

Achieving DIVERSITY IN THE LEGAL PROFESSION



DIVERSITY & THE STATE BAR A View From The Top

BY JAMES O. HEITING
PRESIDENT

I appointed a Diversity Pipeline Task Force to identify "the" model program(s) that would serve to level the playing field for the disadvantaged, give encouragement to the discouraged and engage the disengaged. We put together, through the very able leadership of my chair, board member Ruthe Ashley, over 70 key leaders from education to corporate giants, to courts, bar associations, law firms and government entities who have spent this year putting this program together. It continues to gain tremendous momentum and growing national recognition. In June, at the State Bar Spring Summit on Diversity, we introduced the pipeline program to an enthusiastic crowd of several hundred lawyers and judges. At the same time state judges put on their very first Judicial Diversity Conference.

The Diversity Pipeline is not an issue of race, or gender, or income; but it is rather an issue of building confidence in our system of justice, in our judiciary, and in the lawyers and judges who provide legal service to all Americans despite barriers of language and culture. By our (lawyers and judges) achieving greater diversity, our citizens will feel more confidence to turn to us to help solve their problems -- not out of desperation because they are in trouble, but because of a mutual understanding and their growing belief in our ability and willingness to help.

We plan to unveil the final pipeline plans at our annual meeting in Monterey in October, and I hope to see you there.

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NEWS & EVENTS

ACCESS & FAIRNESS COMMITTEES' ONLINE POLL PARTICIPANTS REPORT BIASED TREATMENT IN THE COURTROOM

According to the State Bar Access & Fairness Committees' 2005 online poll, many attorneys report that they have experienced bias in the courtroom. Some recounted racist comments and jokes made by judges and court personnel; attorneys with disabilities reported derogatory comments in the courtroom; impertinent questions were asked of LGBT lawyers; and women lawyers reported some overt disrespect. These findings suggest that the State Bar Center for Access & Fairness, and its Access and Fairness Committees should continue to work closely with the Judicial Council to devise training guidelines and programs that address bias in the legal profession. Training programs geared toward judges and court personnel could help raise awareness of the adverse impact of courtroom bias and stereotyping on the administration of justice in California.

See statistics on page 5
For the complete report, see www.calbar.ca.gov

UPDATE ON PIPELINE TASK FORCE



BY RUTHE ASHLEY

The Diversity Pipeline Task Force completed the first step of reviewing the universe of existing diversity programs and picked specific programs that will be included on the State Bar website. These programs met the standard of "CSIR" (Continuity, Sustainability, Impact, and Replicability). The website will be announced at the Annual Meeting in Monterey by State Bar President Jim Heiting and will go live sometime after the annual meeting. The report of this project will serve as a resource guide for any entity creating a diversity program. For example, a law school can access the law school page and find a list of programs that are law school based. The website will also promote the importance of collaboration with other partners along the pipeline. The law school starting a diversity-focused program can partner with a local university and/or high school. At the same time, a partnership could be formed with the local bar association who could then partner with local law firms and the bench. The ideal result of this pipeline project would be the collaboration along the full continuum of the pipeline.

SPRING SUMMIT

The Spring Summit, held June 2-3 in San Jose, gave the Task Force a chance to receive feedback from attendees at the summit. Interest in the focus of the Task Force was extremely high. In particular, the Education Committee had an overflowing room. The project is unique in the connection of the education pipeline to the legal profession. This project includes the entire pipeline from pre-school to college and law school, as well as advancement and retention in practice.

JUDICIAL SUMMIT

At this summit, the Courts Working Group of the Task Force hosted a first-ever Judicial Summit for California judges to address the need for diversity on the bench. Both John Davies, Governor Schwarzenegger's Appointments Secretary, and Burt Pines, former Governor Davis' Appointments Secretary, were present. The conference supported Chief Justice George in his commitment to diversity on the bench and asked for a commitment from the Governor's office to consider diversity in future appointments. The Task Force is committed to working with the Governor's Office and the Administrative Office of the Courts to diversify the California bench.

