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LOREN SMITH: "The role of the legislative advocate is imperative to the process. No legislator can know all of the issues and all of the bills."

The Judges' Man

Lobbyist Represents State's Jurists While Handling Chores for Car Dealers, Bottlers

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SACRAMENTO — In the din of business as usual at the state Capitol, it is sometimes difficult to be heard — even when the voices belong to California's 1,408 active state judges. In the halls of the Legislature, judges are just one more special-interest group.

But judges aren't really like many others who wave their wish lists at lawmakers while promising campaign contributions.

The judges are constrained by limits on their public life, concerns about conflicts of interest and — perhaps most important — a desire for the proper image.

That desire for a low-key, dignified tone led them to Loren Smith, the only professional lobbyist the judges have ever hired. He has represented the California Judges Association since 1975 as a partner in California Advocates Inc., which regularly claims a place among the top 10 lobbying firms in the state.

In 1986, the firm reported fees of \$612,126, according to the California Fair Political Practices Commission (FPPC). The CJA kicked in \$26,820 of that total.

Smith works in a business that often evokes cynicism, but people speak of the Sacramento lawyer in almost reverential tones, praising his integrity,

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ethics, industriousness and knowledge. Amid the gossip and sniping that permeate the Capitol, one is hard-pressed to hear a negative remark about Smith.

Perhaps Smith's antiseptic image wasn't sufficiently appreciated by the judges in 1975, when the CJA wrestled with the idea of hiring its first paid lobbyist. Many judges greeted the idea with disdain, contending that it made them seem like unionists.

"There were many members who felt it was demeaning to have a lobbyist," says Sue Malone, the executive director of the CJA when the decision was made. Malone now directs the Boston Bar Association, which is seeking its first professional lobbyist.

"They felt the judges association was too often perceived as an organization committed solely to judges' salaries and benefits," recalls former association president Robert Puglia, a justice on the state Third District Court of Appeal in Sacramento.

Some members felt the move would reinforce the perception of the group primarily as a trade union.

"It was controversial," says Justice Fred Marler, another former association president who sits on the Third District. "Some thought it was beneath the dignity of judges."

The prevailing view was that "it just wasn't quite proper" for judges to be roaming the halls of the Capitol pushing legislation, he says. But supporters made a compelling case for hiring Smith.

"Whether it was a pay issue or a legal issue, [judges] had to take off work and come up to Sacramento," Marler says. "Judges also lacked the expertise as to how to do it right. We needed to get someone who had the expertise."

"To Marler, Smith was the perfect choice."

"The advice he gives us is first-rate," Marler says. "He always follows the bills assiduously, and I'm afraid he gives us more time than we pay him for. . . . I gave him a very high recommendation, and I've never been sorry."

Legislators in regular contact with Smith are impressed by the association's advocate.

"He does a competent job," says Assembly Judiciary Committee Chairman Elihu Harris, D-Oakland. "In my dealings with him, he has always been amicable and professional."

"He's in a class by himself," says Sen. Wadie P. Deddeh, D-Bonita, who has for several years sponsored unsuccessful legislation to reduce the unfunded liability (\$650 million and growing) of the beleaguered state judges' retirement system. "He is exceptionally decent and polite and well-informed — and as honest as the day is long. . . . What Loren tells you, you can bank."

The judges association currently has 2,073 members, up from 1,600 in 1983. It includes 535 retired judges and 92 percent of the California judiciary. The CJA maintains a staff of five full-time and two part-time employees in its San Francisco headquarters, run by executive director Constance Dove.

Association membership is voluntary, and much of its legislative effort historically has focused on salary and retirement issues. Recently, it has addressed increasing costs and congestion in the state's trial court system.

Smith tracks the progress of bills and testifies in committee when necessary. At key junctures he brings in judges to testify.

In the 1987 legislative session, the CJA sponsored or backed 14 major bills, of which eight are now law, Smith said. The group's most visible success was the "rescue operation for mandatory judicial arbitration," he said. The measure was eliminated in the budget trailer bill and reinstated in a subsequent bill through the efforts of CJA and the California Judicial Council.

Other successful bills backed by CJA improved health and survivors' benefits for certain judges, ensured funding of justice courts in counties with no municipal courts (part of the Trial Court Funding bill), clarified civil procedure on allowable trial costs and clarified the definition of a one-day trial for oral



Loren Smith, CJA lobbyist

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"In my immodest way, I think we've preserved and enhanced the integrity of the judiciary," he says. "We've preserved their automatic salary increases, which are extremely important in order to attract and retain qualified judges. You're trying to attract a group of people who are well educated and successful in their own right. It has to be an attractive corridor or you're going to get people you might not want, who are not as well qualified."

"In my opinion, we've done that," he says. "We've preserved their salary structure, and we don't have to go to the Legislature every year to ask for salary increases because it's done automatically."

"He is extremely effective," says current CJA President Gene McDonald, a Superior Court judge in San Mateo County. "He is not so much low-profile as he is low-key. He has a very high regard for ethical principles and for not getting so caught up in the game that he loses sight of the goal."

A political science major, he graduated from Stanford University in 1950.

Smith, 60, was a personnel specialist with the California State Employees Association when he received his law degree from McGeorge School of Law in Sacramento in 1961. Law school was pure drudgery for him.

"I worked during the day and went to school three nights a week and studied in my spare time," he says. But his law degree has been good to him.

"McGeorge was a turning point in my life," he told the McGeorge alumni newsletter in 1983. "As soon as I had my license to practice law, my life did change and has been improving ever since."

After he received his law degree and passed the Bar Exam, Smith began han-

dling employee disciplinary matters for the state employees group, representing members in administrative law hearings. In 1965 the group's chief lobbyist, John McElheney, died, and Smith replaced him.

