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POWER AND THE PEOPLE'S LAWYER

Folksy Practitioner Gets Dinged for Running 'PI Mill'; Meanwhile, He's Seeking Higher Office

By Sarah Lavender Smith
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In the late-night television mix of infomercials and B-movies, Oakland attorney Jim Rogers appears during 30-second spots as "The People's Lawyer" and tells glassy-eyed viewers that he helps car crash victims build a good case and get a fair settlement.

His phone number flashes across the screen, along with the populist-styled moniker that has earned him minor celebrity status throughout the Bay Area and also has propelled a political career in Contra Costa County.

He comes across on television as he does in person — an amiable mix of earnestness and slight geekiness, which might be expected from someone who is, after all, a former Eagle Scout and erstwhile resident of Berkeley's campus co-ops.

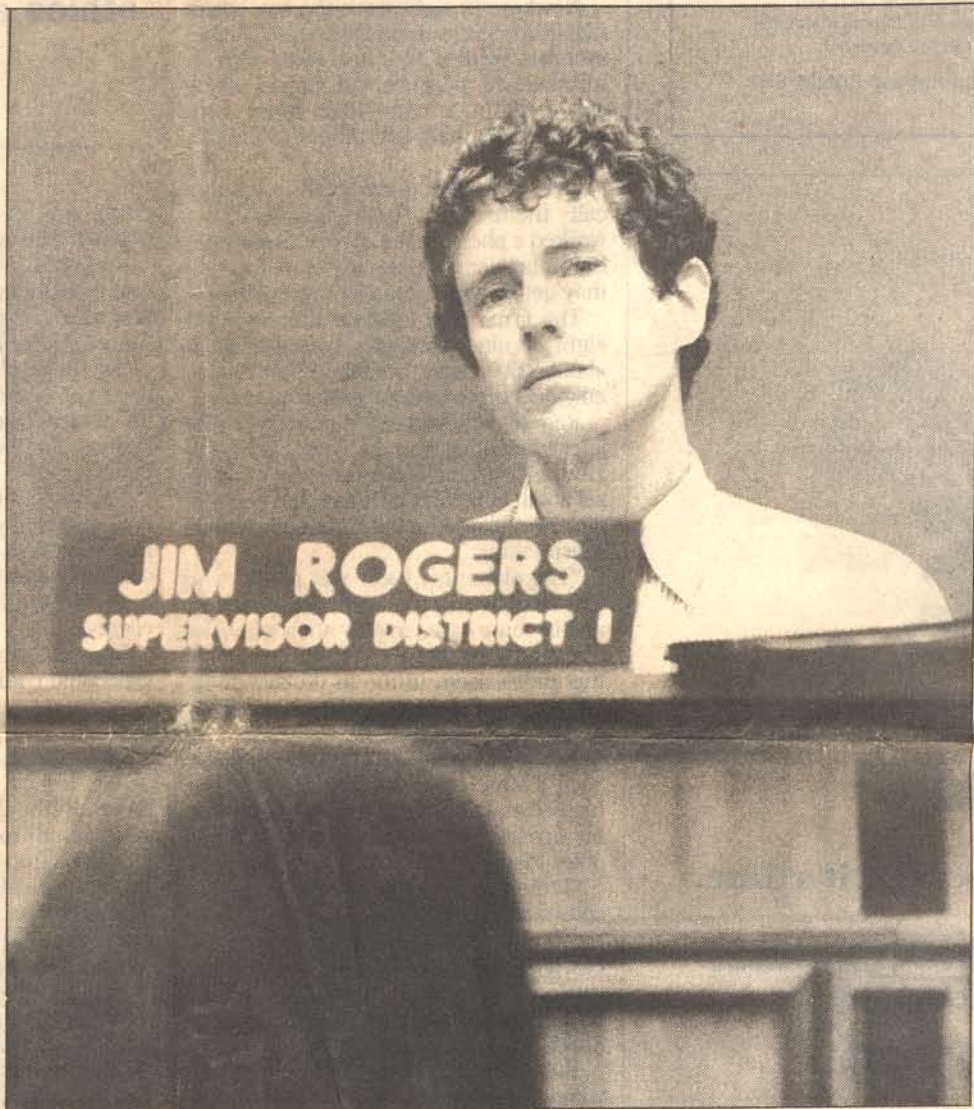
These days, the legal version of Mr. Rogers is setting his sights beyond his own neighborhood by mounting a political campaign aimed at Sacramento. Having spent about \$214,000 of his own money to win a tight race for county supervisor in 1994, Rogers plans to finance an Assembly race in the spring with the money he earns from his personal-injury practice.