NEXT STEPS

The Task Force is steadily moving towards the unveiling of the first phase of the project at the Annual Meeting in October. The final Task Force meeting in September focused on determining next steps and exploring avenues to institutionalize the work of the Task Force. Incoming State Bar President, Shelly Sloan, has made the Pipeline Project one of his major initiatives. The Task Force will become a part of the Board of Governor's Committee on Stakeholder Relations, which will be led by current Task Force chair, Ruthe Ashley.

THE DIVERSITY PIPELINE TASK FORCE AT WORK



Michael Nava: Distinguished Attorney, Writer and Advocate for Diversity

BY DAVID WAGGONER



“Diversity is not a numbers game or a game of us-versus-them; it is an effort to preserve and extend a crucial feature of our government, the rule of law and the judicial system that enforces it, by giving a significant voice in the system to those whose allegiance and loyalty will ultimately determine its continued survival.”

Michael Nava

Michael Nava, California Supreme Court judicial staff attorney, award winning novelist, and diversity advocate, will be among the luminaries speaking at this year’s State Bar Annual Meeting. Mr. Nava will give the keynote address at the Diversity Awards Reception on Saturday evening.

Mr. Nava currently works with Supreme Court Justice Carlos Moreno, and enjoys an excellent reputation as a brilliant writer and judicial attorney. The author of seven mystery novels and co-author of a book on gay rights, Mr. Nava has an international literary following. He is also highly respected by his colleagues in the judicial branch for his professionalism, brilliant legal mind and commitment to integrity in the judiciary. As a part of this commitment, Mr. Nava authored a piece in the Daily Journal in June 2006 titled, “A Diverse Judicial System Ensures Faith in the Law.”

Like many attorneys of color, Mr. Nava has a complex identity and rich personal history. He is a gay Catholic Latino from an economically disadvantaged background who has crossed class boundaries to become a highly successful attorney and writer. This multifaceted history informs his writing and legal work and lends both a rare nuance and depth. It also gives him invaluable insight into the challenges facing the State Bar regarding diversity in the legal profession.

Mr. Nava recently spoke with candor about his views on diversity. Regarding the need for diversity efforts to reach ordinary people, as well as those at the top of their class, Mr. Nava said, “An ordinary white middle class person still has a pretty good shot at ending up at a four year college and having a career, while it often seems that it was never in the cards for ordinary people of color to go to a four-year college.” He concluded that the Bar’s efforts must appeal to a wide range of people, rather than only the best and the brightest.

Regarding whether communities of color have faith in the law, Mr. Nava remarked, “By participating in the system, attorneys of color are giving it credibility. We are participating in a system many people in the communities we come from don’t trust.” In discussing how to overcome this lack of trust, Mr. Nava said, “From my own experience, I didn’t meet a lawyer until I was in law school. I think efforts to reach out to kids at a fairly young age – to send attorneys of color into schools – can have a huge impact. It can make an enormous difference for a child to hear from someone who comes from a similar place. It’s just a matter of telling the story of your life to someone who needs to hear about it.”

Mr. Nava believes that diversity and democracy are fundamentally linked. In his article in the Daily Journal, Mr. Nava stated, “Diversity is not a numbers game or a game of us-versus-them; it is an effort to preserve and extend a crucial feature of our government, the rule of law and the judicial system that enforces it, by giving a significant voice in the system to those whose allegiance and loyalty will ultimately determine its continued survival.”

On top of his many other activities, Mr. Nava recently signed up to volunteer with the Bar Association of San Francisco’s School to College program, and he is also at work on a new novel he hopes to complete this year. We are fortunate that Mr. Nava is willing to share his insight and talent, inspiring not only children and his literary fans, but his colleagues in the State Bar as well.

David Waggoner is a member of the State Bar Committee on Sexual Orientation and Gender Identity Discrimination, a Staff Attorney with the Homeless Action Center in Berkeley and a board member of the Bay Area Chapter of the National Lawyers Guild.

MESSAGE FROM THE CHAIRS

CWIL

PEARL GONDRELLA MANN
CHAIR



In June, members of the Committee on Women in the Law (CWIL) participated in the State Bar Spring Summit, "Dream Deferred No Longer: Achieving True Diversity in the Legal Profession" where the State Bar Diversity Pipeline Project was introduced to the public, and the initial findings from the State Bar Access and Fairness Online Survey were released. At the summit, we learned how far we have come, where we are now and what challenges and areas for improvement remain to achieve diversity in the legal field.

