

GOAL IX

TO PROMOTE FULL AND EQUAL PARTICIPATION IN THE LEGAL PROFESSION BY MINORITIES

Volume 10, Number 3, Summer 2004



Diversity, Large Law Firms, and the Weather

W . R a n d y E a d d y

We should not allow the pursuit of diversity in large law firms to become like the weather—everybody talking about it but nobody doing anything. Anything truly productive, that is. Many good people are trying with great sincerity to do constructive things, and a few of them are having some success. Far from enough of either, however. The increasing number of programs and dialogues about diversity is encouraging, but I am concerned that most are too delicate.

Most folk are still too uncomfortable with the subject to be sufficiently candid about the issues that are embedded within it and that matter most to achieving meaningful and sustainable results. Without such candor, we undermine good faith aspirations and efforts. We must provoke more candor, both within large law firms and between those firms and their corporate clients and prospects.

Most people have accepted that the “business case” is the only effective driver for diversity. Some did so kicking, screaming, and holding onto the mantra that we should pursue diversity because “it is the right thing to do.” I also believe it is right thing to do. But, that conviction plus a \$2 million “book of business” from important corporate clients is what will make a minority or female attorney an important “business asset” within his or her law firm. Take away the book of business from the equation, and you will

**Many firms talk
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have a well-liked minority or female attorney with a cup of coffee.

Too much candor, too quickly, for comfort? Perhaps, but there is no growth without some discomfort and even some pain. Commitments to diversity need to grow or they will surely become caught in a spiral of well-meaning, polite, but essentially unproductive dialogue and initiatives. So I’m calling out the diversity meteorologists. You can still talk—because that is a prerequisite for purposeful, strategic action—but let us talk more candidly about the right things.

Corporate Challenges

General counsel and senior executives of corporate America, my first

call-out is to you. You must take the critical next steps if you want your outside law firms to achieve greater diversity.

With initiatives such as the Statement of Principle Regarding Diversity in the Workplace, corporate counsel began asking law firms some good initial questions. These might have led most firms to begin talking about diversity, but many mostly will talk about what they think you want to hear. If all you want, corporate America, is to hear the right words, then you can be satisfied with these inquiries. If you want purposeful and strategic action that will lead to meaningful and sustainable increases in diversity of law professionals, however, you must do more.

Ask the next level of questions and probe for more revealing diversity indicators, along the lines of what companies such as Sara Lee, DuPont, Ford, and General Motors are doing. Inquire about topics such as the following:

- the nature of responsibility for your legal matters that are assigned by the firms to their minority and female lawyers;
- levels of responsibility assigned to these lawyers for significant matters generally;
- positions of authority and influence within the firms held by such lawyers; and

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Diversity, Education and Two Speeches on the Color of Money

L a w r e n c e R . B a c a
C o m m i s s i o n C h a i r

Several interrelated thoughts run through my mind as I contemplate this column. My colleague, Commissioner Randy Eaddy, has written most eloquently about the business reasons for diversity in the legal workplace, this is the week of the fiftieth anniversary of *Brown v. Board of Education*, and I've just been invited to speak to the effect of the fortieth anniversary of the Civil Rights Act of 1964 on American Indians. These issues come to convergence when I look back to my own school days. I started school the year of *Brown II*, and I started high school in 1964. I went to schools that were desegregated by Governor Earl Warren after the Ninth Circuit ruling in *Mendez v. Westminster* in 1956. The schools I attended were nonetheless segregated by the use of community school attendance zones and housing discrimination laws.

The Fair Housing Act wasn't enacted until 1968, when I was a senior in high school. One-race neighborhoods make for one-race neighborhood schools. My brothers and I were the only Indians in our high school. By my senior year, there was one teacher on campus who was an Indian. We did not, however, lack for Indian imagery because El Cajon Valley High School was, and is today, what we in the American Indian community refer to as a "mascot school." The school's nickname is the El Cajon Braves. The symbol on the side of the basketball gym today is the Indian head from the Washington NFL team. During the mid-60's when I was there, the cartoonish mascot was known as "Li'l Ugh." He was drawn with an enormous nose and a huge

potbelly and for clothing wore only moccasins, a loin cloth, and a headband with two broken eagle feathers in it. The student who marched out in front of the school band, dressed as "an Indian," was always a white student who put on makeup to look dark and then face paint to look like a TV or B-movie Indian. I may even have had some envy because in his makeup, he was darker skinned than I, and I was a *real* Indian.