Although many politicians come from legal backgrounds, Rogers presents an enigmatic combination of law and politics that has attracted liberal voters and made him a formidable force in local Democratic circles. But his quirky character and cut-rate law practice also have attracted critics who would not be displeased to see Rogers' rising political star fade.

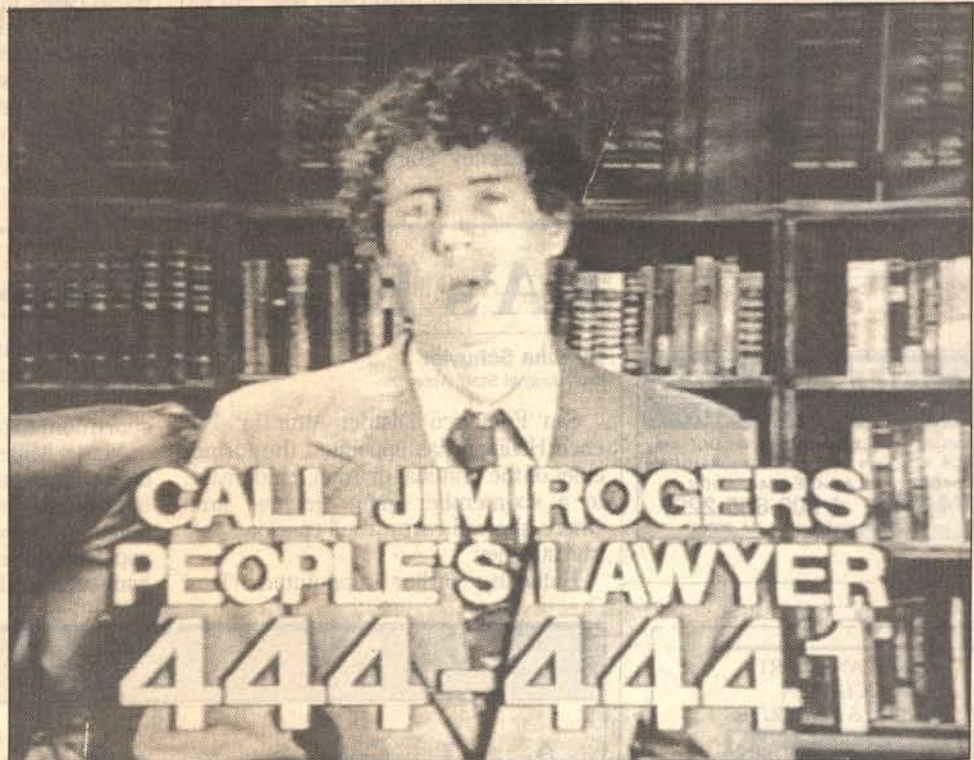
"His positions are fairly progressive, but his ethics as an attorney make me want to gag," said Richard Phelps, an Oakland plaintiffs attorney.

Phelps took over the car accident cases of four of Rogers' clients and wound up suing the lawyer last year for fraud and negligence after Rogers took one-third of the clients' medical payment claims. The clients claimed one of Rogers' paralegals told them a one-third cut

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XIANG XING ZHOU/ Daily Journal



JIM ROGERS — "For attorneys who think this [my way of handling small cases] is so horrible ... my suggestion is they ought to take the cases that are going to get a \$3,000 or \$4,000 jury award."

Pros and Cons for the 'People's Lawyer'

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would come from settlements, but they said they were not aware of an additional fee for processing paperwork to obtain insurance proceeds.

Last July, a Municipal Court judge ordered Rogers to pay the clients \$3,000 each. "They never talked to [Rogers]," Phelps said of the clients. "All they'd ever get was a paralegal."

On TV, Rogers comes across as the picture of sincerity. He wears a sport coat and necktie while standing in front of impressive shelves of law books. His curly hair and boyish face make him look younger than his 40 years — more like a graduate student than the proprietor of a lucrative, high-volume legal business.

In real life, Rogers presents a dramatically different image. Insisting that he meet a reporter at his office for an interview late at night, Rogers came to the door barefoot and barely dressed. Despite the cool temperature in the office, he wore a faded cotton T-shirt and threadbare corduroy cutoffs snipped so high that the pockets hung lower than the shorts.

