRs. This scrutiny continued until at least 2008, when it was a primary contributing factor to a week-long LSC visit to Legal Action to examine 710 case files.

On the other side of things, in the autumn of 1999 it appeared that LSC might be appropriated \$300 million for 2000, and at least one Congressman stated that the “tide has turned” in LSC’s favor in Congress.

At this same time, WisTAF realized a significant revenue increase, but gave Legal Action and Wisconsin Judicare only 2.5% more, whereas it increased other grantees in significantly higher percentages. WisTAF was unable to provide a rationale for this. In addition, the state budget contained an appropriation of \$200,000 for legal services, and we were hoping to avoid a veto by the governor.

By December of 1999 we learned that the national appropriation for 2000 would be \$304 million. In an ominous development, the LSC had “short-funded” eleven legal services programs for “quality” reasons. Two were funded for four months, two for six months, and seven for one year when the other programs in the state received two- or three-year funding. Five of the eleven programs had minority executive Directors.

A short-funding in Ohio was directly related to State Planning. In response, NLADA passed a resolution stating that the short-funding had insufficient due process and created the perception of racial, ethnic or other bias.

Legal Aid of Western Missouri was placed on month-to-month funding because it refused to provide LSC with client names linked to confidential information, long a Legal Action position. This was done by LSC's Office of Compliance and Enforcement ("OCE").

At the December Board meeting, Ebbott announced that the state appropriation of \$200,000 had passed with no veto. He also informed the Board that the LSC was pushing the consolidation and regionalization of migrant programs, which could mean the end of Legal Action's Migrant Project and its focus on migrant farmworkers in Wisconsin.

In *Mack v. DHFS*, Legal Action persuaded the Court of Appeals that the state did not have a right to recoup an overpayment, by means of administrative offset, against current SSI State Supplement benefits.

LEGISLATIVE SUCCESS IN THE 1990S

In the 1990s, Legal Action achieved success in the enactment of the following major laws and rules:

- Comprehensive Revision of Wage Garnishment Laws – The act bill allows for the continuous garnishment of wages for periods of up to 13 weeks and provides for the stacking of claims by creditors. It also exempts income from garnishment altogether if (1) the debtor's household income is below the poverty line, or the garnishment would produce such a result, or (2) the debtor receives need-based public assistance within 6 months prior to service of the earnings garnishment or has been determined to be eligible to receive need-based assistance. The act also allows for the garnishment of 20% all net wages (after tax and child support deductions) which are above the federal poverty guidelines.
- Comprehensive Revision of In Forma Pauperis Statute by Supreme Court to Require Automatic Waiver for Recipients of Public Assistance or Clients of Legal Services Programs for the Poor
- Retention of Right to Representation by the Public Defender in Paternity Cases for Persons whose HLA Blood Test Results do not Create a Presumption of Paternity under the Statutes by Showing a 99% Probability of Paternity.

- Enactment Providing that the Right of Appeal of an Eviction Action Commences with the Date of Entry of the Order of Restitution, Rather than After All the Other Claims are Decided
- Enactment relating to Personal Property Left by a Tenant, removing the requirement that landlords follow Uniform Commercial Code provisions for the sale of property worth more than \$100. In its place are provisions that (1) tenants receive written notice of the costs of storage of property; (2) landlords may not use the rent charged for a unit as a basis for determining storage costs; (3) medicine and medical equipment must be returned immediately, without lien for storage; (4) proceeds of sales beyond the costs of conducting sales must be submitted by landlords to the homeless fund in DOA; and (5) landlords are not entitled to reasonable attorney fees as part of the cost of sale of property.
- Establishment of Protection for Tenants in 1993 Act 139, Shortening Time for Eviction in Drug Cases. 1993 Act 139 provides for the eviction of a tenant with a five day notice if the tenant has been certified for selling drugs under s. 823.113 (1). The landlord must prove by a preponderance of the evidence that the tenant engaged in the acts alleged in the certification. This marks a considerable improvement over the original bill, which allowed for the automatic eviction of the tenant based on the issuance of a certification alone.
- Protection for Homestead Owners, in the Expansion of the Ability of Municipalities to Bring Action Against Defaulting Real Estate Owners. The bill originally would have allowed actions to be brought against homestead owners for the recovery of delinquent real estate taxes, without the restriction that delinquent taxes exceed the property value. The application of the bill to homestead owners for delinquent taxes was deleted. The bill amends s. 74.53.
- Adoption of DHSS Administrative Rule Expanding Eligibility of Homeless People for AFDC-Emergency Assistance. After years of conflict with legal services clients and the legislature over the expansion of the definition of "homelessness" for eligibility for receipt of AFDC-EA, the Department of Health and Social Services has finally acquiesced, accepting the federal McKinney Act definition recommended by the legislature more than two years ago.
- Revision of Child Support Administrative Rules to establish lower requirements for support for lower income payers
- Creation of statutory defense to eviction for tenants who have applied for Emergency Assistance
- Expansion of Emergency Assistance to make persons eligible who are facing impending homelessness
- Comprehensive revision of landlord-tenant code by DATCP, relating to earnest money deposits, security deposits, and form provisions in leases

2000 - A MIGRANT FUNDING THREAT AVOIDED, AND THE LSC TWICE COMES TO CALL

At the February 7 Board meeting, Executive Director John Ebbott reported that President Clinton had included a budget request of \$340 million in his overall budget of \$1.84 trillion. Not only was this a disappointingly small amount, but little of the \$35 million increase was general "Basic Field" money. \$12.1 million would go toward the new initiatives of technology and *pro se*, and \$12.5 million would go to the LSC's management and administration, which included significant funding increases for monitoring and compliance. Thus, there was little in the proposed budget that would benefit Legal Action or its clients.

On the state level, Ebbott reported that the Equal Justice Coalition had contributed \$150,000 to WisTAF at the January Bench-Bar Conference. He also stated that, in his view, it was very important to institute an endowment as a nonpolitical funding source. Ebbott further reported that the state appropriation of \$100,000 for 2000 would be allocated through a WisTAF "mini-grant" process, and that this would involve a significant amount of hours for a rather small amount of funding. Also with regard to WisTAF, Ebbott reported that the WisTAF Executive Director's proposal to close all WisTAF meetings was defeated by the WisTAF Board of Directors.

Ebbott also informed the Board that Cathy Kendrigan, Legal Action's Family Law Priority Coordinator, had received the Dan Tuchscherer Public Interest Lawyer Award at the State Bench-Bar Conference, and that that was something of which Legal Action could be proud. Ebbott reported to the Board regarding a visit to Legal Action by Alan Houseman, the Executive Director of the Center on Law and Social Policy and a leading figure in the national legal services community. Mr. Houseman sat in on intake with various Legal Action staff advocates, attended Small Claims Court and participated in a roundtable discussion with Legal Action staff. While here, Mr. Houseman stated to the staff that, in his opinion, Legal Action was one of the top ten legal services firms in the country.

Ebbott reported on state planning, stating that most of the work was occurring on the statewide technology plan. There would be a meeting of the State Planning Group on April 15.

Legal Action received a HUD grant of \$215,000 over two years for the Racine Office.

The House Appropriations Subcommittee held a hearing on February 17 on the LSC request for \$340 million. The hearing was significantly different in mood and tone than prior years, without charges and hostile questions. Subcommittee members made it clear that much was riding on solid CSR data, and on the cooperation of the Corporation and its grantees to make sure that the numbers that went to Congress in 2000 were correct. One congressman, who was vociferously critical at 1999's hearing, said "I'm quite happy today. ... I'm actually very pleased with what you have done. You may be shocked, but I really am." The LSC President reported to the Congress progress in refocusing field programs' attention on the needs of individual clients. At Legal Action, we have always paid attention to the needs of individual clients, and did not agree that we needed to be "refocussed."

At this time in 2000, the LSC's OIG was busy checking on LSC firms' CSR compliance, and raising concerns about client confidentiality in the process. Early in the year, the OIG "randomly selected" 30 basic field firms for the OIG's "Data Call 1," and 30 more for their "Data Call 2." Shockingly, and thankfully, Legal Action was not "randomly selected" this time around. The second data call required client names, and the Inspector General tried to assure field firms that he had built a "Chinese Wall" between client names and case type codes such as "domestic violence" and "termination of parental rights." Connecting a client's name to such information is a violation of confidentiality in almost all states. Two firms, the Legal Aid Bureau of Maryland and Legal Services of New York City, concluded that the Chinese Wall could be breached. They declined to provide client names, but instead formulated a system whereby they could protect client confidentiality and provide the IG with the information he needed. The OIG responded by issuing subpoenas to the firms, and the LSC issued a Proposed Determination of Suspension (of funds) notice to them. The NLADA board issued a resolution defending the firms' actions, and the NLADA Executive Director sent a letter to the LSC President, Board Chair and the Inspector General asking them not to pursue their actions, but rather to work with the two firms to develop an alternative approach. Had Legal Action been selected for Data Call 2, we very easily could have been in the position of these two firms, and the precipitous action of the OIG and LSC was very troubling.

