

Decision and Order

107 F.T.C.

IN THE MATTER OF

DECORATING PRODUCTS DEALERS ASSOCIATION OF
GREATER NEW YORK, INC.CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF SEC. 5 OF
THE FEDERAL TRADE COMMISSION ACT*Docket 9192. Complaint,* April 29, 1985—Decision, June 11, 1986*

This consent order requires, among other things, a Bayside, N.Y. local affiliate of a wallcovering industry trade association to cease any conduct having the effect of fixing prices, terms or conditions of sale of wallcoverings. Further, respondent is prohibited from: (1) coercing any seller or supplier of wallcovering to use or not use any prices, terms or conditions of sale, distribution methods or policy of choosing customers, and (2) assisting any affiliate or member who use any of the prohibited practices.

*Appearances*For the Commission: *Kevin T. Cronin.*For the respondent: *James H. Sneed, Washington, D.C.*

DECISION AND ORDER

AS TO

DECORATING PRODUCTS DEALERS ASSOCIATION OF
GREATER NEW YORK, INC.

The Commission having heretofore issued its complaint charging respondent Decorating Products Dealers Association of Greater New York, Inc. ("DPDA-NY"), a corporation, named in the caption hereof with violation of Section 5 of the Federal Trade Commission Act, as amended, and the respondent having been served with a copy of that complaint, together with a notice of contemplated relief; and

The respondent, its attorney, and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondent of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondent that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's Rules; and

* Complaint previously published at 107 F.T.C. 498 (1986).

The Secretary of the Commission having thereafter withdrawn this matter as to this respondent from adjudication in accordance with Section 3.25(c) of its Rules; and

The Commission having considered the matter and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, now in further conformity with the procedure prescribed in Section 3.25(f) of its Rules, the Commission hereby makes the following jurisdictional findings and enters the following order:

1. Respondent DPDA-NY is a corporation organized, existing and doing business under and by virtue of the laws of the state of New York, with its office and principal place of business located at 42-40 Bell Boulevard, Bayside, New York.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent, and the proceeding is in the public interest.

ORDER

I.

It is ordered, That for purposes of this order the following definitions shall apply:

A. *DPDA-NY* means the Decorating Products Dealers Association of Greater New York, Inc., its officers, directors, committees, representatives, agents, employees, successors and assigns.

B. *Wallcoverings* means flexible materials used to cover residential and commercial walls, such as simple wallpapers, vinyls, fabrics and foils.

II.

It is further ordered, That DPDA-NY, individually or in concert with any other person, directly or indirectly, or through any corporate or other device, shall cease and desist from:

A. Conduct having the purpose or effect of:

1. fixing, maintaining, or stabilizing prices, terms or conditions of sale of wallcoverings;

2. coercing any seller of wallcoverings to adopt, abandon, or refrain from adopting or abandoning any practice or policy concerning prices, terms or conditions of sale, or distribution methods or choice of customers.

B. Expressly or impliedly advocating, suggesting, advising, or recommending that any of DPDA-NY's members refuse to deal with any seller of wallcoverings on account of, or that any of DPDA-NY's members engage in any other act to affect, or to attempt to affect, the prices, terms or conditions of sale, or distribution methods or choice of customers of any seller of wallcoverings.

C. Publishing or circulating the results of any survey of, or otherwise identifying, prices, terms or conditions of sale, or distribution methods or choice of customers of any seller of wallcoverings in order to coerce, compel or induce any seller of wallcoverings to adopt or abandon or to refrain from adopting or abandoning any practice or policy concerning prices, terms or conditions of sale, or distribution methods or choice of customers.

D. Aiding or assisting any affiliates of the National Decorating Products Association or NDPA members in engaging in any of the acts prohibited by this Part II.

III.

It is further ordered, That this order shall not be construed to prevent DPDA-NY from providing information or its members' views to other sellers of wallcoverings, *provided, however,* that the information or views are not presented in a manner constituting an actual or threatened refusal to deal.

IV.

It is further ordered, That DPDA-NY shall:

A. Within 30 days following service of this order, mail a copy of this order to each of its members.

B. Within 60 days following service of this order, publish this order in an issue of *Decorating Logic* in the same type size normally used for articles in *Decorating Logic*.

C. For a period of three years provide each new DPDA-NY member with a copy of this order at the time the new member is accepted into membership.

