

GOAL IX

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

Volume 9, Number 1, Winter 2003



Latino Lawyers Search for Lessons in a Changing Political Landscape

S t e v e n G o n z a l e s

J. Lo rules the charts *and* movies. *Real Women Have Curves* takes Sundance. *Frida* draws crowds at upscale museums *and* suburban cinemas. The Grammys *and* MTV awards go Latin. Mexican restaurants appear in affluent neighborhoods. The fate of a Latino child in Miami captivates the media and talk shows for months, and for an entire summer it seems everybody is *Living' la Vida Loca*. For years Latinos anticipated the day when their sheer numbers and a porous border would make them part of mainstream America. It seems that day is finally here.

Clearly, America is now influenced in the arts by Latino cultures. But what of the true test of inclusion—political appointments? In recent years Latino bar associations have listed as a high priority the appointment of Latinos to the federal courts, including the U.S. Supreme Court. Regional Latino bar associations have similarly focused heavily on statewide judicial appointments. Yet there is no shortage of issues facing Latinos. Statistics consistently list Latino youth as being at high risk for dropping out of school and for teen pregnancy. Terrorist attacks on the United States have raised extremely important concerns about national security and civil liberties.

Latinos may enjoy unparalleled population growth and increasing clout in American politics, but clearly, partisan

Latinos enjoy increasing clout in American politics, but partisan politics raises new problems.

politics raises a whole new set of problems. Recent events add urgency. President George W. Bush's 2002 nomination of Washington, D.C., lawyer Miguel Estrada to the highly visible U. S. Court of Appeals for the District of Columbia exposed divisions within Latino communities. The divisions were widely reported by the media, including the *New York Times*. Some Latinos opposed the nomination, maintaining Estrada was too conservative. Others supported him, feeling comfortable with his views or simply finding insufficient grounds to oppose him. Still others were cautious and noncommittal. The nomination stalled before the November 2002 elections; however, he is widely expected to be renominated when Congress reconvenes this year.

The November 2002 national elections clearly complicated the picture for

Latinos. Although Latino affinity with traditional values such as family life, faith, and military service has long been known, Latinos, with some notable exceptions, have traditionally voted Democratic. But Republicans now hold the majority of both houses of Congress as well as the White House. Further, Latino political power is emerging at a time when Americans are increasingly weary of civil rights claims and worried about border security, aggravating a long-standing sore point with Latinos.

As a result, Latinos are searching for lessons from Estrada's nomination. Jose Feliciano is an attorney with Baker and Hostetler, a member of the ABA Board of Governors, and former chair of the ABA Section of Dispute Resolution. Reached by phone at his Cleveland office, Feliciano pointed out that differing viewpoints within Latino communities concerning Estrada are not "a fatal flaw to the development of the Hispanic community." He notes that the Latino community "is not monolithic, and it shows in some sense a maturation of the community. . . . The nomination process is partisan politics, things like this are going to occur—after all, we live in a democracy."

The Hispanic National Bar Association (HNBA), headquartered in Washington, D.C., is the most prominent Latino bar association to consider

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Spirit of Excellence Awards: Singing Songs for Unsung Heroes

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

In the movie *The Lord of the Rings: The Fellowship of the Ring*, one of the members of the Fellowship, Gandalf the Wizard, falls into a bottomless pit after a glorious battle with a Balrog while protecting the other members. His heroic stand on the bridge and (seeming) ultimate sacrifice allow the Fellowship to go on. The remaining members of the Fellowship come under the protection of the Wood Elves, one of whom sings a lament. When asked what the song is about, the elf says it is a lament about the loss of Gandalf that is too sorrowful for him to translate. In the recently released director's cut of the movie, however, another character, Sam Gamgee, says, "He also did great fireworks. There should be a song about his fireworks." And, of course, Sam rises and makes up a song.

That's what we will be doing at the awards ceremony for the Spirit of Excellence Award winners. No, no, don't panic and run from the room in terror—I will not be singing songs about our recipients; they deserve much better than that. My singing ability is why I went to law school. Metaphorically, however, we will sing praises on behalf of each honoree, although in prose, not verse. And—to continue about as far as I dare with this analogy—we will sing about their fireworks and actions that others may not have seen.

The fact that our Spirit of Excellence Award program will be held in Seattle made me think of another trek across lands unknown by adventurers and heroes: our program will take place just a short distance from the mouth of the Columbia River, the final stop of Lewis and Clark's historic 3,700-mile expedition. We are hard upon the 200th anniversary of that journey. Every schoolchild knows the names Meriwether Lewis and William Clark, but more rare is the individual who can tell you of the contributions of Sacagawea and York, two other members of the expedition that is also known as the Corps of Discovery.