Although it was exciting to hear about innovative programs from the legal, government, corporate and academic experts, I wondered whether we were preaching to the choir. Everyone who attended the Spring Summit seemed committed to diversity in the profession, but the many employers and others who needed to learn about the problems and potential solutions were not present.

I found "Making It Happen!", the concurrent breakout session which I facilitated for CWIL, the most stimulating. Our group discussed the challenges for women raised by the results of the online survey and suggested ideas to improve gender diversity in the legal community. Some of the creative and interesting suggestions follow.

- Use virtual mentoring for women lawyers who have no mentors in their firms and establish blogs and hotlines to share stories of unfair treatment.
- Prepare a State Bar brochure for employers on legal rights of women addressing workplace bias and discrimination, and provide training guidelines for legal employers about bias and stereotypes within the organization.
- Amend the Rules of Professional Conduct to use as a self-auditing tool for best practices and elimination of bias.
- Inform the state legislature about the online survey results, and publish the results in [California Lawyer](#) and local bar association magazines.
- Expand the California Minority Counsel to include women lawyers, and allow them to participate in local bar round tables.
- Train legal employers to consider new criteria for success, which include such things as leadership ability and community service.
- Train legal employers on the implementation of anti-discrimination policies.
- Train lawyers about gender dynamics in meetings, the role of gender in interpersonal communication, how to request the right kind of assignment, external and internal marketing, rainmaking, building a book of business and methods of balancing life and work.

CWIL hopes to use some of these suggestions to develop additional programs to pump into the Diversity Pipeline.

This past year CWIL accomplished a great deal. We sponsored elimination of bias continuing education programs in Ontario and Orange and at the State Bar Annual Meeting in Monterey, working with the county bar associations in San Bernardino and Riverside, Orange County Women Lawyers and California Women Lawyers to foster discussion about diversity.

CWIL's law school outreach organized visits to eight law school campuses and has set a goal of 13 for next year. Our undergraduate outreach conducted its initial program and scheduled two more for this fall. CWIL's high school outreach, in collaboration with other Access and Fairness committees, completed a brochure entitled "Want to Be a Lawyer?" and is developing a model for statewide high school outreach as well as a DVD that incorporates vivid role models. My heartfelt thanks for a job well done go to all CWIL members and a fond farewell to our members completing their terms: Cynthia Juno, Cynthia Loo, Susan Silveira and Stephanie Wildman. I also want to thank the State Bar for giving me the opportunity to participate on this fabulous committee and to thank Rodney Low and other bar staff for their tireless efforts assisting us in our endeavors and keeping us on the right track. It also has been my pleasure to work with the other Access and Fairness Committees and their leaders, especially Jane Kow of EMRC and Beth Burgard-Collins of CSOGID.

The accomplished, creative and efficient volunteers who compose CWIL are passionately dedicated to promoting diversity in our profession and inspire me. Serving on CWIL for the past five years has enriched my life.

MESSAGE FROM THE CHAIRS

EMRC



JANE KOW
CHAIR

As my term as Chair of EMRC draws to a close this fall, I find myself contemplating a vision of the future for the State Bar that reflects a much different picture from where we are today.

With minorities now comprising a majority of the state's population, the business case for diversity in the legal profession has become ever more pressing. Yet, when we compare the racial composition of the general population and the number of minorities in the legal profession, we find that California is actually lagging behind national statistics. According to the US Census, as of the year 2000, minorities were approximately 30% of the nation's population and represented 15% of the practicing attorneys in the country. In California, minorities collectively constituted 53.3% of the state's population, and yet comprised only 17% of the State Bar's membership. By contrast, Caucasians were only 46.7% of the state's population, yet comprised 82.9% of attorneys who practice in California. Unless steps are taken now to ensure greater diversity in the legal profession, this disparity between the number of minorities in the state's general population and the attorney population will only continue to grow in the years to come.

In the three year period from 2000 to 2003, the Hispanic population in the US grew 13% and the Asian population grew 12.5%, both four times as fast as that of the general population. Moreover, both of these groups are expected to triple their population over the next 50 years. With this dramatic rise in the number of minorities in the population at large, the legal profession must acknowledge what corporate America has already discovered and embraced—that ensuring greater diversity in its ranks will enable it to more effectively serve a diverse and global client base.