On January 28, 2000, the United States District Court for the Western District of Texas dismissed, with prejudice, the challenge to IOLTA in *Phillips v. Washington Legal Foundation*. That court held that mandatory IOLTA does not constitute "compelled

speech” in violation of the First Amendment, and that IOLTA supports a core governmental function by providing access to the justice system for low-income people. On the Fifth Amendment claim, the court held that the plaintiffs had failed to provide evidence of a compensable loss, and thus there was no taking without compensation in violation of that amendment. The court found, further, that no “taking” at all had occurred.

In early 2000, a Virginia legal services firm, Client-Centered Legal Services of Southwest Virginia (CCLS), and its director sued LSC, President John McKay and Program Counsel John Eidelman, alleging that the state planning initiative was unauthorized by the Legal Services Corporation Act, that it forced the director to abdicate his fiduciary duties to CCLS, and that the initiative was the result of McKay’s personal views rather than the intent of Congress under competitive bidding. In Virginia, the LSC had pressed those programs to reconfigure from 12 programs to 6. This was part of a national push by LSC to force the mergers of programs, and this push would soon hit Wisconsin.

The state appropriation for civil legal services which we had obtained, and which went to WisTAF for distribution, was in the amount of \$100,000 each year for the two years of the biennium. This was the first state appropriation ever secured for legal services. Legal Action applied for these funds as a coalition with the other members of the Equal Justice Coalition, as we wanted to show that we were interested in cooperation rather than competition, and that the appropriation arose out of the planning and work of the EJC.

At its spring meeting, the EJC Board declined to earmark funds for an endowment beginning July 1. The issue was deferred until the June meeting, at which time David Groose, John St. Peter and John Ebbott presented information and a plan as to what percentage of EJC funds raised in the future should be placed in an endowment. Legal Action thought it very important to establish a nonpolitical source of legal services funding for the longterm future.

As to State Planning, the four LSC programs held a State Planning Group meeting on April 15 to discuss the future of Wisconsin state planning efforts. The Group had been focusing on coordinating and integrating technology among the four LSC-funded law firms. Although this is what the LSC had told us to do, our Program Officer had intimated that we needed to do more if we were to receive 3-year rather than 1-year funding. All of our grants expired in 2000, and we would be reapplying in

June, so this issue was of great concern to us.

In late 1999 and early 2000, a threat to Legal Action's migrant funding arose. Some elements in the migrant legal services community drafted a paper which advanced a "critical mass" theory of migrant legal services effectiveness: any program below \$440,000 could not be effective, and would have to regionalize or merge with a program in another state. Legal Action's Migrant Component received, in 2000, \$77,000 from LSC, and we allocated an additional \$50,000 to it, so our total size at that point was \$120,000. Of 50 migrant programs, 41 fell below critical mass! Rumor was that LSC President John McKay agreed with the Critical Mass Theory, and would move quickly to implement reconfiguration, which would mean that Wisconsin would lose a local migrant legal services presence. Kevin Magee and John Ebbott attended a Migrant Delivery Conference in Texas, and argued that our existing standards of excellence should be applied to migrant programs through peer review teams to judge effectiveness, rather than utilizing such a crude analytical instrument. After debate, conference attendees broke into regions and came up with regional recommendations, which differed and which were tailored to each region. President McKay did consider these recommendations, and did not move to force reconfiguration. The Midwest Region formulated a "consortium" approach, which would bind the various programs in the region more closely and formally together, but would not involve moving one program to a different state and program.

In 2000, the "new world of new money" continued apace. "New money," meaning funds which were not LSC or WisTAF funds, but came in the form of specialized grants, was becoming our second-largest funding source, replacing WisTAF. Unfortunately, this new money was not general purpose funding, but had to be used for specific purposes and specific clients. In the case of HUD funds, the requirements were very restrictive, and permitted almost no flexibility. While it was very good that we were successful in competing for these funds, as they kept us afloat financially and permitted us to continue our basic mission, the disadvantages were that we would have to shift staff from Basic Field to the new grants, and that we needed additional administrative staff to administer what was becoming a veritable maze of contracts and grants. It was, therefore, a new world, one which required that we adjust more often and more rapidly. That continues to be our world in 2009.

During the week of May 8, 2000, Reggie Haley, the Legal Services Corporation (LSC) Project Officer for Wisconsin, conducted an on-site visit of Legal Action of

Wisconsin, Inc., Legal Services of Northeastern Wisconsin, Inc. and Wisconsin Judicare. All four Executive Directors accompanied Mr. Haley as he travelled from Milwaukee to Beloit to Green Bay to Wausau to Ashland. In follow-up to the visit, Mr. Haley requested that the four Wisconsin legal services programs make an in-person presentation to the LSC management in Washington, D.C. on June 12, 2000. Mr. Haley also requested that the Wisconsin LSC programs participate in a peer review and retain a consultant with expertise on the LSC State Planning process.

In Congress during the summer of 2000, the House Committee approved \$141 million for LSC. On the House floor, this was raised to \$275 million, \$25 million more than the 1999 House floor appropriation. The Senate approved \$300 million, down from \$305 million.

Regarding State Planning, the four Wisconsin LSC-funded legal services firms, including Legal Action, made a presentation to LSC staff on June 12 regarding our State Planning process. We were accompanied by Deedee Peterson, the Executive Director of the Equal Justice Coalition, and Kathleen Grant, the incoming WisTAF Board President. The presentation covered "vision;" intake, advice and referral; technology; fundraising; PAI-judicare; and peer review.

On June 29, Reginald Haley met with us at the State Bar convention and said that LSC was pleased with Wisconsin's progress on fundraising, the mission statement and Judicare. He said that we need to do more on technology and on intake, advice and referral, and to let LSC know about our acceptance of a peer review process and a consultant. On July 6, we wrote Mr. Haley that we would agree to a peer review team of knowledgeable project directors, and to hiring a consultant for State Planning.

At the August 7 Board meeting, Ebbott reported that Legal Action would probably lose around \$70,000 in WisTAF funds for 2001 due to lower revenue projections. Coming on the heels of flat funding for 2000, this meant further shrinkage of the Basic Field component. To make matters worse, WisTAF awarded Legal Action only \$30,000 of the \$100,000 state appropriation.

Ebbott also told the Board that the Kenosha Office was encountering financial difficulties, and that the Board should consider consolidating the Racine and Kenosha Offices.

Ebbott reported to the Board an honor received by Legal Action founder and Board member Lucille Berrien. Lucille, at age 76, was caring for her 85th foster child. Stage West had decided to donate 10% of its proceeds from its production of the

musical “Baby” to Lucille to establish a home for new mothers.

On August 18, in our *Gee v. Leean* federal lawsuit, the District Court ruled that our clients did have a §1983 cause of action and thus could sue, but that the federal “Community Options Program-Waiver” permitted a maximum numerical limit on the number of participants. In this suit, we challenged the waiting lists for this popular in-home services program, which lists contained around 10,000 elderly and disabled people.

In September, we continued to litigate *Lane v. Leean*, which sought to establish the right to a Chapter 227 administrative hearing when parents claimed that the state had distributed child support incorrectly.

2000 saw quiet merger discussions between Legal Services of Northeastern Wisconsin and Western Wisconsin Legal Services, a product of the LSC’s State Planning merger mania. Upon learning of these discussions, Legal Action sent a letter to the WWLS Board president seeking a discussion of possible alternatives to merger with LSNEW.

Legal Action expected health insurance premium increases of 30% for January 2001.

On November 3, 2000, LSC President John McKay, LSC Vice President Randi Youells and State Responsible Person Reginald Haley came to Madison to speak to the four Executive Directors, their Board chairs, the State Bar President, the WisTAF Executive Director, the EJC Board President, and other persons involved in legal services delivery in Wisconsin. McKay stated that the four Executive Directors had been given the opportunity to exercise leadership and had failed, and that he did not wish to hear from them at this meeting. Rather, the other persons at the meeting should take over “leadership” in State Planning. EJC President John Skilton came to the defense of the four Executive Directors and their law firms, stating that “we” give great deference to the legal services programs because of their dedication to clients and their expertise in poverty law and the delivery of legal services to poor people. It was Legal Action’s view that, for LSC President McKay, “leadership” meant agreeing with and implementing LSC’s agenda of program mergers and hotlines. Since we had resisted this, we had not exercised “leadership.” We had led, but in the wrong direction.

