CLIPI'S 30 MOST IMPORTANT CASES

Carlyle Hall - August 1997

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1.

***KEITH V. VOLPE* - THE CENTURY FREEWAY LITIGATION**

This case was brought as a class action on behalf of all persons potentially impacted by the proposed construction of the 17.5-mile Century Freeway (I-105) through the relatively impoverished, heavily minority corridor cities. The litigation accomplished a wide variety of "environmental justice" goals and represents the quintessential public interest law case.

Shortly after the case was filed in early 1972, the federal District Court enjoined further acquisition of the proposed freeway right of way until the federal an state governments fully complied with new federal and state laws requiring environmental impact studies and housing relocation studies and benefits. Upon the completion of these studies, CLIPI's staff attorneys in 1979 put together a landmark settlement with Jimmy Carter and Jerry Brown administrations, described by then U.S. Secretary of Transportation Neil Goldschmidt as a "precedent for the rest of the USA…. We are building more than a freeway; we are building neighborhoods and a better community." As the *Los Angeles Times* editorialized, the Century Freeway litigation and settlement meant that, for Southern California transportation planners, "the good old ways are gone."

The Consent Decree embodying the settlement allowed a greatly modified freeway to be built, but only with certain important mitigation measures guaranteed to the plaintiffs and other lower income corridor residents.

A Corridor Advocate's Office was established to ensure that all homeowners whose residences we being acquired` to make way for the freeway were compensated at full fair market value and that all displaces were provided full relocation benefits.

The originally proposed 10-lane freeway was redesigned and rerouted in a more environmentally sensitive manner, with two lanes deleted to create a right of way for the future Metrorail Green Line. This key effort became the very first building block for a region-wide public transit system and established the basis for later construction of the Blue Line and the Red Line. Additionally, two of the remaining eight lanes were dedicated to High Occupancy Vehicles to promote energy conservation and better air quality. The

redesigned freeway opened in 1993 and the Green Line Metrorail opened in 1995.
An enormous job and contracting program was established to ensure that the communities that were most heavily impacted by the freeway would share in the economic benefits resulting from its construction. The Century Freeway Affirmative Action Committee was created to work with Caltrans in establishing employment goals for minorities and women, in monitoring M/WBE contracting requirements and job attainment, and in enforcing Consent Decree provisions. During the construction of the freeway, minorities and women successfully obtained and held thousands of jobs, with job attainment percentages for minorities reaching 51% and for women 5%. Almost 6,500 trainees successfully completed a pre-apprenticeship training program and more than three-fourths of these trainees went on to obtain construction jobs. Approximately $305 million out of the approximately $ 1 billion total cost of freeway construction went to minority and women contractors. These job attainment and contract participation results were approximately *double* the Caltrans experience for other freeway construction projects undertaken in California.

Approximately 5,350 affordable housing units have been constructed or funded under the Consent Decree to date in the corridor communities in order to mitigate the loss of approximately 7,850 units removed to make way for the freeway. Over the years, about $350 million has been appropriated from state and federal gas tax funds to subsidize these Consent Decree replenishment units to make them affordable to lower income families. During the Reagan and Bush years, this constituted the largest local affordable housing subsidy program in the United States.

Twenty-five years later, the case in still ongoing with the assistance of outside counsel. In 1988-1990, due to excessive delays and administrative costs, the housing program was restructured to streamline the stare and federal bureaucratic approval process for affordable housing projects, and the Consent Decree housing moneys were required to be leveraged by being matched with other public subsidies. In 1993, shortly after the Rodney King civil disturbances in Los Angeles, the federal government agreed to place additional assets worth approximately $100 million into the housing program, in return for the plaintiffs' agreement that all future program administrative costs would be capped. In1995, the housing program was "privatized" with the remaining assets transferred to a nonprofit entity which was given responsibility for completing administration of the program.

In related litigation, CLIPI obtained decrees ordering that full environmental impact studies be prepared before further construction of the Long Beach Freeway (I-710) extension through the City of South Pasadena, and the I-15 extension through the City of Norco.

***Attorneys*:**

Ric Sutherland, Brent Rushforth, John Phillips, Carlyle Hall, Mary Nichols, BillLann Lee, Geoff Cowan, Helene Smookler, Mike Keeley, Cynthia Robbins, Robin Weiner

***Legal Assistant*:**

Mary Watson

2.

***FRIENDS OF MAMMOTH V. MONO COUNTY BOARD OF SUPERVISORS* - CALIFORNINA'S LEADING ENVIORNMENTAL CASE**

CLIPI represented the Sierra Club in this landmark case decided by the California Supreme Court in September 1972, only months after the Center was founded. In ruling that environmental impact reports (EIRs) must be prepared for a private projects permitted by local and state governmental bodies, not just public works projects, the Supreme Court's opinion closely followed the analysis set out in CLIPI's brief.

The case put teeth into the California Environmental Quality Act (CEQA) and established the basic parameters for the ensuing 25 years court receptivity toward environmental claims. *Friends of Mammoth* has repeatedly been described as the California Supreme Court's most important environmental decision. It is still good law today and has been cited in virtually every subsequent California environmental case.

***Attorney*:**

Carlyle Hall

3.

***NO OIL INC. V. CITY OF LOS ANGELES*- STOPPING OIL DRILLING PROPOSED ADJACENT TO THE BEACH**

CLIPI represented a politically influential environmental group, No Oil Inc., that filed suit against the City of Los Angeles in October 1972 to prevent Occidental Petroleum from undertaking wildcat oil exploration and drilling activities on the coast immediately adjacent to Will Rogers State Beach. We lost in the trial court, as the trial judge misread the new Friends of Mammoth decision, and we filed an emergency appeal with California Supreme Court just days before Occidental's drilling was to begin. The Supreme Court issued a last-minute stay of all drilling literally as Oxy's

drilling bits were being put into the ground. Later, the Supreme Court ruled in favor and set aside the City's permission to drill on the ground that the city had improperly decided not to prepare an environmental impact report.

In the mid-1980's, the City's voters overwhelmingly approved a ballot measure to forbid the Oxy drilling project, as well as drilling anywhere on the City's coastline. Subsequently, Occidental abandoned the project altogether.

The *No Oil* case represented the California Supreme Court's second decision under CEQA and affirmed that the Court meant what it said in *Friends of Mammoth* and would vigorously enforce the new EIR requirement. Equally important, the lawsuit publicly revealed the rush by Mayor Yorty's Administration to grant drilling permits to Occidental, in large part due to improper influence that the oil company had exerted on City officials. The scandal helped to propel Tom Bradley into the Mayor's office, where he remained for the next 20 years.

CLIPI's visibility on the Ford Foundation's radar screen also increased as a result of litigation. The Ford Foundation had initially funded CLIPI with a relatively modest grant during 1972. Occidental's Chairman, Armand Hammer began a personal campaign to persuade the Foundation to stop funding CLIPI, threatening to report the Foundation to the IRS for supposedly violating IRS "charitable" tax exempt entity rules on the ground that Ford's grantee was using Foundation money to represent elitist environmentalist in a frivolous case designed to protect private property rights, not broader public interests. Hammer telegramed Foundation President McGeorge Bundy, while his lawyers wrote to various CLIPI trustees with repeated threats designed to intimidate CLIPI and persuade it to pull out of the litigation. Despite deep concerns on the part of all involved, CLIPI was supported by its friends throughout this turmoil. When the Supreme Court finally ruled in our favor, the legal skills and judgement of the CLIPI lawyers were confirmedamidst much celebration. The Ford Foundation renewed and substantially increased the size of its CLIPI grant.

Attorneys:

Brent Rushforth, Carlyle Hall

4.