From 1967 to 1969 he was assistant general counsel to the California Railroad Association. He returned to the state employees group as its lobbyist in 1969, and in 1970 became the association's general manager. In 1972, he left the group to form California Advocates with Robert Beckus, a successful lobbyist, now retired, who then represented the Knudsen Co., a large dairy-products firm.

"They [Knudsen] allowed him to branch out and represent other people," Smith says. "Bob was not a lawyer, and some of the clients thought they needed a lawyer. I think it's helpful [to have a law degree in lobbying], but not necessary, not imperative. There are a lot of people without law degrees who do a good job. "Some clients want a law degree. It makes them feel more comfortable. They have a perception that a lawyer understands the law better, that he can articulate the law better. Whether that's true or not depends on the individual. Some of the lawyers in the business are not . . . outstanding in their work."

California Advocates was one of the first major lobbying firms to make itself available to divergent clients — as long as no conflicts arose, Smith says.

One of the firm's first clients was the giant California State Automobile Dealers Association, the umbrella group for the Motor Car Dealers Association of Southern California and the Northern California Motor Car Dealers Association. The dealers paid \$66,114 in 1986 payments to Smith's firm, according to FPPC records.

roster include the California Council of the American Institute of Architects, the California Escrow Association, the California Trustees Association, the California-Nevada Soft Drink Association, Coca-Cola Co., Home Federal Savings of San Diego, the McKesson Corp., the Perrier Group, Pillsbury Co., the San Diego Unified Port District and Stroh Brewery Co.

According to the 1986 FPPC compilation of lobbyists' earnings, no single client accounted for a dominant portion of California Advocates' income — unlike some Sacramento lobbying firms with single-issue reputations and clientele.

The largest fee received by Smith's firm in 1986, according to the FPPC, was from Traffic Safety Now Inc., an organization formed to support the successful mandatory seat-belt law. The group paid the firm \$55,250 in 1986.

The architects association paid \$35,783, the escrow association \$34,363, and TRW Inc. \$32,100. The Society of the Plastics Industry paid \$30,782, with the Simpson Timber Co. just behind at \$30,000, and the Response Graphics Division of Moore Business Forms at \$29,894. Coca-Cola paid \$25,712 and Stauffer Chemical Co. \$24,000.

"None of our clients is full time," Smith says. "We're more like a traditional law firm, representing a variety of clients."

The firm includes partner Ralph Simoni, a lawyer and former lobbyist for the State Bar of California, and William Birtcil, president of the Keystone Group, a public affairs consulting firm specializing in representing corporate clients. A longtime former public relations executive with the IIT Corp. and TRW Inc., Birtcil serves as a special consultant to California Advocates, representing corporate clients.

Smith said the firm diversified in the mid-1970s, as the Legislature was "professionalized" by the late Jesse Unruh, then Assembly Speaker. More professionals were hired for legislative committees and more legislators began devoting full time to their work.

"Unruh changed the character of the Legislature," Smith said. "Staff pay was getting better, attracting more professional staff. We saw a need, particularly for corporations who didn't want to pay for a full-time person in Sacramento but could hire a firm to represent their interests."

Several other Sacramento lobbying firms followed the same path.

"A lot of firms that started after us have grown to be larger," Smith said. "We made an intentional, calculated decision not to become too large, although we are rated as one of the top 10."

While the field has expanded and grown more complex, the goals remain the same — influencing the outcome of legislation.

"The role of the legislative advocate is imperative to the process," he says. "No legislator can know all of the issues and all of the bills. You can get up to 6,000 separate pieces of legislation in a two-year session. [Legislators] depend on the people representing the special interests. They depend on people like us to bring them the information."

The major change in the lobbying business is the corrosive influence of special-interest money in election campaigns, he says.

"The cost of elections has skyrocketed," he said. "As far as lobbying is concerned, the influence of money is a negative." He advocates campaign reform measures that would limit the influence of money on the legislative process and that would prohibit transfers of campaign cash between candidates.

Smith also bemoans "incestuous" capital lobbying circles. Former state officials go into the private sector to become lobbyists and then they return to influence their former colleagues.

This year, Smith and the CJA will press for a constitutional amendment to permit judges to teach in public schools and another to designate justice courts as courts of record. Also expected is a measure relating to senior judge status

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and salary options. That bill failed last year.

The association also plans to introduce legislation to require certain pre-preliminary conferences to be held in municipal and justice courts, and to grant those judges the authority to impose felony sentences in certain cases. In addition, legislation is pending to exempt judges from campaign disclosure requirements for personal contributions less than \$1,000. Smith also is advocating confidentiality of judges' home addresses on campaign reporting statements and voter registration rolls to protect them from threats.

Despite winning automatic pay raises for judges, Smith remains concerned that judicial salaries are falling behind the competition.

"In some counties you have deputy district attorneys making more than the judge who's trying the case," he says.

He is frustrated by setbacks in his efforts to enact a long-term bailout of the perennially underfunded judicial retirement system. The \$650-million unfunded

liability in the judges retirement system persists as the most vexing legislative dilemma facing Smith and the CJA.

The association will press for a legislative solution, but Smith said the Legislature will more likely continue its annual "bailout" rather than a permanent resolution.

"We've made our own alternative proposals to the Legislature for funding the system, but they've been rejected," Smith said. "Right now it's something so big and growing that it's beginning to look like the State Teachers Retirement System, which is \$11 billion or \$12 billion in the red, and nobody wants to talk about that sleeping giant, either."

"We suggested funding [the judges retirement system] with a \$20-million contribution from the general fund every year for 40 years," Smith said. "The actuaries think that would take care of it. But that is opposed by the employer, the state Department of Finance, which says they don't want to give up the money to fund the system. So [the deficit] just keeps growing."