

# Tribute to John W. Cummiskey— Access to Justice Champion

*The Publications and Website Advisory Committee is proud to present a new department entitled "Citizen Lawyer," which will profile a member of the profession who has provided significant service to his or her community. This month's column features a tribute to John W. Cummiskey, a champion of Access to Justice, who passed away on November 11, 2002. Cummiskey leaves behind a legacy as a pioneer of the country's legal aid movement.*

I worked closely with John Cummiskey through all my 15 plus years as Executive Director of the Michigan State Bar Foundation. That is not just because John was a Foundation Trustee but because the main business of the Foundation is supporting civil legal aid for the poor—John's great passion that no citizen should be denied access to justice because of economic status. Of several quotations each year in the Foundation's annual report, one is always repeated: John's statement "Access to justice is a dream. We must make it a reality."

I heard John make that statement in 1997 on his 80th birthday which he spent in Lansing at a State Bar Access to Justice Task Force meeting. Then State Bar President Ed Brady stood up to acknowledge John's birthday and asked all of us in the room if we would still be attending meetings and working for access to justice on our 80th birthdays. John found that question absolutely unremarkable as if he were not unusual and we would surely plan on doing just that, so he answered for us, saying "Access to justice is a dream. We must make it a reality."

John is a big reason that the State Bar Task Force exists. That is only one of many efforts that perhaps few know came much from John's leadership. But, then, John often said, "You can get a lot done if you don't care who gets the credit." Others worked hard, too, of course, but we knew he was the one who could move mountains. I remember being with John in 1995 at a meeting with top State Bar leaders while he explained why



*John W. Cummiskey: 1917–2002 with Linda Rexer*

the new State Bar Access to Justice Task Force must be formed and why top bar leaders must be a large share of its members. He said it was the profession's obligation to be out in front leading access to justice with the highest bar leaders visible so everyone knows it is a priority of the profession to work to make sure no citizen who needs legal help falls through the cracks. He often spoke about the Task Force as an "umbrella" because he wanted it to bring together bar entities and others related to access in one place to coordinate efforts and to spark creativity about how to work together. It worked so well that the ABA presented the State Bar with its Harrison Tweed award.

John never failed to be there if his large voice and formidable reputation would keep folks committed to turning the dream into reality. Just last year, as the State Bar struggled with budget difficulties, it was John (a past president of the State Bar), then 85, whom State Bar leaders faced across the table in discussions about keeping State Bar resources directed toward access to justice projects and raising funds to support civil legal aid. With no reflection on the Bar, which reaffirmed its commitment to these efforts, John was clearly there to see that they did just that.

John continued to serve on various committees guiding the Access to Justice Development Campaign. His Grand Rapids law firm (Miller, Johnson, Snell and Cummiskey)

became an example to others in making significant donations to the ATJ Fund. Even before the ATJ Fund existed, the firm contributed money and pro bono services for every lawyer each year. John's commitment to pro bono is well known; the State Bar's annual award to an outstanding pro bono lawyer is named the "Cummiskey Award." John liked to present that award personally. The last time he did so in 2001 he told the audience of lawyers that "(Pro bono) is not only charity, but it is the best cure for what ails us as a profession and the finest rebuttal to the current criticism (about lawyers)..."

I have heard folks wonder out loud why this Republican, "establishment" lawyer would be so committed to pro bono and supporting legal aid. John answered that some years ago in an article published in the Grand Rapids Press, saying "I've never understood that. In the first place, the practice of law is a privilege. If the concept of the rule of law is to exist, it has to be available to everybody who needs it. It has to have the respect of everybody, whether they need it or not. Unless you have that respect for the rule of law and access to it when you need it, the whole system will collapse. As a lawyer, I am a gatekeeper. I guard the door to justice. That's a tremendous responsibility." More than once, I heard John convey to those in Congress who implied that legal aid was political that they were wrong and needed to vote for funding because "Access to justice is not a Republican ideal or a Democrat ideal. It is an American ideal."

I have seen John in countless settings where his presence and his smooth negotiation skills moved people to action that advanced access to justice. As a result, Michigan has benefited from innovative projects that increase the number of indigent persons served or help enhance that service.