Speaking Out About Race

If you bear with me, there is a point to all of these rambles. I have a plaque in my office from a speech tournament that was held annually at my high school. It was called the Freshman-Sophomore Speech Contest, which defines the participants. This plaque is for first place in Original Oratory. I have always kept it with me in my professional offices as a civil rights lawyer because the speech was a civil rights speech, delivered in 1966, by an Indian student at a virtually all-white high school. It is unfortunate that I don't have a copy of the speech anymore. I'm sure that Sharon Petersen, my speech coach and mentor, doesn't have it around after thirty-eight years. Thus, I don't remember much of the exact wording that I used. But I know that I spoke about the concept of not letting some of us into certain places of business.

There were places in San Diego County where, largely due to the presence of several Indian reservations, many businesses posted signs that no Indians were allowed. Downtown, in the inner city, "no colored" was the sign of choice. Either way, these signs meant that some portion of the consuming public could not spend its money in those establishments. I do remember arguing in that speech that a smart business person would open stores in the segregated communities, sell to "colored only," and have at least 10 percent of the market cornered. I told the audience of impressionable high school kids that only a business fool in a competitive market would cut out 10 to 15 per-

I took the money.
I took it and my anger
to law school.

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New & Noteworthy from the Commission

Spirit of Excellence Awards

Nominations for the 2005 Spirit of Excellence Awards are due by August 16, 2004. Each year more than 500 people join the Commission's presentation ceremony of the Spirit of Excellence Awards at the ABA Midyear Meeting. The awards celebrate the achievements of diverse lawyers and others who contribute to the legal profession and society. Awardees are lawyers who excel in their professional settings; personify excellence on the national, state, or local level; and have demonstrated a commitment to racial and ethnic diversity in the legal profession. The Call for Nominations for the 2005 Spirit of Excellence Awards is available online at www.abanet.org/minorities/spirit/home.html.

ABA Annual Meeting

The ABA Annual Meeting will be held August 4-10 in Atlanta. The Commission's headquarters will be at the Sheraton Colony in midtown. Please join us for the following events: our daylong Minority Lawyers Forum on Friday, August 6; the minority lawyers reception honoring incoming ABA President Robert Grey; and the Commission's many CLE programs, including sessions on "Retaining Minority Lawyers in Your Law Firm or Corporation" and "The Business Case for Diversity—Redux." For details, visit www.abanet.org/minorities.

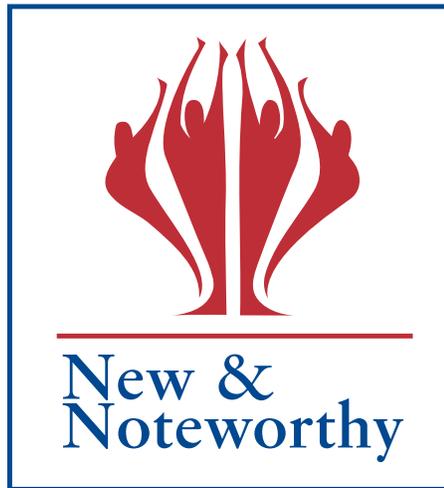
Minority Counsel Program

The Minority Counsel Program will hold its fall meeting in Chicago on September 29-October 1, 2004. A registration form and additional details are available on the Commission website at www.abanet.org/minorities.

If your corporation or law firm is interested in becoming a part of the Minority Counsel Program, membership applications and information are available at www.abanet.org/minorities/mcp/home/html.

Miles to Go

The updated edition of the report "Miles to Go: The Progress of Minorities in the Legal Profession," by Dr. Elizabeth Chambliss of New York Law School, will be available later this year. The report is the only comprehensive collection of data and statistics about minorities in the



legal profession and also contains recommendations for those interested in advancing diversity in the profession. Watch our Commission website at www.abanet.org/minorities for our announcement of availability.

