

SUMMARY OF ORAL TESTIMONY

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**SUMMARY OF PROCEEDINGS, TASK FORCE MEETING 11/28/89**

MR. COLEMAN: Mr Coleman convened the meeting and Los City Attorney Mr. James K. Hahn welcomed those in attendance and described the history and goals of the task force. This task force grew out of a report on family diversity initiated by councilman Mike Woo and endorsed by the city council to examine consumer discrimination based upon marital status. Arbitrary discrimination is particularly targeted. Mr. Arlo Smith, City Attorney for the City of San Francisco was in attendance. Mr. Coleman chaired the hearings. The benefits of society according to Mr. Hahn should be available to everyone, whether they be single, old, young or married. The City Attorney is there to protect everyone's rights. Mr. Coleman continued with welcome and introductory remarks.

The primary question is not whether or not there is discrimination, since this has been discovered by previous investigations, but rather why do business and government agencies discriminate and can they prosper by not discriminating. The legality of this discrimination will be determined by examining whether the practices are arbitrary, discriminatory, or unfair. Then recommendations will be made to the Los Angeles City Attorney regarding those cases which warrant legal actions.

While marital status discrimination exists, a majority, fifty five percent, of the adults in Los Angeles are unmarried. This alone should cause some businesses to reconsider their business decisions. Fifty five percent of Los Angeles households are also unmarried. This is true in the work place as well.

The task force members introduced themselves.

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**MR. ARLO SMITH, WITNESS**

Please see text of testimony on page 196 of the Supplement.

Questions and responses:

MR. COLEMAN: Noted that the Los Angeles office of the California Attorney General was invited to participate in the task force and the office declined.

MR. AFRIAT: Could Mr. Smith advise the task force how to implement most effectively its recommendations in light of the recent defeat of the domestic partners ordinance in San Francisco?

WITNESS RESPONSE: 1- Proposition S's failure was due to timing, off year election, low voter turnout and a more conservative turnout. Therefore not really a reflection of San Francisco but rather those who went to the polls.

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**BILL PRESS--WITNESS**

Please see text of testimony on page 201 of the Supplement.

Questions and Responses:

MR. NANCE: I am going to play devil's advocate here for a moment. I understand your recommendation to ban rating based on marital status and sex, yet if I were a single or married woman I would probably pay less than a man and might resent the increase I would suffer in order for unisex rating to work. The same idea applies to life insurance. Many companies issue policies to women at a premium rate six years less than men. Are we in essence also discriminating against women by forcing them into an artificial category?

WITNESS RESPONSE: I don't see how you can defend any continuing difference in ratings based on a person's sex, sexual preference or marital status. I think it is a far less inequality that some people may end up paying more. As a society we have more important goals. There certainly will be some people who benefit from the current discrimination.

MR. NANCE: Many life insurance companies require HIV tests for males but not for females.

WITNESS RESPONSE: My policy is and always has been is to oppose the testing for either sex.

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CONWAY COLLIS, WITNESS

Please see text of testimony on page 284 of the Supplement.

Questions and responses:

MR. AFRIAT: What about the problem of keeping insurance companies in California if rules are enacted which offend them?

WITNESS RESPONSE: The real long term importance of Proposition 103 is that it creates a totally regulated industry, much as public utilities are regulated presently. When companies attempt to put pressure on group health plans in order to force people out of the plans once they have vested, I see this as an unfair business practice. This unfair practice then should be dealt with as previously mentioned, up to the point of revoking the carrier's business license. Once this starts happening, companies may claim

that they are going to leave, but not very many companies will voluntarily leave the most lucrative auto insurance market in the world. Nor will they want to lose the ability to issue health insurance policies in California. They will cry wolf and then back down. I think if we prosecute a few companies, the others will fall into line.

MR. NANCE: It has frustrated me that we cannot enforce state laws against an out of state trust. Was there anything in Proposition 103 which addressed this?

WITNESS RESPONSE: No there was not but the solution is to require the company and its directors and officers to agree to answer California subpoenas and agree to operate subject to California administrative agencies. If the company refuses, then they should not be granted a license to operate in California.

MR. Mc CAULEY: Historically have such conditions ever been applied to insurers?

WITNESS RESPONSE: No, but in other businesses this has been done. The problem is that the insurance industry has had a virtually free rein. Health facilities are also feeling a tremendous crunch. There is presently authority to form Joint Underwriting Authorities, "JUA's" for necessary public facilities. I would mandate the formation of these for health facilities across the state in order to assure reasonable insurance for these crucial public services.

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**WALTER ZELMAN: WITNESS**

Please see statement on page 209 of the Supplement.

Questions and responses:

MR. COLEMAN: Let me just make sure that I understand correctly what you are saying, that marital status discrimination under present law is illegal, even if the companies have numbers to back up this discrimination, but that with respect to the way the companies treat individuals, marital status may be relevant, but the companies would have to prove the appropriateness of this rating?

WITNESS RESPONSE: Yes. I am still new in this campaign, and I am not ready to say that we should not permit a difference in rating for single people. I do not think that an unmarried couple should be treated differently than a married couple.

MR. NANCE: It is interesting that two of the speakers had different opinions on whether provable rate variations should be permitted. I understand some of the past logic but would like to see changes.

WITNESS RESPONSE: I agree, but so long as we have a system of private insurance, some legal distinctions may be acceptable to use and others not. I think that in health care we should not have a private system, it should be nationalized. Even with a legal distinction, they still must prove that it is relevant to risk. Then we must decide whether it is appropriate or not.

MR. NANCE: We have already made some of these social decisions.

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**KYLE MILLAGER, WITNESS**

Please see text of testimony on page 213 of the Supplement.

**Questions and Responses:**

**MR. COLEMAN:** I can assure you that we will send a letter to the credit union and ask their attorneys to respond. I was very surprised by your example of discrimination since in my review of the case law, I found that lending institutions must treat an unmarried couple in the same way as a married couple.

**WITNESS RESPONSE:** Yes, my sister's fiancée's name was even listed on the checks and as a cosigner on the account. I consider it offensive that they would not consider his income for the loan but they did consider his debt for the joint purchase of the house.

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**MICHAEL CAUTILLO: WITNESS**

Please see Mr. Cautillo's findings and recommendations on page 145 of the Supplement.

**MR. COLEMAN:** In addition to what is in Mr. Cautillo's report, we invited a number of companies to participate in the hearings and some of them declined. Chevron Automobile Club offers a discount to married but not unmarried couples. I spoke with their offices in San Francisco on several occasions. We sent a letter of invitation and they have sent a letter answering the questions put to them. It has yet to arrive. A spouse receives a free membership in the American Association for Retired People, (AARP). They have been asked to explain this policy. The Sheriffs Department has a policy regarding emergency leaves for pre-trial



inmates. This policy allows for emergency leaves to attend to problems with "immediate family." The Sheriff's Department definition of immediate family is broad in that it includes inlaws, half blood relatives, step relatives, etc. but not domestic partners. Farmer's Insurance was asked to send a representative, but declined. The Sports Club Los Angeles was sent an invitation to explain their substantial discount to spouses, but they declined to appear and promised that they would send a letter. Holiday Health Spa is one of our success stories as they used to discriminate and offer their discount only to a spouse. Now it is a 2 for 1 discount. TWA has changed their frequent flyer plan from a spouse to a 2 for 1 plan. Wells Fargo wrote their account holders a letter which offered a free dining club membership for the member and an additional free card for the member's spouse. Mr. Coleman called Wells Fargo and they acknowledged the error and changed the terminology to offer the membership for both parties of a joint account.