John's hands on involvement and depth of understanding about what it really takes to deliver legal aid helped him to convince the State Bar Foundation Board, for example, to

award funding to pilot projects that resulted in new hotlines to help clients over the phone, linking technology among all legal aid programs and creating a new partnership between the University of Michigan Law School and legal aid programs to provide training and support to legal aid programs. It also drew respect whether John was testifying at the state legislature, calling a federal legislator, or visiting Congressional representatives in Washington to urge continued funding for legal aid. Or whether he was demanding to learn enough computer skills to see for himself what web resources existed for legal aid advocates. Or whether he was speaking to local bar groups about how much they would truly love doing more pro bono.

One could write a book about John's past achievements, but John himself was much more interested in the future. That was never more true than with Grand Rapids' new Legal Assistance Center. Though many besides John worked to build it, they dedicated the Center to John's example. He was pleased to see LAC get off the ground and reflect the vision of a "seamless web" he thought was so important. Nothing made him happier than the thought of clients not having one door closed in their face when they need help through another. The LAC partnership between courts, lawyers, legal aid, lawyer referral, and community agencies links clients smoothly and quickly with the help they need even if they start at the wrong door.

I consider it my great good fortune to have had John as my mentor. We formed a Legal Services Grants Committee of the Foundation Board in 1990 and John has since been its Chair. The Foundation administers IOLTA (Interest on Lawyers Trust Accounts), filing fees funds and private donations to support legal aid at a level now exceeding \$7 million in annual grants. Building that program so that the Foundation provided leadership as well as funding is truly John's legacy. He had the wisdom to help us understand the benefits of using a carrot more often than a stick. He believed there was always more than one solution and that results are better and last longer if people are motivated to want to work together rather than trying to make them do so. But, he also took the Foundation's fiduciary duty seriously to assure that duplication and gaps in

service were avoided, and he was not afraid to insist on improvements in client service.

The Foundation is now deep in the 2003 grant review process. We have not had John's help this year unless you count the times when someone has said "What would John do?" or "What would John think?" I like to think we will continue to ask this in years ahead and that we are handling difficult issues as he would expect us to, with what's best for clients foremost in mind.

Of course, many others also learned from John's leadership and encouragement over his more than 50 years of promoting access to justice for all. Maybe lots of folks already know the story of John's efforts in the mid 1960's when he was Chair of the American Bar Association's Legal Aid Committee and working with then ABA President Lewis Powell (later a Justice of the United States Supreme Court) to get funding for legal aid. John was already well known as a champion of legal aid. Together, they and others lined up support to get a unanimous resolution from the ABA House of Delegates urging federal funding. John flew to Washington DC at Powell's request the day after Christmas in 1964 to meet with Sargeant Shriver's representatives from the Office of Economic Opportunity. The ultimate result was the first federal funding for civil legal aid; that funding continues to this day.

John's leadership is chronicled in various books about the birth of legal services, including *Justice and Reform*, *The Formative Years of the American Legal Services Program* by Earl Johnson, Jr., who worked as one of the early staff administering the new federal funding and who is now an Associate Justice of the California Court of Appeals. John maintained his friendship with the other pioneers of the country's legal aid movement over the years. I wrote to Justice Powell some years ago asking him to sign his biography for John and received a personal note saying how pleased Justice Powell was to share a signed book with John whose "leadership made such a difference for so many in need."

John almost always shared the following quote of Justice Powell's in the speeches he gave to bar groups in his effort to inspire other lawyers to have the same commitment he had: "Equal justice under law is not merely a caption on the façade of the Supreme Court Building. It is perhaps the most

inspiring ideal of our society. It is one of the ends for which our entire legal system exists... it is fundamental that justice should be the same, in substance and availability, without regard to economic status."

I sometimes rode to those speeches with John. To spell him from driving, I would get behind the wheel of his Lincoln. I was careful in his car to observe the speed limit and other traffic laws, but I chuckle in remembering the day that John turned to me with some frustration and barked "Oh, just get in the left lane and drive like hell!" We would all do well to heed those words in life and work, to go full speed ahead and follow John's example of never slowing down our efforts to turn dreams, like access to justice for all, into reality. He would like that. ◆

*Since 1987, Linda K. Rexer has been executive director of the Michigan State Bar Foundation, which provides grants for civil legal aid for the poor and other law-related charitable projects. Ms. Rexer, a graduate of Notre Dame Law School, was previously a legal aid managing attorney, past president of the National Association of IOLTA Programs and trustee of the National Conference of Bar Foundations.*