

# MINORITIES IN THE PROFESSION (MIPC)

## AMERICAN BAR ASSOCIATION YOUNG LAWYERS DIVISION



### Committee Newsletter | Fall 2016

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## ARTICLES

### **Impacting Your Community During a Time of Social Unrest**

By: Melissa Little

The rise of social media has shed light on social injustices in America that impact the poor, communities of color, and members of the LGBT community. Most recently, several incidents have received widespread attention revealing an unfair criminal justice system. These incidents have led to social unrest and amplified racial tension in America. As attorneys, we are able to play a critical role in shaping our justice system, and making a difference in our communities. Many attorneys from across the nation have begun forming groups to address issues of police misconduct, and the killing of unarmed black men and women in America. In fact, the National Bar Association and the Lawyers' Committee for Civil Rights have recently launched a national program to help protect and safeguard the rights of those engaged in peaceful demonstrations. This Legal Monitoring initiative includes the release of "Know Your Rights" information to educate demonstrators of their right to protest and protection under the First Amendment. The joint initiative is also seeking volunteers to provide legal support to those detained and arrested while protesting.

As members of the legal profession it is important that we fight to protect our laws, and ensure that all people, regardless of race, ethnicity, religion, class, gender or sexual orientation, are equally protected under the law. In order to be effective advocates, it is imperative to first learn about the issues. We must understand the root of the problem, and also engage in meaningful conversation with members affected by the injustice. Because there are so many community groups and programs already in existence, you can help implement change by volunteering with one of these organizations. As attorneys, we can use social media to inform others about the issues and ways to get involved, or work with their local or state bar association to develop programs or initiatives.

If you are involved in any program that is working to fight against social injustice, the Minorities in the Profession Committee wants to hear about it. Please visit the MIPC website and email me, or one of the Vice-Chairs, as we would like to highlight your efforts on our Listserv.

For more information on how you can support the Legal Monitoring Initiative by the NBA and Lawyers' Committee for Civil Rights, visit <https://lawyerscommittee.org/press-release/lawyers-committee-national-bar-association-announce-launch-national-program-provide-legal-support-protesters-demonstrators/> or sign up as an attorney volunteer [here](#).

*Melissa Little is a trial attorney and social justice advocate in Virginia and Washington, D.C. She is the Chair of the ABA YLD Minorities in the Profession Committee, and is a Commissioner of the Children, Youth and Families Collaborative Commission in Alexandria, VA.*

**Social Justice Highlight – Southern Poverty Law Center**

By: Jasmine F. Robinson

As long as poverty, injustice and gross inequality persist in our world, none of us can truly rest.  
– Nelson Mandela

Hate. Intolerance. Injustice. Who will bring justice to families who lost loved ones to acts of violence committed by hate groups? Who will advocate for medical care for prisoners with mental health issues? Who will challenge gay-to-straight conversion therapy as consumer fraud? Who will advocate for children's rights in school? Who will challenge financial predatory practices that trap the poor in a cycle of debt? The Southern Poverty Law Center (SPLC) has been fighting hate and seeking justice for society's most vulnerable since 1971.

The SPLC is headquartered in Montgomery, Alabama and has state offices in Florida, Louisiana, and Mississippi. The SPLC's foundation is rooted in advocacy against hate groups—suing and bankrupting white supremacist groups and getting justice for families of people hurt by those groups. Today, the SPLC address issues in five practice groups: (1) Children's Rights, (2) Immigrant Justice, (3) LGBT Rights, (4) Economic Justice, and (5) Criminal Justice Reform. Each practice group encompasses advocacy work and litigation. Each local office also collaborates with different advocacy organizations such as the ACLU, Human Right Campaign, Disability Rights, and community coalitions.

The SPLC gives their clients and communities a voice and an opportunity to be heard. In particular, African Americans, Latinos, and the poor are most affected by the center's work. Ebony Howard, SPLC Associate Legal Director, is particularly proud of a class action brought on behalf of Birmingham, AL city school students against the Birmingham Police Department and Birmingham Board of Education. In a school district where 90% of students are African American and the majority qualify for free or reduced meals, Birmingham police officers routinely sprayed mace on students as a form of discipline to deal with normal, adolescent behavior. A federal judge ruled that Birmingham police violated the students' constitutional rights by using excessive force for minor discipline problems. This case is currently on appeal, but is particularly important to Ms. Howard because many of the students did not know it was wrong to be sprayed with chemicals at school and "their clients felt empowered for the first time in their life."