MR. Mc CAULEY: Pan American Airlines also discriminates in their Clipper Club Membership. They offer substantial discounts to the spouse and even state in the application that if the spouse's surname is different, a copy of the marriage certificate must accompany the application.

MR CAUTILLO: Noted that same sex couples were often singled out because the heterosexual couples were not asked for a marriage license in order to receive the discounts.

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**VALERIA MOREA: WITNESS**

Ms. Morea lives with a man whom she considers her family. His father became ill and they attempted to use her partner's Trans World Airway frequent flyer mileage in order to visit the father. TWA would not allow her to travel as his spouse since they had different surnames. She was asked for identification at check in, her tickets were confiscated and her significant other's mileage was revoked.

**Questions and Responses:**

MR. COLEMAN: TWA has recently discontinued this practice.

MR. NANCE: It seems to me that this practice is illegal under UNRUH and is an unfair business practice since a single person would never use this benefit.

MR. COLEMAN: Rather than second guess this practice, we plan to send inquiry letters to businesses asking them to justify their discrimination. Also since airlines are Interstate carriers, some California laws may not apply.

MR. KOHN: Highly discounted tickets are often only refundable if you or your immediate family becomes ill. What is this definition of family?

MR. COLEMAN: We will include this in our letters.

MR. AFRIAT: My understanding is that Los Angeles International Airport is controlled buy the City of Los Angeles and therefore Los Angeles could enforce rules by refusing to lease to companies

which discriminate.

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**ROBERT WRIGHT: WITNESS**

Please see text of testimony on page 214 of the Supplement.

**Questions and Responses:**

MR. COLEMAN: 1- A House Associate Membership is offered by the Automobile Association of Massachusetts. Why is this not possible here? 2-Seattle is moving closer and closer to eliminating spousal discounts. What will the Automobile Association do if their present practice is outlawed? Mr. Coleman commented that since no marriage license is required there are many people in the research poll receiving the married discount who are actually unmarried.

WITNESS RESPONSE: Many people have slipped by, but the numbers in our study are so large and most people are honest. Also claims are much higher in different surname households than in same surname households. We found that the married member had a lower number of claims than the single member. And as to the question about Massachusetts, our office there offers a "Family Associate" membership.

MR. COLEMAN: The literature I received said "member of household".

WITNESS RESPONSE: Mine said "family". Maybe they were different forms but our discrimination is not arbitrary it is cost justified. Maybe that office has not tracked the Emergency Road Service Frequency.

DIANE GOODMAN: Does not the Auto Club now charge for high use? This would correct for higher users.

WITNESS RESPONSE: No, since less than three percent of our members ever reach the high use threshold.

MR. KOHN: Then why not shift the burden by reducing the number of calls permitted then offer unmarried couples the discount?

MR. NANCE: It seems strange to me that an auto insurance policy will be issued to two unmarried people but not an auto club membership.

WITNESS RESPONSE: They are not at all the same. Insurance goes with the car whereas membership with the member. We already know the usage for membership road service but have not tracked these differences for insurance. Therefore we thought the law compelled us to insure unmarred couples. We are attempting to gather the data to justify our policy so that we will not have to increase the membership underwriting process.

MR. NANCE: People frequently share cards.

WITNESS RESPONSE: I'm not sure that is the case.

An informal survey of the room was taken and more than half of those present had shared a road service card.

MR. NANCE: If you would just check identification this would eliminate the problem and you could offer coverage to unmarried couples.

WITNESS RESPONSE: I am not convinced that this is a problem.

MR. WESTBROOK: Incorrectly interpreted, inarticulated research may be deceiving and incorrect. Can we at least get a copy of your sample size, reliability and methodology for the study?

WITNESS RESPONSE: You want to verify what I have told you in other words?

MR. WESTBROOK: I want to look at the strength of the study.

MR. COLEMAN: The automobile association should be commended for at least trying to get data to justify their discrimination, although a deeper inquiry is needed.

DIANE GOODMAN: Did the study look at car type?

WITNESS RESPONSE: No we do not know that information.

The participants corrected Mr. Wright, informing him that the Association did ask for the car type and year when a service request was made.

MR. COLEMAN: Can we get the results of your survey?

WITNESS RESPONSE: I am not sure since it was an arduous task.

MR. Mc CAULEY: If the business community makes me responsible for my rates and I do all of the right things, why am I being punished for being single? It will be difficult to square "be a good, responsible consumer" with "whatever you do, you will pay a high rate because of the group you belong to". Since 55% of Los Angeles is unmarried, what will happen with memberships such as your company's?

WITNESS RESPONSE: I do not know. Probably our members are honest and don't think about discrimination. Later maybe we will have to change our philosophies since we try to be sensitive to membership.

MR. COLEMAN: You have been questioned a lot because your company is symbolic of marital status discrimination, but in no way the only company that discriminates, just a well known symbol.

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**RICK NORDIN: WITNESS**

Please see text of testimony at page 211 of the Supplement.

Questions and responses:

MR. COLEMAN: It is interesting that other cultural and charitable entities still discriminate. The Los Angeles County Art Museum for example still uses "member and spouse".

WITNESS RESPONSE: We feel the best choice is separation between dual membership and family due to the use difference.

MR. NANCE: I am pleased that I can arrive at the zoo with my significant other and our children as a family with out any hassles.

MR. AFRIAT: I echo that appreciation of your progressive policies. I wonder will these policies carry over if GLAZA someday becomes an association run zoo, separate from Los Angeles?

WITNESS RESPONSE: Our trustees want to maintain the zoo as a democratic institution so I do not expect a change.

MR. COLEMAN: I spoke with a colleague who wanted to join the County Art Museum with a significant other, and they were allowed to join. Thus paper may differ from reality due to selective enforcement. We appreciate your fair and equitable written treatment.

WITNESS RESPONSE: If we are going to continue growing, we must keep up with Southern California and unmarried couples are a substantial force here.

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**CHERYL OVERSTREET, WITNESS**

Ms. Overstreet spoke regarding joint auto, homeowners and excess liability coverage for unmarried persons. Safeco's practice is to issue such policies to insureds who present the same "exposure units" as a married couple. The relationship of unmarried people may range from roommates to permanent life partners who jointly own. For this last type of insured, a single policy with appropriate ratings, for example two cars on one policy is possible. In fact, coverage may actually be more broad for joint, unmarried insureds since auto policies exclude driver liability where family immunity may be invoked. Thus a spouse may not sue a spouse for driving negligently. However, this is not the case with two unmarried people so that they are protected from these suits but at the same cost a married couple would pay for the joint policy.