SPRINGER V. JONES - THE FOREIGN BRIBES AND PAYOFFS SCANDAL

CLIPI filed this corporate reform case in 1974, shortly after public revelations that Nixon campaign official Herb Kalmbach had been provided with $100,000 in cash obtained from the office safe of Northrop Chairman, CEO and President Tom Jones for use in the campaign to re-elect the President, shortly followed by a second $50,000 payment for use as "hush money" for Watergate figure E. Howard Hunt. The shareholder class action lawsuit contended that corporate money was

being improperly diverted to illegal uses and should be repaid by Jones.

Soon after the case was filed, then federal district judge Warren Ferguson permitted discovery over Northrop's vigorous protest. When Jones and other Northorp officers and directors were deposed under oath by CLIPI lawyers, they surprisingly revealed that the money in question had been laundered through certain European "consultants" whose job was to produce"off the books" funds to be used for illegal payments of all kinds, particularly bribes and payoffs to foreign government officials in connection with the marketing of Northrop's aircraft. Northrop's officials claimed that they took those action in order to keep up with the competition, contending that they had lost several important foreign sales to competitors like Lockheed that were commonly bribing foreign government officials.

CLIPI's attorneys filed these deposition transcripts with the district court where they immediately became the source of page on one news stories in the *New York Times* and other leading newspapers. Soon the Senate subpoenaed the Chairman of both Northrop and Lockheed for widely watched hearings. At CLIPI's urging, Stanley Sporkin, then chief enforcement officer for the Securities and Exchange Commission, became interested in the issue, and suddenly the entire nation became aghast at the almost daily revelations by one major multi-national company after another that they, too, had used foreign bribes and payoffs to sell their products abroad. The ensuing public outcry led directly to the fall of numerous ruling parties and political leaders throughout the world, while domestically it led to enactment of the Foreign Corrupt Practices Act by Congress in 1975.

The case settled in 1975, when Northrop agreed to cease making any further improper payments, to fully investigate and report on the specifics of all prior questionable payments, and to bring four new outside directors approved by the district court onto its board to oversee the investigation and to implement any needed reforms. Additionally, all of the corporate money diverted into improper U.S. political payments was to be personally repaid by the company officials who gad authorized the transactions. Judge Ferguson aptly described the settlement to *Business Week* as a "precedent for all large corporations…a landmark in corporate reform." In fact the Consent Decree became the model for ensuing settlements entered into by the SEC, with more than 100 companies admitting undertaking such improper conduct.

In related litigation, CLIPI successfully sued Phillips Petroleum Corporation with respect to more thank $.5 million in bribes and payoffs plus a $100,000 illegal contribution to Nixon's committee to re-elect the President. The ensuing settlement, described by the *New York Times*, as significantly impacting further such business practices in America, provided for full repayment of the shareholders' money's and mandated a shift in control from insiders to outside directors as six court-appointed directors were appointed to the Phillips board

***Attorneys**:*

Brent Rushforth, John Phillips, Carlyle Hall

5.

SUNDANCE V. MUNINCIPAL COURT - CRIMINAL JUSTICE REFORM

When the *Sundance* case was filed in 1975, public intoxication (Penal Code § 674(f)) was the high volume crime in Los Angeles County, with approximately 50,000 arrest annually. These arrest, targe principally in the downtown skid row areas frequented by impoverished alcoholics, were made in su large numbers that "bargain basement" justice inevitably resulted. Daily arrests by LAPD alone ofte totaled almost 200 public inebriates, with arrestees being brought to jail in dangerous "B-wagons" w they were confined in crowded "drunk tanks" without adequate medical treatment or supervision. W brought to court the next day to be arraigned, the "drunk court" judge would effectively coerce guilty by giving each inebriate the choice of pleading guilty and being released in a day or two, or pleading guilty and remaining in jail for 30 days awaiting a trail that would never come. (the few inebriates w pleaded not guilty would find their cases dismissed "in the interest of justice" when it came up for tri days later, meaning that the arresting officers had failed to show up or the trial judges wanted to use t available courtrooms to conduct "more meaningful" trials since the likely result of any guilty verdict inebriate would be at most a sentence of "time served." Consequently, throughout the mid-1970's, al 99% of all public inebriates pleaded guilty at their arraignments, and in one year – 1974 – not a singl was held.

Brought as a class action on behalf of all public inebriates, the *Sundance* case contended that the dest alcoholics who were caught in the revolving door criminal justice system (where many of them were arrested so often that they were serving up to 325 days in jail annually) were not really "criminals" b rather impoverished persons suffering from the disease of alcoholism. To be confined under these circumstances violated their Eighth Amendment rights not to be subjected to "cruel and unusual punishments." The litigation claimed that the police were making only sporadic use of the Penal Cod option of diverting public inebriates to civil detoxification facilities, where they might have the oppor for treatment and rehabilitation. Instead, the lawsuit concluded, all inebriates should be provided wit detox alternatives, which were not only far more beneficial to inebriates, bit also far cheaper than locl them up in jail cells. Beyond this, the lawsuit contended that, if the conduct in question could be sub criminal arrest and prosecution, then minimally adequate criminal justice procedures must be followe the physical conditions of confinement must meet certain basic standards for medical care of diseased persons.

After an eight-week trial, then Los Angeles Superior Court Judge Harry Hupp ruled that wholesale violations of inebriates' constitutional rights to due process of law must cease and that the LAPD dru tanks and B-wagons did not meet constitutionally minimal standards. All inebriates needed adequate nutrition for alcoholics potentially going through withdrawal; they needed adequate medical screenin monitoring and care, especially given the potentially dangerous consequences a bed and a blanketed

each inebriate, rather than being forced to sleep in large groups on a guard, dirty floor. These latter changes alone forced dramatic cutbacks in public inebriates arrests, since only a few inebriates could housed in cells that formerly held up to forty inebriates.

The Superior Court also found that the civil detox alternative was far more effective and far cheaper t the criminal justice system in dealing with the problems of public inebriation. Although the Californi Supreme Court later ruled on appeal in 1986 that these trial court findings could not be made the basi diverting all public inebriates into civil detox alternative, the Sundance trial reviewed wide publicity a daily headlines. It caused a sea change in LAPD's approach to handling public inebriates, with a consensus being reached among all levels of local law enforcement officials that jail was not the prop place for inebriates. CLIPI attorneys took the lead in persuading key local foundations, principally th Weingart Foundation, to partner with City's Community Redevelopment Agency to fund civil detox rehabilitation facilities in downtown skid row area.

Starting in the 1980's, Los Angeles police arrest practices regarding public inebriates began to compl change. By the late 1990's instead of 50,000 annual arrests, less than 300 inebriates are now arreste annually. The police consider skid row alcoholism to be a social, not a criminal problem, and inebria need of care of attention are taken to civil detox facilities, rather than to jail. The Weingart Center has become a nationally famous leader in alcoholism treatment and rehabilitation.

As a side effect of the litigation, our lead plaintiff, Robert Sundance, the son of the chief of the Sioux Indian tribe into which he was born, became something of a minor celebrity. Bob had been notoriou alcoholic for years, being repeatedly arrested by LAPD for public intoxication, and had become som of a jailhouse lawyer. One day he came across a United States Supreme Court case in which a concu justice indicated his opinion that it was unconstitutional "cruel and unusual punishment" to jail indige alcoholics for public intoxication. Bob started pleading not guilty, hoping to get his case to a trial in of a judge where he could make his constitutional argument. While awaiting trial, he would try to co with withdrawal symptoms, like the D.T.'s, by reciting to himself the Bill of Rights to the United Sta Constitution. After repeatedly failing to obtain a trial, despite remaining in jail for 30 days or more to receive his promised day in court, Bob handwrote a writ of *habeas corpus* petition to Honorable Wa Ferguson, a federal judge who, Bob had read, might be sympathetic to his plight. Although he denie writ, Judge Ferguson forwarded Bob's handwritten petition to CLIPI's attorneys, who had just successfully completed the Northrop litigation. During the first years of *Sundance v. Municipal Cou* Bob remained an active drinker, but upon one re-arrest, he was brought to a civil detox facility, was detoxified, and was provided the opportunity to enroll in a rehabilitation program. Bob did so, he be sober, and, ultimately, he was appointed head of the Los Angeles County Commission on Indian Alcoholism, a position he held until his death from cancer a few years ago.