Similarly, SPLC Senior Attorney Elissa Johnson has worked on an ongoing class action suit against the Department of Corrections in East Mississippi. The litigation arises out of deplorable conditions at the East Mississippi Correctional Facility, the state's primary facility for inmates with mental illnesses. In addition to the deplorable conditions, inmates received substandard or no medical treatment. This case is an example of the important work SPLC does to ensure that prisoners are not subjected to unconstitutional, inhumane conditions and receive proper medical and mental health care.

The work of the SPLC is vast and there are ways young lawyers from all over the nation can assist. First, attorneys can sign up to receive referrals from the SPLC to assist clients on issues and cases the SPLC cannot accept. Attorneys interested in receiving referrals can visit [splcenter.org/contact-us](http://splcenter.org/contact-us), select general inquiry and indicate they are interested in referrals. Second, the SPLC works with many community groups who need attorneys to serve as members of boards, to advise them and to offer legal expertise. Contact your local community

groups to see if your legal expertise can be of assistance. Finally, attorneys can support the SPLC through social media (i.e. Facebook, Twitter, SPLC Website) by sharing the SPLC's posts and news. The issues the SPLC addresses are present in all communities. Following and sharing the SPLC's social media posts will bring light to the issues and help lawyers who fight against social injustice.

You can read about the cases cited at the following links:

<https://www.splcenter.org/news/2015/10/01/splc-wins-lawsuit-challenging-use-pepper-spray-alabama-school-district>

<http://www.nytimes.com/2014/06/08/us/seeing-squalor-and-unconcern-in-southern-jail.html>

*Jasmine F. Robinson is a Vice-Chair of the MIPC and a 2016-2017 ABA YLD Scholar. Jasmine currently practices commercial litigation in Dallas, Texas. She can be reached at [robij14@nationwide.com](mailto:robij14@nationwide.com).*

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### **Taking a Non-Traditional Approach in a Traditional Profession**

By: Jerusalem Tekie, M.S., J.D.

It was my first day of law school and I walked in, like a lot of law students, knowing that I would start my legal career in a large law firm in a major city. However, as time passed, my ideal legal career fantasy was becoming just that - a fantasy. It was not until my third year sitting in an Administrative Law class that I had what Oprah refers to as the "Aha moment." I suddenly wanted my first post-law school job to be the complete opposite: a non-traditional position. Initially, I had no clue what this job would look like or how to go about finding one. Fast-forward to nine months after graduation, I found myself packing two duffel bags to Baltimore right before a blizzard to start my legal career as a Policy Analyst for the City's Department of Human Resources. Nine months into my new job and I can still say that I made one of the best decisions yet as it relates to my career in this profession.

As a policy analyst, no day is ever the same. My role, in part, involves creating and interpreting HR policies that affect City employees. When I am not working hands-on in the policymaking process, I serve as the administrative arm of the City's Civil Service Commission. This involves ensuring that the appeal process for City employees who have been terminated, demoted, or suspended for over 30 days is carried out in a fair and efficient manner. My duties as a policy analyst also include training City employees on various HR policies and the local, state, and federal laws that affect these policies. Through these various roles, I have learned invaluable skills - research, customer service, public speaking, and writing - that are beneficial to my growth in the legal profession. Because of the fast-paced nature of my job, I often have to become a subject-matter expert quickly - an attribute that will also make me competitive in an already competitive profession.

So what does it take to embark on the unbeaten path? Largely, it involves keeping an open mind and the foresight of knowing that you are in control of your career. As I often tell others, you have to feel comfortable with pressing the reset button whenever you want. Remember, it is YOUR career. Luckily, being a non-traditional student has tremendously helped me adopt this perspective that may seem somewhat foreign in this traditional profession. Most importantly, it is

knowing that in today's legal market getting to the top resembles more of a "jungle gym" than a "ladder" - and sometimes, that means taking the more non-traditional approach.