D. Terminate for a period of one year the membership of any DPDA-NY member within 60 days after learning or having reason to believe that said member has engaged, after the date this order becomes final, in any act or practice that, if engaged in by DPDA-NY, would be prohibited by Part II of this order.

V.

It is further ordered, That DPDA-NY shall:

A. Within 60 days following service of this order, file a written report with the Commission, setting forth in detail the manner and form in which it has complied with this order. Thereafter, additional reports shall be filed at such other times as the Commission may, by written notice to DPDA-NY, require.

B. For a period of 3 years following service of this order, maintain in its files copies of all correspondence received from, or sent to, sellers of wallcoverings, associations of sellers of wallcoverings, or NDPA affiliates or members, and make such copies available for inspection by representatives of the Federal Trade Commission upon written request.

C. Notify the Commission at least 30 days prior to any proposed change in DPDA-NY's organization or operations, such as dissolution, assignment, or sale resulting in the emergence of a successor corporation or association, or any other change that may affect compliance obligations arising out of this order.

Chairman Oliver did not participate.

Complaint

107 F.T.C.

IN THE MATTER OF

SUPERIOR COURT TRIAL LAWYERS ASSOCIATION, ET AL.

FINAL ORDER, OPINION, ETC., IN REGARD TO ALLEGED VIOLATION OF
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT*Docket 9171. Complaint, Dec. 16, 1983—Final Order, June 23, 1986*

This final order prohibits, among other things, a Washington, D.C. lawyers association from: (1) refusing to provide legal services in connection with any effort to fix or raise fees; (2) interfering with the operation of the D.C. Superior Court, any other court, or any government agency in connection with any effort to fix prices; (3) coercing any person not to provide legal services in an effort to fix prices; and (4) encouraging the association, any member, or any other person from engaging in any action prohibited by the order.

Appearances

For the Commission: *Karen G. Bokart, Jonathan J. Groner, Mary Anne M. Fox and M. Suzanne Miller.*

For the respondents: *Willis B. Snell, Michael L. Denger and Williard K. Tom, Sutherland, Asbill & Brennan, Washington, D.C.*

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that respondents Superior Court Trial Lawyers Association, Ralph Perrotta, Karen Dixkoskoff, Reginald Addison and Joanne Slight have violated Section 5 of the Federal Trade Commission Act, 15 U.S.C. 45, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges as follows: [2]

1. Respondent Superior Court Trial Lawyers Association ("SCTLA") is an unincorporated association organized, existing and doing business in the District of Columbia. SCTLA's mailing address is 500 Indiana Avenue, N.W., Room 1220, Washington, D.C.

2. Respondent SCTLA's members are attorneys who in general own or operate private law practices in the District of Columbia for a profit. Respondent SCTLA's members generally specialize in the representation of criminal defendants for a fee. When respondent SCTLA's members represent indigent criminal defendants in the Su-

perior Court of the District of Columbia, their fees are paid by the District of Columbia under the Criminal Justice Act ("CJA") program.

3. Respondents Ralph J. Perrotta, Karen E. Dixkoskoff, Reginald Addison, and Joanne D. Slight (hereinafter sometimes referred to as "the attorney respondents") own or operate private law practices in the District of Columbia for a profit. At all times relevant herein, Ralph J. Perrotta was respondent SCTLAs president, Karen E. Dixkoskoff was its vice-president, Reginald Addison was its secretary, and Joanne D. Slight was the chair person of its "Strike Committee."

4. Respondent SCTLAs is now, and at all times relevant herein has been, an association organized for the profit of its members within the meaning of Section 4 of the Federal Trade Commission Act, 15 U.S.C. 44, whose business is in or affecting commerce, as "commerce" is defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. 44. Respondents Ralph J. Perrotta, Karen E. Dixkoskoff, Reginald Addison, and [3] Joanne D. Slight at all times relevant herein have owned or operated private law practices in or affecting commerce in the District of Columbia, as "commerce" is defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. 44.

5. Except to the extent that competition has been restrained as herein alleged, members of respondent SCTLAs and the attorney respondents have been and are now in competition among themselves and with other attorneys in deciding independently whether and to what extent they will seek CJA program cases at fees offered by the District of Columbia, as opposed to other legal work, and in obtaining appointments to represent indigent criminal defendants in the Superior Court of the District of Columbia.