For nearly 200 years Sacagawea was a mere footnote to the history of the expedition. But in 2000, the image of the young Shoshone Indian woman and her child, Jean Baptiste, born during the expedition, were put on a gold one-dollar coin to commemorate her contributions to the explorers' discoveries.

Being a Native American, Sacagawea was not exploring—the lands the expedition traveled were not unknown to her. She performed many roles, from identifying edible or medicinal plants to translating her tribe's encounter with the Corps of Discovery. Even less is known about three other members of the Corps who were mixed race, described only as French and Indian "half-breeds" (a term of derision).

Another of the forgotten among the explorers is York. York was African and is described variously as a manservant or a slave whom Meriwether Lewis inherited from his father. York, who was Lewis's same age, is always described as a man of large stature and great strength. He shared a boat and living quarters with Lewis and Clark—a demonstration of his value to the expedition. He was clearly more than valet to Lewis, contributing greatly to the success of the venture. He hunted for food, cared for the sick, and was entrusted to trade goods with the Indians. He was as different from the other members of the expedition as they were from the Indians, and that difference was often the opening for dialogue when the Corps visited new tribes.

After the expedition's successful conclusion, Lewis and Clark returned to Washington, D.C., and great adulation. They received newspaper equivalents of balladeers' lyrics. The rest of the Corps is relegated by history to terms like "the lesser-known members of the expedition."

If Sacagawea and York were alive today—and were lawyers who had contributed to the diversity of our profession—we would sing their praises. They would qualify for the Spirit of Excellence Award because they took action. We honor people for more than achieving stature in the profession—although a noble goal, being a good or great lawyer isn't enough. Giving back to the minority community is what the Spirit of Excellence awards are about.

Sometimes, being a part of a legal team that litigates a groundbreaking case is more accident than design. The lawyer's photo

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New & Noteworthy from the Commission

Goal IX Report

The ABA's Goal IX seeks to "promote the full and equal participation in the legal profession of minorities." Each year the Commission surveys ABA sections, divisions, forums, and other entities and departments to report upon the ABA's progress toward this goal. The Commission examines the racial and ethnic diversity of the ABA's leadership, both throughout the association and among the substantive practice areas of the various entities. It also reviews those ABA programs and activities that are most successful in advancing minorities into visible leadership positions in the largest voluntary professional membership organization in the world. The report will be released during the ABA Midyear Meeting, February 5-11, 2003, and thereafter will be available online at www.abanet.org/minorities.

Judicial Clerkship Program

Thanks to the continuing support of Lexis-Nexis, the Commission and the ABA Judicial Division will present the Judicial Clerkship Program during the ABA Midyear Meeting. The program is a three-day simulation of a clerkship experience, during which minority law students work with judges in small teams on a legal research project, preparing and then discussing a bench memorandum prepared by each student. The program is interspersed with sessions discussing the role of judicial law clerks, post-clerkship career opportunities, and how to put together a winning clerkship application packet. Lexis-Nexis provides computers and printers for the students. This year, the following law schools will participate: Cornell, DePaul, Duke, Indiana-Bloomington, Michigan, New Mexico, Tennessee, Texas, and Villanova, as well as the ABA Council on Legal Education Opportunities (CLEO). For more information about the Judicial Clerkship Program, please contact Emily Merrick at merrick@staff.abanet.org; 312.988.5643.

Minority Corporate Counsel Summit

Paula Boggs, general counsel of Starbucks, will be the keynote speaker at the ABA Minority In-House Counsel



Group's Minority Corporate Counsel Summit on April 3, 2003, in Los Angeles. The Summit is a one-day program for minority corporate counsel to explore their particular professional development concerns and to discuss and share strategies for surviving, thriving, and succeeding in their corporations. The program is the result of collaboration among the Minority In-House Counsel Group and the Section of Business Law's Corporate Counsel and Diversity Committees.

As an added bonus, registrants for the Summit will be offered a special discounted rate to attend the Section of Business Law's Spring Meeting that begins immediately following the Summit. There, corporate counsel will be able to attend numerous CLE sessions on topics in their substantive practice area, as well as network with the many corporate counsel who regularly attend Section meetings. The Summit will be held on April 3, 2003, in Los Angeles; the Business Law Spring Meeting will follow from April 4 to 6, 2003. For more information, please contact Candace Smith at smithc@staff.abanet.org; 312.988.5508.