As to why agents asked the same questions gave different answers, I can only say that agents are independent and have varying degrees of knowledge.

MR. NANCE: The agency I used to work for was told by Safeco that they must stop writing so many singles and unmarried couples or lose their agency contract. Safeco did indeed cancel the contract. Is this type of message still an unwritten Safeco policy?

WITNESS RESPONSE: It is hard to imagine such drastic action over that. We do however strive for a balanced "book" of insurance.

MR. COLEMAN: What is a broker to do if she serves a more unmarried population, say in a city such as West Hollywood, and she is told her client book must have as many married people as an agent in a conservative suburb?



WITNESS RESPONSE: The caliber of an agent's clients is what matters to us, the group loss statistics, not whether people are single or married.

MR. COLEMAN: Would it make it easier for insurers if more cities passed domestic partnership ordinances so that couples could register their unions and insurance companies could then know quickly that the relationship was committed and real?

WITNESS RESPONSE: It might. Companies are also very leery of changing policy language because of potential litigation and court interpretation of the new language.

MR. NANCE: Isn't basic language set by the state?

WITNESS RESPONSE: The language of the policy is written by companies based upon forms approved by the state, not written by the state. We write our own forms. Case law has however dictated some language.

MR. COLEMAN: Would your company be willing to issue a directive to your agencies regarding the company position on joint policies for unmarried couples?

WITNESS RESPONSE: Possibly, however it may be even better to tell our agents in person at some future meetings after Proposition 103 goes into effect.

MR. NANCE: I disagree. I think that a letter is better since a statement in print is more powerful.

WITNESS RESPONSE: A written explanation should accompany the meeting.

MR. Mc CAULEY: I think that both things should happen especially since your portrayal of Safeco is not how the company is perceived

by the unmarried public.

MR. COLEMAN: Yes, then we could also include a copy of this letter in our final report and praise Safeco.

MR. COLEMAN: Michael Cautillo called Safeco and they refused to talk with him about coverage since he was under twenty-nine-years-old and single.

WITNESS RESPONSE: This is not our policy. We issue these all the time.

MR. NANCE: I think that some agencies reject potential insureds in order to keep the agency premium-loss ratio attractive to the insurer.

WITNESS RESPONSE: Yes some agencies also are store front and take people off of the street whereas others only handle referral business.

MR. NANCE: So we have corporate and local business level discrimination to address.

#### COMMENTS AT END OF PUBLIC HEARING 11/28/89

MR. DONOVAN: This cost effectiveness by class based on numbers and statistics terrifies me. These figures may well be slanted by the people who use them.

MR. WESTBROOK: People tend to talk about statistics without mention of the methodology. Computer runs alone are fishing for an answer. When people fail to give us research methodology, the numbers are useless.

MR. REDMAN: Do we want to permit discrimination even if the numbers offer a statistical basis?

MR. NANCE: Maybe it is better to open up coverage to everyone and rely on loss spreading.

MS. KIRBY: AAA made me very suspicious since they were seemingly unwilling to share their methodology.

MR. BURKE: This is truly an art of framing the question and people can get the results they desire. Thus it is a bad idea to base our lack of redress for discrimination on such numbers.

MR. COLEMAN: It is problematic that the City Attorney does not have subpoena power. It is frustrating but maybe AAA will share its data.

MR. KOHN: Certain organizations are not in touch with the questions we raise.

MR. WESTBROOK: Reliability was mentioned earlier and this only means that a study is replicable. Both validity and reliability are needed otherwise the numbers can be incorrect.

MR. COLEMAN: I will contact witnesses regarding terminology etc. For example someone used the term "AID's victim" and "sexual orientation", while another witness' humor offended some. I will make them aware of the preferred terms.

MS. PACE: Our goal should be two fold: 1-Do we want insurance companies to produce statistics to support their discrimination or 2-Do we have a statement about how we want society to be run?

MR. Mc CAULEY: I had a similar reaction to Wally Zelman's comments but I do not think that either extreme is the answer because in court factual data is necessary to convince a judge or jury Courts are impressed by quantification not just visions.

**SUMMARY OF PROCEEDINGS, TASK FORCE MEETING 12/18/89**

Mr. Coleman introduced himself as Chair of the City Attorney's Task Force on Marital Status Discrimination. This is hearing number two and will focus on business establishment discrimination. There have been two past meetings. One, an orientation and the other the first public hearing.

-The Task force members introduced themselves.

MR. COLEMAN: Noted that he has received mail from individual consumers and intends to include these letters in the final report. One of these letters told of a woman in Arizona who was denied a job as a probation officer because cohabitation is illegal in that state and she lives with a domestic partner. He also noted that Mr. Mc Cauley has represented the task force on a radio talk show. Mr. Coleman also mentioned that the task force has received press in major newspapers and he noted the schedule changes for the meeting namely:

-Sharon Sandler, USC Law Student, could not attend due to a final exam.

-The Sheriffs Department was asked to attend and speak regarding Division Order # 45 which involved emergency leave for pre-trial inmates based upon urgent need of immediate family. Immediate Family does not include unmarried or gay couples but does include such relatives as step, half-blood relations etc.

-Hugh Coffin, Attorney from Pizer & Michaelson contacted Mr.

Coleman regarding the Credit Union discrimination discussed in the previous meeting. Mr. Coffin explained that the problem involves the definition of "member" and the credit union cannot loan to non-members. However it is noted that immediate family of members can borrow therefore Mr. Coleman suggested that the definition of immediate family should be broadened.

MR. COLEMAN: Noted that the California Insurance Commission issued twenty five criteria which could be used to establish rates without marital or gender consideration.

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**ROBERT WILDER AND VERNA TERRY: WITNESSES**

The couple encountered landlords Donahue who refused to rent to an unmarried couple. The Donahues claimed that it was their property and that they could do as they pleased. The Wilder-Terry couple was caused stress by the experience and the necessity to lie about their marital status in order to obtain housing. Ms. Terry detailed the landlord's very personal questions regarding her unmarried status such as when the couple planned to marry and then refused to allow the couple to even complete an application.

The case is now in litigation and the Donahue's have claimed that their religious freedom is compromised. Ms. Terry complained that during the trial, the Donahue's attorney called her "polite names for a prostitute" and that she had to testify for five hours regarding her three minute phone conversation with the landlords. WANDA KIRBY: noted that the housing authority found in favor of the complainants and ordered the defendants to offer affirmative relief. However the Donahues were adamant that they had acted

correctly and again stressed their property and religious rights.

MS. FRAUENS: Have there been any subsequent complaints against the Donahues?

WITNESS RESPONSE: I do not know, however I find Mrs. Donahue's ignorance of the housing laws amazing since she has been a real estate broker in Los Angeles and has had twenty years of experience as a landlord.