6. In August 1983, members of respondent SCTLAs and the attorney respondents entered into an agreement among themselves and with other lawyers to restrain trade by refusing to compete for or accept new appointments under the CJA program beginning on September 6, 1983, unless and until the District of Columbia increased the fees offered under the CJA program. Virtually all of the attorneys who regularly compete for or accept new appointments under the CJA program joined in this agreement to restrain trade. A substantial number of these attorneys signed a petition stating: "We the undersigned private criminal lawyers in D.C. Superior Court agree that unless we are granted a substantial increase in our hourly rate, we will cease accepting new appointments under the Criminal Justice Act." [4]

7. In furtherance of their agreement, beginning on September 6, 1983, members of respondent SCTLAs, the attorney respondents, and other attorneys took the following actions, among others: (1) they

refused to compete or make themselves available for appointments to represent indigent defendants in Superior Court; and (2) they attempted to use harassment or other means to induce other attorneys to refrain from seeking or accepting appointments to represent indigent defendants in Superior Court.

8. In engaging in the acts and practices described in Paragraphs 6 and 7, respondent SCTLTA has acted as a combination of at least some of its members, or in conspiracy with some of them or others, to increase the fees offered by the District of Columbia under the CJA program and to boycott the CJA program administered by the District of Columbia.

9. Respondents' acts and practices, described above, have had the following effects, among others:

a. Competition for CJA appointments among respondent SCTLTA's members, and between respondent SCTLTA's members and other attorneys, has been restrained;

b. The administration of criminal justice in the District of Columbia has been disrupted, imposing increased costs on the Superior Court; and

c. The District of Columbia's decision with respect to the fee levels to offer attorneys under the CJA program was made under the duress occasioned by the disruption of its criminal justice system, and that decision was to offer increased fees, resulting in substantially higher costs. [5]

10. Respondents' acts and practices, described above, constitute a conspiracy to fix prices and to conduct a boycott, and they are unfair methods of competition in violation of Section 5 of the Federal Trade Commission Act, 15 U.S.C. 45. The violations, or the effects thereof, are continuing and will continue in the absence of the relief requested.

DISSENTING STATEMENT BY COMMISSIONER MICHAEL PERTSCHUK*

I have voted against issuing a complaint in this matter because it represents a poor exercise of prosecutorial discretion. I do not doubt there is reason to believe a legal violation has occurred. However, as the Chairman is fond of pointing out, we are responsible for allocating our scarce resources so as to focus on cases which "harm consumers." The Commission under this administration has failed to bring any cases involving predatory pricing, the Robinson-Patman Act, resale price maintenance, vertical mergers, or conglomerate mergers. Now, it issues a complaint against an effort by a group of local lawyers, paid

* Michael Pertschuk, Commissioner 1977-1984.

by the District of Columbia to serve indigent clients, to raise reimbursement rates in a situation where it is generally agreed the rates were too low to insure adequate representation.

In addition to the local and limited nature of the lawyer's effort, and the fact that, from a practical perspective, they were underpaid, other factors mitigate against formal enforcement action. The theoretical "victim," the District of Columbia, never asked for our intervention nor asserted its own antitrust prohibitions. The dispute between the lawyers and the District is now over, legal services are again being provided. The system is working better than before. Finally, should liability be found and an order ultimately issued, there will be inevitable problems in enforcing it given that the "respondent" here is a loose-knit collection of individuals.

All this is not to say that conspiracies by lawyers or other professionals to raise fees are not antitrust violations, or that I would not enthusiastically support a case challenging such a conspiracy in a different set of circumstances in the future. In *this* case at *this* time, we should spend our time on more harmful conduct.

December 16, 1983

INITIAL DECISION BY

MORTON NEEDELMAN, ADMINISTRATIVE LAW JUDGE

OCTOBER 18, 1984

I.

STATEMENT OF THE CASE

Most of the criminal defendants brought before the District of Columbia's Superior Court¹ are indigents represented by private lawyers appointed by the commissioners and judges of the Superior Court under the District's Criminal Justice Act ("CJA"). The fees paid to these "CJA lawyers"² had been set in 1970 at \$20 for out-of-court time

¹ Since 1970, Superior Court has been the principal trial forum for criminal offenses involving violations of the D.C. Code. Criminal cases in Superior Court are heard in two divisions—Criminal Division for adults, Family Division for juveniles under age 18. The United States District Court for the District of Columbia has concurrent jurisdiction with Superior Court for any violation of the D.C. Code which is also a federal offense. In actual practice, fully 95 percent of all criminal cases brought in the District are heard in Superior Court. See Carter 124-126, 220, 221.

