

ALRP KEYNOTE REMARKS
NOVEMBER 13, 2008
PALACE HOTEL
SAN FRANCISCO

Ladies and gentlemen,

Thank you, Bill, for that wonderful introduction. I am very glad to be part of tonight's celebration of ALRP's twenty-fifth anniversary. For a quarter-century, this public interest law office has ably represented people living with AIDS and HIV infection. As you know, the face of the epidemic and the needs of ALRP's clients have changed dramatically since 1983, when ALRP began its work. Today, new and effective drug regimens mean that people with AIDS and HIV infection are living longer and their legal needs are more complex than the simple estate planning, which was the reason ALRP was originally formed. Back then, HIV infection was widely viewed as a death sentence and those who were infected were all too often viewed as modern-day lepers. It is worth revisiting those dark ages to underscore the courage of ALRP's staff and volunteer lawyers in taking on these clients.

In 1983, the causes and course of AIDS were still largely unknown, but what was known was that HIV infection had struck hardest among gay men. Despite the political strides that the gay and lesbian community had made in the preceding 10 years, the emergence of AIDS among gay men would demonstrate that prejudice toward them was alive and well. As I wrote in my 2006 dissent in *John B. v. Superior Court* [(2006) 38 Cal.4th 1177, 1215]: "AIDS is unique in the opprobrium with which those infected with HIV are viewed, in part because one of the populations most at risk has been traditionally stigmatized on the basis of sexual orientation."

It is true that some measures taken in those early days — like equipping San Francisco police officers with special masks and gloves when they were dealing with "a suspected AIDS patient" — reflected the uncertainty about how the virus was transmitted. But there were other actions that were clearly motivated as much by animus against the victims of AIDS as by any health concern.

Some of the events of 1983 illustrate my point. For example, in 1983 the New York Health Commissioner reported that landlords were evicting people with AIDS, and funeral directors were refusing to embalm the bodies of those who had died from the disease. 1983 was also the year that Jerry Falwell called AIDS "the judgment of God," and the media routinely characterized the disease as the "gay plague." It was the year when the first case of AIDS dumping was reported, after Florida officials gave an indigent man with AIDS a one-way ticket to San Francisco, where he died. In short, 1983 was a year of panic and hysteria that threatened to leave many AIDS victims homeless, jobless and without medical care. 1983 was also the year when nearly half of those diagnosed with AIDS died.

It was against this backdrop of ignorance and fear that ALRP came into being. As I mentioned, ALRP was originally formed as a resource for those dying of AIDS to receive emergency wills and powers of attorney. Behind that simple fact lies a tragic reality. Many of the first victims of AIDS were young men in their 20s and 30s, decades away from giving any thought to estate planning, who were suddenly faced with their mortality, and all the issues associated with death. But it was not the dying alone who needed ALRP's help. Because no state in the United States, including California, gave any legal recognition to same-sex unions, there was no provision for the victims' life partners to make decisions about medical care or to protect the surviving partner's interest in his partner's estate. It was in response to these urgent needs that ALRP came into being and its first volunteer lawyers went to the hospitals and sickrooms of the city to help their clients.

It is a testament to the changing face of HIV that estate planning, which once made up almost all of ALRP's work, now makes up only 10 percent. Today, 25 years after ALRP was formed, the focus of its staff and volunteer attorneys is helping people who are living with AIDS, not dying of it. One of the bright spots in the epidemic has been the passage of legislation that protects people with HIV/AIDS against discrimination, but what this means, or course, is that someone has to help enforce these legal rights. As a result, ALRP's lawyers are increasingly involved in complex issues that range from employment discrimination and immigration to housing-related matters.

ALRP has changed in other ways, too. ALRP's first lawyers were members of the BALiF, the gay and lesbian bar association. They were part of the grass roots activism in the gay and lesbian community that stepped in to address the many faces of the epidemic at the time when government at every level was largely missing in action. Now, however, ALRP's lawyers come from a broad cross-section of the Bay area's legal community. The board of directors is made up of representatives from some of San Francisco's largest and best-known firms. This demonstrates that ALRP has been able to reach out beyond its original base of gay and lesbian lawyers to persuade the wider legal community of the importance of this work, and, to its credit, the San Francisco legal community has been generous in its response.

The demographics of ALRP's client base have also changed. Today, 45 percent of its clients are people of color. The statistic is evidence of how AIDS has seeped into communities of color, where, unfortunately, lack of knowledge about the HIV virus and stigmatization of its victims still prevails. ALRP's outreach into these communities, and particularly to the immigrant community, is not only helping individual clients but also helping to change attitudes about HIV/AIDS.

