ON THE FRONT COVER

JIM POZER, Q.C.

By Lisa C. Fong

In the fall of 2007, after 23 years with the Community Legal Assistance Society ("CLAS"), Jim Pozer, the society's executive director, retired for health reasons. Few people have done as much as Jim to advance the rights of the underprivileged in British Columbia. Throughout his career, with trademark humour and grace, he worked tirelessly to advance the law relating to poverty, mental health, the physically and mentally disadvantaged and human rights. Under Jim's visionary leadership, CLAS grew from an organization with nine staff and an operating budget of under $400,000 to become one of the most significant non-profit legal organizations in British Columbia providing legal services to the disadvantaged in our society. By the time Jim left, CLAS had 35 staff operating five programs with a budget of just over $3 million.

Jim was destined for greatness. Born in San Francisco in 1952, although it will likely come as a surprise to many, he won the annual contest for the most beautiful baby in the city. The honour not only bestowed an apartment full of food and baby supplies on his student parents, it also made him the star of the annual newsreel "Babes on Parade", which aired in Bay area cinemas before the latest Clark Gable feature film. We'll have to take his word on this, as Googling "San Francisco" and "Babes on Parade" provides a wealth of information, none of it pertaining to Jim.

His good fortune took a left turn when he was struck with polio at the age of two, after his family moved to Kamloops. In typical Jim fashion, as he grew up, he viewed his polio as a blessing because it helped him gain a tremendous understanding, respect and compassion for people facing adversity.

His glory days in the cinema long past, Jim's family moved to Vancouver in 1958. His first job, at the age of 12, was as the batboy for the Van-

couver Mounties baseball team. He put himself through university working as, among other things, a truck driver and construction worker in the Northwest Territories, room service waiter for the Sahara Tahoe in Lake Tahoe, auto parts deliverer, Carling Brewery conveyor belt worker and a printer in the drafting department of the Canadian Pacific Railway. A four-year full-time stint as a waiter for The Keg ended after he got his mark in his first-year torts Christmas exam. Waiting tables succumbed to the need to read case law.

The practice of law was not Jim's first career choice. With a major in political science, he was more interested in journalism or writing—law was a fall-back. However, after taking a year off from law school to work for the CBC in Edmonton, his boss at the time convinced him he ought to make the news, not report it. Broadcasting's loss was the legal profession's gain.

Jim graduated from law school at UBC in 1979 and, after articling at Rankin and Company, opened the firm of Higgins and Pozer with his good friend, Brian Higgins. For four successful years, Jim worked in private practice honing his skills in court while conducting a general practice. It was while on vacation in southern California, floating in his sister's pool, beverage in hand, that he had an epiphany and realized that his path lay elsewhere. So Jim left private practice with no plan. On a whim, he responded to a newspaper ad and joined CLAS in 1984 as the supervising lawyer of the Law Students' Legal Advice Program ("LSLAP").

Over the course of four years, Jim restructured LSLAP to become a major organization for the delivery of legal aid services to low-income people in the Lower Mainland. He trained hundreds of law students in legal procedure, legal ethics and substantive poverty law issues. With over 150 law students spread out over 20 legal clinics and assisting thousands of low-income individuals, Jim's skills at managing not only workload and logistics, but also people, flourished. So esteemed was he that LSLAP created the Jim Pozer Award to be given annually to the top first-year law student in the program.

While supervising LSLAP, Jim got to know and deeply respect the work of CLAS and saw the potential to make a significant positive impact through test cases and *Charter* and human rights litigation. He was hooked.

In 1988, Jim began his nearly 20-year tenure as the executive director of CLAS, which included both litigation and management components. As a litigator, he appeared before numerous tribunals and all levels of court to represent litigants who would otherwise be unable to afford legal representation. As a manager, Jim spearheaded many innovative legal programs for the benefit of the less fortunate in our society.

Some of Jim's significant accomplishments related to the work of CLAS's Mental Health Law Program. In 1991, he replaced lawyers with

paralegals for the representation of people involuntarily committed under the *Mental Health Act*. This let the lawyers focus on test cases and increased the representation of patients before the Mental Health Review Panel from under 20 a year to over 300 a year. He also introduced an Independent Rights Advice Program for patients at psychiatric hospitals to allow them to know the reasons for their detention and of their ability to contest their hospitalization. This program replaced printed notices on hospital bulletin boards that were problematic for patients due to the effects of medication or illiteracy. The program also eventually led to the *Mental Health Act* being changed in 1999 to require that patients be advised orally about how to challenge their loss of liberty.