***Attorneys**:*

Tim McFlynn, Carlyle Hall

6.

LAKE V. CITY OF LOS ANGELES — ENDING GENDER EMPLOYMENT DISCRIMINATION IN THE LAPD

In the mid-1970's the LAPD instituted a so-called "unisex policy, whereby women police officers were theoretically to be treated equally with men. Previously, women had been eligible only for certain positions, such as rape detail or domestic abuse situations. The result of the "unisex" policy, however, was to make LAPD's treatment of its female officers worse, instead of better, because they had to pass rigorous physical and other standards that screened out all but a handful of female applicant and employees.

CLIPI challenged the LAPD's unisex policy, contending that it violated Title VII of the Civil Rights Act of 1964. The highly visible case received frequent headlines, particularly since Chief Darryl Gates kept making highly quotable and critical statements about the litigation and of the female officers who claimed they were being denied their rights. When the case went to trial, federal district judge Jesse Curtis wrote an opinion denying all relief, and asserting that female officers needed to be protected from being placed into potentially dangerous duty where, for example, the Watts rioters of 1965 might overwhelm their limited physical capabilities. On appeal, in a 1979 opinion authored by then Ninth Circuit Judge Shirley Hufstedler, the appellate court completely rejected LAPD's proffered defenses as being based simply on gender stereotypes and ruled that the LAPD's unisex policy discriminated against its female officers. After seven years of difficult litigation, involving more than 600 pleadings, motions, briefs and other legal documents, the case settled in 1981 with the City agreeing to a back pay award of $2 million and 25% hiring goal for women until they made up 20% of the force.

The *Blake* case marked a watershed victory in the women's employment discrimination field. Gender stereotypes could no longer be used as the basis for discrimination against women, even in employment fields such as police work, where arguably a large muscular masculine body frame would be an asset. As the Los Angeles Times put it in an editorial on the Blake case, "Danger is unrelated to gender or race. It is time to redress a long-standing inequity, rather than resist inevitable change."

Ten years after the settlement, the LAPD held a "Women's Honor Day" in June, 1990, to celebrate the fact that the number of female police officers had increased from a little more than 100 at the time of the settlement to more than 1,000 (almost 15% of the total force). Speaking to the gathering, Chief Gates conceded five times that he had been wrong that the LAPD was a better police department with women on the force. Detective Fanchon Blake reminisced that, when she became lead plaintiff in the case, she had been given the "silent treatment," been removed from her regular assignments and she even feared for her safety. But, she reflected, "to correct and change the system, one person had to step forward and invoke the law." The Women's Honor celebration showcased women officers in all LAPD assignments - bomb squad, motorcycle patrol, and

high–ranking captains and lieutenants, and many of the female officers personally thanked Detective Blake for her role in securing their jobs.

In related litigation throughout the 1970's and '80's, CLIPI sued numerous public agencies in Southern California for alleged employment discrimination against women and minorities. In one such case, for example, after a full trial, the Los Angeles County Fire Departments was found to employ only nine African-American fire fighters on its force of more than 1,900 officers. *Davis* and cases against the Santa Ana Police and Fire Department, the City of Torrance Police Department, the Pasadena Police and Fire Departments, the Los Angeles Department of Water and Power and the Los Angeles Unified School District resulted in substantial back pay awards and potent hiring orders setting forth goals and timetables for future compliance.

***Attorneys**:*

Tom Hunt, Tim McFlynn, Walt Cochran-Bond, Bill Lann Lee

7.

DIABLO CANYON NUCLEAR POWER PLANT LITIGATION

Throughout the 1970's and '80's, the environmental movement undertook a series of administrative and judicial attacks on the proliferation of nuclear power plant that were being approved by the Nuclear Regulatory Commission and built by the electric utility industry. In California, the principal focus for this attack was PG&E's Diablo Canyon Nuclear Power Plant. CLIPI represented the environmental groups challenging the NRC's proposed granting of an operating permit to Diablo. This challenge alleged, among other matters, that after the plant had been constructed at a cost of more than $1 billion, but before it opened, it was discovered that the plant's location was near a significant earthquake fault. During the lengthy administrative proceedings which lasted ten years, it was also revealed that when the plant was being built, its blueprints were inadvertently switched so that numerous components of the plant's unit two had been mistakenly constructed in unit one.

The 1986 *en banc* opinion of federal circuit curt for the District of Columbia, written by Judge Robert Bork, narrowly rejected, by a 5-4 vote, CLIPI's subsequent litigation challenge to the Nuclear Regulatory Commission's refusal to require an earth-quake safety evaluation plan before issuing the operating permit. But the extensive administrative and judicial proceedings had subjected both the proposed plant and the nuclear power industry to a searching and highly visible scrutiny. Public opinion in California turned strongly against nuclear power options. Together with the extremely high capital cost of constructing nuclear power plants, the Diablo Canyon proceedings sounded the death knell of the industry in California.

***Attorneys**:*

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8.

***COALITION FOR LOS ANGELES COUNTY PLANNING IN THE PUBLIC INTEREST V. BOARD OF SUPERVISORS* — FIGHTING URBAN SPRAWL IN THE OPEN SPACE AND RURAL FRINGE**

Southern California has long represented the archetypal metropolitan region sprawling into the rural fringe with new public and private housing, industrial and infrastructure investment being diverted away from the existing urban area at great environmental and public expense. The Los Angeles County Planning Department, Planning Commission and Board of Supervisors have planning and zoning responsibilities for the unincorporated area, which comprises about three-quarters of the County's 4,000 square miles. Under state law, these officials must prepare, adopt and implement long-range master plans to provide for needed growth and development, while preserving open space and sensitive e environmentally important areas.

In the Coalition legal proceedings, CLIPI represented a broad-based group of professional planners, environmentalist and inner-city advocates who contended that successive Los Angeles County master plans "blueprints for urban sprawl" promoted new urban development in the open space and rural fringe to the great detriment of the existing urban areas. Commenced in 1972, the litigation lasted almost seventeen years, during which the Los Angeles Superior County invalidated three separate County master plans as violating stare law requirements.. Throughout almost a decade of this period, CLIPI attorneys obtained court injunctions providing strong legal protections against inappropriate urban development intruding into fully 1.5 million acres of open space in the unincorporated area. In 1987, after a CLIPI-requested, court-appointed referee worked with County planning officials to develop a legally sufficient master plan, the Superior County finally dismissed the litigation. By then, the County's master plan had developed strong policies and regulatory techniques to protect fragile "significant ecological areas," the most important environmental sites within the County, as well as a "development monitoring system" designed to ensure that new urban expansion is appropriately located and fully pays its way without unwitting subsidies from County taxpayers.

In related litigation, CLIPI has represented the Sierra Club in three lawsuits against the County, challenging specific residential development projects proposed to be located in the Santa Monica Mountains. These lawsuits protected three sites that have subsequently become part of the public park area within the Santa Monica National Recreation Area, including the Paramount Ranch site recently acquired as the federal government's centerpiece holding of the NRA. One of the law suits protected a key portion of the "backbone trail" in the Santa Monica Mountains, while also

establishing a $7.5 million fund (the Quercus Fund) administered by the Sierra Club for purposes of protecting the green areas of the Santa Monica Mountains.