Besides acknowledging that there is a compelling business case for diversity, we must also strive to remove barriers to the full participation of minorities in the profession, and foster a culture within the profession that is empowered by differences. The results from last year's State Bar survey remind us that much work must still be done to eliminate bias in the legal profession. When attorneys were polled for their experiences in the workplace, courtroom, with clients and opposing counsel, and in law schools, 58% of African Americans, 39% of Latinos, 31% of Asian and Pacific Islanders, and 25% of

those of mixed race reported that they have been denied equal pay, benefits, promotions and employment opportunities on the basis of their race or ethnicity. Among African Americans, a staggering 46% reported that they had been denied promotion or advancement to partnership on account of their race, 34% reported being denied equal pay and 23% reported that they were told that clients did not want to work with them on account of their race.

African American, Latino and Asian American attorneys also reported facing challenges in finding employment despite stellar qualifications and once hired, they reported being held to a higher standard or being treated as if they were the product of affirmative action rather than fully qualified for employment. Some reported facing challenges finding mentors in the workplace and procuring quality work assignments, while others complained of enduring racial stereotypes. When queried about whether they had raised these issues with their supervisor and whether the matter had been resolved to their satisfaction, minority attorneys reported these concerns to their supervisor at higher rates than their Caucasian counterparts, but achieved lower rates of resolution.

These results suggest that the State Bar, local bar associations and legal employers should devise best practices and guidelines for diversity and EEO training aimed at the elimination of bias in the legal workplace. Such training should address not only the employer's obligation to provide equal employment opportunities for attorneys of all races and ethnicities, but also the need for provide guidance to legal employers on effective methods for resolving such complaints to prevent potential lawsuits and attrition among minority attorneys.

The results of the State Bar survey reveal the extent to which minority and other diverse attorneys continue to experience bias in all venues of the legal profession and compel us to take action to ensure that all members of our profession are provided with equal opportunities to succeed within it. As the largest state bar in the country, situated in the most racially and ethnically diverse and populous state, the State Bar of California should lead the rest of the nation, in efforts to create a more diverse legal profession – one that reflects the rapidly changing ethnic and racial composition of the population in this state and the rest of the country.

Access & Fairness Committees' Online Poll, Cont. from page 1

SURVEY PARTICIPANTS REPORT BIASED TREATMENT IN THE COURTROOM

	Caucasian	African American	Latino	Asian/Pac Islander	Native American	"Mixed Race"	LGB	Transgender	Female	Disabled
Judges	1.8%	32.5%	22.6%	20.2%	33.3%	18.8%	17%	13%	31%	17%
Court Personnel	.9%	23.4%	13.1%	10.1%	33.3%	12.5%	8%	11%	10%	13%

MESSAGE FROM THE CHAIRS

The Committee on Senior Lawyers (CSL) has completed its business year and it has been a very productive one. As outgoing chair I wish to thank all of our committee members for the many hours they have devoted to the work of the CSL, identifying and studying issues faced by senior lawyers. The members who will be leaving the committee because their terms have expired, in addition to me, are Philip Lanzafame, Marv Leon and Alvin Lee Block. Sadly, one of our members, J.P. Rems, passed away last December. To all of them I am very grateful for their assistance.

Next year CSL will be chaired very capably by Sol Ajalat who served as chair-elect this year. I owe an enormous debt of gratitude to Sol, not only for the assistance he provided as chair-elect, but also for the work he did as chair of CSL's subcommittee on Disciplinary Actions Against Senior Attorneys. As chair of next year's CSL, Sol will be ably assisted by Anthony Ruffolo who will be chair-elect.

CSL is sponsoring two programs at the State Bar Annual Meeting on Thursday, October 5, 2006: [Tactics For Experienced Attorneys Seeking Employment](#) and [Strategies on Closing or Selling a Law Practice](#). Both programs are very instructive and have been well attended in previous years.

Each of our subcommittees has worked hard in analyzing and reporting on the issues in their respective areas of responsibility and almost all have submitted written reports which will be amplified and implemented by next year's CSL.