² The CJA lawyers are sometimes referred to as "Fifth Streeters" (for where Judiciary Square, Superior Court, and the offices of some CJA old-timers are located) as a way of distinguishing them from Washington's "uptown lawyers" who practice in the federal court system, before federal departments and administrative agencies, and on the civil side of Superior Court. While the offices of the uptown bar are usually located on the streets leading off Connecticut Avenue, the geographical separation between the two bars is gradually diminishing as a result of the gentrification of the area between 15th and 5th Streets. Notwithstanding the blurring of territorial lines, the separation of Washington lawyers between Fifth Streeters and the uptown bar is well-recognized and embraces

(footnote cont'd)

and \$30 for in-court time. This case centers around a 1983 boycott organized by the Superior [2] Court Trial Lawyers Association ("SCTLA"), a confederation of CJA lawyers, to obtain higher fees.

The Commission's complaint, which was filed on December 16, 1983, charges that the members of SCTLA and three named officers of the association (respondents Perrotta, Koskoff³ and Addison), as well as respondent Joanne D. Slight as head of a so-called "Strike Committee", entered into an agreement among themselves and with other CJA lawyers to restrain trade by refusing to compete for or to accept new appointments unless fees were raised. In support of this charge, the complaint cites the following petition attributed to SCTLA:

We, the undersigned criminal lawyers in the District of Columbia Superior Court, agree that unless we are granted substantial increases in our hourly rate, we will cease accepting new appointments under the Criminal Justice Act.

The subsequent refusal by the members of SCTLA and the named individual respondents to take additional appointments, as well as the alleged harassment aimed at inducing other attorneys to refuse appointments, is variously characterized in the complaint as an illegal agreement, a combination, and a conspiracy to fix prices and to conduct a boycott. According to the complaint, but for the boycott, the CJA lawyers would have competed among themselves in deciding independently whether to accept CJA cases at fees offered by the District. The effects of the boycott are said to include a restraint on competition for CJA appointments, [3] the disruption of the District's criminal justice system, and the imposition by duress of additional costs on the District.

Respondents' answer, dated January 6, 1984, acknowledges that respondents Slight and Addison signed the aforementioned petition but otherwise denies all material allegations in the complaint. The answer also states that SCTLA is not a legally accountable or even an identifiable organization for purposes of a Federal Trade Commission proceeding. The answer asserts as affirmative defenses that respondents' activity represented the exercise of the right to petition guaranteed by the First Amendment, and was undertaken in furtherance of the Sixth Amendment rights of indigent criminal defendants.

In the prehearing stage both sides were allowed discovery including

every aspect of their respective practices: kinds of clients, types of cases, prestige, income, amenities, and the forums where they generally appear. The CJA bar must also be distinguished from the handful of District lawyers who represent the big-time criminal defendants—those in control of prostitution, gambling, and drugs and who can well afford to pay generously for skilled counsel. See Perrotta 647-649. See also JX 2, p. 51, JX 4, p. 21, JX 6, p. 71, JX 11, p. 133; RX's 647-649.

³ By my order dated August 15, 1984, the pertinent part of the caption of the case was changed to "Karen E. Koskoff" from the original "Karen E. Dixkoskoff" to reflect a legal name change.

depositions of all prospective witnesses and several key participants in the boycott who were not subsequently called as witnesses. Complaint counsel's case-in-chief was heard during the week of May 7, 1984. The defense case was presented between May 13, 1984, and May 25, 1984. Rebuttal exhibits were offered by complaint counsel on June 8, 1984, and the record was closed for the receipt of evidence on July 20, 1984. During the hearings, counsel for both sides were given full opportunity to be heard and to cross-examine the witnesses. The parties filed their main briefs and proposed findings on August 14, 1984. Reply briefs were filed on September 4, 1984.

After reviewing all the evidence as well as proposed findings and briefs submitted by the parties, and based on the [4] entire record, including my observation of the demeanor of witnesses, I make the following findings of fact:⁴ [7]

⁴ Proposed findings not adopted in the form or substance proposed are rejected, as either not supported by the entire record or as involving immaterial or irrelevant matters.

The following abbreviations are used throughout in citing to the record:

CX - (Complaint counsel's exhibits)
 RX - (Respondents' exhibits)
 JX - (Joint exhibits)

Testimony is cited by the name of the witness, followed by transcript page as in Isbell 1357. Complaint counsel's Exhibit 1 and respondents' Exhibit 1 are the indices required by Section 3.46(b) of the Commission's Rules.