MR. COLEMAN: There is a Northern California case with very similar facts, with the same religious "friend of the court". It was decided that the Fair Housing commission cannot decide the constitutional law question of religious freedom. The Minnesota Court of Appeal rejected religion as a basis for discrimination reasoning that someone who has entered the free market place must place their personal views out of the way of other peoples civil rights. This case may go as far as the U.S. Supreme Court.

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**STEPHANIE KNAPIK: WITNESS**

Please see text of testimony on page 219 of the Supplement.

Questions and responses:

-MR. COLEMAN: Do statistics for race etc. for Los Angeles include discrimination found in audits as well as the individual complaints?

WITNESS RESPONSE: No, what we have from the Fair housing Congress comes from public complaints. Our data does not include audits.

MR. COLEMAN: How could we get marital status audits to examine this discrimination? Who requests them?

WITNESS RESPONSE: The Fair Housing congress would propose this to

the city. Also the city can ask for a specific audit.

MR. COLEMAN:: Who do we direct this recommendation to?

WITNESS RESPONSE: Both the Fair Housing Congress and the City Housing Counsels.

MR. SOLIS: Has Your council ever addressed marital discrimination with the fair housing congress?

WITNESS RESPONSE: No.

MR. NANCE: 1-Do you have any idea why complaints based on sexual orientation seem to fall out of the process? 2-Have you ever heard of a landlord renting to an unmarried couple but requiring more insurance or deposit?

WITNESS RESPONSE: 1-I can only speculate that the plaintiff assumes that sexual orientation is the problem when in reality it is something else. Often complaints are dropped because the person does not want the hassle. 2-No.

QUESTION: What is the time period involved in your investigation?

WITNESS RESPONSE: We try to move as soon as possible before the unit is taken by a real renter so that we can send our testers. When the process works well, we know within a few days.

MR. Mc CAULEY: Comment: There were two repeated messages from callers on the talk show. 1-Property owners asserted their rights and believed that they had rights that non-property owners did not have.

2-Religious people did not realize that they could not make market decisions about other people based upon their religion or marital status. Mr. Mc Cauley wondered what the percentage of "I didn't know it was illegal" compared to "I defy this because of my

religious beliefs".

WITNESS RESPONSE: Mostly we encounter lack of knowledge. The other type is very rare.

MR. COLEMAN:: Where do you get volunteer testers?

WITNESS RESPONSE: People call 213-Housing and then attend a two hour training.

MR. NANCE: Does the Counsel work with discrimination based upon physical handicap and illness?

WITNESS RESPONSE: Yes, but these are rare. From most common to least our complaints are : race, family with children, national origin.

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**WANDA KIRBY: WITNESS**

Please see text of testimony on page 225 of the Supplement.

Questions and Responses:

MR. SOLIS: What effect does a landlord's previous record have on an instant case?

WITNESS RESPONSE: Varies on a case by case basis.

MR. SOLIS: Does your department ever rule out a past record?

WITNESS RESPONSE: Only if we can get important information by agreeing to close a case.

WITNESS RESPONSE: Do you have statistics on physical disability complaints?

WITNESS RESPONSE: Yes, for the past year only and the numbers are small.

MR. RHINE: Do you handel complaints based upon mental disability or illness?



WITNESS RESPONSE: No

MR. COLEMAN: Coleman: I have received a list from Sharon Sandler and noticed nothing in the brochure from your office regarding sexual orientation.

WITNESS RESPONSE: This was an old brochure but the department's position those years was to enumerate only those criteria which the act mentioned. There are a lot of these old brochures and they will be used up before new ones will appear with this change.

MR. COLEMAN: This brochure is six years old. Could you point out to your department that it is time from a new one?

WITNESS RESPONSE: Sure.

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**JAY WESTBROOK: WITNESS**

Please see text of testimony on page 238 of the Supplement.

Questions and responses:

QUESTION:

WITNESS RESPONSE: There are a tremendous number of unlicensed "mom and pop" operations. People buy two properties and live in one and use the other as a board and care home. There may be many violations so it is difficult to get an accurate number of board and care clients and ethnicity unless you go to the big companies. In the big companies there is so much competition that discrimination is unlikely.

MR. Mc CAULEY: Does community care licensing division have any rules against marital status discrimination?

WITNESS RESPONSE: To the best of my knowledge, no.

MR. Mc CAULEY: Would your Long Term Care Task Force be receptive

to addressing martial status discrimination?

WITNESS RESPONSE: Yes.

MR. AFRIAT: What is the impact of rooms becoming all female? How can it be remedied?

WITNESS RESPONSE: It is very difficult to find a nice place for a single male. They often end up placed inappropriately either in skilled nursing facilities, which offer too much care, or all male residential hotels which are often unsafe. Finally they may end up with a family member which may or may not work out. The problem may be remedied by the lessening of the age gap in longevity between the sexes. But the "mom and pop" operations are unlikely to change.

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**BARBARA WAXMAN AND JOSEPH RHINE: WITNESSES**

Please see text of Ms. Waxman's testimony on page 242 of the Supplement.

Mr. Rhine's Testimony Summarized:

Most board and care facilities for the disabled are paternalistic with many invasions of privacy. Board and care operators assume that disabled persons are not interested in sexual expression or are not competent to engage in sexual activities, therefore the facilities try to prevent these. Some of this is based upon the operators own bias and some results from pressure from the disabled person's family. Board and care homes also claim that the Department of Social Services regulates sexual activities.

There are many difficulties which the disabled must deal with. Neighborhoods may try to enact zoning laws to keep the disabled

out. Physically disabled parents only receive six months of family maintenance support and this parent may need ongoing care in order to raise children. Social services and insurance companies prefer to institutionalize the disabled and their children rather than pay for "baby sitting".

Homosexual sex offenders were controlled more and treated more harshly by the institutions.

Mr. Coleman: We must hammer away and address our concerns regarding privacy to our representatives in Congress. We should propose legislative policy on human relations for the disabled.

MS. WAXMAN: Does this task force have committees on which the disabled could participate?

MR. COLEMAN: Coleman: No unfortunately we are very short lived and will disband in March. I will however send you a draft of the report so that you may critique it.

MR. SOLIS: The Fair Housing Counsels may be able to assist the disabled.

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**TONY MELIA: WITNESS**

**Testimony Summary:**

I have worked in the California Insurance Industry for thirty three years and have encountered a great many episodes of discrimination against gay and lesbian couples, unmarried couples, and single people. I was on the MECLA Board for a number of years and am now on the Board of Governors. I was a co-founder and three year president of Business and Professional Association, a group of gay men and lesbian women in Southern California. I was a three

year president of the West Hollywood Chamber of Commerce and am currently on the board. I am President of Comunidad, which is the Catholic Church's outreach group to homosexuals.