CSOGID

ROBERT RANCOURT

(not pictured)

CO-CHAIRS

BETH COLLINS-BURGARD



As many of you know who are reading this column, practicing law can be an incredibly taxing and stressful endeavor. The first few years can be particularly taxing, especially when individuals have few role-models or mentors. Currently, there are far fewer people of color, women, and LGBT individuals in leadership positions in our profession. A recent survey conducted by the Access and Fairness Committees describes the discrimination in and outside of the workplace reported by many State Bar members. Women, people of color (especially African-Americans), and LGBT people reported discrimination at rates up to 60 percent. Respondents reported discriminatory conduct by court personnel and opposing counsel because of their gender, race, sexual orientation, and gender identity. Respondents also reported receiving poorer work assignments, being told clients did not want to work with them, and being denied opportunities for career advancement.

LAWYER'S ASSISTANCE PROGRAM

The Lawyer's Assistance Program exists to provide bar members with anonymous assistance with finding services for a variety of issues from depression, substance abuse, divorce, and illness or death of a family member to work related stress. The anonymous contact number is 877-LAP 4 HELP (877-527-4435).

CSL



BENJAMIN B. SALVATY
CHAIR

This space is not sufficient to summarize each subcommittee's report. However, I would be remiss in not identifying the subcommittees and recognizing their respective members. The subcommittee on Employment Discrimination is comprised of Sharon Cooper and Robert Hall. The subcommittee on Of Counsel Relationships includes Richard Ward and Ben Salvaty. The subcommittee on Pro Bono Opportunities consists of Paul Van Buren. The subcommittee on Sudden Illness/Disability/Closing a Law Practice is comprised of Anthony Ruffolo and John De Ronde. The subcommittee on Educational Needs For Senior Lawyers is Helen Karr. The subcommittee for Financial Planning is comprised of Philip Lanzafame and Marv Leon. The subcommittee on Health / Reducing Stress is Michael Montgomery. The subcommittee on Disciplinary Actions against Senior Attorneys is comprised of Sol Ajalat, Marv Leon and Bob Wilner. Copies of the written reports may be obtained from the State Bar.

Working conditions in the legal profession can take a severe toll on any attorney, but in particular on attorneys from diverse backgrounds. Identifying and providing guidance in response to these challenges is key in facilitating the retention of diverse attorneys in the profession.

One of the most important charges of the Access and Fairness Committees is to increase diversity in the legal profession. We do this by focusing on the pipeline of candidates before and after law school and attempting to repair leaks in that pipeline. During the four and five years we have served on the Committee on Sexual Orientation and Gender Identity Discrimination (one of the Access & Fairness Committees), we have furthered this effort through numerous projects. These projects include surveying various California legal employers about their best practices, assisting with efforts to increase diversity on State Bar committees, producing informative, user-friendly brochures on a range of legal topics (domestic partnerships, transgender legal issues, and the steps to follow for students who are interested in becoming lawyers), and conducting seminars and workshops for legal and non-legal audiences about our work.

As we complete our terms and reflect on the work we have done, we are encouraged by the progress we have witnessed and are honored to have served with so many wonderful people, but our work is far from complete. If you are interested in joining our effort, please visit the State Bar website (<http://members.calbar.ca.gov>) for information and to apply for one of the State Bar committees.



BY JAIME GHER
*With the Communications
 Subcommittee
 of CSOGID*

The Veil of Silence: LGBTQ Attorneys Inside Corporate Law Firms

We are lesbian, gay, bisexual, transgender and/or queer (LGBTQ) attorneys. At least one out of five of us experience discrimination, harassment and/or differential treatment within our legal workplaces, yet none of us report that mistreatment, according to the 2005 State Bar of California Access and Fairness Survey. A significant crisis exists when none report mistreatment—what is happening at the office?

In theory and on paper we are recognized and applauded, and we serve as a statistic for which our employers pat themselves on the back. We serve as role models of a diverse legal workforce. Yet there is a veil of silence muting our experience.

We weathered law school. Perhaps we silently abandon our differing viewpoints, or perhaps we held our hands up with pride, presenting the other, within the safety of the ivory towers. While our contributions were heard, more often than not, they were not incorporated into the curriculum or found worthy of repeating by the faculty.

We transitioned to the ranks of a corporate law firm. They are proud to call us their own. We may have been introduced to other LGBTQ attorneys at the firm. Our hands were shaken and we were taken to an expensed lunch.

