

**LEGAL SERVICES CORPORATION BOARD OF DIRECTORS
PROVISION FOR THE DELIVERY OF LEGAL SERVICES
COMMITTEE MEETING**

Thursday, January 28, 1993

11:15 p.m.

**The Legal Services Corporation
750 First Street, N.E.
The Board Room, 11th Floor
Washington, D.C. 20002**

**Diversified Reporting Services, Inc.
918 16TH STREET, N.W. SUITE 803
WASHINGTON, D.C. 20006
(202) 296-2929**

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BOARD MEMBERS PRESENT:

J. Blakeley Hall, Chairman
Howard H. Dana, Jr.
William L. Kirk, Jr.
Jo Betts Love
Norman D. Shumway
Basile J. Uddo
Jeanine E. Wolbeck
George W. Wittgraf

STAFF MEMBERS PRESENT:

John P. O'Hara, President
Emilia DiSanto, Acting Vice President
Patricia Batie, Corporate Secretary
David Richardson, Treasurer and Comptroller
Suszanne Glasow
Leslie Russell
Ellen Smead
Christopher Sundseth

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P R O C E E D I N G S

(12:15 p.m.)

CHAIRMAN HALL: Good afternoon, everyone.

We're going to begin the Provision for the Delivery of Legal Services Committee Meeting today. It's January the 28, 1993. We're at our headquarters in Washington, D.C.

Seated at the table are committee members Jo Betts Love and Jeanine Wolbeck and myself, and other Board members. George Wittgraf is with us, Norm Shumway, Bud Kirk. And I know that Howard Dana and Basile Uddo are in the room and within hearing distance. Our president is beside me and other members of the staff are present in the room.

We have what appears to be a short agenda today, and I'll begin it by asking for a motion that we approve the agenda as it's printed in the Board book.

M O T I O N

MS. WOLBECK: So moved.

MS. LOVE: Second.

CHAIRMAN HALL: I have a motion made of Jeanine and seconded by Jo Betts.

Is there discussion?

(No response.)

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1 CHAIRMAN HALL: Hearing none, all in favor of
2 approval, say aye.

3 (Chorus of ayes.)

4 CHAIRMAN HALL: Opposed?

5 (No response.)

6 CHAIRMAN HALL: It's approved as printed in the
7 Board book.

8 The second item on the agenda is the approval of
9 the December 6, 1992, meeting minutes of this committee.

10 Do I hear a motion to approve those as they're
11 printed in the Board book?

12 M O T I O N

13 MS. LOVE: So moved.

14 MS. WOLBECK: Second.

15 CHAIRMAN HALL: It's been moved and seconded.

16 Do I hear any discussion?

17 (No response.)

18 CHAIRMAN HALL: Hearing none, all in favor of
19 approving those minutes as printed, signify by saying aye.

20 (Chorus of ayes.)

21 CHAIRMAN HALL: Anybody opposed, by saying no.

22 (No response.)

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1 CHAIRMAN HALL: The ayes have it, and the minutes
2 as printed are approved.

3 The third item on the agenda is the consideration
4 of options related to the grantees' recruitment and retention
5 of staff attorneys.

6 And if the speakers would come forward and identify
7 themselves for the record, please.

8 CONSIDERATION OF OPTIONS RELATED TO THE
9 GRANTEES' RECRUITMENT AND RETENTION OF STAFF ATTORNEYS

10 MS. SMEAD: Good afternoon. I'm Ellen Smead, and
11 I'm Director of the Office of Field Services.

12 MR. RUSSELL: Good afternoon. Leslie Russell,
13 Manager of the Program Support and Technical Assistance
14 Division in the office of Field Services.

15 MS. SMEAD: We're here this afternoon to give you a
16 brief update on what we're doing in the terms of attorney
17 recruitment and retention. Most of that work is being done
18 out of the Office of Field Services and, more specifically,
19 out of Les' division.

20 Next week we plan to send out a survey to all
21 programs, trying to get some input from them on what attorney
22 recruitment and retention efforts they have tried in the

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1 past, which ones have been successful, which ones have not
2 been successful, and where it is that we could help them.

3 There are questions in it about whether they have
4 loan repayment programs, would they like loan repayment
5 programs, what their experience has been with them, and also
6 to try and get a general idea from them of what the
7 outstanding student loans are.

8 The reason we're focusing so much on that is we
9 understand that loan repayments for student loans -- for law
10 school loans is a problem, because they are so high that
11 people are having a hard time paying for them if they're
12 working for legal services programs.

13 Concurrently, Les has also been looking at
14 different L-reps and different options. And we've got a
15 draft report, although it's not complete and has not gone up
16 through the chain yet, but we should have that by the next
17 meeting. Basically, what it does is look at various
18 programs.

19 Les has talked to various organizations; he has
20 talked to several directors of programs that have L-reps to
21 get their experience and what they've seen as the upsides and
22 the downsides.

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1 It also, we anticipate, will discuss the various
2 options that the Board could consider, and these are
3 wide-flung. For example -- and these, I think, we've
4 discussed here before, too -- we could go -- one extreme is
5 to just give the programs all the money and let them with it
6 what they want.

7 The other is that, at the other extreme, we could
8 -- we, the Corporation, could administer a loan-forgiveness
9 program. Other options, of course, include giving money to
10 law schools to operate a loan-forgiveness program.

11 One of the concerns that has come up, while we're
12 looking at this loan-forgiveness program, is the taxability
13 of the benefits. Currently, under the current tax law, if
14 they receive a benefit, this loan-forgiveness benefit, that
15 would be taxable as income to the employee.

16 Mr. O'Hara has had conversations with people on the
17 Hill, and I understand that we expect there will be -- there
18 may be legislation introduced to amend the Code so that that
19 would no longer be taxable. That, of course, would be a
20 great help.

21 We also understand that the new administration will
22 be looking at loan-forgiveness on a global basis, not just

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1 for legal services, but for medical care through education
2 and for other fields. And we intend to find out more about
3 that as soon as the person or group of people is identified
4 that is looking into that.