The appearances of the witnesses were as follows:

<u>Name</u>	<u>Called By</u>	<u>Tr. Pages</u>
Francis D. Carter (Director, Public Defender Service)	Complaint counsel ("c.c.")	67-290
Herbert C. Robinson (Chief of Staff, Criminal Justice Act Office, Public Defender Service)	c.c.	311-384
Lillian A. McEwen (CJA Lawyer)	c.c.	407-517
Hugh O'Neill (CJA Lawyer)	c.c.	525-574
Ralph J. Perrotta (CJA Lawyer, former SCTLTA President and now Chairman of SCTLTA Board of Directors)	Respondents ("resp.")	634-784
Karen E. Koskoff (CJA Lawyer, former SCTLTA Vice-President, and now SCTLTA President) [5]	resp.	784-866
Reginald G. Addison (CJA Lawyer, former SCTLTA Secretary and now SCTLTA Vice-President)	resp.	872-911
Nelson J. Kline (Former CJA Lawyer and Media Representative for the "Strike Committee")	resp.	916-948
Joanne D. Slaight (Former CJA Lawyer and Chairperson of the "Strike Committee")	resp.	949-975
Robert H. Salisbury (Professor of Political Science, Washington University, St. Louis, Missouri)	resp.	979-1047
John H. Pickering (Former President, D.C. Bar (Unified))	resp.	1051-1109

Initial Decision

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II.

FINDINGS OF FACT

A. SCTLA

1. Respondent Superior Court Trial Lawyers Association ("SCTLA"), a loosely-organized unincorporated association, served as the rallying point for the 1983 campaign waged by the CJA lawyers to increase their fees. (Findings 2 to 4.)

2. SCTLA has been in existence for at least 10 years.⁵ It is located in Room 1220, Superior Court Building, 500 Indiana Avenue, N.W., Washington, D.C.⁶ At one point, SCTLA had some of the formal trappings of a professional organization—*i.e.*, a certificate of incorporation as a District of Columbia non-profit corporation, by-laws, and a Blue Cross/Blue Shield insurance policy.⁷ The certificate of incorporation was revoked on September 14, 1981; in early 1983 it was decertified for health insurance purposes because it did not meet Blue

Edward P. Colbert (Uptown Lawyer)	resp.	1109-1124
Geoffrey C. Hazard, Jr. (Professor of Law, Yale Law School, and Director, American Law Institute)	resp.	1128-1173
James F. Rill (Uptown Lawyer)	resp.	1177-1190
Edward J. Lopata (Uptown Lawyer)	resp.	1191-1206
Sterling Tucker (Former Chairman, D.C. City Council)	resp.	1236-1283
James R. Loftis, III (Uptown Lawyer)	resp.	1283-1295
David B. Isbell (President, D.C. Bar (Unified)) [6]	resp.	1302-1369
Wiley A. Branton (Former Dean, Howard University Law School)	resp.	1370-1413
Norman Lefstein (Professor of Law, University of North Carolina Law School)	resp.	1418-1540

Deposition testimony appears in the following joint exhibits:

- JX's 2-4 - J. Gerard Lewis (CJA lawyer and SCTLA Treasurer)
- JX 5 - Cheryl B. Stein (CJA lawyer and member of the "Strike Committee")
- JX 6 - David B. Hirsch (CJA lawyer and member of the "Strike Committee")
- JX 7 - Robert J. Pleshew (CJA lawyer and former member of SCTLA Board of Directors)
- JX 8 - Roger L. Pickens (CJA lawyer and member of the "Strike Committee")
- JX 9 - Yvonne T. Foster (CJA lawyer and former SCTLA Secretary)
- JX 10 - Joanne D. Slaight (*See above*)
- JX 11 - Ralph J. Perrotta (*See above*)
- JX 12 - Reginald G. Addison (*See above*)
- JX 13 - Karen E. Koskoff (*See above*)

Deposition testimony is cited by reference to the joint exhibits listed above, followed by page number.

⁵ JX 11, p. 23; CX 2A.

⁶ CX 6A.

⁷ JX 2, pp. 21, 24, 25, JX 11, p. 17, JX 13, pp. 20, 21, 124; CX 2B, C.