Call for Nominations: Spirit of Excellence Awards

Is there a lawyer in your community who has been particularly instrumental in working to advance racial and ethnic diversity in the legal profession? If so, consider nominating the person for a

2004 Spirit of Excellence Award. The Spirit of Excellence Awards recognize lawyers who have made outstanding contributions to the advancement of racial and ethnic diversity in the legal profession. The awards are presented each year at a luncheon that has become one of the highlights of the ABA Midyear Meeting. A list of past recipients and the nomination form are available at the Commission's website at www.abanet.org/minorities. For more information, contact Sharon Tindall at tindalls@staff.abanet.org; 312.988.5642.

National Conference for the Minority Lawyer

Plans for the Fifth Annual National Conference for the Minority Lawyer are under way. This year's National Conference will be held in June in Philadelphia. To make sure you receive your invitation, please contact Doug Knapp at knappd@staff.abanet.org; 312.988.5679.

ABA Annual Meeting

The 2003 ABA Annual Meeting will be held August 7-12 in San Francisco. The Commission will once again organize the annual Minority Lawyers Forum—a full day of meetings and programs of particular interest to minority lawyers, capped by the Minority Lawyers Reception. This year's events promise to be extra special as we honor Dennis Archer on his historic achievement in becoming the first minority to serve as president of the world's largest voluntary professional membership organization, the ABA. Please be sure to join us for the celebration. For more information, visit the Commission website at www.abanet.org/minorities or contact Candace Smith at smithc@staff.abanet.org; 312.988.5508.

For the most up-to-date information about these and other programs, activities, and events of particular interest to minority lawyers and lawyers interested in diversity issues, please visit the Commission's website at www.abanet.org/minorities.



The Disappearance of Historically Black Colleges and Universities: Why the Professional Bar Must Act

B e v e r l y M c Q u e a r y S m i t h

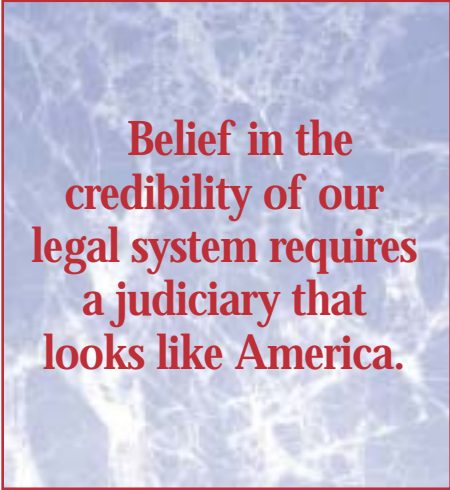
During the past several years, the media reported that several historically black colleges and universities (HBCUs) risked being shut down. On December 10, 2002, the Southern Association of Colleges and Universities announced that Atlanta's Morris Brown College had lost its accreditation. On the eve of the U.S. Supreme Court's consideration of the University of Michigan affirmative action case, the professional bar must act decisively to preserve HBCUs so that we can maintain and increase the diversity of the bench and bar throughout the United States.

In 2003 court decisions and administrative actions threaten to metamorphose educational opportunities for black and brown students for decades. At a time when data show that nearly 40 percent of public elementary and secondary school students are of color, colleges and universities stand at the threshold about to close the door to post-secondary education. Two important outcomes are at risk: first, if the Court rejects the University of Michigan's admissions policy and plan, many historically white institutions may be inclined to limit enrollment of black and brown students. Second, if HBCUs close their doors, the haven of educational opportunity they provided will be similarly shut.

In the post-*Brown v. Board of Education* era, many public policy analysts questioned the viability and utility of HBCUs. Born as a response to the segregationists' policies and practices of our slavery-burdened past, HBCUs provided higher educational opportunity when little or no chance to attend an historically white school existed. *Data show that until recent times, 80 percent of all black judges sitting on the federal bench obtained their degrees from HBCUs.* In my native state of New Jersey, the one black judge sitting on the state supreme court graduated from Howard University. Given that historically white schools fail to produce the number of black graduates necessary to ensure a diverse bench and bar, HBCUs remain necessary.

Continued belief in the credibility of our legal system requires a judiciary and a bar that looks like America. National, state, and local bar leaders demonstrate increasing sensitivity to issues of race and the law. During the 1998-1999 bar year, the ABA and the National Bar Association (NBA) published a joint issue on race and the law. Former ABA President Bill Paul made diversity in the legal profession a hallmark of his presidency, and former President Martha Barnett highlighted concerns about fairness in the administration of justice and the disparate impact of the death penalty on black and brown defen-

dants in courthouses throughout the United States. ABA Immediate Past President Robert Hirshon sustained the battle for increasing the diverse pool of law students by continuing to award minority scholarships to deserving students, and met with students at a HBCU. Current President A.P. Carlton established a President's Advisory Council on Diversity. In the NBA, former President Harold Pope raised corporate dollars to promote increased opportunities for minority students, and former President Evett Simmons established the John Crump Law Camp to spark high school students' interest in pursuing careers in law. Immediate Past President Michael Rosier tackled improved training and programs for small and solo practitioners. Nonetheless, all of these steps to promote a bench and bar that looks like America will dwindle if the educational pipeline closes.