5 I'll turn to Les to see if he has anything to add.

6 MR. RUSSELL: I don't have anything -- a lot else
7 to add, except that there are several alternatives to any
8 loan repayment assistance program. It could be operated in
9 several different fashions, some requiring more
10 administrative work and support from Corporation staff than
11 others.

12 Or the money can be funneled through other
13 programs. For instance, should the law school program
14 continue -- I don't know what's going to happen with that,
15 but one of the things that we had kicking around in terms of
16 options was requiring the law schools to operate some type of
17 program so that the students that benefit from our money
18 through the clinics have first shot at loan repayment if they
19 go to one of our programs.

20 And it is those different kinds of ideas, just
21 trying to give the Board a full perspective of the options
22 available in an attorney recruitment and retention

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1 perspective. Hopefully, the report, when its completed, will
2 expound upon that enough so that the Board will have a fuller
3 view of the different options and alternatives available to
4 it.

5 MS. SMEAD: Another thing that we've started doing
6 is going to what I call "law day" -- career days at law
7 schools. Last fall, Les went to one that was very
8 successful, and we got about 55 names of people that would be
9 interested in jobs.

10 With those names, we're going to be sending out a
11 listing from Clearinghouse of jobs that are available -- the
12 January listing of jobs that are available, the January
13 listing. And that will be going out shortly.

14 He is also looking -- we're looking at going to
15 other career days at some of the colleges around here. These
16 will be in -- there are a couple in February that we're
17 looking at going to.

18 At those career days, Les and other staff take the
19 annual report, as well as our program directory, and have a
20 booth at which they explain what we do as a corporation and
21 to try and give them an idea of what some of our grantees do.
22 By having the directory there, they can see where the

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1 programs are and what counties they serve.

2 In the future -- by next fall, when there will be
3 more recruitment fairs, we hope to have a brochure together
4 that we could distribute to the law students at those
5 meetings.

6 MR. RUSSELL: If I could just add, from going to
7 the first career fair which was sponsored by the National
8 Association of Public Interest Law, NAPIL, I spoke to quite a
9 few law school placement directors who looked at the program
10 directory and expressed an interest in having one in the
11 placement offices for the students.

12 So I think one of the other things we would like to
13 do anyway is to make sure that law school placement offices
14 are on the mailing list for our program directory. But all
15 in all, the career fairs are very interesting.

16 There are a lot of students out there with an
17 interest in public interest law, and they're enthusiastic and
18 energetic. And hopefully, if some type of recruitment and
19 retention mechanism is ultimately decided on, I think there's
20 a market for a lot of good students that may benefit legal
21 services.

22 CHAIRMAN HALL: Either one of you, when you went to

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1 that law career day, there were some -- you all had maybe 55
2 contacts from people interested in coming to --

3 MR. RUSSELL: We actually spoke to about 70-some-
4 odd students. We received 55 resumes. The career fair, the
5 NAPIL career fair, had over 100 participants, or participant
6 organizations and employers. And so the students were there
7 to test the water, so to speak, and see who was offering what
8 and find out where their interests might lie.

9 So the students I spoke to did express an interest
10 in legal services programs; but in terms of priorities and
11 things of that nature, I wouldn't be able to indicate how
12 many of them would actually, for instance, seek employment at
13 a legal services program.

14 The other thing is that several of the students --
15 it was second- and third-year students, so we spoke to
16 several second-year students, whose interests at that time
17 were in summer internships. And that's one of the things
18 that, in terms of alternatives for attorney recruitment and
19 retention, a summer internship/fellowship program or
20 something like that would cost less money than a full
21 fellowship program. And it may give programs a step up in
22 terms of finding staff attorneys.

1 For instance, if a second-year student works at a
2 local program during the summer, that student may very well
3 like what he or she is doing and decide that they want to
4 pursue a career in legal services or potentially a position
5 at that program. So it has the possibilities to expand the
6 market for legal services into other programs.

7 CHAIRMAN HALL: I understand, from some testimony
8 taken last time or maybe a couple of months before, that
9 there were somewhere around 18, 19, or 20 programs that were
10 at that same career day?

11 MR. RUSSELL: Yes.

12 CHAIRMAN HALL: And they were doing recruiting?

13 MR. RUSSELL: Right.

14 CHAIRMAN HALL: I mean, they must know the same
15 types of things that you're talking about here. Are we
16 telling them anything they don't know?

17 MR. RUSSELL: I'm not -- when the survey goes out,
18 I guess we'll -- and we get the responses back, we'll have a
19 better feel for how wide the knowledge is with respect to the
20 various career days and particularly the NAPIL career day,
21 which is probably one of the largest in the nation, I would
22 guess.

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1 But there were -- my count, from the participants'
2 lists, was 14 legal services programs, including a couple of
3 support centers, national support centers, and that the
4 programs themselves were from all across the country. I
5 believe that a couple of the programs in some states actually
6 joined forces and sent maybe one representative to represent
7 more -- to provide information on more than one program.

8 CHAIRMAN HALL: Did you all talk with them and make
9 them aware that you were there, and did they ask you all for
10 any help or ideas?

11 MR. RUSSELL: I spoke to several of the program
12 directors that were there to let them know, of course, that
13 we were there. They didn't particularly ask me for any help
14 or assistance, but most of them had been coming to the NAPIL
15 career day for several years.

16 They were surprised to see me there, of course.
17 The Corporation hasn't been involved in those activities for
18 several years, so they were somewhat surprised to see me
19 there.

20 CHAIRMAN HALL: Is it a fair statement that most of
21 the programs would probably have been there but for money,
22 that the smaller programs that really have very little just

1 simply don't have the money to come, or they would come and
2 do that same type of recruitment?

3 MR. RUSSELL: I would hope the answer to that is
4 yes. It would be hard to say.

5 CHAIRMAN HALL: Is that part of the survey?

6 MR. RUSSELL: Yes. Several -- I have spoken to
7 other program directors who have indicated that their feeling
8 that the likelihood of attracting law students other than
9 locally, for instance, or from law schools within the state,
10 might be limited.

