

GOAL IX

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

Volume 10, Number 1, Winter 2004



Present Thunder

P r e s i d e n t - E l e c t
R o b e r t J . G r e y , J r .

On the second Tuesday of August 2003 in San Francisco, in the well of the ABA House of Delegates, Dennis W. Archer received the gavel of the organization's presidency and, in that moment, irrefutably demonstrated that there exists no height within the ABA that a lawyer of color cannot climb.

Then, as if to put an exclamation on the point, I was elected president-elect. It was as if to say, "and let there be no doubt!"

The moment was both bittersweet and uplifting. Bittersweet in its reminder of the lost opportunity of so many whose talents and ambition were overshadowed by the time and place in which they were born. But it was uplifting in the knowledge that the days ahead are brighter than the days behind.

As triumphant as these moments are, we know that they do not happen in an instant. San Francisco 2003 was not an earthquake, a massive shift from prior nothingness. Our progress in diversity has been more like rolling thunder; starting small, soft, and far-away and gathering energy and voice, power and volume.

The life of this association, this profession, and this country is the same: Out of overt oppression came practical exclusion, out of practical exclusion came a break, a small window where a brave few let in the light and showed the way for more to follow.

**The greatest feats of
mankind were
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challenges.**

As this journey has continued, we've tasted success. Lawyers of color are general counsels of multinational corporations, managing partners of big firms, and leaders of the largest bar associations. The work has been engaged, but it is far from done. Not by a long shot.

And it may not even be done in our lifetime.

Not in our lifetime? This sobering thought can easily disappoint and discourage us. At times we all feel the exasperation of the lawyer quoted by J. Cunyon Gordon in her beautiful and poignant piece in the Spring 2003 issue of this publication: "I'm tired of fighting that fight. After a while, I just get tired."

But the greatest feats of mankind were all multigenerational challenges, each doing its part, advancing the cause and then leaving the endeavor in the hands of its sons and daughters. The work is about each and every one of us.

By ourselves, we do not change the world when we visit an underprivileged middle school and teach the students that nothing can stop them from becoming lawyers if they have the will and dedication.

By ourselves, we do not change the world when we mentor an associate in our firm, giving guidance, advice, and a helping hand so that in his or her own success, that lawyer will do the same.

By ourselves, we do not change the world when we foster diversity programs in our firms and companies to educate and inspire, to shape the dialogue, to improve our understanding.

By ourselves, we do not change the world when we insist that our law schools make greater gains in the inclusion of the full rainbow of American youth.

But together, in all that we do, in how we represent others and ourselves, we *do* change the world.

We are lawyers, and thus have been entrusted to uphold the Constitution and the principles of justice. We are lawyers. And thus our own personal success can be a beacon of hope and inspiration to all younger versions of ourselves.

Robert J. Grey, Jr., a partner in the Richmond, Virginia, office of Hunton & Williams, is president-elect of the American Bar Association. He will assume his presidency in August 2004.



That Thunder You Hear Is the Spirit of Excellence Breaking Through

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 my letter welcoming guests to the upcoming Spirit of Excellence Awards program, I note that we are honoring people who have worked the fields in planting the seeds for the future of diversity in our profession. I state that their work is of such nature that "it is altogether fitting and proper that we should do this." These are not my words. They are Abraham Lincoln's. I did not attribute them because I believe all who read my letter have been required to memorize and recite the Gettysburg Address at least once in their lifetime. From a president who often spoke with words of deep meaning, these are some of his most powerful.

Lincoln was addressing the desire to honor those brave souls who had given all to hold the nation together in a time of armed conflict—the nation's Civil War. I chose to borrow them, with much forethought, because the fight for equality in our profession is no less important than preservation of the national unity. In fact, bringing about the full and equal participation of racial and ethnic minorities in our profession will further national unity. As the Supreme Court said in *Grutter v. Bollinger*, diversity in the law school classroom is a compelling state interest because it furthers cross-cultural and multiracial understanding—so it also is a compelling professional asset once the law school experience is complete.