At this meeting, McKay stated that there *would be* reconfiguration of the four legal services firms in Wisconsin, merger into either one firm or two firms. Legal Action had the options of refusing LSC money, being absorbed, or absorbing the other three

firms.

The Legal Action Board then established a Board State Planning Committee, and Board President Hafeezah Ahmad named a client state planning delegation. The latter would meet with client delegations from the other three firms to provide a client voice in State Planning.

On another front, in 2000 the LEAP project expanded to include children who have been abused or who have witnessed abuse. The innovative LEAP/KIDS project has provided low income victims of domestic abuse with representation in a variety of cases, including domestic abuse injunctions, child abuse injunctions, housing matters, public benefits issues and other family law matters. The project has had a strong volunteer attorney component, with attorneys from Quarles & Brady and Reinhardt Boerner dedicating many hours each year towards representing referred clients.

2001 - MORE MERGER, AND MORE LIFE

At the January 8, 2001 Board meeting, Executive Director John Ebbott distributed to the Board a discussion draft containing a rationale for two programs. One program would result from the merger of Legal Services of Northeastern Wisconsin with Legal Action, and extend from roughly Green Bay to Madison. The second program would result from the merger of Western Wisconsin Legal Services and Wisconsin Judicare, and would extend from Superior to Prairie du Chien. This was being done in response to LSC's mandate. This draft was to go to the Wisconsin State Planning Group for discussion and adoption.

Ebbott reported that the federal appropriation for 2001 was just under \$330 million, an increase of approximately 8% from 2000. In addition, the LSC had formed an LSC Board Committee ("Erlenborn Committee") to review the adverse effect on client service of the restrictions on non-LSC funds and the adverse effect on clients of the attorneys' fees prohibition. This committee ceased its work after the Presidential Inauguration in January of 2001.

Ebbott reported that WisTAF had reduced Legal Action's IOLTA funding by 14%, following the very small increase of 2.5% for 2000, which reduction seriously and adversely affected the firm. In addition, WisTAF was allocating money and staff to the State Planning process.

The Board, and the Kenosha Area Community Advisory Committee, continued to evaluate the consolidation of the Racine and Kenosha offices.

In the spring of 2001, the Wisconsin State Planning Group submitted a state plan to the LSC which recommended the reconfiguration of Wisconsin legal services law firms from four to two. Later that year, despite its constant assurances that it would not substitute its judgment for that of the people in the various states who were doing the planning, the LSC rejected this recommendation and insisted that the four programs merge into one.

Also that spring, and as part of State Planning, Legal Action retained two consultants, John Tull and Gabrielle Hammond, to review our intake processes and our technology.

At the June 4 Board meeting, Ebbott advised the Board that the four existing LSC grantees were in negotiations to develop a timetable for merger of the four firms into a single organization. Ebbott distributed a draft of a timetable which would result in the merger of Legal Action with Western Wisconsin Legal Services (WWLS) by December 31, 2001 and a merger with Legal Services of Northeastern Wisconsin (LSNEW) by December 31, 2002. The timetable also proposed some additional negotiations between Wisconsin Judicare and Legal Action of Wisconsin in an attempt to provide services to the northern 33 counties in Wisconsin. Ebbott sought volunteers to sit on a special Board Merger Committee. The LSC competitive bid would be due to the LSC by July 2, 2001. Legal Action would be applying for the entire state, and expected to subgrant with LSNEW and Wisconsin Judicare. It was hoped that a merger with WWLS will be completed by December 2001 but, if not, Legal Action would subgrant with WWLS.

Ebbott told the Board about the negotiations with Wisconsin Judicare in order to reach a tentative arrangement to form a statewide firm. At this point, the possibility loomed that Legal Action would compete against Wisconsin Judicare for the entire LSC grant. Wisconsin Judicare was demanding between \$800,000 to \$1,000,000 in WisTAF funds if the Legal Services Corporation did not approve a subgrant between Legal Action and Wisconsin Judicare for 2002. Wisconsin Judicare was interested in continuing as an existing independent organization, which includes judicare and reduced-fee components. The expected timetable for mergers would be with WWLS by December 31, 2001, with LSNEW by December 31, 2002, and with Wisconsin Judicare by December 31, 2003.

By June of 2001, Legal Action had turned its initial, small driver's license initiative into an \$800,000 "welfare-to-work" contract with the Milwaukee County Private Industry Council. This project was called Legal Intervention for Employment ("LIFE"). Unfortunately, the Private Industry Council (PIC) informed Legal Action that it would transfer the entire contract, with no competitive bidding, to a small, private law firm. The PIC had no criticism of our performance; it had simply "picked a new partner." After discussions with members of the PIC Board and a Public Records Act lawsuit which demanded the contractor rating scores, Legal Action was able to hold onto \$500,000 of the contract. \$300,000 went to the private firm of Butler, Rogers & Johnson, S.C.

On June 5, 2001, Randi Youells, Vice-President for Programs of the LSC, proposed that an entirely new legal services entity be created in Wisconsin, rather than funding either Legal Action or Wisconsin Judicare. Neither law firm was adequate in the eyes of the LSC. It was necessary to start from scratch. Legal Action faced the loss of \$3,000,000 in LSC funds. In the immortal words of Mike Maher, Legal Action's Administrator: "That was the bottom of the pit."

But Legal Action survived. After some apparently persuasive comments from a member of the Wisconsin Congressional delegation, 46 days after the Youells letter, on July 21, the LSC wrote Judge Tom Donegan, Chair of our State Planning Group, inviting the Group to submit a revised reconfiguration that could include more than one legal services provider. The four Executive Directors responded by proposing that Wisconsin Judicare serve its northern 33 counties, and that Legal Action, WWLS and LSNEW merge in three years to serve the southern 39 counties. That merger did occur, and this is the configuration today. No more was heard about the brand-new provider.

At the August 6 Board meeting, Ebbott distributed a document entitled "Legal Action Values," which set forth the values which guide Legal Action's representation of clients. These values were summed up as "High Quality Representation," defined as

good, thorough, careful, analytical and complex lawyering,
going the extra mile for the client to obtain the best possible
result, resisting the temptation to provide only the simple, the
easy or the quick remedy for the most obvious problem.

Ebbott stated that this requires a hardworking staff dedicated to our clients, and that Legal Action has that staff and that culture. Those values have been developed over

many years, and have been passed from veteran staff to new staff. Legal Action provides high quality representation to clients with the most critical problems, and is well known and well-respected in the communities in which it works.

On August 8, the Executive Directors met to draft the above-described two-territory proposal, to submit to the State Planning Group. On September 14, the State Planning Group recommended this configuration to the LSC. The LSC agreed to the configuration, but denied our request for a three-year grant period so that a merger could be worked out. Instead, the LSC demanded yet another competitive bidding process, seeming to invite division among firms that had worked together cooperatively to reach a beneficial solution.

Health insurance skyrocketed again - a 33% increase for 2002.

At the end of 2001, Legal Action knew that the LSC appropriation for 2002 was \$329.3 million, unchanged from 2001. Legal Action had submitted its new competitive bid, in which it proposed to subgrant to WWLS and LSNEW for the 39-county service area. WisTAF declined to increase Legal Action's 2002 grant from 2001.

UMOS reduced its contract to Legal Action for LIFE advocacy from \$200,000 to \$100,000. This UMOS contract had enabled Legal Action to open a Southside Office for the first time in about 20 years, and now this cut forced us to close it at the end of the year.

Some good news was that the Wisconsin Department of Justice awarded to Legal Action a Victims of Crime Act (VOCA) grant to serve elderly victims of abuse in Milwaukee County. That grant continues today.

On the litigation front, three times between 2001 and 2005 Legal Action was invited to submit *amicus curiae* briefs on behalf of tenants whose residential leases contained clauses prohibited by the Wisconsin Administrative Code chapter regulating residential rental practices. The prohibited lease provisions intimidated the tenants by requiring them to indemnify their landlords for costs and attorney fees incurred in enforcing the lease. In one case, the trial court awarded the landlord \$80,000.00 in attorney fees! In *Baierl v. McTaggart* (2001) the Wisconsin Supreme Court ruled that a landlord who includes a provision in a residential lease specifically prohibited by Wis. Admin. Code § ATCP 134.08(3) may not enforce the terms of that lease. Tenants, on the other hand, according to two Court of Appeals decisions, *may* enforce a lease that contained a prohibited attorney fees provision (*Dawson v. Goldammer* 2003), and tenants may sever the illegal attorney fees provision to enforce the remainder of the lease. (*Goldammer II* 2006).