11 And I don't know if that's a prevalent feeling or
12 not. I've heard it. So it's hard to say whether or not
13 everyone would agree that coming to the national career day
14 is beneficial or not.

15 I will indicate that most of the students -- the
16 majority of the students that we spoke to attended law
17 schools on the East Coast. There were students, of course,
18 from across the nation, but most of the ones we spoke to were
19 from up and down the East Coast.

20 CHAIRMAN HALL: Ellen, can copies of that survey
21 that you are going to send out be made available to us just
22 for review?

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1 MS. SMEAD: Yes, they can be made available.

2 CHAIRMAN WITTGRAF: When do you expect to get
3 answers to that?

4 MS. SMEAD: I've been tentatively looking at having
5 to come back March 15th. And part of the reason we've been
6 giving them so much time is that we are also, at this time,
7 sending out requests for comments on the competition on
8 comparative demonstration project criteria.

9 And those comments are due back on the 5th of
10 March, and we want input on both items. So we don't want to
11 overburden the programs.

12 CHAIRMAN HALL: Do other committee members have any
13 questions?

14 (No response.)

15 CHAIRMAN HALL: Do other Board members have any
16 questions?

17 Mr. Kirk.

18 MR. KIRK: Mine is more a comment than a question.

19 CHAIRMAN HALL: Oh, sure, as long as it's not that
20 you think the money should be given directly to the field and
21 let them decide on their own what to do. And if that's your
22 comment, I don't want to hear it.

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1 (Laughter)

2 CHAIRMAN HALL: No, I think that's Bud's position
3 on it. I mean, that's a very good position. On recruitment.
4 that might not apply. But on the loan stuff, I agree with
5 him.

6 Is that what you were going to say, Bud?

7 (Laughter)

8 MR. KIRK: I think that -- if it's all right, I'll
9 go ahead and just say it.

10 CHAIRMAN HALL: Sure.

11 (Laughter)

12 MR. KIRK: I mean, if you want me to pacify you
13 first, I'll do that. But --

14 CHAIRMAN HALL: No, sir.

15 MR. KIRK: No, and I do appreciate your comments.
16 And it's kind of nice to be able to joke around like this. I
17 hope that the clients can appreciate it.

18 I just really think it's hitting the consortiums,
19 like you're doing, the career consortiums or whatever you
20 call them -- career days -- really is -- seems, to me, to be
21 the best way to make the efforts to meet the people and get
22 the information out.

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1 I have -- I mean it seems like there are so many
2 lawyers being put out in the work place now without jobs
3 that, you know, communication is -- it ought to be our first
4 effort. And to the extent that we can solve the needs that
5 exist through communication, I think that's the best way to
6 do it.

7 You know, I am not denying that there's difficulty
8 with recruitment and retention, but in my visits to the large
9 programs that I've done, that has not been a high priority,
10 but it may be for the smaller, more rural programs. Or maybe
11 I'm not hearing it.

12 I do have the anecdotal information about
13 difficulties in recruiting, but I just strongly commend your
14 efforts for doing this.

15 Thank you, sir.

16 CHAIRMAN HALL: Thank you, Bud.

17 Ellen, I was going to ask, do we have a copy -- I
18 understand that there's been a report of some sorts done on
19 loan-repayment programs that a few of the programs have, like
20 maybe 8 or 9 programs.

21 MS. SMEAD: We have summaries of the conversations
22 that Les has had with the 8 or 9 program directors. I can

1 make that available. We can have a full report for you by
2 your next meeting, if that's good.

3 CHAIRMAN HALL: It's my sense that until we know
4 what the programs need and want -- I mean, we've talked to
5 several of them. We've heard from, I think, Rick Culbertson
6 down in Orlando about what they do, when we were in Florida.
7 But as a whole, we haven't heard from all of them, with all
8 their ideas.

9 And it's my sense that you're telling me that until
10 we have that survey back, we really don't have the input that
11 we need to make an intelligent decision to go forward with
12 some type of program. Is that your sense?

13 MS. SMEAD: That's my sense. And I think that once
14 those surveys come back, we could then contact more programs
15 that do have L-reps that we haven't already contacted, to get
16 more information from them and other options, because we do
17 -- one of the questions in the survey is, What have you used
18 that's been successful? And we can follow up with the
19 programs and talk to them about where they're successes have
20 been.

21 CHAIRMAN HALL: Is there any effort to see how much
22 IOLTA money is put into loan-repayment programs from other

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1 states?

2 MR. RUSSELL: We haven't looked into that
3 specifically. I do know that we have spoken to people with
4 the state bar foundations in a couple of states, and --

5 CHAIRMAN HALL: Do you think the survey will tell
6 us that, the programs will say, "Well, we use -- we have this
7 much money available through this or that program"?

8 MR. RUSSELL: I'm not sure. I don't think the
9 survey really requests where the funds come from for their
10 recruitment and retention efforts. It may or may not. As I
11 recall, it doesn't. That's something that can be added.

12 I don't know whether or not the programs -- how
13 their accounting system is set up and whether or not it's
14 going to be discrete enough for them to say, "Well, this is
15 all I owe to money, or this is all Corporation money, or all
16 some other money."

17 But I do know that some bar foundations across the
18 country sponsor loan-repayment assistance programs, and the
19 monies for those programs I believe to be from their IOLTA
20 funds.

21 CHAIRMAN HALL: Does anyone have any other
22 questions, Board members or committee members? Either one?

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1 Mr. Wittgraf.

2 MR. WITTGRAF: Thank you, Mr. Chairman.

3 Specifically, for Mr. Russell, your memorandum of
4 January 14th to President O'Hara and to the Board refers to
5 the 1982 -- or 1992 Higher Education Act or the amendments of
6 '92 to that Act and particularly the parts F and G of
7 Title IX. This is the authorizing legislation.