Cross/Blue Shield criteria for an employer/employee group; and if SCTLA now has by-laws no one seems to know where they are or what they say.⁸ [8]

3. Because lawyers are constantly entering and leaving CJA practice, the membership of SCTLA is difficult to pin down. There is no reliable membership list.⁹ Technically, membership in the organization and the right to vote in SCTLA elections is open to any lawyer who takes CJA cases and pays the \$30 annual dues.¹⁰ But income from CJA practice being what it is, there is a minimum level of compliance with the dues requirement, and SCTLA officers (CJA practitioners themselves who appreciate the financial condition of their colleagues) have never vigorously enforced the dues requirement or strictly limited voting in SCTLA elections to dues-paying members.¹¹ As a result, any CJA lawyer (broadly identified as someone who takes CJA cases) can participate in SCTLA meetings, vote in SCTLA elections, and even hold office in the organization.¹²

4. Despite its diminished status as a formal association, SCTLA nevertheless functions as a viable entity around which the CJA lawyers are organized. SCTLA holds informal meetings from [9] time to time in the Lawyers' Lounge of the courthouse.¹³ It has a board of directors and it elects officers.¹⁴ It maintains a bank account.¹⁵ At one time, it organized a Political Action Committee (PAC), which collected funds and made contributions to political candidates supportive of SCTLA's demand for a rate increase.¹⁶ SCTLA officers initiated, and the SCTLA treasury paid, the expenses associated with a pre-boycott lobbying campaign aimed at increasing CJA rates.¹⁷ SCTLA officers orchestrated the boycott and SCTLA paid boycott-related expenses.¹⁸ In general, SCTLA holds itself out as the representative of CJA lawyers, and in that capacity its leaders are perceived as authorized to speak for CJA lawyers on the question of rates and other matters affecting CJA practice.¹⁹ [10]

⁸ JX 2, p. 23, JX 3, p. 212, JX 6, p. 65, JX 11, p. 17; CX 2D.

⁹ JX 2, pp. 14-17, JX 9, pp. 16, 17; CX 1634A-I, which purports to be an SCTLA membership application list, contains the names of individuals who are not in CJA practice. JX 7, p. 52, JX 9, p. 54.

¹⁰ JX 2, p. 20, JX 7, pp. 14, 47, 50, JX 9, p. 17, JX 13, pp. 176, 190.

¹¹ JX 2, pp. 15, 16, JX 3, p. 208, JX 6, pp. 8, 9, JX 9, pp. 11, 12, 17, JX 11, p. 21.

¹² JX 2, p. 8, JX 5, p. 19, JX 6, pp. 8, 11, JX 7, pp. 7-13, JX 12, pp. 28, 46-48; Addison 892.

¹³ Meetings (including election meetings) are held on the spur-of-the-moment or whenever someone posts a notice on the blackboard in the Lawyers' Lounge of Superior Court announcing that one is necessary. JX 2 p. 58, JX 6, pp. 55, 56, JX 7, p. 9, JX 13, p. 37.

¹⁴ JX 2, p. 8, JX 3, pp. 138, 139, JX 7, pp. 12-14, 17, JX 9, pp. 8, 10, 11, 13, 43-45, JX 11, p. 20, JX 12, p. 22, JX 13, p. 21.

¹⁵ JX 2, pp. 8, 19, 59, 60, JX 3, p. 200; CX 56.

¹⁶ JX 10, p. 14, JX 11, pp. 23, 24; Perrotta 679.

¹⁷ JX 2, pp. 25-27, JX 11, pp. 97, 98; Perrotta 679, 693, 694, 698, 699.

¹⁸ See Findings 46-49, 55, 58, 63, 65, 66.

¹⁹ JX 2, pp. 46-53, JX 7, pp. 16, 20, JX 11, pp. 60, 98, JX 12, pp. 21, 24, 26; CX's 6A-14, 36C, 38F, 84A; RX's 63B, 142B-D; Perrotta 678-680, Koskoff 849, 850, Pickering 1090, 1091. See also Findings 37-40, 42-45, 50, 55, 58, 63, 65, 66.

