



SILICON VALLEY
CAMPAIGN FOR LEGAL SERVICES

Keynote Address

Hon. James P. Kleinberg, Superior Court of California, County of Santa Clara

2010 Annual Donor Celebration

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Judges and the clergy have one thing in common: we love a captive audience! At the outset let me say that you should be up here getting the applause from me!

It's a privilege to speak to this group because pro bono legal services provided by the Silicon Valley Campaign for Legal Services are, in fact, the legal safety net for thousands of our fellow citizens.

You make it possible for people to find their way through the incredibly complicated system of rules, regulations, forms, and practices of the legal system.

This organization is one of many that can trace their roots back to the summer of 1963. Then, 48 years ago in the wake of *Gideon v. Wainwright*, President Kennedy gathered more than 200 of the nation's top lawyers at the White House and enlisted their help in the struggle to end segregation and advance civil rights. In response, those attorneys launched the Lawyer's Committee for Civil Rights Under Law.

One of those present at President Kennedy's invitation, and who went on to lead the Lawyer's Committee, was Harrison Tweed. It was said of Tweed – whose blood was so blue it was navy – that he was “the most democratic of aristocrats.” Tweed is the only lawyer to be awarded medals for distinguished service from the New York City, the New York State, and the American Bar Associations. He was passionate about lawyers providing pro bono service. The American Bar Association named its prestigious, national, pro bono award in his honor.

A few years ago this very organization, the Silicon Valley Campaign for Legal Services, was honored to receive the national Harrison Tweed award. If Harrison Tweed could be passionate about pro bono service, so can you!

Now your excellent public service, unfortunately, only scratches the surface. Every day most judges are handling cases of all kinds – family, tort, landlord-tenant, and contracts – where one, or both sides are “self-represented litigants,” or as we know them, “pro pers.”

As the law provides, “We recognize the fact that [Plaintiff] is appearing without the benefit of legal counsel. However, we are unable to ignore rules of procedure just because we are aware of that fact. When a litigant is appearing in *propria persona*, he is entitled to the same, but no greater, consideration than other litigants and attorneys. Further, the in *propria persona* litigant is held to the same restrictive rules of procedure as an attorney [BURNETT v LA CASA DANA APARTMENTS].

In other words, when a litigant accepts the risks of proceeding without counsel, he or she is stuck with the outcome. Self-represented litigants are indeed strangers in a strange land. It is no secret that they often have difficulty preparing complete pleadings, meeting procedural requirements, and articulating their cases clearly to the judicial officer.

For example, California procedural rules in family cases require the parties to request a hearing in order for the case to move forward. The court does not routinely schedule such hearings on its own initiative. Many self-represented litigants are completely unaware of this requirement. This can be particularly confusing if litigants have had experience in other types of cases, such as juvenile dependency or domestic violence, where the court takes a much more active role in setting hearings and managing the cases.

In a San Diego study on why self-represented litigants had not finished their divorce cases after five months, 60 percent of such litigants either did not realize that there was anything more that they had to do, or just did not know what to do. Nearly 20 percent were waiting to hear from the court before doing anything more.

When you add in the issue of another language and the need for qualified interpreters, the problem becomes severe. Our courts are unable to offer interpreters in civil cases, and the legal right to an interpreter is not recognized in most civil cases. Thus limited-English-speaking litigants have neither an attorney nor an interpreter to help them navigate or understand the court system. Family members and friends who may be enlisted to help might not have adequate language skills, especially when it comes to legal terminology. Judges find it extremely frustrating to hear a non-English-speaking litigant talk for one minute and have it translated as “no;” they find it troubling that they may be making rulings without having all the relevant information. A related problem is that litigants with limited English often do not know what they or the other parties were ordered to do, or why they were ordered to do it, and therefore fail to comply with a court order, resulting in serious consequences.

Then we have economics. Most self-represented litigants in civil cases give the following answers when asked why they do not have a lawyer: “I can’t afford a lawyer;” or “My case is simple enough to handle on my own.” Not being able to afford a lawyer reflects economic and social trends that are not likely to change in the near future. More than 90 percent of the 450,000 people each year who use self-help programs in California earn less than \$2,000.00 per month. Given the high price of hiring a lawyer, even individuals with large incomes may find that the cost of counsel is a substantial burden with long-term impacts on family

financial stability. Through 2012, the largest number of job openings will be in low-wage occupations. In fact, 5 of the top 10 occupations expected to add the most jobs during this period pay a median hourly wage of less than \$10.00, equivalent to an annual salary of \$20,800.00 for full-time, year-round work. The result will be more, rather than fewer, self-represented litigants.

The need for local legal assistance has never been greater. Studies indicate that legal services programs are able to serve only 20 percent of the people needing help. So it is not an overstatement to say that you, through your financial and personal commitment, are essential to providing legal services to those in need. Federal and local governments, foundations, and other agencies have all slashed or even eliminated funding for civil legal services for the poor. No single legal services agency can meet the needs of all who qualify for aid.

The Silicon Valley Campaign for Legal Services provides grants that ensure balanced funding to proven local legal aid organizations. Only 15 percent of SVCLS donations go to administration, well below the national average. That means 85 percent of your donations go directly to providing legal services to the elderly, the disabled and the disenfranchised. The agencies that serve the legal needs of the poor cannot meet their budget without the help of SVCLS. So it is imperative that every day, in every division of our court, lawyers serve in pro bono capacities, playing essential roles in our justice system.

Two examples of this pro bono service are:

Domestic Violence Limited Scope Representation (DVLSR). This is a joint project between the court and the Pro Bono Project of Silicon Valley. It involves a volunteer group of lawyers who take on domestic violence restraining order matters for either side of the case. These attorneys provide a very valuable service in these difficult matters.

Guardianship Access Partnership (GAP). Help in Guardianship matters for a proposed guardian, parent, or relative. The Pro Bono Project Silicon Valley assists by locating a volunteer attorney for people who income-qualify for the service. In addition, the Santa Clara County Bar Association created a Modest Means panel for guardianships, for those individuals who do not income-qualify for GAP, but still need a reduced fee.

Looking into the future, there will continue to be a substantial need for volunteer attorneys in the Family Law area. Approximately 80 percent of litigants in these cases are currently self-represented. Often both parties are self-represented. While there are programs that provide attorneys in some cases, the number of people who cannot afford counsel, but do not qualify for free counsel, is rising daily.

I commend to you the Campaign's excellent website which has vignettes describing specific cases where you, through your donations and service, made a specific and real difference in people's lives. Check out these cases, they are real and inspiring.

So I say from the heart that the judiciary respects you enormously for your service and we thank you. In truth, you should be up here, and I should be there, applauding you.