8 Am I correct in my understanding that nothing was
9 appropriated for those efforts?

10 MR. RUSSELL: I believe that approximately
11 \$9 million was appropriated for that.

12 MR. WITTGRAF: For one or both parts?

13 MR. RUSSELL: It was all consumed in the -- oh, I
14 don't know how much was appropriated for each individual
15 effort. I don't have that information.

16 But the -- for instance, the DOE program -- it's
17 the same one we've been speaking of previously, and I believe
18 that \$9 or \$10 million was appropriated for that purpose.

19 The Council on Legal Education Opportunity -- I'm
20 not sure how much was appropriated for that. That program
21 has been ongoing for quite some time, and it is a program
22 that was targeted I guess -- at least in the early years --

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1 for minority and disadvantaged students.

2 And as it operated, minority and disadvantaged
3 students with, for instance, low LSAT scores but that had
4 other substantial characteristics from an educational
5 standpoint and extracurricular activity standpoint, would be
6 accepted at a law school contingent upon the completion of
7 the CLEA program, as it's known.

8 And that program, from my personal knowledge, has
9 been fairly successful in terms of assisting minority and
10 disadvantaged students actually attend and complete law
11 school.

12 MR. WITTGRAF: And that's a grant program, so there
13 is some subsidy or, in effect, a waiver of some tuition
14 costs, so that a student who completes that would have lesser
15 debt to worry about in the future?

16 MR. RUSSELL: I believe that to be true. I do also
17 know that there is a specific training period. I believe
18 it's a two-week, three-week, or six-week training period,
19 where the students are actually -- they go to certain cities,
20 and they actually study and take exams, and they are
21 familiarized with the law school process.

22 So there are funds that are made available for that

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1 purpose, but I also believe that they are eligible to receive
2 grants through the program.

3 MR. WITTGRAF: So even with this legislation in
4 1992, that's essentially an extension of an existing effort?

5 MR. RUSSELL: An existing, yes.

6 MR. WITTGRAF: And then the \$9 million, more or
7 less, for the clinical programs was appropriated, so far as
8 you recall?

9 MR. RUSSELL: As I understand, it was.

10 MR. WITTGRAF: And that is new money or increased
11 money?

12 MR. RUSSELL: It is increased, I believe, over last
13 -- the last appropriation, I believe, was -- yes, around
14 \$8 million, \$8.3 million.

15 MR. WITTGRAF: So did the '92 Act do anything new
16 or simply extend or continue existing efforts?

17 MR. RUSSELL: It extended the effort and increased
18 the funding essentially.

19 MR. WITTGRAF: Thank you, Mr. Chairman.

20 CHAIRMAN HALL: Ellen, one last question on your
21 survey, once it's completed.

22 MS. SMEAD: Yes.

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1 CHAIRMAN HALL: Who will review it and make
2 recommendations on it? Will the field be included in that?
3 They were included in making the survey, I understand.

4 MS. SMEAD: They were included in drafting it.
5 Yes, they were included in drafting it. We received valuable
6 input from them.

7 At this point, the people in Les' office will be
8 compiling that data, and we can consult with the field on the
9 results that we get.

10 CHAIRMAN HALL: Okay. Are there any other
11 questions? Any further discussion?

12 (No response.)

13 CHAIRMAN HALL: If not, thank you all.

14 MS. SMEAD: Thank you.

15 MR. RUSSELL: Thank you.

16 CHAIRMAN HALL: We'll move on to our last item,
17 which is consideration of draft request for proposals for
18 migrant ombudsmen's demonstration projects.

19 And I think we'll have a report on the Proteus
20 project in Iowa.

21 If the speakers will identify themselves.

22

1 CONSIDERATION OF DRAFT REQUEST FOR PROPOSALS FOR
2 MIGRANT OMBUDSMEN'S DEMONSTRATION PROJECTS:

3 THE PROTEUS PROJECT, IOWA

4 MS. SMEAD: I'm Ellen Smead, Director of the Office
5 of Field Services.

6 MR. SUNDSETH: I'm Christopher Sundseth, Office of
7 Field Services.

8 MS. SMEAD: Back in December, we were fortunate
9 enough, through the efforts of our chairman, George Wittgraf,
10 to hold a meeting in Iowa with an organization called
11 Proteus. This is a very commendable ombudsman program that
12 has been started in Iowa with the seed companies there.

13 The people that came to do this presentation were
14 from both the seed company and from Proteus itself, and the
15 attendees were some of our staff here and representatives
16 from 20 LSC programs. And it was a very informative day and
17 exchange.

18 The Proteus people explained what they did -- why
19 this came about and what they did. And our programs asked
20 some very interesting and probing questions, trying to
21 understand how this could fit into what they do and in their
22 states.

1 To give you sort of a highlight on what happens,
2 Pioneer has set up -- Pioneer, being the seed company, has
3 organized a separate -- there's a separate corporation called
4 Proteus which actually does the ombudsman work.

5 The ombudsman is, I guess for lack of a better
6 word, could be similar to a mediator and goes out and helps
7 the farm workers with some of their problems, both with the
8 seed company and other problems that they may have just being
9 a migrant farm worker or just surviving.

10 These problems could be legal, contractual
11 problems. They could also be housing problems or access to
12 food stamps, access to health care. One of the people
13 there -- one of the ombudsmen came and gave a very moving
14 explanation of some of the work she did.

15 Some of the work she has done has included driving
16 people across the state to try and get them some medical
17 attention or trying to set up appointments with doctors,
18 making sure that they get the medical attention they need, or
19 getting children to school and finding educational
20 opportunities for the children.

21 The ombudsman could also help if there have been
22 some problems with the crew leaders and trying to mediate

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1 those problems.

2 There also might be problems with the community.
3 Sometimes, it was explained to us in Iowa, to have the
4 migrants coming was something new in some communities, and
5 some communities were rather distressed at it. And these
6 ombudsmen tried to bridge the gap between the migrant farm
7 workers and the community.