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credibility of our
legal system requires
a judiciary that
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Beverly McQueary Smith is a professor at Touro Law Center in Huntington, New York, and a past president of the National Bar Association.

How You Can Help Save HBCUs

Lawyers who have traditionally represented the needs of the voiceless must act now to save HBCUs. Here are five steps that lawyers and judges can take to help keep the doors open.

- Donate money, time, and talent.
- Agree to serve on an advisory board that provides technical assistance to presidents working to solve their fiscal woes.
- Establish a scholarship fund for deserving black and brown students.
- Support legislation for increased funding at the national, state, and local levels.
- Write op-ed pieces explaining the value of HBCUs to our communities.

Estrada's nomination. Duard Bradshaw, a business and civil practice lawyer and partner in the Akron firm of Roderick and Linton, LLP, was thoroughly involved in the process. Bradshaw, who became HNBA president in October 2002, chaired the HNBA's Judicial Appointment Evaluation Committee that considered Estrada's nomination. He concluded that the more important lesson is to learn how Latino communities can avoid becoming divided when Latinos are nominated, whether to the judiciary or to other key posts. "We must do our due diligence checks and come to our own conclusions," he says, warning that Latino communities "must avoid jumping to conclusions and then searching for facts that support the conclusion."

Bradshaw's thoughts are echoed by Angel Gomez, HNBA president when Estrada was first nominated. A commercial and tort litigator, Gomez is a partner with the Chicago law firm of Seyfarth and Shaw. He says the HNBA "stayed true to its own policies when considering the nomination" and stressed that these policies are not related to partisan politics. The HNBA considers criteria that include competency, judicial temperament, honesty, and good character. Another factor is the candidate's involvement in Latino communities and support of issues important to Latinos—a factor that may be subject to manipulation.

But does unity mean that Latino groups should endorse a candidate solely because the candidate is of Latino descent? No, say both Bradshaw and Gomez. Gomez points out that the factor distinguishing HNBA consideration from review by other bar associations and community organizations is the candidate's history of involvement in Latino community life and support for issues important to Latinos. Gomez and Bradshaw agree that occasionally it will be necessary *not* to endorse a Latino nominee. But is it possible to base the deci-



sion on neutral principles and professional qualifications rather than on partisanship? Yes, according to Bradshaw, who recommends Latino groups develop a list of qualified candidates and submit it to the White House and Congress before nominations are made. If anyone on the list is nominated, Latino groups should wholeheartedly support that person, regardless which party made the nomination or what political beliefs the candidate has.

One thorny problem remains. Gomez observes that Latino nominees are routinely subjected to a higher level of scrutiny than other candidates. If the nomination is made by a

Democrat, many conservatives assume the nominee is ultra-liberal. Conversely, if the nomination is made by a Republican, the candidate is often characterized as too conservative by liberals. Such extremism is inadvertently encouraged by those desperate for support from their natural constituencies.

The entrenched political camps seem incapable or, worse yet, unwilling to believe that a Latino candidate may be a centrist, or hold strong personal political views, yet be entirely capable of listening to the facts and applying the law in a dispassionate, competent, and professional manner, regardless of personal values.

The political interests cannot resist, whether because of fear, stereotyped assumptions, or naked political gain, labeling Latino candidates as "fringe." In an age when painting a nominee as an extremist rallies the constituencies—and perversely benefits the opposing camp by increasing political donations—this may be the most difficult challenge of all facing Latinos seeking to take their place in the American political process and give new meaning to living *la vida loca*.

Steven Gonzales is an assistant professor at LaVerne University College of Law in Ontario, California, and serves on the Commission on Racial and Ethnic Diversity in the Profession.

on the cover of a magazine becomes part of the news cycle, but the daily mentoring of minority students is usually unseen. Scholarship programs developed for students of color are seldom in the spotlight. Visits to colleges and law schools to inspire others of color to stay the educational course and become lawyers are not on the nightly news. Being a role model by your achievements as a professional isn't enough. The Spirit of Excellence rewards what you did, whether or not it figured prominently in the eyes of the media.