Indian Law Primer

The Commission will be presenting a primer on Indian Law as part of its programming during the 2005 Midyear Meeting in Salt Lake City, February 9-15, 2005. Details will be posted on the website at www.abanet.org/minorities as they become available.

We've Moved!

The ABA has moved its headquarters! Please be sure to note our new address:

ABA Commission on Racial and Ethnic
Diversity in the Profession
312 N. Clark St.
18th Floor
Chicago, IL 60610-4714

Telephone numbers and e-mail addresses remain the same.

Goal IX Goes Online

Beginning this fall, the Goal IX Newsletter will be completely electronic. That means that we'll be able to bring more people more articles and information in a more timely fashion. To make sure that you receive the future e-mailings of the Goal IX Newsletter, send your e-mail address to Doug Knapp at KnappD@staff.abanet.org and note that you wish to be included on the Goal IX Newsletter Distribution List; you also may subscribe online by filling out the form at www.abanet.org/minorities.



Recent Commission Activities

To see more photos from these and other Commission programs and activities, please visit www.abanet.org/minorities.



Scrambling for Scrabble

Attendees at the Spring Meeting of the Minority Counsel Program in Philadelphia found themselves at no loss for words as they played Giant Scrabble during the group's latest mystery networking event. The lucky winners got to take home deluxe sets of the classic game.





Hold On to Your Heart

This year's National Conference for the Minority Lawyer, held in June in San Francisco, featured provocative symposiums, dynamic debates, and of course time for socializing and partaking of the city's sights.



- how diversity is reflected in the firms' systems for promotion and remuneration of all its lawyers.

Reinforce that step with the logical next step: Take business away from insufficiently responsive law firms. Don't hire a firm for a significant matter, and let it (and others firms) know that you did so because the firm was not appropriately responsive to your diversity concerns. Don't just imply or even threaten this move—do it.

Assessing the Firms

Giving corporate America the first move in this strategy does not let large law firms off the hook. It simply recognizes two critical realities. First, the business case for diversity at such firms is a reflection of tangible expressions and policies by important clients and prospects that reveal how important diversity is to them. Second, although such firms may sincerely commit to diversity at an abstract level, the commitment may lose clarity when the firms consider what and who is valuable and how such decisions may affect their financial bottom lines.

Take away or reduce business because of diversity deficiencies, and

the business case for diversity becomes real for the firms. You might be amazed by how much more focused and innovative law firms become in their hiring and assignment practices when they know losing work is a real possibility.

Equally significant as a strategic step, however, is the positive corollary of taking away business. General counsel and corporate executives also can act directly to help develop minority and female attorneys as business assets within their firms.

When a firm's talented minority or female attorneys are identified to you, start directing a significant portion of your legal work specifically to them—and make your actions known to the firm's leadership. In follow-ups with the law firm, ask whether these attorneys are getting appropriate credit for being responsible for your business with firm. In addition, tell—okay, ask and urge—other companies who do business with you to begin initiating similar policies with law firms they use. This can have a “multiplier” effect: each minority or female attorney is empowered, instantly becoming a more valuable business asset to the firm. In addition, he or she likely will rise within the firm as a direct result.

This is just the beginning, however.

The minority or woman lawyer's success will help attract other diverse candidates. Even more importantly, however—and this takes us to a higher level of candor and possible discomfort—it makes that particular attorney more influential and powerful in advancing additional diversity goals within the firm.

Most of us are realists when it comes to organizational dynamics. Do any of us know a large law firm that is a true democracy? In the exclusive quarters where the important decisions truly are made, is the voice of the partner without responsibility for a meaningful book of business heard as clearly and impactfully as the voice of the partner who is perceived as responsible for such business? Arming minority and women partners (and senior associates and counsel who aspire to become partners) with meaningful amounts of corporate America's legal business will enable them to do something that will change the diversity profiles of large law firms in meaningful and sustainable ways.