8 CHAIRMAN HALL: Ellen, were there ever lawyers
9 involved in any of these disputes where the ombudsman was
10 mediating between the migrant worker and his attorney
11 perhaps, the program attorney, and the grower?

12 MS. SMEAD: My understanding is that the
13 involvement -- if there is a particular problem, where the
14 attorney comes in, the ombudsman calls the seed company's
15 attorney for input and for guidance.

16 But in meeting with them, there is a meeting that
17 the ombudsmen have with the migrant farm workers at the
18 beginning of the growing season. And my understanding is
19 that both the attorneys from the seed company as well as
20 from Legal Services of Iowa were present at that meeting.

21 And also, the materials that were distributed to
22 the ombudsman were reviewed by both the seed company

1 attorneys and the Legal Services of Iowa's attorneys. So
2 that is done that way. The people -- the actual ombudmen
3 themselves are not attorneys.

4 MR. RUSSELL: I wonder if they ever made any
5 recommendations to any of the migrant workers that they
6 needed lawyers, or would that being going past their role as
7 a troubleshooter?

8 MS. SMEAD: I know that they made sure that -- my
9 understanding is that they made sure that the migrants knew
10 where the Legal Services of Iowa was and that they -- that
11 these people had the opportunity to contact the Legal
12 Services of Iowa and gave them the phone number and the name
13 of the person to contact there.

14 CHAIRMAN HALL: Was there any evidence or
15 indication that these migrant workers had their legal rights
16 or remedies shortchanged by going through this process?

17 MS. SMEAD: I know there were a lot of probing
18 questions to that effect during the discussion.

19 CHAIRMAN HALL: Any resolution to the issue or the
20 question? Was that a concern?

21 MS. SMEAD: I felt -- for the questions that some
22 of the people from the programs were asking, I thought they

1 saw that as a concern. And that came up, for example, in
2 wages and housing, and they were --

3 CHAIRMAN HALL: I mean, did they look at any of --
4 the way some of the disputes were resolved and say, "Well, we
5 can see clearly that it was resolved not in favor necessarily
6 of the migrant worker.

7 "And if he had an attorney, that's a pretty
8 clear-cut question, and he should have received this larger
9 sum. But going through this process, he settled for a lesser
10 sum, and we think that perhaps had he had an attorney he
11 could have come out better."

12 MS. SMEAD: That was some of the concerns that the
13 programs raised at the meeting.

14 CHAIRMAN HALL: Did they think --

15 MS. SMEAD: They said that they felt that was the
16 problem with it, in that, for example, if the person was
17 promised \$5 an hour and they only got \$4 an hour --

18 CHAIRMAN HALL: They settled for \$4.50 when they
19 could have --

20 MS. SMEAD: Or they actually got their \$5 an hour,
21 so the programs felt that there was other damages they could
22 have gotten, too, and more monies that they could have

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1 gotten, other -- over and above just the hourly rate that
2 they had been promised.

3 CHAIRMAN HALL: Did the program feel like -- did
4 the programs, our LSC programs, feel like there were benefits
5 to the Proteus project?

6 MS. SMEAD: Yes, they felt that there were benefits
7 to it, and they were very commendable of the project itself.
8 And the people at Proteus and at Pioneer, too, volunteered to
9 be available to help the programs, contact seed companies, or
10 other companies in their areas to set up similar programs. I
11 think there was a lot of interest in it, and there was --

12 CHAIRMAN HALL: And who paid the ombudsmen?

13 MS. SMEAD: The ombudsmen are paid by Proteus -- I
14 mean, by Pioneer? I mean Pioneer gives the money to Proteus,
15 who, in turn, pays the ombudsmen.

16 CHAIRMAN HALL: And Pioneer is a grower or a
17 seed --

18 MS. SMEAD: Yes, it's a seed company.

19 CHAIRMAN HALL: I'm sorry, I cut into the middle of
20 your --

21 MS. SMEAD: No, that's -- that does summarize a lot
22 of the concerns though that were raised by some of our

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1 programs, but they also did see a lot of benefits to it.

2 When we came back here, we sat down and talked
3 about trying to pull together a draft solicitation to try and
4 get our -- maybe a pilot project off the ground this summer
5 on the ombudsman program.

6 In drafting it, we came up with some concerns about
7 whether or not this was legal assistance which we could
8 handle under our Act, not whether it was a good program or
9 not, but whether we could do this under our Act.

10 CHAIRMAN HALL: Should Suzanne --

11 MS. SMEAD: I think Suzanne plays a --

12 CHAIRMAN HALL: -- address that?

13 MS. GLASOW: Good morning. My name is Suzanne
14 Glasow, from the Office of General Counsel. And I was
15 requested by the Office of Field Services to look into the
16 issue of whether the Corporation is authorized to fund
17 basically a Proteus-type project.

18 And based on past opinions and a review of those
19 opinions, the conclusion is basically that under the present
20 law governing the Corporation, we are only authorized to fund
21 services that are legal services done by attorneys acting as
22 attorneys for ineligible clients.

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1 So you've got three important issues there: Number
2 one, the services have to be legal services. The provision
3 of legal services must be done by attorneys or attorney-
4 supervised personnel, such as paralegals. And there should
5 be some kind of an eligible client in the picture so that you
6 need basically an attorney-client relationship at some point.

7 After reviewing the description of the Proteus
8 project given to me, I concluded that that type project, as
9 described, with ombudsmen who are not attorneys, who are not,
10 in essence, in most cases, providing legal assistance --
11 they're acting more like troubleshooters or social service
12 workers in a lot of instances, and there doesn't seem to be
13 any real identifiable client, attorney-client relationship,
14 or an eligible client -- that presently, under present law,
15 we don't have the authority to fund a project such as this.

16 And therefore, I suggested that maybe a resolution
17 or something be drawn up that would ask Congress to extend
18 our authority.