The term "unsung heroes" is a reference to ancient times when great balladeers wrote and sang the deeds of great warriors, kings and queens, heroes and heroines. Those whose

deeds were not yet memorialized in song were "unsung." But the unsung hero is often the one who puts in the time every year, every week, every day, quietly and without recognition. The unsung heroes of the civil rights movement are not the great speakers and leaders but those who ensured the hall was always ready when the speaker arrived, arranged bail when the major figures were arrested, and met the train and made sure that everyone was on time and the room was full of people to listen. They were effective, they worked hard, and they were usually unknown. This is what the Spirit of Excellence Awards are about: unsung individuals who have created fireworks in their communities—whether others have praised them or not.

Networking No Mystery for MCP Attendees



At the Fall Meeting of the Minority Counsel Program (MCP), the Mystery Networking Event was "MCP/Archeology." Small teams combining in-house lawyers and potential outside counsel competed against one another to assemble wooden velociraptors. The Mystery Networking Events have become a signature of MCP and provide an opportunity for in-house counsel and minority lawyers who would like to obtain business from their corporations to meet and interact in an informal setting that demonstrates creative problem solving, leadership, ability to work under pressure, and other attributes. The next MCP Meeting will be April 2-3, 2003, in Los Angeles.

February 5-11, 2003	Commission Midyear Meeting (Preliminary schedule of events at www.abanet.org/minorities)	Seattle, WA
February 6, 2003	Advancing Your Career: Charting a Successful Course as an Attorney in Today's Workplace	Washington Convention and Trade Center Level 6, Room 618 Seattle, WA E-mail Candace Smith: smithc@staff.abanet.org .
February 7, 2003 8 a.m. - 12 noon	Commission Business Meeting	Seattle, WA
February 7, 2003 2:30 p.m. - 4:00 p.m.	Conference of Minority Partners: Making Rain in a Distressed Economy	Washington Convention and Trade Center Level 6, Room 618 Seattle, WA Space is limited, so reserve your place as soon as possible. E-mail Candace Smith: smithc@staff.abanet.org .
February 8, 2003 8:30 a.m.	NAPABA Quarterly Board Meeting	Perkins Coie Seattle, WA
February 8, 2003 12 noon - 2 p.m.	Spirit of Excellence Award Luncheon	Sheraton Seattle Grand Ballroom B/C Level 2 Seattle, WA
February 14-15, 2003	ABA Forum on Communications Law, Workshop on Diversity Initiatives	Marriott Camelback Resort Scottsdale, AZ
February 15, 2003 10:45 a.m. - 12:15 p.m.	Woman Advocate Committee, ABA Section of Litigation Break Down the Barriers and Avoid Breaking the Bank: Business Reasons for Recruiting and Retaining Minority and Women Lawyers	Biltmore Hotel Coral Gables, FL
March 20-22, 2003	ABA Section of Dispute Resolution, Fifth Annual Conference, includes workshops on Expanding Minority Opportunities in ADR	San Antonio, TX E-mail Jack Hanna for info: hannajack@staff.abanet.org
April 2-3, 2003	MCP Spring Meeting	Los Angeles, CA Contact Emily Merrick: 312.988.5643
April 3, 2003	Minority Corporate Counsel Summit	Los Angeles, CA Contact Emily Merrick: 312.988.5643
April 4, 2003	LSD Diversity Day	E-mail: abalsd@abanet.org
April 5, 2003	Commission Business Meeting	Los Angeles, CA Contact Emily Merrick: 312.988.5643



**ABA Commission
on Racial and
Ethnic Diversity in
the Profession**

**Master Calendar
of Meetings**

Abbreviations

ABA	American Bar Association
NNABA	National Native American Bar Association
NAPABA	National Asian Pacific Bar Association
NBA	National Bar Association
MCP	Minority Counsel Program
HNBA	Hispanic National Bar Association



ABA Commission on Racial and Ethnic Diversity in the Profession

National Conference for the Minority Lawyer

A Unique Program for Litigators, Business Lawyers, In-House Counsel, and Government Lawyers

June 5-6, 2003
Philadelphia, PA

Contact Emily Merrick at merrick@staff.abanet.org or call 312.988.5643.

The ABA Minority In-House Counsel Group presents

ABA Minority Corporate Counsel Summit

April 3, 2003
Century Plaza Hotel
Los Angeles, CA

A one-day summit where minority corporate counsel can

- explore their particular professional development concerns;
- discuss and share strategies for surviving, thriving, and succeeding in their corporations

Featuring keynote speaker Paula Boggs,
General Counsel, Starbucks

Co-sponsored by the Section of Business Law's
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