2002 - ALL FOR ONE AND ONE FOR ALL

On January 29, 2002, Legal Action won a major victory in *Kindcare v. Judith G.* The Courts of Appeals' decision prevented attorneys for guardians from spiriting elderly wards into nursing homes through legally faulty "emergency petitions," then ratifying the move with subsequent "emergency petitions."

At the February 4 Board meeting, Executive Director John Ebbott reported that he had received a thank-you letter from Judge Kitty Brennan of the Milwaukee County Circuit Court thanking Mark Silverman, the Legal Action Housing Priority Coordinator, for conducting a very thorough training of legal process servers, landlords and tenants on the correct methods for serving eviction notices, summonses and complaints. Mr. Silverman's training is an example of the nonlitigative types of critical services that Legal Action provides in the community beyond representation of clients. Ebbott then turned the Board meeting over to Alan Ells, the Executive Director of Legal Services of Northeastern Wisconsin. Mr. Ells reaffirmed the willingness of LSNEW to merge with Legal Action at the end of 2002. Mr. Ells noted that LSNEW was celebrating its 25th year of service to the community. The LSNEW Board of Directors believed strongly that the essence of LSNEW needed to continue into the future even after the firms merged. Mr. Ells felt that the upcoming joint strategic planning meeting was a positive step in the merger process.

On February 22 and 23, a pre-merger strategic planning meeting was held which included board members, staff members and clients from all three firms: Legal Action, WWLS and LSNEW. Over two days, the conferees came up with a strategic plan for the merged firm.

On May 17, the WisTAF board decided to reduce its total 2003 grant amount by 24% from 2002.

At the October 7 Board meeting, Ebbott reported that, when LSC and WisTAF were combined, Legal Action would be cut 20% for 2003. Considering the 30% cut in 1995, the total funding reduction since 1994 had been 50%.

Notwithstanding this, Legal Action had recently undertaken a number of advocacy efforts in areas which were important to large segments of the client community. Ebbott introduced Mark Silverman and Michael Peragine, who described their work in keeping Community Development Block Grant (CDBG) funds in the low-income community and opposing the City of Milwaukee's attempt to use CDBG dollars

to substitute for parts of the normal city operation.

Ebbott discussed Litigation Director Jeff Myer's representation of clients who had had their day care certificates revoked without notice, opportunity for hearing or an impartial tribunal. This unlawful certification revocation adversely affected not only the child care providers, but also the hundreds of women and children who depended on them.

Ebbott then discussed his and Ness Flores' involvement in seeking justice for those who were harassed and intimidated when the Milwaukee police invaded a Mexican grocery store and tortilla factory, using a warrant to search for prescription drug sales as a pretext for a search for street drugs. Ebbott and Flores were interviewing customers and employees who were detained by the police, and exploring whether to file a Fire and Police Commission complaint.

Ebbott also reported that Legal Action staff members were working with members of the Milwaukee Common Council to avoid displacement of low-income families in the Story Hill community, which will result from the State's proposed radical expansion of Interstate 94. Ebbott also stated that Legal Action was exploring the potential for fair housing advocacy in the ring of suburbs surrounding Milwaukee. Ebbott stated that these were the kinds of advocacy in which Legal Action should be engaged, as they efficiently use limited resources for the maximum benefit of our client communities.

This advocacy would be substantially inhibited if the LSC's Evaluation Instrument were to be imposed on field programs. Ebbott reported that this instrument was 55 pages of extremely detailed requirements, which would involve an immense investment of resources. Ebbott read a few sections of the instrument to the Board, and discussed a number of possible responses to it. The Board instructed Ebbott to provide a copy of the instrument to each Board member, and to place it on the agenda for the December meeting. The Board authorized Ebbott to, in consultation with the Executive Committee, take such immediate steps as he deemed necessary, including obtaining relevant information which will inform the Board in its decisionmaking. This instrument was ultimately not imposed.

Ebbott reported that merger was proceeding apace, but was extremely time-consuming. The Merger Agreement would be completed soon, and a joint board meeting was scheduled for November 9 in Lodi.

Finally, Ebbott reported some good news – the receipt of a \$762,575 VAWA grant to serve all four Legal Action offices.

On October 23, the Executive Committee authorized the closing of the Kenosha Office and its consolidation into the Racine Office. Legal Action would continue to serve Kenosha County.

Throughout 2002, extensive work was done to bring about an amicable merger of the three firms. The three Executive Directors met regularly; a private law firm was retained to assist with due diligence and the technical aspects of merger; three sets of personnel policies and salary plans were reconciled; Legal Action's Administrative Office was inundated with detail work; and the three Boards met for an entire Saturday to determine how to integrate. After reducing Board size from 40 to 30 a few years earlier, the Legal Action Board was again quite large, with 42 members representing the three service areas. John Ebbott was the Executive Director of the merged firms, with Alan Ells and Bob Henderson the Regional Directors.

At midnight on December 31, 2002, the merger of Legal Action of Wisconsin, Legal Services of Northeastern Wisconsin and Western Wisconsin Legal Services became effective.

2003 - A SEARCH FOR RESOURCES

By early 2003, it appeared that, because of the Harkin Amendment to the LSC appropriation, LSC funding might increase from \$329 million to \$336 million. WisTAF dollars were down 30% for 2003, and would probably be down again in 2004, plus the \$100,000 state appropriation would be lost. Health insurance continued to climb 10%-25% each year. The firmwide staff level was 107 FTEs.

Executive Director John Ebbott reported to the Board on February 22 that this funding situation meant that we must continue to cut staff. We had already made substantial cuts in Madison, Milwaukee and Kenosha, and we were consolidating the Racine and Kenosha offices into one office in Racine. We had made some reductions in Green Bay and Oshkosh, and might have to make more. We also needed to build a reserve. The former WWLS was in satisfactory financial condition for 2003, but there would be a precipitous drop in 2004.

Ebbott also reported that we continued to raise special purpose funds, such as HUD, VOCA and VAWA. Finally, Ebbott adverted to the war on Iraq, and said that no

one could predict the impact of such a war on discretionary domestic funding.

Ebbott stated that the staff would attempt to increase impact work as the most efficient means to benefit large numbers of clients, and that the management staff had already met to discuss how this could be done.

Ebbott stated that we would probably not have our SeniorLAW component next year, and that we were on month-to-month funding. As staff left SeniorLAW, we would not be replacing them, but rather, would reduce our activity correspondingly.

The Racine and Kenosha offices were consolidating, with a target date of April 1 for a move from Kenosha to Racine. Alan Ells, the Northeast Regional Director, left Green Bay to take a job with the Massachusetts Justice Project as Executive Director, and Kenosha Managing Attorney Donna Gilligan-Arendt would be leaving in late April or May. Ebbott stated that, because of our unfortunate financial situation, as people leave, we would not be moving immediately to replace them, but would examine whether we could continue without those positions.

At the April 26 Board meeting, Ebbott distributed to the Board copies of Legal Action's book entitled "High Quality Representation," which was distributed at the Equal Justice Conference and to other legal services providers throughout the country.

Ebbott summarized recent efforts to increase revenues. Legal Services Corporation funding for 2004 was expected to remain unchanged from the national 2003 level of \$329 million. Statewide WisTAF funding for 2004 was expected to remain unchanged from the 2003 level of \$1.1 million. Annually, Legal Action was utilizing approximately \$220,000 in WisTAF funds as match to leverage over a million dollars in funding from other sources. We continued to focus our fundraising effort on the core mission, which is to assist low-income clients in achieving equal justice by delivering the highest quality legal services. In March 2003, we submitted grant proposals for HUD Emergency Shelter Grant funding to serve clients facing homelessness in seventeen counties. We submitted proposals to serve seven former LSNEW counties and four former WWLS counties.

Legal Action was working with JS&R Strategic Group to secure an earmarked federal appropriation of \$6 million over four years for a statewide LIFE Project. The project would assist low-income clients with drivers' license, evictions, criminal records, and child support issues. We were awarded a contract by the Milwaukee County Department on Aging for all of 2003, and continued to work with Milwaukee County to resolve outstanding issues.

Subsequent to merger, the staffing level of the Green Bay and Oshkosh offices were reduced from 17.3 FTE to 11.4 FTE because of budget deficits in those offices. The combined deficit spending rate for 2003 in those two offices was reduced from \$351,000 to \$44,000. The projected 2003 year-end fund balance for the two offices went from a deficit of \$220,000 to a reserve of \$90,000.

The La Crosse and Dodgeville offices continued to have substantial deficit spending, and there was the potential need to close the Dodgeville Office.