Attorneys:

Carlyle Hall, Fred Woocher

9.

ORANGE COUNTY FAIR HOUSING COUNCIL V. CITY OF IRVINE —
AFFORDABLE HOUSING IN THE AFFLUENT SUBURBS

Throughout the past several decades, key elements of Los Angeles' urban vitality have relocated to Orange County and other surrounding areas. Because of the localized nature of land use decision-making in California, this means that cities at the urban fringe can develop strategies to attract high tax-paying, revenue-generating commercial and industrial development, while excluding affordable housing for lower income families which generates low taxes and places heavy demands on costly urban services. Racial and ethnic attitude shave sometimes exacerbated these exclusionary practices.

Since its build-out in the late 1960's, the City of Irvine has represented a special challenge in this regard, because the vast majority of its land is owned and controlled by a single entity, the Irvine Company, which owns the former Irvine Ranch land holding. From the outset, the Irvine Company deliberately pursued a policy of developing "high end" residential communities, yet, at the same time, vigorously promoted industrial and commercial development within the City which attract companies that inevitably employed many lower income workers who cold not afford to live in any of Irvine's housing units.

CLIPI's litigation alleged that the imbalanced land development policies being pursued by the Irvine Company and approved by the City violated California's planning and zoning laws by failing to accommodate Irvines' "fair share" of affordable housing. At the time, the "fair share" concept had been accepted only by the courts of New Jersey. After several years of arduous litigation, a comprehensive settlement was finally reached in which the Company agreed to develop, and the City agreed to approve, 725 units of lower income housing within the City.

During the next several years, the Company honored its commitment and built several award-winning affordable housing complexes, all of which are now fully occupied by lower income families.

In related subsequent litigation brought on behalf of Irvine Tomorrow, CLIPI obtained curt

invalidation of the Irvine Company's sophisticated scheme to retain control of the local Water District, which controlled the water supply and sewage infrastructure within the City. The court ruled that, because the Water District's decisions had central impacts on the city's affairs, its governing board must be elected on a "one person, one vote" basis, not on the basis of one vote for each dollar of land owned.

Attorneys:

Carlyle Hall, David Gold

10.

***PEOPLE OF CALIFORNIA V. LEVI STRAUSS* — CREATING EFFECTIVE REMEDIES IN LARGE CONSUMER PROTECTION CLASS ACTONS**

When Levi Strauss, the blue jeans manufacturer, violated national and state anti-trust laws, California's then Attorney-General, George Deukmejian, brought a class action on behalf of all consumers in the state to obtain refunds for jeans overcharges. The company settled by paying $12.5 million into a damage fund that was to be disturbed to the injured class of consumers.

Deukmejiam subsequently proposed to "search" for several million individual injured consumers who had purchased Levi jeans during the relevant period by running an extensive television ad campaign, prominently featuring himself, just before the gubernatorial campaign (in which he was a candidate) was to begin. Duekmajian convinced the Superior Court judge that all injured consumers must be "found" in this way, so that individual consumers could be refunded somewhere 25 cents and two dollars per pair of jeans. Administering the proposed campaign, of course, would cost almost as much as the total monies that might ultimately find their way into individual consumer's pockets.

At this point, several consumer advocacy groups intervened to propose a different kind of distribution. An alternative procedure would provide a broad, inexpensive notice to class members allowing for verified individual refunds, but with the vast residual of the damaged funds pooled into a consumer trust fund. Following a *cy pres* approach, the funding consumer protection research, investigation and litigation activities undertaken by public interest groups. CLIPI represented the intervenor Consumers' Union and authored the principal briefs on which the California Supreme Court relied in articulating the basis for, and the parameters of, the new legal theory.

Following the Supreme Court's 1986 decision, then Attorney General John Van de Kamp agreed to settle the litigation, with half of the undistributed funds to be placed into a consumer trust fund

and the other half to be distributed to governmental agencies with consumers protection offices. The consumer trust fund has since been incorporated as the California Consumer Protection Foundation, and has already distributed several million dollars to nonprofit public interest organizations such as the Black Health Network, the Utility Consumers Action Network, the Chinatown Service Center and the National Consumer Law Center, in order to finance their consumer protection activities. Ironically, under the settlement agreement, CLIPI was barred from receiving any grants for its further work in the consumer protection field because the Attorney General believed that only such a complete bar would prevent a perceived possible conflict of interest.

In later litigation, CLIPI successfully prosecuted two large consumer protection class actions against Toyota Motors and GTE/Sprint on behalf of injured consumers who had purchased car models with defective brakes, and consumers who had been overcharged for long distance telephone calls made on certain holidays, respectively. Both of these class actions were settled with the defendant companies agreeing to provide full repairs and refunds to all known customers, while establishing substantial consumer protection funds to indirectly benefit injured consumers who could not be located. These moneys have funded a variety of consumer protection activities, particularly several major projects undertaken by Voter Revolt and the Proposition 103 Enforcement Project on behalf of major insurance reform initiatives in California.

Attorneys:

Carlyle Hall, John Phillips

11.

BAREFIELD V. CHEVRON—— FIGHTING EMPLOYMENT DISCRIMINATION IN SOUTHERN CALIFORNIA

Throughout the 1970's and '80's, CLIPI successfully prosecuted a wide variety of employment discrimination cases against both public and private employers. Brought on behalf of minorities and women, these cases obtained hiring orders resulting in many thousands of jobs and more than $ 5 billion in wages to date for thousands of plaintiff class members in Southern California.

CLIPI's litigation against Chevron arose when Archie Barefield, who had worked at Chevron's 800-employee Bakersfield oil production facilities for 20 years, was the *only* minority to be promoted by Chevron to assistant foreman. After Barefield sued, the oil company ordered psychiatric evaluations of Barefield and the other five individual plaintiffs, contending that they were suffering from delusions. Chevron's plan backfired, however, when its own medical team found that Barefield and the others only suffered from job stress directly resulting from racial

discrimination by Chevron supervisors and employees while on the job. The lawsuit documented that minorities held only three out of 125 supervisory positions and only one of 51 lead jobs, and that crude racial epithets were commonly directed at them as they performed the most menial and dangerous jobs in the field. In one incident, a live snake was waved in front of one plaintiff's face, while demeaning and hostile slurs were hurled. The case settled in 1990 shortly after the federal district judge announced that, based on the extraordinary evidence presented, CLIPI would be allowed to seek punitive as well as compensatory damages. The settlement provided for back pay of almost $ 1 million, as well as aggressive hiring and promotions goals and timetables for minority employees.

Other successful CLIPI employment discrimination cases were brought against major grocery store chains including Ralph's, Vons and Lucky Stores, whose hiring promotion records for women and minorities were surprisingly poor. These decrees were especially effective because the jobs in question paid reasonably well and tended to have higher turnover, without requiring college and other higher educational requirements or other specialized job skills. The litigation against Ralphs involved 10,000 employees in 127 stores, and followed the settlement a year earlier of litigation against Vons with 14,000 jobs in 170 stores. Both cases specified aggressive hiring goals for minorities and women. In Ralphs, for example, the company agreed that, until population parity was achieved, it would hire qualified minorities for almost 30% of its entry level jobs and promote them for 20% of its department heads.

Attorneys:

Tom Hunt, Walt Cochran-Bond Bill Lann Lee

12.