Learning neither begins nor ends at the schoolhouse door. When we see that a woman of color sits on the bench, women and minorities feel included, and all learn that a woman of color can render equal justice. When we see a man of color can be bar president, racial and ethnic minorities begin to believe there is indeed a place for us at the table. But the struggle is long and hard and seems to be never ending. As ABA President-Elect Robert J. Grey, Jr., points out in his article on the previous page, you can hear the sounds of equality rolling in, like drums of thunder out of the nation's past—drums beaten hard by

many men and women like those we honor. A drum beat so long and powerful that their arms and shoulders are sore from the labor and their souls weary of the seeming never-ending effort. These are woman and men who took hold of their own destiny and in doing so furthered the destiny of others.

President-Elect Grey references J. Cunyon Gordon's article ("Diversity Fatigue: Sick and Tired of Being Sick and Tired," *Goal IX*, Spring 2003) about the weariness that comes from the long haul. Ms. Gordon is right. My god, are we tired. Many of us were the first of our race or ethnicity in our college, the only of our race in our class or fraternity. We are compelled by circumstance to fight to bring in others like ourselves. I am so tired of being "the only." This is probably the same for those whom we will honor in February in San Antonio. They worked hard, probably got knocked down, definitely got up again, and fought on. We honor both their personal achievements and the spirit of excellence that lives within each of them.

We won in *Grutter*. The Supreme Court declared that diversity in the law school classroom is a compelling state interest. Use of race as one part of the selection process does not violate the federal Constitution. Let us cheer. Let us take a deep breath. Let us say thanks. Then let us prepare for the next wave. Our next challenge will be to confront the coming effort to amend state constitutions to forbid the use of race as a factor in any context under state law.

Racial conflict has been a part of this nation since its inception. We are moving forward, I will grant you, but we move in baby steps, not giant leaps. As we turned the calendar into the new century four years ago, I remembered the warning of W.E.B. DuBois from 100 years before, that the problem of the

continued on page 5

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Volume 10, Number 1
Winter 2004



Published by the American Bar Association
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Diversity in the Profession
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New & Noteworthy from the Commission

National Conference for the Minority Lawyer

Plans for the Sixth Annual National Conference for the Minority Lawyer are underway. This 2004 National Conference, presented jointly by the Commission and the ABA Section of Business Law, will be held June 17 and 18 in San Francisco. The following Sections, Divisions, and Forums are cosponsors and will present programs at the conference: Antitrust Law; General Practice, Solo and Small Firm Section; Real Property, Probate and Trust Law; Communications Law; and the Young Lawyers Division. This conference is one of the most popular programs in the nation for minority lawyers, so you won't want to miss it. To make sure you receive an invitation, please contact Doug Knapp at knappd@staff.abanet.org or 312.988.5679.

Minority Counsel Program

The ABA Minority Counsel Program (MCP) Fall 2003 Meeting held in Chicago October 2 and 3, 2003, was a resounding success! More than eighty corporate counsel and minority lawyers came together for CLE programs, workshops, and our famous Mystery Networking Event, building mutually beneficial business relationships in the process. The Spring MCP Meeting will be held on March 25 and 26, 2004, in Philadelphia. If your law firm or corporation is not a member of the Minority Counsel Program but would like to be, contact Regina Smith at smithr@staff.abanet.org or 312.988.5508.

2004 Spirit of Excellence Award Recipients

We are pleased to announce the recipients of the 2004 Spirit of Excellence Awards. The award celebrates the efforts and accomplishments of lawyers whose activities especially promote a more racially and ethnically diverse legal profession.