Ebbott stated that, regardless of the revenue generation and the position cuts, Legal Action continued our effort to reinvigorate our major impact work. In addition, the Priority Committee system had been reestablished and the first part of each Managers' Meeting was now devoted to a discussion of advocacy.

A Board member initiated a discussion concerning the role of the Board of Directors in major decisions of the organization, such as closing offices and major policy directions. Ebbott noted that the Executive Committee and the local advisory committee were both involved in the decision to consolidate the Kenosha and Racine offices. Greg Wille noted that it is very difficult for the Board to be involved in the details of daily operations. Mr. Wille stated that throughout the merger and state planning process the Board had had an active role in significant issues. Legal Action Board members were involved in ongoing discussions over the years on major program direction; LSNEW and WWLS Board members had not yet participated in this process.

2003 was a relatively quiet year on the programmatic front, but we conducted litigation as part of our "Caregiver Project" which brought about the complete revision of procedures whereby the County denied or revoked low-income women's day-care certifications. These revised procedures required, for the first time: 1) notice of the grounds for denial; 2) a hearing on the record; 3) a decision limited to the evidence adduced; and 4) a written decision with findings of fact. In addition, two of our clients received \$50,000 each in damages.

2004 - LIFE EXPANDS, DODGEVILLE CLOSURES, AND WISTAF PLUMMETS

Legal Action had, in partnership with the Alliance for Children and Families, obtained a \$600,000 federal appropriation, to be used for our LIFE project in Milwaukee, Green Bay and Wausau. Legal Action's PIC welfare-to-work contract came to an end.

Also at this time, Executive Director John Ebbott was proposing to close the Dodgeville office and reassign the six counties it served to La Crosse and Madison. Without this reassignment, La Crosse staffing would decrease to 1 or 1 1/2 attorneys, and Legal Action would end up with two very small offices, which would not be efficient. On January 10, 2004, the Board approved the closing of the Dodgeville office and the sale of the building.

Also at that meeting, Ebbott reported that last November's EJC Eisenberg Dinner had been successful, with 300 people in attendance and \$115,000 raised, to be distributed in early 2004.

On April 3, Ebbott reported to the Board that Bush had requested flat LSC funding for 2005 at \$325 million. He also reported that the case challenging the constitutionality of Washington's IOLTA program, *Brown v. Legal Foundation of Washington*, had been dismissed with prejudice, as had the Texas IOLTA case. The NLADA had issued a statement that "The future of this critical resource for ensuring equal justice in this country now rests on solid ground."

Ebbott also recommended that Legal Action examine salary increases for attorneys.

Since the merger, the Green Bay and Oshkosh offices had been using the name "Legal Services of Northeastern Wisconsin, an Office of Legal Action of Wisconsin, Inc. The Board voted to use "Legal Action of Wisconsin, Inc." for all offices.

On September 25, Ebbott reported to the Board that LSC funding would likely remain in the budget at \$335 million for 2005. Basic Field funding was around \$310 million because about \$25 million would be taken off the top for special purposes like technology, loan forgiveness and M&A.

Ebbott reported that WisTAF had made its awards on its initial \$412,000 estimate, a severe funding reduction. The Board did not consider any of our alternative proposals, and failed to reduce any of its substantial operating costs, which were over half the amount distributed to grantees. The WisTAF Board had asked its Executive Director to come to the October board meeting with some alternative plans for the future, which included operating cost reduction.

Legal Action had received the funds for the LIFE expansion earmark, and was beginning its implementation. Ebbott was encouraged about prospects for funding a second year at around \$1 million. If this were to be funded, we would again work in partnership with the Alliance for Children and Families.

Ebbott stated that the federal VAWA office had declined to fund us for another two years, which meant a loss of \$750,000. This required Legal Action to eliminate 5 attorney positions and 1 paralegal position, as well as requiring our domestic violence prevention partners to eliminate lay advocates. "Project Rachel," a proposal submitted by Ramona Natera of Madison, with the Wisconsin Coalition Against Domestic Violence as fiscal agent and official "grantee," received \$438,000 to serve immigrants. Legal Action met with the Coalition to discuss saving the \$750,000, and arrived at a short-term strategy of appeal to the Congressional delegation to bring more total money into Wisconsin. This was not successful, and we lost the funding.

Since Legal Action's PAI obligation of 12 1/2% now amounted to \$375,000, a sum we could ill afford with the funding reductions which we were sustaining, Ebbott proposed to submit a petition for rulemaking to the LSC to change "12 1/2%" to "reasonable," so that we could better use our resources in direct client service.

In 2004, we had begun an effort to obtain a state appropriation of \$2.5 million for civil legal services statewide. We had a positive reception at the Department of Administration, and would be enlisting the support of key legislators.

In the summer and fall of 2004, Legal Action was working on a petition asking the Wisconsin Supreme Court to take jurisdiction of an original declaratory judgment holding that there is a right to counsel in civil actions under the Wisconsin Constitution. This would mean a large increase in the resources available to provide lawyers for poor people in civil cases. Board members were requested to help us obtain State Bar support.

At the December 11 Board meeting, Ebbott reported that the LSC appropriation for 2005 was \$335 million nationally. Two across-the-board rescissions would lower this to \$331 million. The Office of Management and Budget target appropriation for 2006 was down to \$315 million. LSC planned to use \$1 million in OIG carryover funds for a three-year pilot loan repayment assistance (LRAP) program, and was trying to determine how to select the grantees who would participate. This was only \$333,000 per year for the nation, and with law graduates coming out with debts of around \$75,000, this fund would obviously not go very far.

While other line items, including the money available for the field, were being reduced, the LSC's Management and Administration (M&A) line remained constant at \$13 million.

Ebbott told the Board that at the 30th Anniversary event and at NLADA he perceived a much more respectful, open and receptive environment toward the field programs on the part of LSC, and he publicly thanked the new President, Helaine Barnett, for that receptivity. She held a special session, to which all Executive Directors were invited, whose purpose was for her to listen to the concerns of the field. At this session, Ebbott urged her to consider rescinding the attorneys' fees restriction.

At a Saturday LSC reporting session, Special Counsel Jon Asher mentioned the fact that LSC had received Legal Action's petition to change the 12.5% Private Attorney Involvement (PAI) requirement to one of reasonableness. That petition was received at LSC on November 29.

Ebbott discussed WisTAF's bottomless cuts. For the state, the grants for 2005 totalled only \$411,000, while WisTAF had increased its operating costs 3%, to \$270,000. This was a 63% cut for the grantees. LAW's grant was reduced from \$657,212 to \$248,000, a reduction of \$430,212, with the Racine Office reduced to \$0.

WisTAF filed a petition with the Wisconsin Supreme Court seeking an assessment on all attorneys of \$50 per year to go to civil legal services through WisTAF. This would total about \$850,000. The petition was to be heard on January 12, 2005. The State Bar opposed the petition, and had proposed a voluntary opt-out of \$25 per year, as well as a costly new needs assessment. The State Bar compiled a lengthy report in response to the petition, which was decidedly negative and contained substantial inaccuracies. Legal Action was coordinating the response of the providers to the petition.

In late 2004 Legal Action was implementing the expansion of the LIFE Project, made possible by the federal earmarked appropriation, which was originally \$600,000. Federal budget reductions dropped this to \$500,000. We intended to seek \$1.5 million for 2005-2006, and \$2.5 million for the year after.

Legal Action's effort to obtain state general program revenue funds for civil legal services was to become more active in January of 2005. We were doing this as a joint venture with the Wisconsin Coalition for Advocacy and the Legal Aid Society. Our target amount was \$2.5 million

A sad event in Legal Action's history happened in December of 2004. A staff member who worked with us for 27 years in the Madison office, Sandy Potts, passed away on December 4. Sandy was our Office Manager in Madison, and was much loved by all who worked with her. Part of Legal Action passed with her. A great many Legal

Action people were present at the visitation and funeral service. Kevin Magee, Bob Andersen and Donn Lind spoke eloquent and moving eulogies.

On November 17, Legal Action filed an original action, *Kelly v. Warpinski*, in the Wisconsin Supreme Court seeking a state constitutional right to counsel in civil cases. Our petition was accompanied by six *amicus* briefs, including one signed by 11 circuit court judges which stressed the difficulty of *pro se* litigation. At this point, this was the only such lawsuit in the country. Maryland, Washington and Nevada were working on similar litigation. John Ebbott and Kevin Magee were the Legal Action attorneys on the case.

Also in 2004, Legal Action won a Court of Appeals case, *Guardianship of Carly A.T., Amy Z. v. Jon T.* The Court held that a Circuit Court has the authority to set child support in an action regarding the guardianship of a minor. Prior to this, a number of Circuit Courts refused to order child support or placement in this kind of action.