Auto Insurance offers a second car discount for a married couple or two related people living together. Two individuals living together generally find that they cannot get this substantial discount--often twenty percent. Furthermore, if a person is not named on the policy, which is common with domestic partners, this person does not have uninsured motorist protection if hit in a taxi or other similar circumstance.

The concept of "additional named insured". Certain rights automatically come to a married or related person in the same household. These rights do not come to any other residents unless they are explicitly named. One cannot depend on insurance as an unnamed additional insured. Yet one can be penalized for the bad driving record of a roommate.

Homeowner's insurance: Unless a person is named on the policy, coverage will not usually extend to that person, and then only to the extent of the insured interest of the named person. An example is a painting owned by two unrelated people and only one is named. The unnamed person's interest needs to be added yet many companies will not do this even though endorsements exist. If each person gets their own policy, co-owned property becomes a problem. Ironically, a guest in your home is covered. This is tricky since insurance companies will ask the claimant if the unnamed person has lived in the residence for a prolonged period, shared in the costs of upkeep etc. Then the company will claim that this person is not

a guest and therefore does not receive guest protection.

Insurance companies justify their actions by stating that they must give personal liability insurance to two separate people under one policy and this is unfair. However, the companies will gladly do this for two brothers or an aunt and a niece without an additional charge.

Often anti-gay reasons are mentioned by the company such as instability, negative court prejudices which might result in undesirable verdicts if the company has to represent a gay person in court, gay people gather high value property and drink and entertain more. One insurance company wrote Mr. Melia a memo demanding that he write more policies for married couples or the company would refuse to accept any more unmarried people. They company later cancelled his agency contract. Another company was angered with the number of gay clients he had sold to and also cancelled his contract.

Often companies have gradings for premium rates such as preferred, standard and surcharge market. When these companies write policies for non-married couples, they almost always prefer the surcharge premiums.

Mr. Melia is unaware of any company which will add an unmarried significant other as a dependant under a life/health policy. Furthermore, underwriters tend to look at single males with greater caution and often reject them.

Insurance companies have taught employers a financial lesson by increasing employee premiums to astronomical heights if high risk people are hired. Mr. Melia referenced Sixty Minutes 11/20/88

in which a man, named Bill Stewart, with a small business, was paying \$114.00 per month for each of his employees in March 1987. Then he became ill with AIDS. By October of 1987 the insurance company had raised the premium to \$297.00, by June of 1988, it was \$1050.00 and before Mr. Stewart's death the premium was \$2000.00 per person per month. Thus a non-gay employer is taught to shy away from single male employees.

Questions and responses:

MR. NANCE: Comment: Auto insurance companies will cancel the policies of their clients with AIDS since they perceive a worsening of driving ability,. Yet with other illnesses and the elderly these same company will prefer to mandate regular driver's ability testing, and doctor's certificates to termination.

WITNESS RESPONSE: : The threatening memo discussed in my testimony was written by Safeco Insurance.

MR. COLEMAN: Do companies have the right to balance their clients by saying that agencies in cities such as West Hollywood must have as many married couples as an agency in a more traditional suburb?

WITNESS RESPONSE: Gay and lesbians do not drive differently than people who are married with children.

MS. HOWARD: Comment: As for cancellations backed by Proposition 103, if the DMV will give the driver a license, then the insurance company may not cancel the policy for a reason such as AIDS.

WITNESS RESPONSE: : Do you force the companies to write these policies at the usual rate?

MS. HOWARD: Yes.

WITNESS RESPONSE: : And what is the turn around time?

MS. HOWARD: We require the companies to answer within ten days.

WITNESS RESPONSE: : Is there anyway to allow a person to drive with insurance until their is a hearing if one is scheduled?

MS. HOWARD: This has not been resolved.

WITNESS RESPONSE: : Suggested that the Insurance Code should mandate a twenty day stay of all cancellations so that people can continue driving while the dispute is resolved.

MS. HOWARD: Liked the idea.

MR. NANCE: Suggested that health insurance cancellations be handled similarly and that the department should be more accessible to the public.

MS. HOWARD: We are trying to distribute brochures but a lot of people still are unaware of us.

WITNESS RESPONSE: : Roxani Gillespie is the first commissioner in my thirty three years of insurance experience to address a memo regarding discrimination against gay and lesbian people and those who are HIV positive.

MR. NANCE: Yet the Department of Insurance worked with Blue Cross to help them dump their high risk clients so as to keep the company viable. In doing so, the Department of Insurance violated their own standards. I cannot get the department to take action against carriers which are repeated offenders. The department will only look at each case on an individual basis but not as an unfair practice.

JOAN HOWARD: I will raise this soon and address more issues,.

MR. NANCE: I have had some good relations with the Department, yet their is still room for improvement.

MR. RHINE: There has been an attempt made in large group policies to exclude disabled infant.

JOAN HOWARD: Yes we need to educate group policy buyers as well.

MR. COLEMAN: Would we get a copy of the Safeco letter?

WITNESS RESPONSE: : Yes, though Safeco won't like it.

Mr. COLEMAN: Since agents are penalized for upsetting the companies, maybe the Department of Insurance needs to have a more confidential complaint system so that the agent can inform them of wrongdoing with out losing agency contracts.

WITNESS RESPONSE: : Yes, the public sees agents as cohorts of the insurance companies whereas "we" are discriminated against for obtaining the "wrong" kind of buyers and our contracts are cancelled. Eventually we are forced out of business by this redlining.

JOAN HOWARD: We now do not allow an auto insurance policy to be cancelled just because an agency contract has been terminated.

WITNESS RESPONSE: : But this is unfair to the agent since then the company can write the policy direct and cancel the agent.

MS. HOWARD: But consumers were suffering previously.

MR. COLEMAN: Ms. Howard has been asked to speak in the future, but her office has been in flux, therefore how about our next meeting? The 1975 Insurance Commission prohibited marital status discrimination, yet this regulation has collected dust. Maybe now we can look forward to more aggressive action.

MS. HOWARD: I'll let you know next week if I can speak and hopefully we will see increased action.



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**NANCY MATTHEWS: WITNESS**

Please see text of testimony on page 245 of the Supplement.

Questions and responses:

MR. NANCE: Any evidence that the club's policy would apply to same sex couples as well.

WITNESS RESPONSE: Yes since only married people qualify for the discount.

Mr. COLEMAN: Comment: Some clubs used to discriminated and now do not. Holiday Health Spa changed their discount to a 2 for 1 after we contacted them. We also contacted the Sports Club LA and invited them to testify regarding their discriminatory policies,. They declined to speak without a subpoena and have not written any response wither. We will take a close look at these issues when our recommendations are issued in March. We must educate business and then give them time to comply, If this fails then aggressive legal action from the City Attorney should follow.

MR. KOHN: Is the real problem the difficulty in assigning the contract?

WITNESS RESPONSE: I don't know. Most club members are married so these membership prices could not be raised substantially without creating outrage.

Mr. COLEMAN: We invited the owner or manager to respond but the club has not contacted us.

MR. COLEMAN: Asked for public questions. There were none.