*Jerusalem Tekie is a Policy Analyst for Baltimore City's Department of Human Resources. She earned her M.S. in Negotiation and Conflict from the University of Baltimore and her J.D. from Drexel University, Thomas R. Kline School of Law, where she concentrated in Business and Entrepreneurship. Jerusalem previously served on the executive board of the National Black Law Students Association and the Barristers' Association of Philadelphia.*

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### **Don't Touch My Hair: A Review of *Equal Employment Opportunity Commission v. Catastrophe Management Solutions***

By: Alisha Lubin

A recent decision out of the 11<sup>th</sup> Circuit Court of Appeals has underscored the potential tension between natural hairstyles, cultural identity, and Title VII protection. Last month, the court decided *Equal Employment Opportunity Comm'n v. Catastrophe Mgmt. Sols.*, 14-13482, 2016 WL 4916851 (11th Cir. Sept. 15, 2016). The case involved Chastity Jones, a Black woman who was offered a position as a customer representative with Catastrophe Management Solutions ("CMS"). After Ms. Jones was offered the position, a CMS Human Resources manager told Ms. Jones she could not be hired if her hair was in dreadlocks because "they tend to get messy." When Ms. Jones said she would not cut her hair, the CMS manager informed her that she would not be hired. On behalf of Ms. Jones, the Equal Employment Opportunity Commission filed suit against CMS based on allegations of racial discrimination in violation of Title VII of the Civil Rights Act of 1964. The District Court for the Southern District of Alabama dismissed the EEOC complaint for failure to state a claim upon which relief can be granted, pursuant to Federal Rule of Civil Procedure 12(b)(6). The 11<sup>th</sup> Circuit affirmed the dismissal. In its opinion, the court engaged in a discussion about the historical definition of race, what constitutes immutable racial characteristics and the lack of protection by the court for culture practices including hairstyles. Ultimately the court determined dreadlocks are culturally associated with race but hairstyles are not immutable characteristics; therefore, Title VII protection did not extend and CMS was permitted to deny a job to a Black applicant who wore her in dreadlocks.

At the heart of this lawsuit is the intersection of cultural expression and understanding. CMS had in place a grooming policy: "All personnel are expected to be dressed and groomed in a manner that projects a professional and businesslike image while adhering to company and industry standards and/or guidelines . . . [H]airstyle should reflect a business/professional image. No excessive hairstyles or unusual colors are acceptable[.]" The policy did not explicitly state dreadlocks are an impermissible hairstyle nor did it have any specific guidelines for employees based on race. However, the policy did allow for a potentially biased evaluation of what is considered professional and businesslike. If an individual believes dreadlocks or other natural hairstyles culturally associated with Black culture are unprofessional and not businesslike, it would allow employers to discriminate against Black applicants under the cloak of a race-neutral grooming policy.

In this specific instant, the CMS manager told Ms. Jones "[dreadlocks] tend to get messy, although I'm not saying yours are, but you know what I'm talking about." Implicit in this statement and the subsequent rescission of Ms. Jones' job offer is the idea that dreadlocks are

not professional and that inevitably, this natural hairstyle would devolve into an ungroomed state. Ms. Jones decided she would not cut her hair in order to work at CMS.

Minorities in the legal profession undoubtedly contend with these gray areas surrounding professional appearance and “businesslike hairstyles.” With holdings such as *EEOC v. CMS*, these expressions of cultural identity including natural hairstyles, are not protected under the law and may subject individuals to implicit and explicit bias. Perception Institute, a consortium of researchers, advocates and strategists who utilize science research to combat discrimination linked to race, gender, and other identity differences, is studying this potential area of bias and discrimination. Perception Institute (<https://perception.org/>) recently completed a 4,000-person national research study using a hair implicit association test (“Hair IAT”). The Hair IAT was developed to examine opinions about beauty and professionalism as it relates to black women’s hairstyles and any implicit bias black women may encounter based on these hairstyles. The results of the study are forthcoming and may shed light on how black professionals, including lawyers, navigate their own cultural identities and what their employers consider professionally acceptable.