LEAGUE OF WOMEN VOTERS V. FEDERAL COMMUNICATIONS COMMISSION -- DEFENDING THE FREE SPEECH RIGHTS OF NONCOMMERCIAL, PUBLICLY FUNDED BROADCASTERS

One of four CLIPI cases to be decided by the United States Supreme Court to date, this case resulted in a 5 to 4 favorable opinion authored by Justice William Brennan. The League of Women Voters and Pacifica Foundation (owner of several nonprofit radio stations) challenged federal legislation that forbid noncommercial broadcasters funded with public monies from the Corporation for Public Broadcasting from airing "editorials" about matters of public interest. Justice Brennan's opinion struck down that legislation on the grounds that by making the receipt of government funds conditional on an agreement to forego the ability to speak out on important issues of the day violated the free speech rights of nonprofit public broadcasters.

Attorneys:

Geoff Cowan, Fred Woocher

13.

***FEDERATIONOF HILLSIDE AND CANYON HOMEOWNER ASSOCIATION V. CITY LOS ANGELES*—REVITALZING COMMUNITY PLANNING IN LA CITY**

Throughout the 1970's, as the state legislature sought to reform planning and zoning in California, the City of Los Angeles resisted these efforts. When the legislature required the City to comprehensively bring all of its zoning into conformity with up-to-date, environmentally sound general plans, the City responded with a lawsuit claiming its home rule powers were being infringed upon. Although the Court ruled against with contention, the City essentially left the comprehensive plans for each community laying unused on a shelf, and still undertook only minimal rezoning efforts, thereby allowing the very substantial resources and effort that had gone into preparing those plans to lie fallow.
CLIPI sued in 1985 to force the City to undertake the needed comprehensive rezoning. Initial discovery revealed that approximately one of every four building permits being issued with the City was inconsistent with the applicable community plan. Major plan/zoning inconsistencies included such massive projects as the Westside Pavilion, the Beverly Center, and numerous high-rise apartment buildings located immediately adjacent to single family residential areas.

After the Los Angeles Superior Court ordered the City to immediately cease issuing inconsistent building permits and to undertake the required rezoning effort, the City spent the next decade rezoning some 300,000 parcels (out of 800,000 total parcels), an area larger than the city of Chicago. The massive undertaking was completed in 1996, and the Planning Department reported to the Court that the successful rezoning program constituted its "biggest accomplishment" of the decade.

The lawsuit's revitalization of the City's community plans and the new stress on the importance of comprehensive planning, including wide citizen involvement, has been described by local historians and political scientist as the primary catalyst for the substantial empowerment of citizen groups in local politics in Los Angeles in the late 1980's.

***Attorneys*:**

Carlyle Hall, Felicia Marcus

14.

COMMITTEE FOR SIMON RODIA'S TOWERS IN WATTS V. CITY OF LOS ANGELES—SAVING LOS ANGELES' MOST FAMOUS CULTURAL LANDMARK

It took Simon Rodia, an untrained natural genius, some 33 years to construct his world-renowned masterpiece out of recycled debris, steel and cement— without a single riveted, bolted or welded joint. When finished, the 100-foot towers that soared above Watts as the immigrant's tribute to his adopted homeland were deeded by Rodia to a neighbor, and then acquired by the Committee, a group of dedicated artists and historic preservationists. But the City's Department of Building and Safety concluded the towers were unsafe and ordered that they be torn down. A Committee member devised a test to put the towers to a predetermined stress to see if they would crack; but, when the City's testing device itself cracked instead, the City agreed the towers could remain standing.

By the late 1970's, however, the financial burden of maintaining and exhibiting the towers became too great for the Committee. It deeded the towers to the City, in return for the City's promise to properly maintain them in accord with the Committee's directions. When the City failed to perform needed maintenance for several years, it obtained a grant from the State to be used to pursue deferred maintenance and to refurbish the Towers.

The City's Department of Public Works thereupon hired an unlicensed contractor with no credentials in historic preservation to pursue the restoration work. The contractor in turn hired local gang members who began climbing the towers, pulling off loose pieces and throwing them to the ground. When the contractor promised that the towers would have a "new look" with the contractor's own re-styling, the Committee asked CLIPI to seek an injunction against the "savage restoration".

Within days, CLIPI obtained a succession of emergency court orders, confirmed by a unanimous California Supreme Court, which stopped further work, forced certain dangerous chemicals to be moved off site, and directed the City to return the grant monies to the State so that the state Office of Historic Preservation could undertake the needed repairs. Subsequently, our discovery revealed that the City's unlicensed contractor had obtained the job by making an under-table payment of $10,000 to the then Chairman of the Department of Public Works. Mayor Bradley accepted the Chairman's resignation when the Los Angeles Times publicized this intriguing fact.

The case settled in 1985 when the City pledged almost a million dollars to allow the State to complete the needed repairs under mutually stipulated preservation protocols and with the

assistance of the Getty Museum's conservation staff. Now listed on the National Registry of Historic Places, the towers have been reopened to the public.

***Attorneys*:**

Carlyle Hall, Joel Reynolds

15.

***FRIENDS OF BALLONA WETLANDS V. CALIFORNIA COASTAL COMMISSION*—PRESERVING AND RESTORING SOUTHERN CALIFORNIA'S LARGEST WETLANDS**

In the early1980's, the Summa Corporation unveiled its plans to develop the largest project in Los Angeles history — a mini-city with some 7,000 residential units, 3,600 hotel rooms, and 1.5 million square feet of commercial and retail development — at the site of the former Hughes Aircraft manufacturing facility, where the famous "Spruce Goose" had been built during World War II. Notably, the 1,000-acre development site included more than 200 acres of wetlands, of which only about 120 acres were proposed to be preserved, while a new road was to bisect them.

CLIPI went to court in 1984 on behalf of the Friends and other citizen groups, alleging that the adverse impact on the Ballona Westlands had not been sufficiently studied or mitigated. In 1989, Mafuire Thomas Partners took over control of the project and proposed to settle the litigation, agreeing to dramatically scale back the size of the project, to eliminate the controversial road through the wetlands, to construct a new freshwater marsh and to spend $12.5 million to restore essentially the entire salt marsh habitat. A total of 250 acres of wetlands and related pen space would now be preserved. Subsequent to the settlement, outside attorneys have assisted the Friends, and during the ensuing years all pertinent public agencies with regulatory authority over the project have signed onto the settlement and initial permits allowing preliminary construction have been issued. The project was recently modified to accommodate the new Dream Works studio facilities, and several lawsuits by dissident environmental groups have been successfully fended off. Maguire Thomas is presently negotiating to bring additional money and partners into the project so that, after further comprehensive environmental study, substantial construction activities on both the development and the wetland restoration can begin.
***Attorneys**:*

Carlyle Hall, Fred Woocher, Joel Reynoolds, Lucas Guttentag, Josephine Powe

16.

***LOS ANGELES CONSERVANCY V. COMMUNITY REDEVELOPMENT AGENCY*—PRESERVING THE HISTORIC HERITAGE OF DOWNTOWN LOS ANGELES**

The redevelopment plan adopted by the CRA for downtown Los Angeles authorizes the agency, with the concurrence of the Planning Commission, to allow density transfers form one building site to another under certain narrow circumstances. This would be done principally as a means of generating tax increment funds from new development on the higher density (transferee) parcel that would be used to preserve and restore historic structures sited on the lower density (transferor) parcel. The CRA, however, began using its powers simply to "sell density" to the highest bidder, allowing numerous downtown high rise office buildings to be built at twice the normal size and density permitted by the City's zoning. Instead of preserving historic buildings, this misuse of power soon resulted in projects where LA's historic past was being demolished to make way for behemoth new construction projects.