MR. SOLIS: After witness testimony has been reviewed and

recommendations made, what method of enforcement will be employed?

MR. COLEMAN: I suggest that we ask the City Attorney to participate in our deliberations and discuss potential follow through. Furthermore, the representatives here will report back to their supervisors and agencies.

MR. WESTBROOK: How about developing two forms. One which goes to agencies with our recommendations and one they use for cases of individual discrimination to mail back to us. Then we could do a small summary report.

MR. COLEMAN: Perhaps formulate an implementing committee and after approximately one year have a press conference. Reconvene and tell how it went.

**SUMMARY OF PROCEEDINGS, TASK FORCE PUBLIC HEARING JANUARY 29, 1990**

MR. COLEMAN: Convened the public hearing. The task force members introduced themselves. Mr. Coleman and Mr. Navarrette presented Mr. Navarrette's experience with marital status discrimination.

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**JUAN NAVARRETTE AND THOMAS COLEMAN: WITNESSES**

Please see text of Mr. Coleman's testimony on page 245 of the Supplement..

MR. NAVARRETTE: His significant other of eight years, (Mr. Tranten), was involved in an accident which left him in critical condition and sometimes unable to communicate. The doctors requested that Mr. Navarrette contact Mr. Tranten's family, which consisted of a brother from out of state with whom Mr. Tranten had a dysfunctional relationship. Unbeknownst to Mr. Navarrette, the brother requested a conservatorship, which once received he used to assert control over Mr. Tranten's assets and to assume control of Mr. Tranten's medical decisions. Mr. Navarrette was not told that his life partner had been transferred to a skilled nursing facility and the hospital then refused to tell him which one. When he finally located Mr. Tranten, he found that the hostile brother had given Mr. Navarrette's picture to the staff of the facility with explicit instructions that he was not to be allowed to visit.

With the help of Mr. Coleman, Mr. Navarrette will ask the court to grant him visitation rights and to reconsider the conservatorship.

Questions and responses:

QUESTION: Is Mr. Tranten capable of communicating?

RESPONSE: Yes he can talk, write and read, but when the court investigator comes, he is given drugs in advance which make him like a vegetable.

QUESTION: Did he appear in the courtroom?

RESPONSE: No he did not.

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**CHRISTOPHER SANDS: WITNESS**

Please See text of testimony on page 275 of the Supplement..

Question and responses:

MR. COLEMAN: Commented that the Daily Variety's policy was not isolated. Just a few years ago, The San Francisco Chronicle and The Washington Post for example did not list unmarried partners as survivors. Mr. Coleman also contacted Mr. Silverman of the Daily Variety to verify the new policy so that the task force could accurately describe it. Mr. Silverman indicated that he did not wish to be mentioned in the report and that the policy had been changed, but that the surviving, unmentioned partner is not mentioned as a "survivor" but rather just "mentioned" as a long term partner or similar term. The Daily Variety was invited to attend but refused.

MR. DONOVAN: I find it amazing that a newspaper which services the entertainment industry could be so unwilling to include relationships which occur in a traditionally free form community.

MS. BOWMAN: Why do you think they changed their policies?

RESPONSE: I think it may have had to do with subscriptions being cancelled and they began to hear complaints from readers.

MR. NANCE: Are you satisfied with these results are or you bothered

that a domestic partner is still not listed as a "survivor"?

RESPONSE: It is indeed second rate semantics, but at least it is now listed.

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**JAMES LUDLAM: WITNESS**

**Summary of Testimony:**

Mr. Ludlam brought The Consent Manual, 1989, which details the legal issues with regard to hospital consent. From the view point of the acute general hospital, the legislature's attitude controls the hospital's response. Problems such as Mr. Navarrette's case demonstrates what happens when the patient cannot and has not expressed his or her wishes. Then the courts must decide and the law lags behind society today. The hospital treats the physician as the agent of the patient for most decisions which must be made. When the patient arrives at the hospital in an emergency, it is difficult for the hospital to know what to do. The Living Will was one attempt to deal with the right to die and who may decide this for the patient. This is inadequate because it omits issues such as Mr. Navarrette's.

Under the California law, only courts may make such decisions, not even the spouse. A case known as Cobbs v. Grant indicates that the spouse may decide care issues, but the case is unclear, and we advise our clients not to rely on it. This does not mean that the spouse's rights will not be considered, but legally the hospital is not bound to perform. Thus as Mr. Navarrette expressed, there are substantial problems and the issue needs to be clarified. The hospitals will respond once told what to do by the legislature.

The Power of Attorney is a more effective mechanism. If you follow the recommended procedure, the patient in advance and not in an emergency should file a copy of this document with her physician. Thus the patient's wishes with regard to third parties will be clear. A very small percentage of Californians have executed these. To facilitate this, a group named "California Health Decisions" of Orange County has created consumer forums and a community group to deal with these issues. In our office, we require attorneys to discuss these issues with all clients involved in drafting probate documents. If all firms would encourage this, it would be tremendously helpful. Improving the individual patient's communication with the physician will also help. It is important to remember that the patient may designate any individual that they wish--it is not limited to spouse or blood relative.

As to the patient's desires regarding visitation in the critical care units, this is in the control of the physician primarily. The physician can exclude the spouse as well if this person hinders the patient's recovery. This does not mean that the physicians always do this or do it properly.

Questions and Responses:

MS. HERNANDEZ: In an emergency, is a verbal power of attorney acceptable?

RESPONSE: It must be in writing to have real legal authority.

MR. Mc CAULEY: Since fifty five percent of the consumers in Los Angeles are unmarried, it seems that some significant business changes are needed to reflect this. What could be done to practically deal with this question?

RESPONSE: This is not on the agenda at the moment because survival for trauma centers is such an overwhelming issue right now. It is the old "squeaky wheel" syndrome and since the time is so difficult for the health care industry, this issue is not really being addressed.

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**WILLIAM BARTLETT: WITNESS**

This text of this testimony may be found on page 256 of the Supplement.

**Questions and Responses:**

**MR. NANCE:** Working with the AIDS Project as I do, I am increasingly frustrated with the inaction of our clients to protect their legal rights. Can you address why people might not move ahead as much as we would like?

**RESPONSE:** I think that legal protection for many people is an abstract notion where as the concrete realities of health, shelter etc. tend to win out, especially since this group of people has not traditionally been served by the legal system.

**MR. Mc CAULEY:** Do you have a checklist which is provided for new clients which discusses these issues?

**RESPONSE:** Yes we do and all of our counselors discuss these services.

**MR. DONOVAN:** Do we have any idea of the percentage of the population that comes to you as opposed to the percentage that does not get any service at all?

**RESPONSE:** We really do not. There are so many barriers to AIDS' information.

**MR. NANCE:** AIDS Project Los Angeles does serve between sixty and seventy percent of those people actually diagnosed. My perception is that the people we do not see are the wealthy.