19 At the time Congress enacted the the Legal Services
20 Corporation Act, ADR was not a popular thing. It was just
21 beginning; it was in its infancy, and so they didn't
22 contemplate that. But now it's very popular, and, you know,

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1 maybe Congress should rethink the issue.

2 The other issue is even when we do an ADR for legal
3 services done by attorneys, every state's law is different
4 right now. And I think that was pointed out in the article
5 done by Houseman and Singer and Mr. Lewis that we talked
6 about in an earlier committee meeting.

7 We would have to look in -- if we want to do a
8 project in a specific state, it would be necessary to look at
9 that state's law dealing with professional responsibility
10 issues and whatever law is being passed on how ADR can be
11 done in specific states. It's important, because some states
12 are mandating -- or court systems are mandating certain ADR
13 efforts be done before going to litigation.

14 So, you know, basically that's the bottom line and
15 where we're starting from right now.

16 CHAIRMAN HALL: Could you tell me what the
17 definition of "legal services" -- is there a definition of
18 that in the Act?

19 MS. GLASOW: It's a pretty circular definition, and
20 I go into length on that definition in a memo. You have been
21 provided a packet -- our definition in the Act is -- I want
22 to make sure I get this right.

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1 Okay. The LC Act defines "legal assistance" as the
2 provision of any legal services consistent with the purposes
3 and provisions of its title. That's a pretty circular
4 definition basically.

5 But the legislative history explains that, and that
6 states that "legal assistance" is specifically defined as
7 legal advise and representation and other appropriate legal
8 services, which include the full range and kind of
9 professional services provided by attorneys, as attorneys, in
10 non-criminal proceedings or matters to and on behalf of their
11 clients, as well as the kind of assistance in education
12 relating to legal rights and responsibilities, which lawyers
13 are ordinarily called upon to provide.

14 These services have traditionally been provided to
15 eligible clients by legal services programs.

16 I really looked the entire LSC Act, every provision
17 I could find, and I couldn't find anything that went against
18 the idea that its consistent use of the word "legal," for ont
19 thing, so really, Congress contemplated that "legal services"
20 would be legal services would be legal services done by
21 attorneys acting as attorneys for clients so that there is an
22 attorney-client relationship.

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1 MR. KIRK: I'm sorry, go ahead. The committee just
2 -- at some point I'll make a --

3 CHAIRMAN HALL: Mr. Kirk.

4 MR. KIRK: I think that the -- what you described
5 that the ombudsman does is something that I would like to see
6 more of. But my own feeling is that instead of creating
7 another layer of providers that may dilute our already short
8 sum of money going to the field programs, we would be better
9 to ask the field programs to probably use paralegals, perhaps
10 in a similar way, to help with the resolution of disputes;
11 not get mixed up with driving people across the state for
12 medical problems or arranging child care, but truly limit it
13 to those disputes that seem to be within our own mandate and
14 which we're underfunded in delivering now.

15 And I truly believe that these are things that
16 paralegals can do and can be trained to do effectively within
17 our own field programs.

18 And then one kind of collateral comment on
19 alternate dispute resolution. I am one of the strongest
20 believers in ADR. Mediation was mandated in my state a few
21 years ago, and honestly, it has put a lot of lawyers out of
22 business; and it has affected a lot of law firms because it

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1 is so effective. It just works.

2 And early mediation generally leads to settlements;
3 the success rate is phenomenal. And I think that we need to
4 encourage a lot more of that and perhaps some pilot programs
5 on ways that are field programs might initiate in ADR instead
6 of litigation.

7 Our ADR program in Florida is, once a lawsuit gets
8 filed, there's mandatory mediation, and they settle. Maybe
9 we could come up with a way to do it ahead of time. Those
10 are two disjointed comments, but I wanted to make them both.

11 And thank you, sir.

12 CHAIRMAN HALL: Thank you, Bud.

13 Ellen, I had a question. The ADR type of program
14 that Linda Barnard has in, I think, Indiana, is that --

15 MR. WITTGRAF: Detroit.

16 CHAIRMAN HALL: Michigan, okay.

17 MR. WITTGRAF: Detroit -- Wayne County.

18 CHAIRMAN HALL: Wayne County. Is that the same
19 type of thing that we would be trying to form out of a
20 Proteus type of --

21 MS. SMEAD: I think Linda Bernard's is a little bit
22 more structured. And hers is also more geared to just --

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1 hers is housing problems, and it's much more related to legal
2 problems related to housing.

3 CHAIRMAN HALL: Hers is not LSC money.

4 MS. SMEAD: But it's not LSC funded.

5 CHAIRMAN HALL: So she can do some things that we
6 might not could do.

7 MS. SMEAD: Right.

8 CHAIRMAN HALL: I just saw the definition of what's
9 a "legal service" as being kind of broad. I guess getting
10 medicine for folks is not really -- but I know there's an
11 example that Proteus -- the troubleshooter went out and
12 marked off the land and the acreage to settle the dispute on
13 how big. That seems like a legal service to me in a way.

14 MR. KIRK: Well, I can see that. Oh, I'm sorry.

15 CHAIRMAN HALL: Well, fine. But just, again -- but
16 it seems like you would get a surveyor to do it anyway if
17 that was the dispute. So what's the difference, you know?
18 You're saving your gas and money.

19 Howard, sure.

20 MR. DANA: Were you concerned that in some states a
21 Proteus-type organization might be regarded as the
22 unauthorized practice of law?

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1 MS. GLASOW: That's an issue that has to be
2 considered in any ADR project, especially if it's being done
3 by a non-attorney. A non-attorney immediately has to look at
4 the state law as to what is considered to be the unauthorized
5 practice of law.

6 Some of the new law coming out in states for these
7 ADR projects has started to clarify that issue. And that's
8 where in each state we would have to really look at what's
9 happening there to see what's considered unauthorized
10 practice of law, what attorneys are allowed to do.

11 For instance, attorneys are supposed to represent
12 their own clients' concerns zealously. When you're in a
13 mediation situation, you're representing two different
14 people.