2005 - ATTORNEYS ARE ASSESSED, NEEDS ARE STUDIED, AND CIVIL GIDEON IS TURNED AWAY

As of the spring of 2005, the Legal Intervention for Employment program had become a major component of Legal Action. The program had received two years of federal funding, and was operating in Milwaukee, Green Bay and Wausau. This program was a good example of the ability to work with community partners that has always characterized Legal Action. In Milwaukee, our partner organizations were MATC, the Urban League, Word of Hope Ministries, New Hope and Esperanza Unida. In Green Bay, one of our partners was the Oneida Nation. In Wausau, we worked in cooperation with Wisconsin Judicare.

In the autumn of 2004, WisTAF had petitioned the Wisconsin Supreme Court to impose an assessment of \$50 on each Wisconsin attorney, which would generate about \$800,000 for civil legal services. As set forth above, the State Bar vigorously opposed this assessment, and Legal Action strongly supported it. In early 2005, the Supreme Court ordered the \$50 assessment, and also encouraged the State Bar to conduct a study of legal needs and delivery mechanisms, which the State Bar itself had suggested. This raised a concern at Legal Action that we would be going through “state planning” all over again. At the April Board meeting, the Board directed the Executive Director to send a letter to the State Bar stating that there was significant information on needs and delivery which already existed, and expressing the belief that there should

be no doubt as to whether there was a need, and that what we had already accumulated in Wisconsin should obviate the need to spend a large amount of money on a study. Although the State Bar eventually went ahead with an expensive study, it was limited to client legal need and did not cover delivery systems, so another state planning nightmare was temporarily avoided.

As of April, the LSC appropriation for 2005 was \$335.2 million, and for 2006 it was \$318.2 million, with LSC requesting \$363.8 million. Legal Action stood to lose \$178,000 in LSC funds for 2006.

The Equal Justice Fund had raised \$230,000 in 2004, of which \$135,000 would be distributed to providers in 2005. The EJF Board had approved the establishment of an endowment, so \$45,000 would go to that. Legal Action would receive \$85,000 of the distribution, or about one attorney position.

Civil legal services was, happily, once again in the state budget. Governor Doyle had included it at \$1 million per year, twice the level of the earlier appropriation, and considerably higher than the current zero amount.

Legal Action had filed with the LSC its petition to change the mandatory 12 1/2% Private Attorney Involvement (PAI) expenditure to "reasonable." For Legal Action, this 12 1/2% amounted to \$476,000 in 2004, a large part of the budget.

Legal Action at this time had also received a federal appropriation through Senator Kohl's office to work with domestic violence victims in ten counties.

In early 2005, the Wisconsin Supreme Court declined to take jurisdiction of *Kelly v. Warpinski*, Legal Action's original action seeking the declaration of a right under the Wisconsin Constitution to appointed counsel in civil cases. This meant that Legal Action would have to attempt to get into the Supreme Court through denials of the right to counsel at the Circuit Court level, and appeals of those denials, rather than directly. This would take longer and consume more resources.

The State Bar created an "Access to Justice Study Committee," consisting of seven members. Legal Action Board members were concerned about the lack of diversity and client representation on the committee, and also about the lack of representation from the major Wisconsin legal services providers and funders. At the June Board meeting, Roger Klopp, Ben Obregon and Heidi Szatmary volunteered to draft a letter to the State Bar expressing those concerns. Throughout the summer and early fall, a Legal Action client Board member attended the meetings of the Access to Justice Study Committee, and kept the Board apprised of developments at the

Committee. This is an example of the active role which Legal Action clients play in matters affecting the law firm and its clients.

In September, Legal Action held a “strategic advocacy” session for staff advocates, at which strategies and techniques of broad-impact representation were discussed. Three nationally prominent legal services attorneys shared their insights and experiences: Florence Roisman, of the Indiana University Law School; Neil McBride, of Middle Tennessee Legal Services; and Israel Reyna, of Texas Rural Legal Aid.

Executive Director John Ebbott met with the Executive Director of Centro Legal in Milwaukee to discuss the relationship between the organizations. Legal Action also embarked upon another cooperative arrangement with UMOS when the Wisconsin Department of Workforce Development awarded Legal Action a \$400,000 2-year contract, in consortium with UMOS, to represent W-2 recipients in obtaining Social Security Disability benefits.

In late 2005 funding looked very good for 2006, but beware the roller-coaster. At that point, Legal Action had obtained \$2.7 million in major funding. This consisted of \$400,000 over two years for the W-2 SSI Advocacy contract, \$750,000 in the LIFE earmark, \$250,000 in the new VAWA earmark, \$200,000 for a child support project, and \$1,100,000 in WisTAF funds. Two years later, Legal Action would be staring at a million-dollar deficit.

2005 marked a major leadership change on the Board. Long-time President Hafeezah Ahmad was unable to continue in that position because of personal commitments, and Roger Klopp was elected to succeed her at the October meeting. At the December meeting, the Board passed a resolution thanking Hafeezah for her excellent service as Board President.

2006 - THE LSC VISITS AGAIN - AND ISSUES A QUALITY REPORT CARD

In early 2006, Bush submitted a proposed 2007 budget which reduced the LSC appropriation by 5%. The LSC Board denied Legal Action’s petition to change the PAI requirement from 12.5% to “reasonable.” The LSC, at its January board meeting, scheduled a panel to sing the praises of PAI immediately before Bob Henderson got up to make the presentation for Legal Action’s petition, so it looked awfully much like a setup. This meant that there would be no flexibility at the local program level to

determine how much PAI is appropriate given local conditions. Rather, 12 1/2% would continue to be imposed, whether the field program was in San Francisco or Mississippi.

WisTAF funding, at this point, appeared to be strong, especially with the additional revenue stream of \$779,000 created by the attorney assessment. Little could we anticipate that, in 2009, IOLTA would be down to \$0 and the assessment and state appropriation would be the *only* revenue streams.

The Legal Action Board took steps to make our attorneys' salaries a bit more competitive. The Board entertained management's request for a salary increase, and on March 1 a \$5,000 increase was implemented.

At this point, the EJF endowment had grown to \$120,000.

Litigation as of spring 2006 included an appeal of a denial of the right to counsel (*Mendoza*); an Office of Civil Rights Complaint alleging that W-2 agencies were not providing disability screening before placing people in "job-ready" status, which meant no cash payments; and a Chapter 227 challenge regarding payment of fines for drivers' licenses.

In May, a team of seven persons from LSC's Office of Program Performance (OPP) visited Legal Action for a week, focussing on quality legal services. This was a part of the new LSC President's "Quality Initiative." Helaine Barnett had succeeded John McKay as LSC President, and immediately turned LSC's attention to quality. Having published a book on high quality representation, we were most gratified by this turn of events. The team concluded, in its report, that Legal Action

. . . is a strong legal services program. LAW is attuned to the issues present in its community and works collaboratively with a variety of community organizations. . . . LAW has a dedicated and active board that thoroughly understands and further's LAW's mission. . . The executive director emphasizes excellence in the program's legal practice and encourages staff to look beyond initial legal issues as presented by clients for other legal issues that may exist. He also encourages staff to look for opportunities for work affecting the client community. LAW is well managed and administered. . . . Resource development at LAW is innovative and dynamic. LAW's advocates are highly experienced and well qualified. They are attuned to the needs of low-income clients and are committed to the mission of the program. . . . LAW is highly integrated in its community. The program enjoys a solid reputation and the community respects the staff.

On September 19, Legal Action conducted a new Board member orientation session in response to Board requests.

In November, the EJP's Eisenberg Dinner raised over \$240,000 for civil legal services.

In 2006 Legal Action won a major Section 8 due process victory. In *Driver and Bizzle v. Housing Authority of Racine County*, the Court of Appeals held that persons holding Section 8 housing vouchers are entitled to adequate notice and a proper hearing prior to their termination from the Section 8 program. Our clients were reinstated and granted money damages. The Court stated: "Both the initial notices and the ultimate decisions, essentially form letters, fell woefully short of the level of specificity that due process requires."

Legal Action won a second major victory in *Switzer v. Switzer*. There, the Court of the Appeals held that a domestic violence victim could extend to four years an injunction initially issued for less than four years.

2007 - A NEEDS STUDY, AND AN ACCESS TO JUSTICE COMMISSION

On March 6, 2007, Executive Director John Ebbott argued the case of *Castañeda v. Welch* to the Wisconsin Supreme Court. This case was an attempt to strike down Rule 17 of the Milwaukee Fire and Police Commission because it violated a state statute's requirements that citizen complaints about police misconduct be dealt with openly and fairly. The argument was the occasion for the education of a group of high school students, who were in the courtroom to observe the argument, and then heard the justices explain what the case was about.