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**FRANK HASWELL: WITNESS**

Summary of testimony: We feel how we should act with regard to unmarried couples is clear as per Section 7100 of the Health and Safety Code. Thus the question is interpretation of the statute. Section 7100 is so clear there is no room for confusion. It details who controls the disposition of remains and who pays for services rendered. Unless other instructions have been given by the decedent, either orally or in writing, the disposition is controlled by, in order, the surviving spouse, the surviving children, the surviving parent or parents, and then the surviving kindred ordered per California law. If there are six children, we require all six signatures for something such as cremation.

The best way to assure that the decedent's wishes are met is to have them in writing. Then these wishes should be discussed openly with family and domestic partner. A will supersedes all other instruments. In lieu of a will, a durable power of attorney should be used, but be sure that it is the one specific for health care. These durable powers of attorney last for seven years from the execution date. We also like to see people carry a card which specifies in writing information relevant to the mortuary so that desires are clear and the person responsible for the bill is evident.

**Questions and Responses:**

**MR. COLEMAN:** I have gone through this process and used the "pre-need counselors". This was very helpful and the counselors were

sensitive to my needs. A question I have about this card is that it seems to be designed from a corporate standpoint--to let everyone know that Forest Lawn has the business. It would be helpful if the name of the person in control of the remains could be on the card. Could you take this suggestion to Forest Lawn? Also I would like to know whether one actually has to purchase property at Forest Lawn in order to have this card or have something on file with Forest Lawn?

RESPONSE: I will take this suggestion back. The pamphlet and records are provided at absolutely no cost to the consumer. You may place your wishes with us without purchasing anything.

MR. Mc CAULEY: Does the code define "spouse"?

RESPONSE: No.

MR. Mc CAULEY: Is it implicit to be a heterosexual married partner?

RESPONSE: Yes in our experience.

MR. COLEMAN: Does there have to be specific language in the durable power of attorney in order to have an agent's wishes regarding the obituary honored?

RESPONSE: The person acting as agent submits the obituary, even if there is vigorous decent from someone who is not the power of attorney. This is where it gets difficult with a blood relative versus a designated agent.

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GORDON LOWE: WITNESS

Summary of testimony:

With regard to unmarried couples, we have a progressive obituary policy. Over sixty percent of the death notices we publish are submitted by the mortuary. Any discussion of the content is normally only with the mortuary. Rarely do we discuss anything with a survivor. There are occasional disputes between members of the same family, let alone between life mates and blood relatives. In most cases, these are settled before we receive the text.

When the notice is placed by someone other than the mortuary, we have to investigate its authenticity. Was there indeed a death? Is the life and character of the deceased correctly represented? Just as with all of our advertising, these are paid notices and we will not accept advertising which we consider to be in poor taste. Occasionally, language which we feel offensive is rejected. However since 1981 The Times has accepted mention of a survivor of life partners, very close friends and similar designation. Also we decided to accept mention of AIDS as a cause of death or requests for contribution to an AIDS group.

The possibility of a conflict between a life partner and a blood relative does exist, although it has never come to our attention. In this case the wishes of the deceased, if expressed in writing, would govern. What we would recommend if there is a real dispute is running two notices. This has been done in the

case of an employer, lodge, social organization etc. which wanted to express their connection with the deceased and a separate notice submitted by the family. This would be our recommendation in the case of a dispute.

Questions and responses:

MR. COLEMAN: Praised The Los Angeles Times for its progressive policies regarding obituaries. Has this policy been formulated in writing or could you explain it in a letter to us?

RESPONSE: Yes, I could certainly put it in a letter.

MR. Mc CAULEY: We would like to have the actual policy to publish as a model in a report.

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**JAN STONE: WITNESS**

Summary of testimony:

The key is written documents. Unfortunately many unmarried cohabitant learn the hard way that the law gives them no rights with regard to each other's health care, death and disposition of assets, unless there are documents. The four I feel are essential are 1-Durable Power of Attorney for health care, 2-Durable Power of Attorney for asset management, 3- Nomination of Conservator, 4- Will. I also like to include special concerns in each document such as who has visitation rights etc. These documents must be properly drafted and executed.

Powers of attorney are effective only if the third party you wish to do something will accept them. This is not always the case with banks and brokerage firms unless on their forms, and their forms are often inadequate. The same applies to health care

facilities. Because of these pitfalls, even properly drafted powers of attorney may not be a panacea.

If powers of attorney are not executed, then a conservator must be appointed. Priority goes to the spouse and blood relatives unless there is a written nomination of a non-relative executed prior to incapacity.

Questions and Responses:

MR. NANCE: If the Durable Power of Attorney for Asset Management, is often rejected, what steps can be made to make banks etc. honor them short of going to court?

RESPONSE: Short of going to court, it can help to get a prior agreement from the third party. It is often even more helpful to draft a release of liability for the third party so that they will not be so afraid of lawsuits. Many banks however will only accept their own forms, which are usually inadequate with respect to incapacity.

MR. COLEMAN: Do you think it might be helpful for us as a body to make recommendations to groups such as banking and savings and loan associations regarding these problems?

RESPONSE: This would be very helpful.

MR. NANCE: Why not pressure financial institutions to come up with their own suitable forms?

RESPONSE: They often want them executed on the premises and if someone has waited until they are too disabled to actually go in, then these are useless.

MR. Mc CAULEY: Does the seven year limitation apply to these?

RESPONSE: Only to health care I believe, although it is important

to renew them so that third parties cannot claim it is too old.

MR. Mc CAULEY: Could you suggest a range of prices a consumer could expect to pay for preparation of these documents?

RESPONSE: The best I can do is a range. Powers of Attorneys forms are available pre-printed. Sometimes they are good, if you can get the California Medical Association's form, this is the best of the pre-prepared. Custom Durable Powers of Attorney for Health Care and Asset Management run around \$100-\$300 dollars. For conservatorship, this can be included in the Durable Powers of Attorney and can be very brief. A will can be as little as \$200 and can be a great deal more depending on the complexity of the estate.

MR. Mc CAULEY: This is helpful since I am trying to make the process clear so that people can evaluate the cost and ease. Is there any informative document that you would recommend?

RESPONSE: I am not aware of any global document of this kind. The prices I was quoting do reflect prices of a small firm.

MR. COLEMAN: What happens when people do not take these precautions and a blood relative tries to cut the domestic partner out of the picture. I notice something in the code called a "limited conservatorship". When someone petitions for a conservatorship, is thought given by the courts to a limited conservatorship?

RESPONSE: Limited Conservatorships only apply to the developmentally disabled and they are designed to reflect the different capacities of each individual. Thus we cannot use those in the manner which you suggest. But each conservatorship should be designed to reflect each case, even though generally you will receive a complete package of control. A conservatorship can be

designed to limit full control.

MR. COLEMAN: I can envision some protection of ongoing relationships in the future of these documents. Also does a "Cohabitation Agreement" or similar simple document have any potential to be used as a document to grant the privileges of a marriage license, the "auto-pilot" rights? Could local bar associations draft such a document for the partners who wish to grant these right to each other?