One such project approved by the redevelopment agency proposed to sell the "air rights" to downtown's Pershing Square park to a developer who would then transfer his newly acquired density across the street, where he would demolish a historic structure facing the park and replace it with a huge proposed hotel/office complex. On behalf of the Los Angeles Conservancy, CLIPI went to court in the late 1980's to fight the Pershing Square project and to prevent future such abuses. Shortly after the suit was instituted, the CRA conceded that it should not abuse its powers and agreed to stop selling density in this way. Although the Conservancy agreed to allow the Pershing Square project to proceed the economics of the project never worked and it still remains on the drawing board.

Attorneys:

Carlyle Hall

17. ***CITY OF RIVERSIDE V. RUCKELSHAUS*—CLEANING UP THE AIR QUALITY OF THE LOS ANGELES BASIN**

The federal Clean Air Act mandates each state prepare detailed plans for how each air basin will achieve nationally established air quality standards. Because Los Angeles has consistently had the worst air quality in the nation, the difficulties of achieving these legislative goals has greatly compounded. As a result, our state and local agencies in charge of complying with these legislative mandates have sometimes failed to have the political will to pursue the needed remedies

CLIPI filed several lawsuits in the 1970's and '80's to enforce the Clean Air Act mandates. Probably the most visible of these cases was *Riverside v. Ruckelshaus,* which resulted in the federal district court's mandate requiring air quality officials to prepare appropriate plans to achieve CAA air quality standards. In complying with this mandate, plans were promulgated that initially included plans for car-pooling, gas rationing and other politically unpopular strategies, and Congress soon intervened to modify the mandates so as to avoid the inevitable political backlash. *Ruckelshaus* nevertheless showed that citizen litigation would be an important tool in achieving the clean-up of our air resources, and it also educated the public to the fact that these important legislative policies would require strong actions.

One subsequent suit, *California Lung Association v. Air Resources Board*, resulted in a federal court mandate ordering air quality officials to prepare plans for smog emergency air pollution episodes, when air pollution reaches levels dangerous to human health. Notably, in the ensuing years, Clean Air implementation efforts in the Los Angeles basin have been so successful that emergency episodes have virtually disappeared. In fact, air quality in the Los Angeles basin has improved significantly in the past twenty years, due in substantial part to the citizen lawsuits that have consistently enforced the Clean Air Act's important legislative aspirations.

Attorneys:
Mary Nichols, Brent Rushforth, Carlyle Hall

18.

IN RE KAIPAROWITS POWER PLANT—PRESERVING A NATIONAL TREASURE

When Southern California Edison and San Diego Gas & Electric Company decided that they could best meet air quality requirements and their power generating needs by locating their newest power plant in Southern Utah at the source of the coal that would fuel the generators, they did not anticipate CLIPI's filing a protest with California's Public Utilities Commission. After all, the new plant was proposed to be built far outside California's borders—and presumably outside California's jurisdiction.

CLIPI, however, concluded that the California PUC arguably had jurisdiction to issue a certificate of convenience and necessity—with appropriate conditions to preserve the unmatched scenic beauty and unique natural formations of the renowned Kaiparowits Plateau. CLIPI's argument carried the day, and PUC asserted jurisdiction over Edition's proposed importing of electric power into California from out of state. As a consequence, the utilities announced that they were dropping the proposed Kaiparowits plant.

Last year, President Clinton signed an executive order designating Kaiparowits as a national

monument. The executive order, however, contains certain loopholes potentially allowing coal production activities, and the political battle to save the plateau continues.

***Attorneys**:*
Brent Rushforth

19. COMMITTEE TO PRESERVE ELYSIAN PARK.V DEPARTMENT OF WATER AND POWER—KEEPING LOS ANGELES' RESERVOIRS UNCOVERED

In this case CLIPI went to court in the late 1980's to prevent the DWP from covering up Elysian Reservoir in the midst of Elysian Park. DWP proposed to cover the reservoir with an "ugly tin roof" as the cheapest means of meeting new water quality standards. More expensive alternatives that could meet those standards (e.g., cleansing the water in a mini-treatment plant after it leaves the reservoir, etc,) were not analyzed in an environmental impact report or elsewhere.

CLIPI's litigation efforts soon revealed that DWP envisioned covering almost all of Los Angeles' reservoirs. Led by homeowners living near Hollywood, Stone Canyon, Encino, Silverlake and other reservoirs, a firestorm of political protest swept City Hall. DWP backed down and agreed to pursue, for each reservoir, an extensive mediation process with various citizen groups representing both the public at large and nearby homeowners. DWP agreed to explore all feasible alternatives and to appropriate sufficient moneys to implement the agreed-upon solutions. The mediation process is still ongoing. One small reservoir has now been covered with a new dirt surface that contains a public jogging trail and garden. Another large reservoir will be preserved uncovered, with an extensive mini-treatment plant. Still another reservoir will be removed from service, with the water body to be maintained by DWP at full level as a recreational and scenic community amenity.

Attorney:
Carlyle Hall

20. CARTON V. LITTON—USING WHISLEBLOWERS TO FIGHT FRAUD AGAINST THE UNITED STATES GOVERNMENT

In the mid-1980's, CLIPI's staff attorneys worked with Congress to rewrite the False Claims Act. Originally enacted in 1863 when businessmen were caught defrauding the Union Army by cutting gin powder with sawdust and by selling the same horses over and over to the cavalry, the law allows whistleblowers who know of fraud against the government to go to court to obtain treble damages on behalf of the government and to keep a portion as a reward for their participation.

Throughout the years however, the law's effectiveness had been undermined by a series of court decisions, and it was not until the Reagan Administration that a new rash of highly publicized overcharges—such as the sale of $500 hammers and coffee pots—stimulated widespread interest in reviving the law.

After the revitalized law was passed in 1986, CLIPI then helped set up Taxpayers Against Fraud, a new nonprofit that would assist whistleblowers and also serve as a co-plaintiff. Several of the first whistleblower cases brought under the new law were filed by CLIPI. Of these, the biggest was Carlton v. Litton, which alleged that Litton had fraudulently overcharged the federal government for computerized accounting systems and had used these overcharges to subsidize its business with other private companies in order to obtain a competitive advantage. With the assistance of outside counsel, the case was settled, with Litton agreeing to pay more than $80 million to the federal government.

***Attorneys**:*
John Phillips, Janet Goldstein, Carl Moor, Ann Carlson, Leon Dayan

21. CITIZENS AGAINST GATED ENCLAVES V. CITY OF LOS ANGELES— PREVENTING THE "FEUDALIZATION" OF LOS ANGELES

In the early 1990's, many citizens felt threatened by crime and they began to view living within a gated community as a panacea that would promote their security as well as raise their property values. When Los Angeles City's Department of Public Works announced that it would consider allowing gates to be placed across the streets, over 100 homeowner groups soon applied for authority to do so in their communities in order to "gate out crime."

The *CAGE* litigation challenged the first such gates authorized by DPW, to be placed at strategic locations surrounding the Whitley Heights community in Hollywood. (The gates were principally located at the dividing point between apartments and single family homes.) As might have been predicted, nearby apartment dwellers were outraged by being excluded from the adjacent public access streets and by the inconvenience of the resulting narrow cul de sacs in front of their residences. Many people living behind the gates also dissented, because they did not wish to support a perceived philosophy of "us versus them" and a "fortress mentality."

After a favorable Los Angeles Superior Court ruling, the Court of Appeal affirmed with a detailed opinion that held that placing gates on public streets violated fundamental state constitutional and statutory rights of free access to the public's rights of way. The 1994 appellate opinion observed that the courts would not lightly approve a return to such a "feudal" way of life, unless they were explicitly directed to do so by the legislature.

In a follow up case, CLIPI presently represents a citizens group in Laguna Niguel seeking to set aside a gating proposal in that city which would surround and inhibit public access to Seminole

Park, a 2.7-acre public park. That litigation was successful in Orange County Superior Court and is now on appeal.