On March 8, 2007, the LSC's OPP issued its Quality Visit Report to Legal Action. That report contained the findings set forth above.

In early 2007, WisTAF began an effort to require banks holding lawyers' trust accounts to pay interest on those accounts comparable to that paid on other, comparable accounts. Banks were paying lower interest on trust accounts than on similar products. WisTAF estimated that its IOLTA revenue might nearly double should this effort succeed.

In March, at the State Bar's Equal Justice Conference, the Access to Justice Study Committee released its needs study. It found that 500,000 Wisconsin residents had legal needs but no access to attorneys. It concluded that \$16 million per year in

state funding would be required to bridge this “justice gap.” This was the first time that anyone had dared to assert that state funding of that size was not only reasonable, but necessary.

As of April of 2007, the EJF had \$196,000 in its endowment.

Legal Action’s LIFE Project earmark for the 2007 federal budget was placed in the Department of Justice budget, and Legal Action would have to bid competitively for it, an ill omen. Under the Bush Justice Department, Legal Action and the Alliance for Children and Families was denied funding, and had to close down much of the project.

Legal Action was also required to bid competitively for its LSC grant in 2007, but this bid was much more successful.

At the April meeting, the Board adopted a resolution recognizing Founder and Board member Lucille Berrien’s long service to legal services and to clients.

On April 26, Advocacy Director Jeff Myer argued the case of *Russ v. Russ* to the Wisconsin Supreme Court. This case involved defining the fiduciary duty of a family member who held a power of attorney for his parent and who was also the joint owner of a bank account with that parent.

Legal Action contracted with UWM’s Employment and Training Institute for an assessment of the legal and employment needs of prisoners released from Wisconsin correctional facilities. Legal Action subsequently used this study in its efforts to raise funds for reentry and drivers’ license advocacy.

Legal Action also transferred non-LSC funds to Alliance Legal Services, Inc. to provide financial support for the legislative campaign to obtain a state legal services appropriation. This transfer enabled friends of legal services across Wisconsin to inform legislators of the value and necessity of lawyers for poor people.

In the summer of 2007, Legal Action was victorious in one of its major cases, the “job-ready” case, *Westin v. DHSS*. The Court of Appeals held that the DWD policy of placing W-2 recipients deemed “ready for employment,” but in fact unemployed, in a no-cash-benefits category, was inconsistent with state law.

In July, the Wisconsin Supreme Court voted 6-0 in Legal Action’s favor in the *Castañeda* case, tossing out the Fire and Police Commission’s unfriendly Rule 17. The Supreme Court also on July 3, ruled in Legal Action’s favor in *Russ v. Russ*, holding that a power of attorney agent cannot reform a contract on the grounds of mutual mistake or equitable estoppel, and that a pre-existing joint bank account creates only a presumption of joint ownership. And, the Court of Appeals handed down a favorable

decision establishing a tenant's right to cure a breach of a residential lease.

One of the recommendations of the State Bar's Access to Justice Study Committee report in March was the creation of an "Access to Justice Commission" of expansive charter. A number of other states had created such commissions, several of which were deeply involved in planning legal services delivery systems. Legal Action viewed this with a jaundiced eye, as potentially involving the "Return of State Planning." After several spirited meetings, the State Bar's Legal Assistance Committee voted down Legal Action's attempt to have a significant proportion of the commission composed of legal services providers. That committee recommended a 17-member commission, which would include representatives from only two legal services providers.

In the fall, the Senate FFY 2008 LSC appropriation contained a 12.54% increase, with the House at a 7.35% increase. As to WisTAF funding, Legal Action's share of the percentage of total funding dropped from 63% in 2006 to 48% for 2008; we were greatly concerned about this trend.

The State Bar proposed that the \$50 attorney assessment be changed from all proceeds going to WisTAF to each attorney's \$50 going to a provider of his choice. This would atomize the \$779,000 in total proceeds so that few providers would receive a sufficient amount with which to do much. The Supreme Court held a hearing on the proposal on November 7, and initially ordered that a select number of WisTAF grantees be eligible for this kind of donor's choice. The Court then took further comments, and turned down the State Bar proposal, leaving WisTAF to receive the total assessment proceeds.

The Milwaukee Bar Association launched a 150th anniversary initiative to raise \$1 million to fund a "Milwaukee Justice Center" at the Courthouse. This fundraising effort targeted the same private bar sources that the EJF looked to for contributions. None of the MBA proceeds were to go to legal services providers.

In the autumn of 2007, Legal Action began a client needs survey. This would consist of face-to-face interviews with 600 client-eligible persons throughout the six-office service area.

UMOS declined to renew the SSI Disability Advocacy Project with Legal Action.

After a period during which Executive Director John Ebbott also served as Litigation Director, the position of Director of Advocacy was created, partly in compliance with one of the LSC Quality Report recommendations, and Jeff Myer was

named to the position.

WisTAF distributed the \$1 million in state appropriations, and granted \$350,000 to Legal Action. It also looked like Legal Action would not be receiving the LIFE earmark in federal fiscal year 2008. Administrator Mike Maher advised the Board at its December meeting that, during 2009, the fund balance in the Milwaukee Office could decrease by almost \$1 million if funding extensions beyond late 2008 were not secured for the LIFE Project and the large Child Support Project.

In *Williams v. Integrated Community Services*, Legal Action established, and limited, the grounds on which a housing authority may deny an applicant to the Section 8 program.

2008 - THE FUNDING ROLLER-COASTER ROLLS ON, BUT SO DOES THE LITIGATION; LSC VISITS US AGAIN

At the April Board meeting, Executive Director John Ebbott demonstrated through a staffing chart the up-and-down nature of Legal Action's staffing and funding. He stated that finances looked good for 2008, but that there were storm clouds gathering for 2009. This was in part because substantial interest rate cuts by the Fed would adversely affect WisTAF revenue.

Legal Action had requested of WisTAF \$376,000 from the \$1 million state appropriation. The four core providers – Legal Action, the Legal Aid Society of Milwaukee, Disability Rights-Wisconsin, and Wisconsin Judicare – had asked WisTAF to allocate 85% to the core and 15% to niche providers, in part because three of the four core providers had secured the appropriation for WisTAF.

The EJP endowment was at this point at \$260,000.

Ebbott also reported that in 2007 Legal Action litigated two Wisconsin Supreme Court cases, 17 Court of Appeals cases, and numerous cases in the lower courts and administrative agencies. Legal Action obtained over 500 agency decisions in 2007.

Ebbott was able to report to the Board on July 12 that the 2009 LSC appropriation had been increased by \$40 million, from \$331 million to \$371 million, by both the House and Senate.

Ebbott also reported that WisTAF had granted only \$350,000 of the state appropriation to Legal Action. Ebbott anticipated a very large reduction in the IOLTA grant (which occurred) due to reduced revenues caused by reduced interest rates. The \$50 attorney assessment total available for grants would remain the same.

Ebbott announced that Legal Action, Legal Aid Society and Disability Rights-Wisconsin were returning to the legislature for a second state appropriation for the next biennium, and that this would require another transfer of non-LSC funds to Alliance Legal Services, Inc.

At a recent WisTAF roundtable, Lynn Breedlove, the Executive Director of Disability Rights-Wisconsin, told WisTAF board members that, while he considered Disability Rights-Wisconsin to be a core provider, there is a higher category of core provider that should be assured of funding in times of low WisTAF revenue, and that category consists of the LSC-funded firms, Legal Action and Wisconsin Judicare. Ebbott told the Legal Action Board that this was a very gracious and selfless comment, and he wanted the Board to know about it.

On June 16, Ebbott and David Pifer from Legal Action, Peter Goldberg (CEO) and Elizabeth Carey (COO) from the Alliance for Children and Families, Jeff Newman from JS&R Associates, our federal consultant, and Ed Hatcher and Susan Loyd from The Hatcher Group, made a presentation to some key people from Washington and New York about our "Road to Opportunity" (formerly "LIFE") concept. This was with a view toward putting our barriers-to-employment work on a more stable and permanent funding basis. At this point, we had only three attorney positions left, all in Milwaukee and all supported by local, not federal, funding. We learned after this meeting that \$500,000 for our program had been included in the 2009 Commerce, Justice and State appropriation. If this survived, we might be able to return the program to its fully-staffed size, and return to serving areas beyond Milwaukee.