In 1992, following *R. v. Swain*, Jim initiated a B.C. Review Board Clinic for people found unfit to stand trial or found not criminally responsible on account of a mental disorder. This clinic is the only one of its kind in Canada. The clinic has provided counsel to thousands of mentally disabled persons, primarily at the Forensic Psychiatric Hospital, where the majority of hearings are held. One of the cases to come out of the Review Board Clinic was *Winko v. British Columbia (Attorney General)*, [1999] 2 S.C.R. 625, which clarified the law pertaining to mentally ill individuals detained under the *Criminal Code*.

Jim also initiated the Health Care Consent Advocacy Program, which ran from 1999 to 2004, to help vulnerable people deemed incapable yet facing decisions regarding electroconvulsive therapy or abortion. He did this while acting as the vice-chair of the Project to Review Adult Guardianship, an innovative partnership between the provincial government and thousands of interested citizens and community groups which ultimately resulted in four new pieces of legislation in guardianship law. During this period, he also somehow found time to teach criminology and human rights law courses at Simon Fraser University and to be a member of the Vancouver Police Board for five years.

Jim was interested in the impact that the practice of law could have, not the trappings. Under Jim's leadership, CLAS entered into an unprecedented period of appellate work. Since 1988, CLAS has represented parties or intervenors at the Supreme Court of Canada 12 times. The community and disability law programs at CLAS each undertook important test-case litigation in the areas of human rights, *Charter* rights, disability law, poverty law and the law of charities. Such cases include *Rodriguez v. British Columbia (Attorney General)*, [1993] 3 S.C.R. 51, in which CLAS represented a coalition of disability groups supporting Sue Rodriguez's position regarding assisted suicide; *Berg v. UBC School of Family and Nutritional Sciences*, [1993] 2 S.C.R. 353, which extended the *Human Rights Code* into universities and became the leading case

on determining what are "public" services; *British Columbia (Superintendent of Motor Vehicles) v. British Columbia (Council of Human Rights)*, [1999] 3 S.C.R. 868 (*"Grismer"*), which determined that people with disabilities must be judged individually and established the legal test on accommodation in public services; and *Law v. Canada (Minister of Employment and Immigration)*, [1999] 1 S.C.R. 497, which became the starting point for the court's analysis of discrimination in subsequent constitutional equality cases.

In addition to undertaking these high-profile cases, Jim and his staff took on cases that attracted less attention, such as those that ensured people who use scooters instead of wheelchairs had full access to Handidart and B.C. Transit, that prevented an eviction for a disabled woman who needed an assistance dog, and that stopped the stratification of rental apartments that threatened a senior citizen.

Even as he rose to the highest level of administration at CLAS, Jim's hippie roots were still evident. In one of his cases, he represented a large group of squatters challenging an eviction notice. He arrived at the steps of the B.C. Supreme Court, courtesy of his clients, in a reconverted school bus to the raucous tones of "Public Enemy Number One" playing in the background. There being no defence to trespass to land, he cited an 18th-century English case and persuaded the court to agree to a delay in enforcing the order due to inclement weather. A tense situation and potential trouble was averted with this face-saving decision.

After serving as executive director for so many years, it was natural that Jim would develop his juggling skills. Normally it was staff, board members, clientele and funders that required managing, but occasionally Jim turned his talents to the apples or oranges he found in the lunchroom. As head of a non-profit organization, dependent on the largess of others, it was fortunate that his skill at juggling competing interests trumped his ability at juggling fruit.

Jim enjoyed a close working relationship with CLAS's major funders: the Law Foundation of B.C., the Ministry of Attorney General of B.C. and the Legal Services Society of B.C. He had great respect for these funders who provided the opportunity for CLAS to pursue its mission and take on what some people perceived as controversial litigation. The funding proved justified, as the litigation was more often than not successful at court. Even when unsuccessful, on many occasions it resulted in changes to government policy to benefit the group of people that CLAS was representing.