"He's a funny guy. He's not your normal politician," said one of his supporters, Richard Norris, an influential Richmond attorney who chairs the local Chamber of Commerce. "And he dresses absolutely terribly."

Nowhere in sight were the law books that feature so prominently in his TV commercials. Instead, files were piled high on mismatched furniture with ripped upholstery, all in a cavernous room with exposed plumbing that gives the feel of a basement.

One of Rogers' paralegals — who all call themselves "case handlers" — worked a phone in the corner, despite the late hour. None of them use computers — they get by with a couple of typewriters.

The firm's four full-time attorneys and eight or nine paralegals typically juggle about 2,000 cases, a volume that reportedly nets more than \$1 million annually.

Rogers, who began his practice a year after graduating from UC Davis School of Law in 1980, readily acknowledges that he set about building a business that bears little resemblance to the "traditional Perry Mason thing."

"The niche that I saw was people who maybe didn't have a whole lot of money, and in some cases maybe not a whole lot of medical insurance," said Rogers. "And that didn't seem to me to be something that personal injury lawyers were interested in or responding to."

Explaining how the office manages such a large caseload, Rogers portrayed himself as a teacher of sorts while casting his firm as something of an educational enterprise.

"I think it's having a system that makes sense, hiring people who are bright, trying to help people understand the process. It's actually kind of a teaching job, in a sense ... It's a very complex, very interesting process with its own little knick-knacks and gadgets and gadgets."

But Rogers was a bit more elusive when the subject turned to his own experience in actually trying cases in court.

"I occasionally have done that, but basically, it is a large office, and there's a certain amount of specialization that goes on in terms of people doing different parts of the process. And I'm not usually in that loop so much ... Most [cases] do settle."

An attorney litigating a class action

against Rogers in Alameda County Superior Court bluntly characterized the firm as a "PI mill."

Paul A. Frassetto, a sole practitioner in San Francisco, represents clients of Rogers whose suits were filed in small claims court and allegedly handled solely by paralegals.

Frassetto's suit claims that a hefty percentage of a client's typically small recovery — in some cases more than 40 percent — was taken out in attorneys fees.

The class representative, a security guard named Mosden Brooks, retained Rogers after he was involved in a car accident in 1993. Brooks alleged that Rogers' firm directed him to a chiropractor rather than a doctor connected to his company's medical plan, which resulted in an unpaid bill of about \$1,400.

Brooks claimed that Rogers, whom he talked to only once on the phone, then told him he had to go to small claims court to recover his out-of-pocket expenses.

There, Brooks was met by a paralegal who handed the client a letter telling him what to say in court, according to the suit. He was awarded only \$1,953 of his \$5,000

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Richard Phelps,
plaintiffs counsel

claim, out of which Rogers then demanded a 46 percent cut.

Frassetto, who believes the paralegal's role constituted unauthorized practice of law, also criticized the attorneys fee as "unconscionable."

"All Rogers did was tell [Brooks] he had to go to small claims court — he had no choice," said Frassetto. "Rogers describes that as providing a service. I don't."

Rogers freely acknowledged that his firm directs about one-fourth of its cases to small claims court. But he also said that such a course of action is not only ethical but offers the best remedy for many of his clients.

In a declaration filed in the pending class action, Rogers denied telling Brooks he had no alternative to small claims court.

"What I told him," said Rogers, "is that, given the facts of his case and the current policy of [the California State Automobile Association] to push every small back-injury case into trial, that municipal court was not a good idea in his case, and that if he insisted on filing there, I was virtually certain that he would ultimately receive a net recovery of zero."

Rogers also said that he sometimes loses money in small claims matters after his firm compiles records, refers clients to physicians if necessary, and helps to draft demand letters and negotiate settlements.

"My primary goal in deciding to file these cases in small claims is to permit clients with small, imperfect cases to get a reasonable net recovery in a reasonable time and to avoid protracted litigation in cases that were never meant to undergo it," he wrote in his declaration.

During an interview, Rogers defended

his practice by turning the tables on other plaintiffs lawyers.

"For attorneys who think this is so horrible to do it this way, my suggestion is they ought to take the cases that are going to get a \$3,000 or \$4,000 jury award," he said. "They should go into court for a year or two. They should do depositions and interdepositions and settlement conferences and trials and pay doctors \$500, \$1,000, \$1,500 to testify. They should do all that and then get their \$3,000 award. And if they aren't going to do that, then I really think they should get off my back about it for being willing to take cases which, by the way, are much less profitable."