RESPONSE: I think it would be very useful in defining the rights of the domestic partners.

MR. NANCE: Thank you for your community service. I have seen your name in numerous articles. Is it a viable practice to have people listed as joint tenants on bank accounts etc. Is there any legal problem?

RESPONSE: There is no legal problem. It does imply co-ownership that may not be the case. I may wish to own an account without have another person implied as the owner. This can result in disposition and tax problems at the time of death.

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MR. COLEMAN: The Sheriff's Department apparently did not appear today. It has been very difficult to contact them and actually get them to testify. The issue involves the definition of "immediate family" for emergency family leaves.

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**SEYMOUR PIZER: WITNESS**

Summary of testimony: There are federally chartered credit unions and state licensed credit unions. The differences relative to the issue before us today are few so we really do not need to address state versus federal today. The board of directors of a credit union can define immediate family to included persons not related by blood or marriage. The states and federal government would also allow a credit union to change to this more broad definition. Some clients want to write and get a definition of immediate family. We suggest that they do not since the definition is very fluid presently and not explicitly defined. Both supervisory agencies do not wish to give any concrete definitions.

MR. COLEMAN: Could you clarify who credit unions can serve based upon the definition of "immediate family"?

RESPONSE: Credit unions do not serve the public. Everything about them evolves from this very premise. Credit unions are there to serve members and the immediate family of these members. It really is not necessary to get political approval to include domestic partners because the definition reads "Immediate family members are defined as\_\_\_" (Mr. Pizer indicated that the definition has a blank line). Thus it is open to the each credit union's discretion. The only credit union told that their definition was too broad to my knowledge tried to put "the brotherhood of man" as the membership group. This is an extreme case.

Return to testimony:



The present definition needs to have "and a domestic partner of a member" added on. This will require some negotiation with the credit unions. They will be concerned about what is best for their interests. There will be seemingly simple details that will cause problems such as account numbering systems, loan evaluations etc. You should go to the boards of the credit unions and to management and discuss the situation. If this fails, then it becomes an election issue. At every election, you would put up candidates until you have representation. Then to make it part of the by-laws, the board can add the domestic partner clause as an amendment. Such a definition of immediate family members does not need to be submitted to a national or state authority. However if an examiner stumbles upon the issue, then the definition could be questioned. I really do not see any legal impediments to what you are trying to achieve. I see some diplomatic and bureaucratic barriers.

Questions and responses:

MR. COLEMAN: I think it may be helpful to run some of this by the unions so that we do not do something in good faith and have it fail because certain participants in the system were not involved.

MR. DONOVAN: You said "roommates come and go". Often husbands and wives come and go as well. Does the hierarchy of words used, progressing from spouse to family to domestic partner make an implicit judgement as to the importance of each group and does this have any effect on changing policies as per our recommendations?

RESPONSE: By Mr. Coleman: I think that there is resistance to definitions which require staff time to evaluate. On the other

hand, people will not utilize the system if they have to expose their sexuality, for example by using a term such as "house-hold associate". Then a minimum time together may need to be defined. I think it will come down not to moral questions but rather practical considerations of what will work.

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JAY WESTBROOK was unable to present due to a family obligation. Mr. Westbrook has submitted written testimony which may be found on page 273 of the Supplement.

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**JOSEPH RHINE: WITNESS**

Mr. Rhine discussed the right of disabled adults to express themselves sexually while in long term care. The Lanterman Act enunciates the privacy and dignity of the disabled. Welfare and Institution Code Section 4500 and following. Some of these same rights have been further enunciated in federal legislation. Thus we can inform California institutions that they must provide privacy and sexual counseling. The fight to get this legislation has been similar to homophobic concerns: often family members of the mentally retarded and the mentally ill believe that their sons and daughters are not allowed to have consensual sex. Conservatorships for many years granted every power to the conservator including the right to approve or disapprove of sexual expression, marriage, and serialization. Thus the limited conservatorships were born for the developmentally disabled.

Some people actually lose benefits if they chose to get married so we recommend that they stay single and continue the

relationships.

Training and education are very important because more enlightened treatment of unmarried disabled adults will follow.

Questions and responses: none.

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**JOAN HOWARD: WITNESS**

Please see text of testimony on page 263 of the Supplement.

Questions and Responses:

MR. COLEMAN: I requested copies of lawsuit paperwork that may pertain to us.

RESPONSE: Yes, I will forward that to you as soon as I can get it from the attorneys.

MR. COLEMAN: You mentioned that the legal department did not have any complaints on file regarding marital status discrimination, yet during the time period of the Task Force on Family Diversity, your legal department did have some on file.

RESPONSE: Yes, file purging does occur and those files have probably been closed.

MR. COLEMAN: Is there any way to maintain the statistics of what types of complaints have been filed even though the actual complaint file has been closed?

RESPONSE: Yes I can add this to a list of files to be maintained and check with our legal department regarding keeping these files.

MR. COLEMAN: We do not need the files as much as we need a record of the types of complaints filed. Also, with whom will you share copies of the complaints?

RESPONSE: We cannot share these complaints with the City Attorney's

Office, only with another state agency such as the Attorney General.

MR. COLEMAN: Even though UNRUH gives the City Attorney concurrent jurisdiction? I would request that you seek additional written clarification of this from your department why this would not be shared.

RESPONSE: OK, fine I will get that.

MS. FRAUENS: Because 17200 of the Business and Professions Code involves a three year statute of limitations, the saving of any complaints for three years should be routine. Also it concerns me that information is not shared. When Arlo Smith attacked redlining he accessed some files and I wondered how.

RESPONSE: A public hearing would permit the release of some files. The numbers can always be released but not the files themselves.

MS. FRAUENS: To deny access to such information is causing a terrible harm to the whole state. What I do not understand is that when information involves discrimination, there is this cloak of confidentiality whereas when it involves insurance it is shared.

RESPONSE: I am not sure why the legal division acts this way.

MR. COLEMAN: We need to know the exact source of the authority which the Insurance Commissioner feels binds her to withhold such information.

MR. NANCE: The Commissioner has published the number of complaints against automobile insurers. I have never seen this type of data for health or life insurance and I think that the public could benefit from the knowledge of which companies get more complaints. Also, it would be helpful to know the type of the complaint so that

customers could reject companies which discriminate against their group or illness. Does the department track private lawsuits?

RESPONSE: Not that I am aware of.

MR. NANCE: This seems like a tremendous loss of useful information for the department.

MR. McCAULEY: 1- Would you tell us the two insurance companies which have filed suit to block the Commissioner? Also I would like to thank Tom Coleman for the quality of this hearing and the publications to come.

RESPONSE: 1-Allstate and State Farm.

MS. HORTON: Expressed her group's concern that if people are allowed to add anyone they wish to an apartment without the approval of the management, the master tenant could leave and the owner would be left with a tenant who did not qualify for the apartment.

**END OF PROCEEDINGS**



