

STAFF PROFILE: LEA ANN EASTON, DIRECTOR OF THE NATIVE AMERICAN PROGRAM

by Jane Wilcox

Lea Ann Easton directs the Native American Program of Legal Aid Services of Oregon (NAPOLS). She has served as a NAPOLS attorney, with a few interruptions, since 1989, beginning a little less than a year after she was admitted to the Oregon Bar. The Native American Program provides legal assistance to Indian tribes, groups and individuals with limited income. From its inception in 1979, the Native American Program assisted Oregon tribes in their efforts to regain tribal recognition from the federal government after the tribes were terminated in 1954. Of the sixty-four tribes terminated, six have been restored—the Confederated Tribes of Siletz Indians, the Cow Creek Band of Umpqua Indians, the Confederated Tribes of Grand Ronde Community of Oregon, the Confederated Tribes of Coos, Lower Umpqua & Siuslaw Indians, the Klamath Tribes and the Coquille Indian Tribe. Others still seek help for restoration.

Today NAPOLS works on a wide range of issues including governance structures for restored tribes, protection of tribes' cultural and natural resources and assistance to organizations formed for economic development and cultural support. They also help low-income individuals to resolve questions about the interplay of tribal, state and federal programs regarding health care, child welfare and other needs. Because of their specialized knowledge, NAPOLS staff advises other Legal Aid Services of Oregon regional offices on matters of Indian law.

The Coquille Tribe was restored in June 1989, shortly after Easton came to work at NAPOLS. She says, "I remember one of the Coquille elders that I met when I first started working here and listening to her talk about what was the greatest thing about tribal restoration and she said, 'I can get my teeth fixed.' She was finally going to be able to access dental care and get her teeth fixed."

Easton's attention to the problems of Indian tribes began early. Growing up in the Dakotas, she says that visiting the reservation was like going into a third-world country. At a party with high school friends on a reservation in North Dakota, in the middle of winter, she recalls she could see through the wallboards. "You could see outside and the only thing heating this place was an old drum in the middle of the room and this was a family's home." At University of North Dakota, she says, "I remember two girls that were from the Blackfeet Tribe's reservation near Browning, Montana. They were the first members of their family ever to graduate from high school, let alone go to college, and that must have been in 1983."

During college and in law school at the Northwest School of Law of Lewis and Clark College, Easton's internships and clerkships developed her interest in using the law to improve conditions for native tribes and tribe members. She said, "Reading history and talking to people about how you effect social change in this country, I saw that law actually gave you some really good technical tools to help facilitate that change and so I thought it would be a useful set of skills to have." She externed with the Native American Rights Fund, working on a voting rights case in Robison County, North Carolina. The county was evenly split among white, black and Native American residents but that balance wasn't reflected in the government. Easton worked with groups of women who spent weeks manually searching the polling records to provide statistics for the project and she saw the women begin to meet and for the first time have conversations with their neighbors of other races. She took part in a tribal restoration project for the San Juan Southern

Paiute Tribe, scanning 19th century Indian agency reports for Paiute words at an office in Gallup New Mexico and on the Navaho reservation. In Oregon, she clerked for the Columbia River Inter-Tribal Fish Commission. During these assignments she spent time talking with Native people and getting to know about their lives.

Opportunities to learn about Indian culture have continued during Easton's years at the Native American Program. In 1999, she assisted the Burns Paiute Tribe in prosecuting the theft of burial artifacts from a site in Eastern Oregon. She tells the story to highlight the difficulties of establishing trust with clients from native cultures. "It was a challenge to get the elders to trust me enough to talk to me about the case because there are all sorts of taboos against talking about burial practices and talking about where people are buried. For, it seemed like months on

end, I went out to the tribal elders' meetings in Burns and stopped and got pie on the way to take to the potluck because the archaeologist told me some of the elders really liked pies. I ate whatever they gave me. I ate venison stew. I ate roots. It was all nice food and it was wonderful and very inviting but it's just, you know, in normal litigation practice you don't do that. You don't have a 90 year old tribal elder whose primary language is Paiute shake her finger and tell you to come over and sit next to her and then tell you what to go get for her and when to get it. It felt like I was a kid back in church. When I came back two weeks later, this tribal elder had talked to the other elders and they had decided that they would talk to me. It was a long process and ultimately that case had a good outcome for the tribe. The burial objects were returned." ■