*Alisha Lubin serves as a Vice-Chair and Content Editor for the Minorities in the Profession Committee. Alisha can be reached at [alishalubin@outlook.com](mailto:alishalubin@outlook.com), feel free to share your own hair story with her.*

## NEWS AND ANNOUNCEMENTS

### Proposed Resolutions

The Minorities in the Profession Committee has submitted the following two proposed resolutions for consideration by the ABA YLD Assembly at the Midyear Meeting. If you have any resolutions you would like the Committee to consider for the Annual Meeting, please email Melissa Little, [mlittle170@gmail.com](mailto:mlittle170@gmail.com) or Ian Seruelo, [ianseruelo@gmail.com](mailto:ianseruelo@gmail.com).

**Resolution:** Advocate for a decrease in police presence at schools when handling minor school disciplinary actions.

The purpose of this proposal is to decrease the school-to-prison pipeline. This resolution aims to decrease police presence in schools, encourage schools to adopt conflict resolution strategies/peer mediation programs, require that police and school resource officers receive proper training when dealing with students, and notify parents prior to any in-school interrogation that can lead to criminal charges.

**Resolution:** Create a Volunteer Mentorship Program for At-Risk and Minority Youth.

This resolution aims to institutionalize within the ABA YLD a mentorship program that benefits youth especially those considered “at-risk” and those in the minority communities. The program would involve pairing a youth mentee to an ABA YLD attorney-mentor for a fixed period of time. This program aims to introduce young people to attorneys as leaders, advocates, or simply big sisters/brothers. This will also expose youth to the legal profession with the hope that more minority youth will pursue a career in the practice of law.



**Upcoming Events:**



Register for the upcoming **Young Lawyers Division Fall Conference**. Earn CLE credit, learn about professional development, and meet colleagues from across the U.S. and the world.

**Date:** October 20 – 23, 2016

**Location:** Westin Book Cadillac Hotel, 1114 Washington Blvd, Detroit, MI 48226

[Register Here](#)



Join us at the **ABA Section of Litigation's Professional Success Summit**. The Summit is dedicated to litigators of color seeking to maximize their career potential through dynamic programming and networking events.

**Date:** November 14 – 16, 2016

**Location:** Ritz Carlton Buckhead, 3434 Peachtree Road, Atlanta, GA 30326

Learn more and register [here](#)

The ABA Commission on Women in the Profession is co-sponsoring **Minority Flight: Why Women of Color are Leaving Law Firms and How to Turn the Tide** with the Women's Bar Association of the District of Columbia.

**Date:** November 14, 2016

**Location:** White & Case, 701 13<sup>th</sup> Street NW, Washington, DC 20005

More information [here](#).

## Minorities in the Profession Committee

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The National Asian Pacific American Bar Association has opened registration for their **2016 Annual Convention**. Join NAPABA as they celebrate their 28<sup>th</sup> Convention with over 1,600 attendees including attorneys, judges, law professors and law students.



National Asian Pacific American Bar Association

**Date:** November 3 – 6, 2016

**Location:** Hilton San Diego Bayfront, 1 Park Boulevard, San Diego, CA 92101

Register [here](#).



The National Bar Association's Young Lawyers Division is hosting their **Annual NBA YLD Retreat**.

**Date:** February 15 – 19, 2017

**Location:** Trinidad & Tobago, further details forthcoming

Learn more [here](#)

The National Hispanic Bar Association is holding their signature **Annual Corporate Counsel Conference**. The conference is a unique opportunity for corporations and outside counsel to connect.



**Date:** March 20 – April 2, 2017

**Location:** Intercontinental Miami, 100 Chopin Plaza, Miami, FL 33131

Visit [www.hnba.com](http://www.hnba.com) for more information.

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### Job Opportunities

Check out the ABA Job Board for thousands of job postings - [ABA Legal Career Central](#).

Amazon have over 100 positions available in the Legal Department! View Amazon's Legal Job openings [here](#).

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### Get Involved

The Minorities in the Profession Committee is accepting, on an ongoing basis, submissions to be considered for publication in the newsletter or as 101/201 articles. Articles should be from 150 to 600 words and report news of interest to young minority lawyers or young lawyers in general. Topics may encompass recent events, case decisions, diversity news, emerging trends, or general topics of interest to young lawyers. Please send submissions or inquiries to Alisha Lubin, [alishalubin@outlook.com](mailto:alishalubin@outlook.com).