Short of that, we might as well be talking about the weather.

W. Randy Eaddy is a partner with Kilpatrick Stockton in Atlanta, Georgia, and a member of the Commission.

cent of potential customers because of the color of their skin. I might even have been glib enough at fifteen to say something along the lines of, “to an entrepreneur, the color of your money should be more important than the color of your skin.” Possibly not., but I do know that I poked a lot of people in the eye with a sharp stick with that speech.

I also remember telling to my audience of mostly white students and teachers that I found it rather amusing that people who didn't want to go to school, live in a neighborhood, or eat in the same restaurant with a person of color would spend most of their summer down at the beach slathering themselves in Coppertone so that they too could be “a person of color.” If being dark-skinned is so offensive, why do so many white people spend so much of their time at the beach trying to get a tan?” I asked. I've never been sure whether they gave me the award for being the best speaker or just giving the toughest speech.

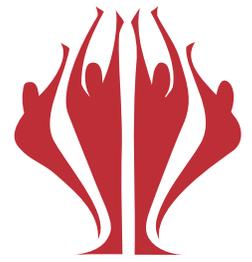
Addressing the Best People on Earth

My father was a large man and very dark-skinned. While I look like my white mother's side of the family, dad looked like the guy on the Indianhead nickel. Dad was a construction worker with a fifth-grade education, but he could walk with anyone. To paraphrase Kipling, he could

talk with crowds or walk with kings and treat them both the same. His best friend when we were growing up was a very wealthy white man—as such, a man of some prominence in the community. Mac, my father's friend, belonged to a local club—I won't name it here—of which my father said, its initials stand for the “best people on earth.” Mac was an important and longtime member of this organization. He thought that his businesses and standing in the community were enhanced by his membership among the best people on earth. He wanted his friend to be a member. He thought my dad could better himself financially if he joined the club. Mac submitted dad's name for membership. The best people on earth required you to come to a meeting for an “interview.” Boy, oh boy—were they surprised when dad walked in. Poor Mac, he didn't know that his local lodge of “the best people on earth was segregated. They told Mac quietly that his best friend wasn't eligible for membership, not because of his line of work or his education but solely because of the color of his skin. They wouldn't accept his membership dues because he was an Indian, and the best people on earth were all white. It was, in fact, because of this event that my father began calling them the “best people on earth.” He said that if an Indian wasn't good enough to join that organization, they must really be the best people on earth.

To his credit, Mac renounced his membership. He never thought of my father as his Indian friend; dad was just his

August 5-11, 2004	ABA Annual Meeting	Atlanta, GA
August 5-8, 2004	Commission Activities at the ABA Annual Meeting.	Sheraton Atlanta Atlanta, GA
August 7, 2004	5th Annual RPPT Networking Reception and Luncheon “Point/Counterpoint: Diversity in the Profession - Two Steps Forward, One Step Back?”	Omni Hotel Atlanta, GA Additional Information: Antonette N. Smith, 312.988.5260 or ASmith4@staff.abanet.org
August 7, 2004	NAPABA and NLF Quarterly Board Meetings	Atlanta, GA
August 18-20, 2004	Four Corners Indian Country Conference	Scottsdale, AZ
September 10-11, 2004	Minnesota Minority Recruiting Conference	For info: info@tcc-mmrc.org or call 612.824.6988
September 30-October 1, 2004	MCP Fall Meeting Download the registration form at www.abanet.org/minorities	The Sutton Place Hotel Chicago, IL Contact Regina Smith, smithr@staff.abanet.org, 312.988.5508
October 9-12, 2004	HNBA Annual Meeting	New York, NY
October 28-29, 2004	Texas Minority Counsel Program 12th Annual Conference	San Antonio, TX Additional information: 800.204.2222 or minorityaf- fairs@texasbar.com
November 9, 2004	CMCPs 15th Annual Business Development Conference	San Francisco, CA Additional information: www.cmcp.org or 415.782.8990
November 11-14, 2004	NAPABA Convention	Dallas, TX Additional Information: Grace Yoo at ED@napaba.org
February 9-15, 2005	ABA Midyear Meeting	Grand America Salt Lake City, UT