He also took a swipe at critics who, "once you have a large, successful operation ... start throwing the 'mill' word around."

Rogers' techniques, meanwhile, prompted an Alameda County jury in October to force him to pay \$75,298 to an Oakland doctor who claimed that the lawyer walked out on reimbursing him.

The jury found that Rogers had an oral contract to pay for clients referred by him to Dr. Bruce Thompson at the North Oakland Medical Clinic regardless of the out-

come of their cases. The jury concluded that Rogers had defaulted on the payments by marking checks "paid in full" even though they fell short of the amounts billed by Thompson.

"The bottom line is, when you're doing stuff with oral contracts, it's tricky," said Rogers, who maintained that he had never guaranteed full payment of the medical bills.

If Rogers' legal image has won him both fans and critics, it also seems to have had the same effect on his standing in the political arena.

"For some people, it's a kind of local-boy-makes-good story," he said of his label as the "People's Lawyer." "For other people, it's the 'I wouldn't vote for a sleazy PI lawyer, which I'm sure you are, if my life depended on it' kind of thing."

Undoubtedly, he has gained some political advantage by the name recognition that comes from his late-night television commercials.

Richmond City Councilman John Marquez, who served with Rogers and who teaches government courses at a local adult school, recalled his students' reaction to Rogers when they attended a council meeting.

"When they first saw him ... they recognized him as the 'People's Lawyer,'" said Marquez. "They were really pumped up because they got to see the 'People's Lawyer' live."

Rogers, who grew up in San Francisco and attended UC Berkeley, won the Richmond council position in 1991 after attracting attention by heading a local anti-drug task force that pushed for limits on cigarette vending machines and tobacco and liquor ads.

Another council member, Donna Pow-

ers, does not think much of her former colleague.

"He didn't come [to meetings] prepared, and he didn't read his agendas," she said. "I don't buy for one minute that he's the people's anything."

Even Marquez, who is aligned politically with Rogers and considers the attorney a friend, echoed some of Powers' criticism. "He came to City Council meetings without reading his materials," said Marquez. "During meetings he did his legal work, and that always bothered me ... I think he may be a good attorney, but when it comes down to reading policy documents, I think he gets lost."

Rogers, for his part, argued that he was effective during his three years on the council, and that he also made a mark while sitting on the Board of Supervisors. He pointed to his successful proposal for a voluntary \$80,000 cap on campaign spending by supervisory candidates.

Before entering local politics, he was vice chairman of California Common Cause, which led to his role in spearheading the 1988 campaign in favor of Proposition 105. That statewide initiative, a consumer right-to-know measure, was notable for requiring the names of financial contributors to appear in ads touting political causes. Rogers lent \$300,000 of his own money to help pass the initiative.

"He's a thoughtful, competent legislator," said Norris, the Richmond attorney. He also said Rogers' law practice and political goals demonstrate that "he is really dedicated to serving people of modest means."

Others, however, have questioned Rogers' eagerness to jump from office to office and his actions once elected.

He ran for supervisor before he finished his term on the council and then announced his intent to run for Tom Bates' Assembly seat only eight months into his four-year term. Bates has to relinquish his legislative seat this year due to term limits.

He campaigned for supervisor as the "unbossed and unbought" candidate while accusing his rival, Maria Vramontes, of catering to special interests by accepting their contributions. After the election, however, he raised about \$75,000 from developers, garbage companies and other local political powerhouses.

Rogers said he found nothing hypocritical about his actions, particularly because he let it be known that he was raising money after the election.

"I was very clear about that, that although I'm able to loan money to my campaign, I can't simply say fine, here it is, forget about it," he said.

Rogers may wind up spending at least \$200,000 to compete in the March 26 Assembly primary that includes four other Democratic candidates. The district covers Richmond, El Cerrito, Berkeley, Emeryville and part of Oakland.

He definitely faces some obstacles, particularly among those who are less than impressed with his TV image.

"The People's Lawyer?" asked Kurt Schoeneman, a Berkeley landlord and member of the Berkeley Democratic Club, which has endorsed another candidate in the Assembly race.

"Most of us thought, 'I don't know what to make of this guy.' Everybody has seen that ad on TV. It may get clients for a law business, but it's not something that's a big positive for him."