On July 7, Legal Action filed a major lawsuit, *West v. Timberlake*. This litigation challenged the placement of the entire burden of system snafus on poor people regarding eligibility for Food Stamps and Medical Assistance. The approach of Milwaukee County seemed to be: when in doubt, deny benefits. The presumption was that our clients cheat and are not eligible. All but one of our plaintiffs were employed, and one was disabled. As a result of these denials, people didn't eat. One plaintiff's son did not receive medical attention, and suffered a relapse of his disease. Not only were the plaintiffs working (the ostensible goal of so-called "welfare reform"), but they had to miss work to attend a review, and were then told that a review was not needed. One family had to discontinue phone service. One plaintiff made 12 calls over several weeks, and never got through to a caseworker.

The lawsuit's goal was to change a broken system. As a result, the state took over from Milwaukee County the administration of Food Stamps and Medical Assistance, and the case settled with back benefits for our clients and new processing protections for all poor people. *West v. Timberlake* is a 2008 example of Legal Action's continued pursuit of its original 1969 objective of accomplishing fundamental change in the systems and agencies which adversely affect poor people in Wisconsin.

In June of 2008, Legal Action's client needs assessment was completed. The major areas of need continued to be Family, Housing, Public Benefits, Employment and Consumer. Legal Action's study differed markedly from the State Bar's as to the legal areas of primary need.

On June 27, 2008, the State Bar Board of Governors approved a petition to the Wisconsin Supreme Court to create an Access to Justice Commission. The petition continued the very low representation of providers – 2 out of 17 members.

As of July, the EJP had raised \$35,000, and expected that fundraising would be hurt by the MBA Justice Center and other competitive fundraising drives.

From August 18 through August 22, Legal Action hosted yet another visit from the LSC, this time its Office of Compliance and Enforcement (OCE). Its focus was on Case Service Reports (CSRs) and Private Attorney Involvement. This was one of the continuing consequences of the hue and cry raised by conservative Congressmen in the 90s about allegedly inflated CSRs. The visit was enormously expensive to both LSC and Legal Action – we estimated its cost at over \$100,000 -- and was a diversion of resources from serving clients.

OCE sent in a team of 8 people for a week. Prior to the visit, Legal Action sent to OCE a case file list of 27,400 cases. This was surrounded by considerable discussion and negotiation on our part to keep client names confidential. From the 27,400 files, OCE selected 710 files to review with our advocates onsite. OCE went to every office. At the visit's conclusion, the Team Leader stated that so few problems had been found that it was the shortest exit conference ever. Only 3 instances of duplicate cases had been found, which she said "amazed" her.

Thus, in two years, Legal Action endured week-long visits from both OPP and OCE – quality and compliance – and received very high marks in both areas. This was a tribute to the entire staff at Legal Action, whose members demonstrated both very good lawyering *and* care in compliance with our governing regulations.

It appeared that there would not be an end to these visits, as LSC declared that it would use increased appropriation funds for increased scrutiny:

With the increase for M&A (Management and Administration) in FY 2009, LSC expects to significantly expand the resources dedicated to monitoring LSC grantees for compliance with Congressional restrictions and LSC regulations, as well as expand the staff dedicated to improving the quality of the programs offered by LSC grantees.

At the October meeting, Ebbott told the Board that in June the House and Senate had recommended an 11% increase, or \$390 million, for 2009. LSC had requested \$471 million, a 20% increase to Basic Field. While even this increase was not sufficient to enable us to fully serve our clients, it was certainly a marked change from the 1995-96 talk of 1/3 funding cuts for two years, then \$0.

Ebbott reported that, because of huge losses in IOLTA revenues, WisTAF was reconsidering its September grant allocations, and that 2009 was completely up in the air. The WisTAF board was concerned that it would owe more on its line of credit than its assets would cover. These were dire straits.

WisTAF had also filed its “comparable interest” petition with the Wisconsin Supreme Court, after negotiating with the Wisconsin Bankers Association. On November 18 the Court held an administrative hearing on this petition. Ebbott submitted written comments to the Court in support of the petition. At the hearing, certain Justices raised bank regulation legal questions about comparable interest, and subsequently Ebbott worked with a key WisTAF board member on legal research to answer these questions.

On December 17, the Court heard the State Bar’s Access to Justice Commission petition. Ebbott submitted written comments and testified. His position was that a commission might be helpful by generating more resources for equal justice, but that the petition was vague as to what the commission would do, and that it would be a mistake to involve it in delivery system planning. Ebbott also testified that organizations like Legal Action that actually provide legal services on a daily basis were vastly underrepresented on the commission – still only 2 of 17 members. A Legal Action Board member, David Russell, also testified, as did the EJF President, David Hanson.

In the end, WisTAF cut Legal Action's IOLTA grant by 91%, or \$831,000. This put Legal Action in a deep hole, facing a deficit of about \$1.2 million for 2009. On December 4, the Legal Action Managers Group met and devised a strategy to cope with this threatened doom. The managers viewed this as a worst-case situation, and realized that things may not come to the worst if a combination of increased revenue and natural attrition were to ameliorate matters. They had already taken a few measured steps to reduce expenses. Rather than further reducing costs, which meant staff, in bits and pieces beginning in December, each manager was to have a concrete plan ready by June 30, to be implemented by October 1, or December 31, at the latest.

LEGISLATIVE ACHIEVEMENTS

In the 2000s, Legal Action achieved success in the enactment of the following major laws and rules:

- Modification of authority to recover birth costs in paternity actions:(1) the child support agencies would be limited to recovering only 1/2 of the birth costs and (2) if the father is indigent at the entry of judgement, on a subsequent tax intercept he is given the opportunity to appear at the hearing and stop the intercept if he can show that he is unable to pay the costs
- Revision of EA for homelessness to allow people to apply for benefits each year rather than only once every three years
- Prohibition of entry of sanctions against W-2 participants unless they are afforded an opportunity to rectify their deficiencies first.
- Repeal of the exclusion of food processor workers from UI eligibility [s. 108.02 (15)(k)]. Under previous law, food processor workers must earn \$200 in wages from a different employer in the four quarters immediately preceding employment by the food processor, in order to be eligible for UI.
- Repeal of UI provisions that have long been an obstacle or low income workers. The first is a rule that requires that claimants be **available** for 50% of the full time jobs in the area - which essentially requires claimants to be available for first shift jobs, because 50% of the full time jobs in any area are first shift jobs. The second is a rule that requires that claimants be **able** to work at 15% of the jobs in the area. General questions regarding "able and available" are substituted.

- Modification of Administrative Rule Authorizing Recoupment of Overpayments in all Public Assistance Programs, Including SSI: (1) waiver of overpayment may be ordered where recovery of the overpayment is considered to be against equity or where it causes undue hardship (the proposed rule initially waived only overpayments of \$100 or less – the equity and hardship provisions are similar to waiver provisions under federal law for SSI); (2) the recovery period is limited to one year prior to the date that the overpayment is discovered.(3) the rule was made to apply to SSI and the SSI Caretaker Supplement (the state share -- federal law applies to the federal part of SSI), thereby resolving an injustice that was created several years ago.
- Authorization for a tenant to break a residential lease if the tenant is the victim of domestic abuse, sexual assault or stalking and the tenant faces an imminent danger if the tenant remains on the premises.
- Requirement that plaintiffs in mortgage foreclosure cases notify tenants at three stages in the proceedings of the existence of the foreclosure; provide penalties for plaintiffs who fail to comply; allow tenants to remain on the premises 2 months after the confirmation of sale; allow tenants to apply their security deposits toward the last month's rent; and allow tenants to break leases if they were not told about pending foreclosures at the time the leases were entered into.

2009 - THINGS TAKE A TURN FOR THE BETTER

Subsequently, with the advent of the Obama Administration in early 2009, the financial situation improved somewhat. The LSC appropriation increased \$40 million to \$379 million, the RTO appropriation of \$500,000 remained in the federal budget, the \$1 million state appropriation appeared likely to survive, and it seemed that Legal Action could obtain a few attorney positions through the federal “stimulus” package that was enacted in February of 2009.

Thus, as of this writing in April 2009, as we look forward to celebrating our 40th Anniversary on April 25, things have taken a turn, if an inchoate turn, for the better.

CONCLUSION AS OF APRIL, 2009

Legal Action has fought for, and achieved, equal justice for its clients for 40 years. It is a remarkable story of tenacious struggle and survival, and very good work under extreme duress. The equal justice this law firm has wrought over four decades is due to the inspired efforts of the scores of staff attorneys, paralegals, legal secretaries, administrative staff, board members and clients that have graced its halls throughout these many years. Its mission, values and quality work have remained remarkably consistent. It has been a major driving force in Wisconsin for Equal Justice Under Law. Here's to an update of this history made necessary at 50, 75 and 100 years of survival of Legal Action of Wisconsin.

April 25, 2009