B. *Individual Respondents*

5. Respondent Ralph J. Perrotta graduated from the Harvard Law School in 1960, and was admitted to practice in the District of Columbia the same year. Between 1960 and 1979, Perrotta pursued a varied career with emphasis on public interest work: he drafted Medicaid and child abuse legislation; he established antipoverty, head start, legal services, and neighborhood health programs; and he worked with organizations concerned with the problems of urban ethnic groups. Perrotta also taught courses on urban affairs at the Rhode Island School of Design and Cornell University. In 1976, he ran unsuccessfully for the Democratic nomination for United States Senator from Rhode Island. Perrotta entered CJA practice in 1979 when he found that public interest funding was drying up and that career opportunities in this area were no longer readily available.²⁰ At present, about 90 percent of Perrotta's practice consists of CJA cases.²¹ He conducts his practice from his home and he has no employees.²² In the fall of 1982, Perrotta was elected President of SCTLTA and in October, 1983, he was elected Chairman of the Board of SCTLTA.²³

6. Respondent Karen E. Koskoff graduated from Antioch Law School in 1979 and was admitted to practice in the District of [11] Columbia in 1980. She is a sole practitioner who has accepted CJA cases since early 1981. Her interest in criminal and poverty law traces back to her high school days when she served as a part-time staff member in a drug treatment program. In college she assisted released prisoners in finding jobs. Koskoff has worked as an investigator for the public defender service in Montpelier, Vermont, and as a social worker in a work release program for prisoners in Madison County, Alabama. While attending Antioch Law School, she participated in the school's Prisoners' Rights Clinic, Adult Misdemeanor Clinic, and Juvenile Clinic. In her third year at Antioch, Koskoff was certified to handle misdemeanor cases in Superior Court in the District. After graduation from law school, she was employed as a staff attorney with the Public Defender Service in Pittsburgh, Pennsylvania and worked briefly with a Washington, D.C. law firm. Koskoff began taking CJA assignments in 1981.²⁴ At present, approximately 99 percent of her practice consists of CJA cases.²⁵ She conducts her practice from her

²⁰ Perrotta 635-641.

²¹ Perrotta 647.

²² JX 11, p. 9; Perrotta 646, 647.

²³ JX 11, p. 19; Perrotta 663, 762, 763.

²⁴ Koskoff 785-792.

²⁵ JX 13, p. 47; Koskoff 792, 793.

home and has no employees.²⁶ In late 1982, Koskoff was elected Vice-President of SCTLTA and in October, 1983, she was elected President of SCTLTA.²⁷ [12]

7. Respondent Reginald G. Addison graduated from George Washington University Law School in 1981 and was admitted to practice in the District of Columbia the same year. He grew up in Southeast Washington, "had a couple of brushes with the law"²⁸ as a juvenile, and went into CJA practice determined to help those from a similar background.²⁹ He is a sole practitioner who has accepted CJA cases since February, 1982. Approximately 90 percent of Addison's current practice consists of CJA cases. He maintains an answering service in a part-time office that also serves as his mailing address. He has no employees.³⁰ In the summer of 1983, Addison was elected Secretary of SCTLTA and in October, 1983, he was elected Vice-President of SCTLTA.³¹

8. Respondent Joanne D. Slaight graduated from Catholic University Law School in 1980 and was admitted to practice in the District of Columbia the same year. Before entering law school, she was employed in public interest work in California and New York.³² She began taking CJA assignments in 1981, and at the time of the boycott, approximately 95 percent of Slaight's practice consisted of CJA cases. Until December, 1983, she maintained an office in the District of Columbia. She had no [13] employees.³³ She has never been elected as an officer or director of SCTLTA and did not pay dues to SCTLTA in 1983.³⁴ In August, 1983, Slaight was designated as Chairperson of a "Strike Committee", which later evolved into the "SCTLTA Strike Committee."³⁵ In December, 1983, she stopped handling CJA cases in the District of Columbia and now lives in Staten Island, New York. Slaight is presently employed by The New York Public Interest Research Group, Inc.³⁶

C. The Criminal Indigency Problem In The District Of Columbia

9. The Sixth Amendment of the Constitution provides:

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been

²⁶ Koskoff 793.

²⁷ JX 13, p. 19; Koskoff 785, 793, 794.

²⁸ Addison 874.

²⁹ Addison 873-875.

³⁰ JX 12, pp. 7, 9, 10; Addison 873-875.

³¹ JX 9, p. 13, JX 12, p. 20.

³² Slaight 950.

³³ JX 10, p. 7; Slaight 951, 952, 954.

³⁴ JX 10, p. 12; Slaight 973.

³⁵ JX 10, pp. 32, 33; Slaight 973. See also Findings 47, 58.

³⁶ Slaight 950.

