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Washington state Supreme Court judges link injustice to financial inequality at Port Angeles seminar

By James Casey

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PORT ANGELES — Economic obstacles build bigger barriers to equity and justice than any legal technicalities might pose, two of the state's top jurists said.

State Supreme Court Justices Susan Owens and Charles Wiggins said the state's impoverished population has risen by 40 percent over the past 10 years while poor people's legal troubles have shot up from 3.3 issues to 9.3 issues per person each year.

And where once their problems centered on housing and employment, now they have been swelled by consumer cases, financial services and — the biggest category — health care.

Owens and Wiggins spoke with the Peninsula Daily News after they participated in a Clallam-Jefferson Pro Bono Lawyers continuing legal education seminar Friday in Port Angeles City Hall.

Meanwhile, the jurists said, groups like the Northwest Justice Project that help low-income people solve legal difficulties are laying off lawyers and closing offices.

Back in the day

Owens, who served as a Clallam County District Court judge in Forks and as tribal judge for the Lower Elwha Klallam and Quileute tribes, recalled life on the North Olympic Peninsula before environmental challenges crippled the timber industry.

“This [Port Angeles] was a working-class town, but everyone had health care; everyone had above-minimum-wage jobs,” she said, and neediness was largely the fate of single mothers collecting welfare.

Even those people had escape routes from poverty, she said, but “then the timber industry tanked,” taking with it not just family-wage jobs but humbler tasks like sweeping out the mills or manhandling logs onto the green chains that fed them.

Crime mushroomed “because people didn't have anything to do” to make money, she said.

Owens and Wiggins urged voters and legislators to read and heed the Supreme Court's 2015 Civil Legal Needs Study Update, available at www.ocla.wa.gov/reports, which tells of civil legal problems of low-income state residents.

Meanwhile, the public and their politicians must find the will to narrow the gap the justices said yawns across the concept of equal justice under the law.

Judges vs. lawmakers

That won't be easy, they admitted. Already the court is fining the state Legislature \$100,000 a day for what justices say is lawmakers' failure to meet the state's constitutional "paramount duty" to equitably fund public education.

The court assessed the sanctions in August, having found legislators in contempt of its order a year earlier.

With lawmakers preparing for their next session Jan. 11, however, they have signaled they have no firm plans for educational funding reform that justices insist must abandon local property tax levies to underwrite school salaries and operations.

"If we all had our druthers," Wiggins said Friday, "the Legislature would step up to the bar and find the money.

"But getting to the reality? Aye, there's the rub."

What the court may do about legislative inaction is unknown, he said.

"All that is completely in play right now. We can't say anything [about a pending case], and if we could, we couldn't," Wiggins said.

"We don't know," Owens added. "We really don't know."

Eyeing Eyman's I-1366

Another issue that has arisen recently that the court might find itself addressing is legislation by initiative.

That's illustrated by tax activist Tim Eyman's apparently successful effort to cut the state sales tax by 1 percent unless the Legislature adopts a constitutional amendment requiring a two-thirds supermajority to raise revenues.

"The initiative process is a great process," Wiggins said.

"However, our Legislature has to match income with outflow, and there is no such requirement in an initiative.

"That leads to some real problems when the amount of money you're taking in differs from the amount of money you're sending out.

"You can't run a household that way; you can't run a state that way."

Opponents of Eyman's initiative have threatened to file suit over I-1366.

During the Pro Bono Lawyers' continuing legal education programs, Owens and Wiggins presented a selection of the court's disciplinary actions against lawyers.

The court automatically reviews recommendations that attorneys be suspended or disbarred

that come from the Washington Bar Association's Disciplinary Board.

That board, Wiggins said, includes non-lawyers when it meets quarterly in Seattle.

“It's important to have that voice because those are the people who are being protected under the system,” he said.

Of more than 2,000 complaints of lawyer misconduct last year, only 71 came before the court, he said, “which I think speaks well of the system.”

On another panel, Owens and Port Townsend attorney Peggy Ann Bierbaum discussed sexual discrimination toward female members of the bar and agreed it wasn't what it once was.

When she began practice, Bierbaum said, she joined a legal fraternity of “old white men” whose attitude toward her was more curious than sexist.

'I was some oddity'

“They looked at me like I was some oddity,” she said.

“I realized it wasn't so much my gender; they had just been together so long.

“At the end of the day, it wasn't about my being a woman at all; it was about all of the history being brought to the table.”

Owens agreed, at least insofar as her newly minted fellow lawyers were concerned.

“We didn't know anything; we didn't know we didn't know anything,” she said.

“We started out in the same boat. They certainly treated me as an equal.”

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