One thing that has not changed about ALRP's client base is economic disadvantage. 80 percent of ALRP's clients make less than \$20,000 a year and, as

a result, are less likely to be able to navigate the complexities of the legal system on their own.

This is where ALRP's work intersects with another tremendous need in our society — access to justice. The lack of access by the poor to the legal system is a pressing, but largely unacknowledged, social issue. As former state bar president, Jeff Bleich, wrote just last June: “As a nation, we would consider it intolerable if a large number of Americans had to choose an unqualified doctor, forego needed treatment, or perform surgery on themselves because they could not get proper medical care. But every day, Californians who are at risk of losing things just as precious — their homes, their livelihoods or their families — arrive at our courthouses having no idea what they need to do to protect themselves, and unable to hire someone else who can help them out.”

More than the rest of us, the lives of the poor are held hostage to government regulation. Whether it's eligibility for food stamps, public housing or other forms of public assistance or just getting their teeth fixed or a new pair of glasses, the poor find themselves entangled in regulatory and bureaucratic snares. More than almost anyone else in our society, the poor are the most often in need of legal counsel and assistance. But that assistance is hard to come by. The state bar estimates that “[t]he legal needs of approximately three-quarters of all poor people are not being met at all. The legal needs of the other one-quarter are sometimes being met only partially and the number of poor people in California continues to increase at a pace faster than that of the state's overall population.”

Against this background of increasing need for access to justice and insufficient resources, ALRP is an inspiration, a beacon, and a model. Over the past 25 years, ALRP has handled over 50,000 legal matters for its clients. Last year alone, ALRP helped more than 1500 clients with 2300 legal matters, providing to those clients more than \$1.5 million in donated legal services and training over 100 volunteer attorneys. Of course, the most direct beneficiaries of ALRP's services are its clients, but our society as a whole also benefits from ALRP's existence and its work.

As former President Jimmy Carter reminds us, “The law is not the private property of lawyers.” The courts constitute the third branch of government and the central tenets of American law — notions like equal protection and due process — were advanced to protect Americans against the tyranny of the state, and not simply as rules within which private disputes were to be resolved. The rule of law has both a public and a private function, and of the two, it is the public function that is the more important, because the legitimacy of the legal system depends as much on the public perception that it works fairly as on fair outcomes.

As one commentator has observed, if people believe that the system is fair — that the rules apply to everyone equally, that adjudicators are neutral and individuals are treated with respect by the system — they will accept judicial decisions “even when the decision conflicts with their personal beliefs and values.” [Tyler, *Multiculturalism and Citizen Deference to Law*, 25 *Law & Soc. I.*

(2000) 983, 992.] Our entire system of law depends upon this voluntary compliance with judicial decisions. When people see that legal system can work for the most vulnerable members of our society, this may strengthen their support for the system and the rule of law that it embodies.

Of course, the system cannot work if people do not have access to it and that underscores why an organization like ALRP is truly, and in the broadest sense of the phrase, a public interest law office. ALRP's volunteer lawyers provide access to the court for ordinary people and demonstrate that equal protection of the law is not just a slogan but a reality. ALRP also provides members of the bar with an opportunity to provide public service and this, in turn, contributes to a more positive view of the legal profession by the general public. Of course, for those volunteer lawyers there are the tremendous personal rewards of making a positive difference in the lives of their clients.

Let me close by talking about the importance of ALRP's moral mission.

We all know the story of the Good Samaritan, whether or not we have any religious affiliation. A man traveling on the road was attacked by robbers, stripped of all his possessions, and left for dead. Two members of his community traveling on the same road, saw him, averted their eyes, and passed him by. But a third man, a Samaritan, who was not a member of the fallen man's community, saw him, stopped and helped him. That, in brief, is the familiar story that Jesus told, but what we may not remember is why he told it. Jesus had just enjoined his listeners to love their neighbor as they loved themselves. One his listeners — a lawyer, by the way — asked him, "Who is my neighbor?" It was in response to this question that Jesus told the story of the Good Samaritan. When he finished he story, he turned to the lawyer who had questioned him and asked a question of his own:

"Which of these three do you think was a neighbor to the man who fell into the hands of robbers?"

The lawyer replied, "The one who had mercy on him."

Over the past 25 years, so many people afflicted with HIV and AIDS have fallen beside the road, abandoned by their friends, family and society. The sometimes shameful treatment of people with HIV infection is one of the darker episodes of recent American history. But this darkness has also been illuminated by the shining acts of compassion of those who have looked upon the sufferings of people with AIDS and HIV and have seen, not strangers, but neighbors in need of help. Since 1983, rendering that help has been the work of ALRP's staff, volunteers and donors and I am proud to be here and to share in this celebration of that work.

Thank you.