

**THE STATE BAR OF CALIFORNIA
CALIFORNIA YOUNG LAWYERS ASSOCIATION**



2009
Jack Berman
Award of Achievement



Heather McGunigle, ESQ.

Heather McGunigle is a tireless worker providing legal services to people with disabilities, and has developed into a dedicated public interest lawyer representing the underserved and underrepresented people with disabilities in Riverside and San Bernardino Counties, since becoming a member of the Bar less than five years ago.

Ms. McGunigle is the Director of the Disability Rights Legal Center's (DRLC) Inland Empire (IE) Program. She is the first ever DRLC lawyer in the IE Program, opening

the office in 2005. The purpose, focus and goals for Ms. McGunigle are to "protect the possibilities" of people with disabilities in the Inland Empire through advocacy and education. Through the legal clinical program that she directs, Ms. McGunigle also serves as a role model to students she mentors at the University of La Verne College of Law, demonstrating that a career in public interest law by providing legal services to underrepresented groups in rural areas is possible.

She has combined advocacy through direct representation and education, as well as working with the next generation of advocates through the legal clinical program with distinction since she opened DRLC's office. Her results and the impact she has had in the Inland Empire community and the bar have been exceptional in 2008.

In January 2008, law students under Ms. McGunigle's supervision attended eleven Individualized Education Program meetings to advocate on parents' behalf of their children with special needs. She also mentored four law student externs and one volunteer.

In February 2008, Ms. McGunigle prevailed in a due process case for a deaf client who required a very specialized placement utilizing American Sign Language and mental health services. As a result of this case, the hearing officer ordered the District to place this student in the only residential treatment program in the country able to meet both his mental health and communication needs. The County Mental Health Department and the School District both appealed this decision. However, the U.S. District Court for the Central District of California affirmed the hearing officer's decision.

In March 2008, Ms. McGunigle organized a meeting with most of the public interest legal services providers and court based programs in the Inland Empire to develop effective referral processes, minimize the duplication of efforts, and develop collaborative relationships among these service providers.

In April 2008, Ms. McGunigle filed a motion for Summary Judgment and for Reasonable Attorneys' Fees and Costs in *Gregoria Pulido v. Rialto Unified School District, et al* (EDCV 07-506-VAP (JCRx), District Court for the Central District of California. Ms. McGunigle had filed the action seeking attorneys' fees in April 2007 following the conclusion of a due process hearing that had been initiated by the Rialto Unified School District to show that its educational evaluation was appropriate and that an independent educational evaluation at public expense should not be permitted. Ms. McGunigle successfully showed that plaintiff was entitled to an independent educational evaluation at public expense as is required by the Individuals with Disabilities Education Act (IDEA).

In May 2008, Ms. McGunigle received an Order in *Gregoria Pulido* granting reasonable attorneys' fees. The Order supports DRLC's right to co-counsel with law firms without fear of being denied fees for all of the work performed.



More importantly, the impact of Ms. McGunigle's work is that the Order provides precedent with respect to attorneys' fees to other public interest entities that use DRLC's model of partnering with law firms on a pro bono basis in key litigation. As stated by the Judge:

*Finally, Defendants' contention that the hourly rates here cannot be determined by reference to rates charged in complex civil rights litigation diminishes the importance of the right vindicated by Plaintiff's counsel's work. Here, Plaintiff disagreed with the District's determination that her son was not eligible to receive special education services and requested an independent assessment at public expense, as was her right under the IDEA. The District then affirmatively sought a due process hearing to enforce its finding. In doing so, the District presumably weighed the cost of the independent assessment requested by Plaintiff against the risk of its finding being overturned by the administrative law judge. **To the extent that Defendants downplayed the risk of an adverse decision in the due process hearing, because they did not expect that Plaintiff would be represented by leading practitioners in the field of disability rights law, this case may serve to alter the cost-benefit analysis undertaken by Defendants in the future.** (Emphasis added) Although the due process hearing did involve only "one child and one, discreet [sic] issue" as Defendants state, (Opp'n at 5:23), it thus had the potential for affecting the manner in which Defendants approach the evaluation of students other than Plaintiff's son. In addition, it is apparent from the written decision issued by the administrative law judge that the nature of the case was indeed complex.*

In June and July 2008, Ms. McGunigle taught a course on Special Education Law at the University of La Verne College of Law. She also began investigating a county program and its failure to deliver special education services to children in juvenile hall.

In September 2008, Ms. McGunigle conducted a training with the Riverside County Public

Defender's Office on Special Education rights and responsibilities for volunteer surrogate parents in Riverside County.

In the last quarter of 2008, under Ms. McGunigle's supervision, University of La Verne, College of Law students negotiated with the Districts at several IEP team meetings. One high-desert client, in particular, had been receiving virtually no services. He was intelligent, but had severe autism and was unable to communicate verbally. DRLC's Inland Empire Program obtained a full time aide fluent in ASL so that he could continue to build these communication skills, while also utilizing alternative communication devices. Another client with autism is now receiving intensive ABA (applied behavior analysis) services for the first time.

Additionally, throughout the year, Ms. McGunigle worked with a group monitoring San Bernardino's Superintendent of Schools, County's Probation Department and Department of Behavioral Health's compliance with a class action settlement agreement from a case litigated in 2007 to improve its mental health, counseling services and special education services to children in custody.

Ms. McGunigle graduated from Loyola Law School in December 2004 and received a Loyola Law School Post-Graduate Fellowship in Public Interest Law. Ms. McGunigle graduated from Mount Saint Mary's College with a B.A. in Liberal Arts.

Heather McGunigle's substantial achievements serving the public sector and her dedication to issues of concern involving choices young lawyers can make to give back to their community are deserving of recognition.

In 1992 California Young Lawyers Association established the Award of Achievement for Distinguished Service to the Profession and the Public to recognize the public service of a new or young lawyer. In 1994, CYLA Board of Directors renamed the award in memory of Jack Berman, who demonstrated outstanding service to the profession and the public by providing substantial pro bono legal assistance. Mr. Berman died tragically in the 101 California Street shooting in San Francisco on July 1, 1993.



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