***Attorneys**:*
Leon Dayan, Andy Henderson

22. SLOCUM V. ALLEN—PROTECTING THE CIVIL RIGHTS OF HIV POSITIVE PERSONS

In this case, an HIV-positive person sought to consult a nutritionist for dietary advice. The nutritionist refused to schedule an appointment, on the specious grounds that she "had children who commonly used her waiting room." CLIPI sued for civil rights violations, seeking injunctive and monetary relief.

Throughout the litigation, the nutritionist followed a litigation strategy of delay and, tragically, plaintiff Richard Slocum died of AIDS before the Superior Court issued all requested relief. Meanwhile, to avoid paying the judgement, the nutritionist has transferred most of her assets to other corporations controlled by her. The case has garnered substantial publicity in Orange County, the location of the nutritionist's office. The case also marked the kick-off of CLIPI's new HIV discrimination project.

***Attorneys**:* Gus May, Ed Howard

23. WENGER V. TRW—ENFORCING THE DUTIES OF CREDIT REPORTING AGENCIES IN SITUATIONS OF "IDENTITY THEFT"

"Identity theft" has become the fashionable crime of the 1990's. The thief takes over the victim's identity by using a social security number or other indicia of identification, while the oftensloppy practices of the credit reporting agencies become the perpetrator's allies in this crime. The credit reporting agencies' computer data files frequently mix up information about the victim, making it difficult for a retailer to ascertain that the imposter buying various items on credit is really the person he or she purports to be.

CLIPI went to court to seek redress for Leslie Wenger when, after her identity was stolen and the imposter charged many items to her charge accounts based on inaccurate credit reports, the credit reporting agencies still refused to undertake appropriate reinvestigation and re-reporting steps to clear her name. After a full trial, a federal jury awarded Ms. Wenger $200,000 for her emotional damages, the largest verdict ever awarded against a credit-reporting agency in such circumstances.

Following up on lessons learned in Wenger, CLIPI's attorneys have been working with the state

legislature to substantially upgrade the legal protections for California Consumers regarding credit reporting practices.

Attorneys:
Andy Henderson, Gus May, Ed Howard, Gerald Sauer

23B.

***ANDREWS V. TRANS UNION* – PROTECTING CONSUMERS FROM "IDENTITY THEFT"**

CLIPI continued its battle against identity theft and the role of the Big Three credit reporting agencies in enabling it in *Andrews v. Trans Union, et al.*, a case eventually leading to the United States Supreme Court. CLIPI challenged the credit reporting agencies' practice of providing personal credit information even when substantial and significant identifying information of the consumer was incorrect, indicative of fraud. As a result of identify theft, Adelaide Andrews' credit report was ruined, causing monetary losses and emotional trauma.

After losing partial summary judgment, a jury awarded Adelaide Andrews $____ for her losses and emotional damages that resulted. CLIPI appealed the summary judgment ruling and several other rulings by the Court, and won in the Ninth Circuit. The United States Supreme Court granted certiorari on the issue of statute of limitations, on which there was a circuit split, and ruled in favor of the credit reporting agencies, that the statute of limitations is not tolled until the consumer discovers the fraud.

Attorneys*:*

Andrew Henderson, Gus May, Jilana Miller, Gerald Sauer

24.

***CALIFORNIA WOMEN'S LAW CENTER V. STATE BOARD OF EDUCATION*— REDUCING SEX HARASSMENT AND DISCRIMINATION IN OUR PUBLIC SCHOOLS**

During the late 1980's, the legislature mandated the state Board of Education to issue regulations designed to inhibit sexual harassment and discrimination in our public schools. The topic proved politically sensitive, however, and the Board decided its most expedient route was to do nothing. Meanwhile, newspapers throughout California carried stories of sexual harassment in public schools at all levels of education, situations that might be prevented by the required regulations.

CLIPI went to court seeking orders requiring the Board to undertake hearings immediately and then to promulgate the necessary rules. The Los Angeles Superior Court concluded that the Board had merely paid "lip service" to its responsibility, and ordered the new regulations. The Board thereupon agreed to settle for all requested relief, and the new regulations are now in place.

***Attorneys**:*
Ed Howard, Gus May

25.

***LINDSEY V. BALLY'S*—SECURING THE CIVIL RIGHTS OF AMERICANS WITH DISABILITIES**

When Frank Lindsey visited his neighborhood Bally's fitness center in his wheelchair, he was told that it did not have adequate facilities for persons with disabilities and he was directed to go a different Bally's outside of his area. Instead, Frank contacted CLIPI and asked it to represent him in a lawsuit to enforce the Americans with Disabilities Act.

After more than a year of difficult legal work, CLIPI's lawyers obtained Bally's agreement to bring the fitness center into full compliance with ADA standards. Bally's also agreed to train its employees regarding their interaction with customers with disabilities, and to prepare appropriate literature and advertising about its policies and facilities relating to such customers.

***Attorneys**:*
Gus May, Ed Howard

26.

***BARRIOS V. CALIFORNIA INTERSCHOLASTIC FEDERATION* - BREAKING DOWN BARRIERS FOR COAHCES WITH DISABILITIES**

Victor Barrios is a hero. After a bullet wound in the spine left him a paraplegic, he became a high school baseball coach and was studying to become a teacher. After four years of coaching winning teams, the California Interscholastic Federation, the statewide school athletics organization, adopted a policy that barred him from coaching on the field as able-bodied coaches did. Based on an erroneous assumption that his presence near the baseline posed a safety threat to himself and others, CIF forced Mr. Barrios to remain in the dugout, making it virtually impossible to effectively coach his players. Rather than recognizing Mr. Barrios' past ability to safely and successfully perform his coaching duties, CIF relied on stereotypes about individuals with disabilities to sideline Mr. Barrios.

CLIPI, with co-counsel Western Law Center for Disability Rights, filed suit against CIF and the umpires association responsible for enforcing the CIF policy for violations of the federal

Americans with Disabilities Act and Rehabilitation Act and California's Unruh Civil Rights Act and Disabled Persons Act. After discovery, the defendants ultimately agreed to a settlement that eliminated CIF's policy of barring an individual who uses a wheelchair from coaching, and awarding Mr. Barrios a total of $11,500. During discovery, the defendant's officials testified that the case has already had positive ramifications throughout schools in California, not only for disabled coaches but for disabled student athletes as well.

CLIPI also broadened access to equal opportunity for disabled persons in *Blaser v. Orange County*, which challenged Orange County's failure to afford a quadriplegic Political Science professor the right to participate in jury service.

***Attorneys*:**

Laura Diamond, Jilana Miller, Lew Hollman, Hari Osofsky, Christopher Knauf, Benjamin Kim

27.

***CORNFIELDS* - FIGHTING FOR EQUALITY IN THE ENJOYMENT OF PARKS, SCHOOLS, AND COMMUNITY CONTROL OF RESOURCES**

When one of the most powerful developers in Los Angeles revealed his plans to build 32 acres of industrial warehouses on a 47 acre abandoned rail yard in Chinatown, a diverse coalition of civil rights, community and environmental organizations and business interests joined forces as the Chinatown Yard Alliance. Describing this battle in a front page story, the Los Angeles Times observed: "On a deserted railyard north of Chinatown, one of Los Angeles' most powerful and tenacious real estate developers, Ed Roski, Jr., of Majestic Realty Co., met his match."