15 Some states have said, therefore, attorneys can't
16 do mediation. Or the states have said that as long as they
17 fully disclose to both parties what's going on, then they're
18 okay; but then they can't take one of the parties on later if
19 mediation fails.

20 So again, it's looking at each state to see what's
21 happening.

22 CHAIRMAN HALL: I guess the solution might be, like

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1 Bud says, just encourage ADR so that the field program, who
2 represents a migrant, if they would go to mediation, you
3 might -- you would have the lawyer representing the client in
4 some type of legal service and mediating the problem. So is
5 that kind of what you had in mind?

6 MR. KIRK: Yes.

7 CHAIRMAN HALL: That's a good idea.

8 Mr. Wittgraf.

9 MR. WITTGRAF: Thank you, Mr. Chairman.

10 Ms. Smead was in Des Moines at the meeting in
11 December, as she indicated. Mr. Sundseth was there and
12 President O'Hara was. And in addition to the Proteus
13 representatives and some representatives of Pioneer, there
14 were 20 migrant grant recipients represented.

15 20 out of how many is that, Ms. Smead; do you
16 recall?

17 MS. SMEAD: That would be about 42, I believe.

18 MR. WITTGRAF: Okay.

19 MS. SMEAD: About half.

20 MR. WITTGRAF: It's approximately half.

21 The people who came from the program certainly came
22 with a great deal of skepticism, as Ms. Smead indicated --

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1 two kinds of skepticism, I think.

2 First of all, that this was an effort that simply
3 wouldn't work or perhaps even ethically shouldn't be
4 undertaken for the reasons Ms. Smead indicated and wouldn't
5 work for the reason that the antipathy between growers and
6 migrants in some parts of the country is so great that it's
7 viewed as a gap that almost can't be overcome.

8 Additionally, I think some of the programs who were
9 present were fearful that any time the Corporation associates
10 itself with ADR or mediation or an ombudsman effort, that's a
11 way to undercut or undermine the migrant programs or legal
12 assistance generally.

13 I'd like to think that before the day was over,
14 thanks to Mr. O'Hara and Ms. Smead and Mr. Sundseth, that
15 some of both of those areas of skepticism were reduced at
16 least. And that's why I had asked Ms. Smead and her staff to
17 see if there was something more we could do to promote this
18 example or this model.

19 My understanding of Proteus is that it's a private,
20 nonprofit corporation that receives principally Department of
21 Labor funds, funds that are available in all 50 states,
22 sometimes received by state agencies, sometimes received by

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1 private, nonprofit corporations, and that generally training
2 and employment-related activities are undertaken with those
3 DOL funds.

4 Specifically, Proteus, Inc., based in Des Moines,
5 Iowa, had gotten funds from Pioneer and several other seed
6 corn producers to undertake the ombudsman project, and I
7 think it's three years' duration if I recall correctly, 1990,
8 1991, and 1992.

9 I was hoping that we could stimulate more
10 experimentation with the effort, but as I turn respectfully
11 to Ms. Glasow and Mr. Fortuno, it seems that that's not to
12 be, at least as it would LSC funds. And I accept their
13 opinions. I'm not going to argue with them.

14 The question I have with that preamble from
15 Ms. Smead is: With any feedback over the last five weeks
16 since the meeting or with any other discussions or thought
17 that you had given, what, if anything else, might there be,
18 short of changes in legislation -- which I don't view as that
19 imminent -- appropriate perhaps and to be promoted by the
20 Corporation or the Board perhaps, but not imminent I don't
21 believe.

22 What is there in the near term, particularly with

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1 some of the monies that are still available from prior fiscal
2 years, to encourage the utilization of a migrant ombudsman or
3 migrant ombudsmen in other states besides Iowa and in other
4 agricultural production areas other than seed corn?

5 MS. SMEAD: We looked at that, and our concern was
6 that we couldn't -- when we looked at it, we didn't see a way
7 to fund an ombudsman program at this point in time. I guess
8 that's a short answer to the question.

9 But I talked with Roger Rosenthal yesterday, who is
10 the director of the Migrant Legal Action Program, the
11 National Support Center for Migrant Programs. And I
12 understand from him that Karen Dettamore, who is with Friends
13 of Farm Workers in Pennsylvania, is getting together a group
14 of people who will be meeting with the Corporation staff,
15 with Jack O'Hara -- and this was done at Mr. O'Hara's
16 invitation -- to discuss some of the concerns that they have,
17 and not just on this, but on migrant issues in general and
18 where some of their needs are, and also about reporting
19 requirements, which is something similar to what we've done
20 with state support and national support.

21 So while I don't have a lot of input for you at
22 this point, I do expect that we will have it soon.

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1 MR. WITTGRAF: I guess I, for one, Mr. Chairman,
2 would hope that particularly if there are some monies that
3 are still available from prior fiscal years, that the
4 Corporation would attempt to promote the use of mediation,
5 the use of ombudsmen as ways to resolve agricultural
6 producer, migrant labor disputes and problems, short of
7 litigation, both, I'd like to think, in the best interests of
8 the migrants and the best interests of the producers, and
9 also in the overall interest of the Corporation and its
10 funding, by trying to take some of the heat out and put some
11 light into what I think has been the toughest political area
12 over the last several years and the toughest one remaining.

13 The get-together in Des Moines cost approximately
14 how much?

15 MS. SMEAD: Approximately -- we set aside
16 approximately \$25,000 for that.

17 MR. WITTGRAF: If Mr. Dana would yield, am I
18 correct in my understanding that there still are some monies
19 from prior fiscal years from monies set aside by the Congress
20 for migrant programs that might be utilized in this area?

21 MR. DANA: There is -- Mr. Chairman, there is some.
22 I don't know precisely how much, and I think there are some

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1 hooks on some of that money, even of a moral nature. But I
2 believe that -- is David here?