ABA Commission on Racial and Ethnic Diversity in the Profession

Master Calendar of Meetings

Abbreviations

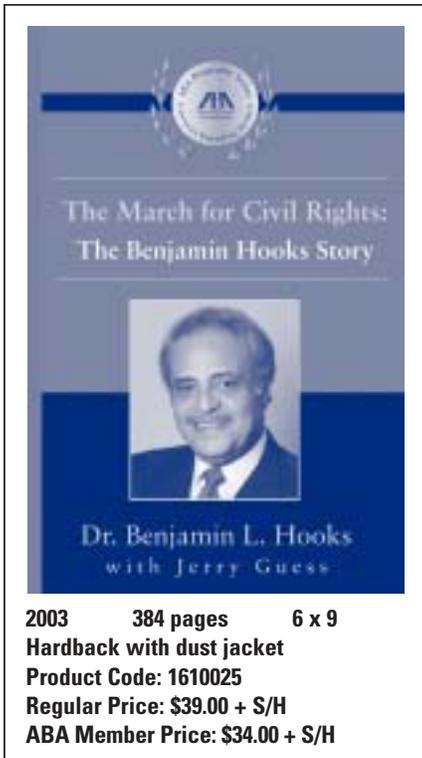
ABA	American Bar Association
ACCA	American Corporate Counsel Association
CBAC	Coalition of Bars of Color
NNABA	National Native American Bar Association
NAPABA	National Asian Pacific Bar Association
NBA	National Bar Association
MCP	Minority Counsel Program
NLF	NAPABA Law Foundation
HNBA	Hispanic National Bar Association

best friend. Any organization that wouldn't accept his friend wouldn't get Mac's money either. The loss to the best people on earth was, of course, greater than financial. They lost the camaraderie and the intellect and the life experience that both Mac and my dad brought to the table.

It is written somewhere that the wheel of Karma grinds slowly but that it turns a full turn. Thus, it was that about ten years after the best people on earth refused my father membership in their organization I found myself the winner of a scholarship program they sponsored at my high school. The winners were presented with a check for a couple of hundred dollars, and we got to give a thank-you speech at a luncheon of the best people on earth. You know that I thanked them for the money. And you know that I told them

how far they had come. I told them that my father had been nominated for membership in their club and turned down because of his race, and that now with their scholarship money they were promoting his son's education. There were still no members of color in the room—but I saw a lot of red faces that day. Now, a bold statement of protest would have been to tear up their check and walk out, head and pride held high. Not me—I didn't care what color they were. I took the money. I took it and my anger to law school.

For the record, at that school speech tournament, I also took first place in humorous interpretation (Bill Cosby's "Noah"), second place in dramatic interpretation (a cutting from "Inherit the Wind" by Jerome Lawrence and Robert E. Lee), and the best speaker award for the 1966 Frosh-Soph Speech Tournament. Now I'm just bragging—but I don't keep those awards in my office.



With the knowledge of a lawyer and judge, the voice of a preacher, the position at the FCC and the power of the NAACP, Dr. Benjamin Hooks opened doors and remedied injustice in a way that extended opportunities for generations to come . . . America indeed is a better place for African Americans than before Benjamin Hooks.

—Excerpt from the Foreword, by Dennis Archer

Lawyer, judge, pastor, civil rights activist, trailblazer, and great humanitarian, Dr. Benjamin Hooks recounts the extraordinary experiences of his life of service in *The March for Civil Rights*.

The myriad roles he has played throughout his life include becoming a lawyer, an honorable judge, a prominent businessman, an ordained minister, the first African American appointed to the Federal Communications Commission, the long-time Executive Director of the NAACP, the President of the National Civil Rights Museum in Memphis, and the Founder and Chairman of the Benjamin L. Hooks Institute for Social Change at the University of Memphis.

A staunch advocate for self-help, Benjamin Hooks preaches responsibility and accountability, and calls for a “moratorium on excuses.” He urges the black community to strengthen the family unit and impels those who have succeeded to reach out and help their brothers and sisters.

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