CLIPI attorneys worked with the Alliance in a three-pronged approach of impact litigation, legislative advocacy and coalition building to block those plans

Despite the community's desire – and dire need – for a park, playground, and school on the site, and despite numerous public hearings where those desires were presented, the Majestic Realty Corporation's plan skirted requirements for environmental impact assessments and relied on $12 million in federal Housing and Urban Development subsidies. Working with former CLIPI attorney Joel Reynolds of the Natural Resources Defense Council and Jan Chatten-Brown and Associates on behalf of the Alliance, CLIPI filed suit against the City of Los Angeles demanding that a full environmental impact report be done as required by state law. Simultaneously, CLIPI filed an administrative complaint with HUD alleging violations of federal civil rights and environmental laws, which persuaded then HUD Secretary Andrew Cuomo to withhold the $12 million subsidy. This complaint alleged that the warehouse development proposal was the result of discriminatory land use policies that had long deprived minority neighborhoods of parks, documenting the shameful history of the treatment of ethnic Chinese in Los Angeles. The lack of federal funds prompted Majestic to settle with the Alliance and assist it in securing the purchase of the land for a park, public school and other public facilities.

CLIPI worked with California's Secretary of Resources, former CLIPI attorney Mary Nichols, to convince the State to purchase the property for uses consistent with the Alliance's goals. Even after the energy crisis and economic downturn that resulted in the Governor's cutting of the budget, the final budget for 2001 included funds for the purchase of the Cornfields for uses proposed by the Alliance.

The Cornfields is the flagship case in CLIPI's City Project, a program dedicated to creating equal access to parks and recreation in Los Angeles. Currently, there are vast disparities in access to parks in the urban centers of Los Angeles. The City Project combines concerns of environmental quality and environmental justice to remedy this injustice.

***Attorneys**:* Robert Garcia, Hari Osofsky, Lin Min Kong, Jan Chatten-Brown

28.

RODRIQUEZ V. LOS ANGELES UNIFIED SCHOOL DISTRICT - SEEKING EQUAL EDUCATIONAL OPPORTUNITY FOR LOW INCOME AND MINORITY CHILDREN

Joining with other advocacy organizations, CLIPI expanded its traditional focus on protecting the civil rights of the most vulnerable populations into the pivotal field of education. *Rodriguez v. Los Angeles Unified School District* set an historic precedent to improve the educational opportunity of hundreds of thousands of poor children in Los Angeles.

Of the more than 600,000 children enrolled in the Los Angeles Unified School District, more than 85% are low income people of color attending de facto segregated schools. These large and overcrowded schools, with low faculty retention rates, high percentages of emergency credentialed teachers, and teachers with limited experience, confine these students to a shockingly inferior education.

Rodriguez v. LAUSD addressed the school district's system of allocating funds for teachers, whereby schools with the least experienced, least trained teachers received far few education dollars than schools in wealthier parts of the district. Filed by San Fernando Valley Neighborhood Legal Services (SFVNLS) and other legal services programs to address this injustice, *Rodriguez* resulted in a consent decree that sets an historic precedent for the allocation of resources. It ensures that students at the lowest performing schools with the least experienced teachers are no longer subsidizing the students at wealthier schools with a more stable and experienced faculty. When former SFVNLS director Lew Hollman joined CLIPI as Executive Director, CLIPI assumed a lead role in the enforcement of the decree, along with the Mexican American Legal Defense and Education Fund and Multi-Cultural Education and Training Advocacy.

In addition to the *Rodriguez* case, CLIPI joined several civil rights organizations, including the ACLU and MALDEF, in challenging the statewide failure of education for California's most vulnerable children in *Williams v. California*.

***Attorneys**:* Lew Hollman, Peter Roos, Thomas Saenz, Hector Villagra

29.

***GREGORIO T. V. WILSON* - DEFENDING IMMIGRANTS RIGHT TO BASIC HUMAN SERVICES**

With Proposition 187 in 1994, then-Governor Pete Wilson spearheaded a cynical drive to deprive undocumented immigrants of basic human services in California. Opponents of Proposition 187 feared that the law would deprive some of the state's most vulnerable people of basic human services, such as public education, emergency room care, and even police protection. The argued that it would require teachers, doctors, social workers, and police officers, among others, to act as deputy Immigration officials, and would even discourage lawful residents from using these vital public services due to misunderstanding and fear.

CLIPI filed suit, along with the ACLU, MALDEF and other civil rights organizations, challenging the constitutionality of the new law. After winning a preliminary injunction, CLIPI and its colleagues then prevailed before the Honorable Marianna Pfaelzer, who struck the core provisions of the new law as unconstitutional. The Court adopted the plaintiffs' argument that regulating immigration is the province of the federal government, and the states are not free to set up their own immigration control schemes, which is essentially what Proposition 187 would do.

The State appealed the decision to the Ninth Circuit Court of Appeals. After the election of Governor Gray Davis, the parties referred the matter to mediation. Ultimately, the State dropped its appeal on the grounds that further challenge was without merit.

***Attorneys**:* Ed Howard, Gus May, Marc Rosenbaum, et al

30.

***GREATER LOS ANGELES COUNCIL ON DEAFNESS V. LOS ANGELES COUNTY PROBATION DEPARTMENT* - OVERHAULING THE LOS ANGELES COUNTY PROBATION DEPARTMENT'S PROGRAMS AND POLICIES FOR DEAF JUVENILLES**.

In 1997, CLIPI was contacted by the Greater Los Angeles Council on Deafness (GLAD) on

behalf of several deaf minors who were involved in the Los Angeles County Probation Department, in its juvenile halls or on probation. These children, who communicated only through sign language, had been relegated to medical treatments, meetings with probation officers, disciplinary procedures, and juvenile hall classrooms without the aid of sign language interpreters and suffered a total inability to communicate.

As a result of being unable to communicate or understand what was being said by Probation officials, deaf youth were subjected to unwarranted discipline for breaking rules of which they were unaware, given medical treatments for conditions they could not describe to medical staff, were denied court-ordered rehabilitation, and left daily to sit in silence in school. One minor, J.P., spent several extra months confined in juvenile hall awaiting placement in court-ordered rehabilitation because no County contractors would accommodate his deafness. Eventually he went to a program in Wyoming, away from his family, a distance no hearing minor ever had to travel.

CLIPI filed suit charging the County, its Probation Department, and the Los Angeles County Office of Education with violating the federal Americans with Disabilities Act, and Rehabilitation Act, and California's Unruh Civil Rights Act and Disabled Persons' Act. CLIPI sought fundamental policy changes in the way the defendants treated deaf minors in their programs, as well as damages on behalf of a deaf minor and his parents.

After fending off defendants' motion to dismiss, and engaging in two years of discovery and trial preparation, the parties reached a settlement. Then-District Court Judge Carlos Moreno, now a member of the California Supreme Court, approved a consent decree fundamentally changing the defendants' policies and programs in order to provide equally effective communication for deaf minors. As a result of this lawsuit, the Department now provides an interpreter for all communication while in juvenile hall (including initial intake interviews, discipline, school, counseling, recreation and medical appointments), and during all communications with probation officers outside of juvenile hall. The Department was also required to train its staff in the requirements of the Americans with Disabilities Act, and related laws, and the terms of the consent decree.

CLIPI also challenged a private physician's refusal to provide a sign language interpreter for a deaf potential patient in *Duenas v. Guagenti*. Representing GLAD and one of its deaf clients, Laura Duenas, CLIPI won an appellate decision reversing the Superior Court's grant of summary judgment for the physician. The physician ultimately agreed to a settlement that he will provide and pay for a sign language interpreter for deaf patients in the future, will train his staff, maintain a list of qualified interpreters, and pay Ms. Duenas damages.

Attorneys:

Laura Diamond, Hari Osofsky, Lew Hollman, Chris Knauf, Eve Hill, Carol Codrington

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END OF CLIPI'S 30 MOST IMPORTANT CASES SUMMARY