3 Do you have that -- the current list of funds,
4 allocated funds from those various categories?

5 MR. RICHARDSON: I don't think so, yet.

6 MR. DANA: There is, as of yesterday -- I think it
7 is -- \$159,066 from Fiscal Year 1992 and then '93, which has
8 not been designated, less the 25,000 that has been set aside
9 to pay the costs of this preceding conference. So
10 approximately \$143,000 remains.

11 MR. KIRK: Mr. Chairman, if it wouldn't be too
12 burdensome, I wonder if President O'Hara and Ms. Smead and
13 their staff might be able to find out from the Department of
14 Labor who receives these training monies similar to those
15 received by Proteus in the 50 states, or the other 49 states,
16 and whether or not -- or what kinds of recipients they are,
17 whether or not anybody is doing anything like this?

18 And I suggest that as a possibility, that if more
19 seminars or training or discussions are held, that perhaps
20 the people from those DOL recipients in other states who
21 would be comparable to Proteus might be brought together with
22 the migrant fund grantees in an effort to take the

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1 stimulation or the encouragement of this one example one step
2 farther.

3 Thank you, Mr. Chairman.

4 CHAIRMAN HALL: Thank you.

5 MR. KIRK: Mr. Chairman.

6 CHAIRMAN HALL: Sure.

7 MR. KIRK: You know, we discussed that, and I
8 withdrew it, you know, hoping that some other solution could
9 be arrived at, and I'm still hopeful of that. But I would be
10 really reluctant to go committing funds for seminars while
11 we're furloughing people here.

12 MR. DANA: I heard that.

13 MR. KIRK: Mr. Chairman.

14 CHAIRMAN HALL: Mr. Wittgraf.

15 MR. KIRK: At the last meeting, I had talked about
16 the possibility of transferring some funds from other
17 accounts to alleviate some of the shortfall in the MN&A. Is
18 this -- are these some of the same funds I talked about at
19 the last meeting?

20 MR. WITTGRAF: They sound very similar.

21 MR. KIRK: So then this would be -- well, I guess
22 that I would propose continuing to furlough people and

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1 putting up with the problems that we have in the operation of
2 the Corporation and instead having seminars would be my
3 feeling.

4 CHAIRMAN HALL: Howard.

5 MR. DANA: Mr. Chairman, we've - in struggling with
6 these budget questions, we have resisting today taking money
7 directly from the field and the basically direct delivery
8 months to solve the MN&A problem. I think we've taken from
9 most everywhere else, but we have not as yet taken money from
10 the field. That is -- but I understand your point.

11 MR. KIRK: Mr. Chairman.

12 CHAIRMAN HALL: Sure.

13 MR. KIRK: You know, we discussed that, and I
14 withdrew it, you know, hoping that some other solution could
15 be arrived at, and I'm still hopeful of that. But I would be
16 really reluctant to go committing funds for seminars while
17 we're furloughing people here.

18 MR. DANA: I heard that.

19 MR. KIRK: Mr. Chairman.

20 CHAIRMAN HALL: Mr. Wittgraf.

21 MR. KIRK: Mr. Wittgraf, apparently they're having
22 difficulty hearing in the back, and they want us to hold it

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1 real close so that everybody can hear.

2 MR. WITTGRAF: Thank you.

3 MR. KIRK: I wanted to make sure you were heard.

4 MR. WITTGRAF: My comments about the use of the
5 money were in the form of, I guess, an admonition to the
6 Chairman of his particular committee and to the president of
7 the Corporation. I don't think that I or the Board wants to
8 get into the specifics of the furloughing versus the
9 utilization of certain thousands of dollars that are there
10 that fall within the line items that exist in the budget
11 already.

12 I've got faith in the president to be able to sort
13 that out in the best interests of the staff and the purpose
14 of the Corporation. My concern is simply that, as I have
15 listened to testimony during the last three years about
16 controversy that remains in the whole area of civil legal
17 services for the poor being funded by the federal government.

18 The only significant area of controversy that I've
19 heard about, be it from the State of Florida, the State of
20 Texas, the State of California, Pennsylvania, Michigan, or
21 others, is the relationship between migrant workers and
22 agricultural producers.

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1 And it just seems to me that anything that we can
2 do, as I said a few moments ago, to reduce the heat and to
3 bring in a little more light is going to benefit the mission
4 of the whole Corporation, the mission of the whole effort of
5 civil legal services for the poor being funded by the federal
6 government, and I would like to think would come back
7 many-fold in the form of both reauthorization and increased
8 appropriations for the Corporation.

9 So I leave the dollars and cents to the president,
10 but I do think this is an area that deserves our attention.
11 And to the extent we can have any impact on it, I think that
12 we need to encourage the staff to continue in that vein.

13 And that's why I, for the last year or so, have
14 been carrying the torch for Proteus because of the great
15 success they've had, a success that probably can't be
16 duplicated in all 49 states, and I recognize that. But any
17 success in any other parts of the country is going to help
18 the program overall, and that's my concern.

19 Thank you, Mr. Chairman.

20 CHAIRMAN HALL: Okay. Any other questions or
21 comments by Board members or committee members, or any
22 further discussion on it?

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(202) 296-2929

1 (No response.)

2 CHAIRMAN HALL: I know there's a resolution that's
3 been drafted, which I would prefer not to address today. But
4 I take it the other committee members are aware of that?

5 No? Okay.

6 If there's nothing further, I'm going to ask for a
7 motion to adjourn.

8 M O T I O N

9 MS. WOLBECK: So moved.

10 CHAIRMAN HALL: So moved by Jeanine Wolbeck.

11 MS. LOVE: Second.

12 CHAIRMAN HALL: Seconded by Jo Betts Love.

13 No discussion. All in favor, say aye.

14 (Chorus of ayes.)

15 CHAIRMAN HALL: Opposed, no.

16 (No response.)

17 CHAIRMAN HALL: We're adjourned.

18 (Whereupon, at 1:12 p.m., the meeting of the Board
19 of Directors' Provision for the Delivery of Legal Service
20 Committee was adjourned at 1:12 p.m.)

21 * * * * *

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