Perhaps Jim's greatest legacy at CLAS was the manner in which he guided the organization through a funding crisis in 2002 and how the staff responded. As many of us recall, Legal Aid funding was drastically cut by the provincial government in 2002. Given the size of the cuts that CLAS had

to deal with, a lesser person than Jim would have simply thrown his arms up in despair. But Jim never wavered. He was determined that CLAS would not only survive the cuts but remain a strong and vibrant organization, and he fought doggedly on a number of fronts to make sure that it did. The final outcome not only left CLAS as one of the few organizations funded by Legal Aid to survive the cuts, but through Jim's great foresight, imagination and determination, it emerged from the experience even stronger.

When this crisis arose, Jim worked with the Law Foundation to reallocate its funding to the different CLAS programs. He worked with the City of Vancouver to secure 10,000 square feet of free office space in downtown Vancouver. He started the B.C. Human Rights Clinic in partnership with the B.C. Human Rights Coalition. The clinic operates under the new direct access model of human rights in B.C. and has produced many significant substantive and procedural precedents for litigation before the B.C. Human Rights Tribunal.

Jim always had an unshakeable trust and faith in the staff of CLAS. He believed that you hire the best people you can for the job and then support them to the best of your abilities. In a service area notorious for its high turnover rate, CLAS is an anomaly. It is not unusual to see CLAS employees who have been with the organization for 15 or 20 years or more. Jim set the tone for the entire organization. The relaxed atmosphere, sense of community, mutual respect and team atmosphere flowed from the corner office down. During those devastating funding cuts in 2002, all CLAS employees were given termination notices due to the uncertainty of future funding. As Robert South once said, "If there be any truer measure of a man than by what he does, it must be by what he gives." Jim gave his respect, trust and friendship to the staff at CLAS daily. In 2002, that faith was returned to him many times over when not one of the CLAS employees left after receiving notice of the pending staff layoffs.

Of course, the staff knew something the funders may not have, as many had personal experience with Jim's unique powers of persuasion. To those who worked with him, Jim was equal parts salesman, cheerleader, therapist and cat herder. More than one person has walked into Jim's office, notes in hand, with the clear intent of convincing him that the demands of the job were overwhelming. Half an hour later that person would walk out of his office marvelling at Jim's generosity in letting them use his parking space on the weekends when they needed to come in to the office to finish up the additional work he had convinced them they wanted to take on.

In 2000, Jim was diagnosed with post polio syndrome and had to reduce his workload in steps, starting in 2004 and continuing until his forced retirement in 2007.

In 2005, Jim's efforts were acknowledged by his appointment as Queen's Counsel for his role in the development of CLAS as a nationally recognized non-profit law firm specializing in test case and *Charter* litigation and the development of law benefiting the underprivileged.

A further testament to Jim's work at CLAS came in the three years before his retirement, when CLAS underwent four rigorous evaluations as part of the due diligence by its major funders, the Ministry of Finance/Attorney General of B.C., the Department of Justice Canada, the Legal Services Society of B.C. and the Law Foundation of B.C. All evaluations reported very positively on both the management and the provision of services by CLAS. The management review funded by the Law Foundation of B.C. stated: "The CLAS Board has done a remarkable job of pursuing the mission and goals of the Society. Its success has come from the quality and strength of its Directors, an exceptional Executive Director and a strong, skilled and passionate staff."

Jim always said that he was blessed with a cohesive and supportive board and a talented and capable group of lawyers, paralegals and support staff, and he humbly attributed any accomplishments that he may have had to them. But at its root, the legacy Jim has left at CLAS may be attributed to his leadership, integrity, courage and vision. He dedicated his professional life to addressing the legal issues of persons who live in poverty, persons with disabilities or mental illness and persons who have been the victims of discrimination. His name is, and always will be, synonymous with CLAS. As a final tribute, the board of directors now convene their meetings in the Jim Pozer Q.C. Board Room.

Retirement will now allow Jim to spend more time with his wife, Suzanne, and his three daughters, Jamie, Danielle and Nicole. He now gets to drive a minivan full of teenage girls to Kitsilano High School basketball, volleyball, soccer and field hockey games.

When not operating in his new role as a not-for-profit taxi driver, he will continue to volunteer in the Downtown Eastside, where he and his family serve dinners at First United Church. He will also be spending as much time as possible living off-grid at the family retreat on Savary Island. Nestled in Douglas firs and overlooking the Georgia Strait, he will be practising meditation and mindful living, writing, reading and playing guitar with friends. We wish him well.