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PITCHING IN:

Co-counseling A-team Defends Disabled Adults

by Jane Wilcox

Stephen Mathieu, Oregon Advocacy Center (OAC) attorney, looks back on the January 2002 case that brought together a high-powered team of public interest lawyers and private lawyers, Henderson et al v Kitzhaber, with a smile. "For me, it was really inspiring to be with this group of lawyers." Most team members worked pro bono on this complex case that resulted in a good outcome for a group of severely mentally disabled adults. In November 2002, Attorney Charles Merten read that people were being evicted from care centers. Merten called the Oregon Advocacy Center and began a collaboration with Kathleen Wilde, OAC Litigation Director and Mathieu. Together they assembled an experienced litigation team including Oregon State Bar President Charlie Williamson and Lawrence Wobbrock, a specialist in medical law and OTLA Trial Lawyer of the Year. Mathieu drafted the original complaint and coordinated the work of the larger group. Attorneys Kathryn Clarke, Jeffrey Foote, Toby Graff, Glen Downs and Richard Lane provided in-depth research support and strategy.

The plaintiffs, some elderly, all profoundly disabled by mental illness, lived in two care centers, William Elaine in Portland and Hoodview Residential Care Home in Gresham. In November 2002, each received a notice that their care centers would close and that they would be evicted on February 1, 2003 as a result of state funding cuts. The plaintiffs all require medications they are unable to manage themselves. They cannot manage money. In addition to mental illness, most need supervision for other conditions such as diabetes and arthritis. All plaintiffs have lived in their care centers for many years. Seventy year old Laurea Sayre, for example, has lived at Hoodview since 1980. The complaint asserts that all the plaintiffs, when evicted, will "suffer psychiatric crises and immediately become homeless and unable to care for their basic needs." Wilde said, "Unless this is reversed people will die."

Glen Downs, a private attorney listed by the Bar as "active pro bono", says, "You could not have rounded up a better team for this kind of case. They worked flat out to win." Downs joined with Attorneys Clarke, Graff, and

Lane on what he calls the ad hoc law committee. They researched and developed the legal theories that were the basis of the case. Heather Merfeld, new to the Oregon Bar, read about the case in the Oregonian and telephoned Merten to offer her help. She researched Oregon mental health regulations and procedures for the committee and was given a seat at the table in strategy sessions. Although she had chosen the law with the idea of helping the less fortunate, as she says, "Your passion gets kind of squelched during first year contracts and torts."

With the trial set to begin January 20, 2003, state officials announced January 17 their intention to continue to

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fund extended care for the plaintiffs and others in their circumstances until April 1, 2003. Since April, funding has continued and arrangements have been made to move many of the individuals into smaller facilities, 16 or fewer residents, that qualify for federal matching funds. Oregon Advocacy Center and the pro bono team have not cancelled the suit; they have kept it in abatement until June 2005 in case their clients are put in jeopardy again. OAC continues to monitor the residents and facility directors to ensure that the level of care is maintained despite the stress on managers and caregivers due to their own uncertain futures.

When asked about his reasons for taking pro bono work, Downs said that in Michigan where he had once practiced, applicants to the Bar took an oath, part of what is called the Genevan oath. It says, "I will never reject, from any consideration personal to myself, the cause of the defenseless or oppressed, or delay anyone's cause for lucre or malice." "And so," he said, "That's the reason to do it."

Charles Merten and the Oregon Advocacy Center jointly received the Oregon Trial Lawyers Association's "Public Justice Award" for their work on this case. ■