The firm policies provide an illusion of safety by including our protected status: “sexual orientation and/or gender identity.” The best of our firms prohibit discrimination and harassment based on these categories. Our firms display our images on their website. We are pillars for diversity, regardless of our skin color.

Why then, do most of us feel unable to report discrimination? Why do we feel misunderstood? Why is our experience of life less valued? Why do we feel the pressure to wear a skirt, when we feel more at ease in slacks? Why do we find ourselves talking about sports when we have no interest? Why are our

relationships seen as less legitimate than our heterosexual colleagues? Why is it okay to make sexual references toward us? Why is it okay to pass us by for opportunities? Why do we get extra weekend work because we do not have “families?” Why do they acquiesce to the clients’ wishes and take us off cases?

Despite the mistreatment, disrespect and lack of opportunity widely reported in surveys, we do not complain to our senior associates. We sit silently with the distinct impression that we are lucky to have been granted admission into the legal ranks in the first place. We internalize our pain. We normalize our “less-than” existence. There is a veil of silence masking our struggle.

A contributor to our silence is the reality of discrimination. According to the Human Rights Campaign, it is legal to fire someone based on sexual orientation in 34 states and on gender identity in 44 states. Despite the strength of civil rights laws in California, LGBTQ people are accustomed to hiding for legitimate reasons. We are regularly forced out of positions for specious reasons. How can that not instill fear?

We all need to push firms to take greater steps to protect the reporting of mistreatment. As a result of this push, firms will be able to increase internal retention, boost office morale, bolster their reputation and shield themselves from discrimination claims. A truly LGBTQ-friendly law firm can prosper financially as well as be on the right side of discrimination.

While the California legal community has made tremendous strides with respect to LGBTQ inclusion, disparate treatment remains widespread. Until your LGBTQ colleagues feel free to make their struggles known, progress has not been made. Zero percent is a stark statistic. Zero percent must be changed. We challenge the legal community to educate its workforce, to learn about our lives and to have compassion for our struggle.

2006 SPRING SUMMIT RECEPTION: HONORING JUDGE THELTON HENDERSON, JR., JUDGE OF THE U.S. DISTRICT COURT IN SAN FRANCISCO

On June 2, 2006, over two hundred people attended an elegant reception honoring Judge Thelton Henderson, Jr., notable federal district court judge from San Francisco. He was presented with a State Bar of California Board of Governors Resolution recognizing his substantial contributions to American jurisprudence. The Santa Clara County Black Lawyers and the California Association of Black Lawyers also presented Judge Henderson with an award acknowledging his place as a leader in Civil Rights. The reception was made possible by a generous donation from the Kazan McClain Abrams Fernandez Lyons Farrise and Greenwood Foundation. This foundation is well known for its support of healthy workplaces, treatment and prevention of occupational diseases, legal services and youth programs, among other things.

While nibbling delicious hors d’oeuvres and listening to the South American music of Nayo, the attendees also enjoyed the unique modern art pieces in the San Jose Museum of Art.

NEWS & EVENTS

October 10, 2006

Bar Association of San Francisco Foundation Annual Gala

October 11, 2006

American Bar Association Section of Labor and Employment Law
Bias in the Legal Profession, 90 minute teleconference
Et Tu, Brute? Understanding and Correcting a Pernicious Problem

October 11, 2006

American Bar Association Section of Business Law,
The Whys and Hows of Diversity Training, 60 Minute Teleconference

October 17, 2006

Santa Clara County Bar Association, First Silicon Valley
Diversity Job Fair

October 19, 2006

Minority Bar Coalition, Unity Reception, sponsored this year by the
Asian Bar Association of the Greater Bar Area and Hansen Bridgett
Marcus Vlahos & Rudy

November 2-5, 2006

American Bar Association Council on Racial & Ethnic Justice,
3rd National Conference on Race and Ethnicity, New Orleans, LA
Dialogue on Making the Invisible Visible

November 9, 2006

Professional Business Women of California 3rd Annual PBWC
Sacramento Area Conference, Sacramento Convention Center
The Power of Connection

November 9-12, 2006

National Asian Pacific American Bar Association
18th Annual Convention, Philadelphia, PA

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