- **Dr. Mary Frances Berry**, *Geraldine R. Segal Professor of American Social Thought, University of Pennsylvania*. "When it comes to the cause of justice, I take no prisoners, and I don't believe in compromise," Dr. Berry says of her work championing social justice and civil rights around the world. She was the first black woman to head a division of the U.S. Department of Health, Education and Welfare, and chair of the federal Civil Rights Commission. Today, Dr. Berry continues to set the standard for both professional excellence and commitment to greater racial and ethnic diversity.
- **Norma V. Cantú**, *Visiting Professor, College of Education and School of Law, University of Texas at Austin*. Ms. Cantú has been a civil rights leader and educator in Texas and nationwide, opening many doors and preventing others from closing. She spent eight years as assistant secretary for civil rights at the Department of Education. Ms. Cantú also has served as regional counsel and education director of the Mexican-American Legal Defense and Educational Fund.
- **Hon. Royal Furgeson, Jr.**, *U.S. District Court, Western District of Texas*. An outstanding and highly regarded jurist, Judge Furgeson has spent his legal career working to make resources and opportunities available to disadvantaged and minority communities throughout Texas, impacting the way residents view and interact with the American legal system. His civic and professional advocacy for civil pro bono cases and for increasing Hispanic bar membership puts him in a league of his own. During his nearly ten years on the bench, Judge Furgeson has demonstrated that one man's efforts *can* make equal justice for all a reality.
- **Bill Lann Lee**, *Partner, Lieff, Cabraser, Heimann & Bernstein, LLP*. Mr. Lee was the first Asian American assistant attorney general for civil rights at the U.S. Department of Justice, but his advocacy for diversity in the legal profession extends throughout his career in law. Serving as a role model and mentor to minority attorneys throughout the country while representing Asian Americans and other minority clients, he was the first Asian American lawyer at the NAACP Legal Defense and Educational Fund. Throughout his legal career, Mr. Lee has sought equal opportunities for all people and worked diligently against discrimination in all forms.
- **Arvo Q. Mikkanen**, *Assistant U.S. Attorney and Special Assistant for Tribal Relations, Western District of Oklahoma*. Mr. Mikkanen (Kiowa/Comanche) is a pioneering leader of Indian law issues and tribal courts. Founder and president of the Oklahoma Indian Bar Association and two-term president of the National Native American Bar Association, he has written procedures and codes for tribal courts and developed training programs that have been utilized by more than fifty tribal judges. Mr. Mikkanen helped craft "full faith and credit" legal standards, healing a sharp rift between state and tribal sovereigns and thus encouraging a return of mutual respect between tribes and the mainstream legal community.
- **E. Christopher Johnson, Jr.**, *Senior Vice President and General Counsel, General Motors North America (Corporate Award)*. Mr. Johnson has created countless opportunities for minority lawyers to succeed in the corporate legal setting, persuasively urging diverse representation as not only a moral imperative but also a business necessity. An outstanding role model for minorities who aspire to law practice and other professions, Mr. Johnson has been a dedicated and passionate proponent of greater diversity in the legal field.

The Spirit of Excellence Awards will be presented at an awards luncheon on Saturday, February 7, 2004, at the Marriott Rivercenter in San Antonio, Texas. To order tickets or for sponsorship opportunities, contact Regina Smith at groveso@staff.abanet.org or 312.988.5508.



A Gift That Keeps on Giving

R a y m o n d L . O c a m p o J r .

I am proud to have served as a member of the Commission on Racial and Ethnic Diversity in the Profession during the years 2000 through 2003. One of the highlights of my tenure was the privilege of introducing three recipients of the Spirit of Excellence Award: Hon. Nelson Diaz, Hon. Clifford Scott Green, and Laura Farber.

For the past few years, it also has been my privilege to provide annual \$2,000 scholarship awards to law students in the San Francisco Bay Area, one through the Filipino Bar Association of Northern California (FBANC) and the other through the Asian American Bar Association of the Greater Bay Area (AABA). Although there was no direct causal relationship between the Commission's awards and my scholarships, the two are nevertheless connected.

The primary purpose of establishing and funding any scholarship award is to provide financial assistance. I had vowed when I was working my way through college and law school that I would someday return part of the largesse bestowed upon me by others, in the form of scholarships, grants, and loans.

Thus in 2000, the year I joined the Commission and more than twenty-three years after I became a lawyer, I funded the first of my FBANC scholarships, in part to fulfill the promise I had made. It came during the time that a friend, Michael (Mike) Ancheta Nisperos Jr., now chief trial counsel for the State Bar of California, was serving as president of FBANC. I had founded the FBANC in 1980; Mike's wife had been the organization's first president.

The conditions for the scholarship are minimal, although one may seem quirky: I insist on having

Where They're Headed

Since receiving their scholarships, the five students/lawyers mentioned in this article have pursued various areas of law practice. Here are thumbnail versions of how their careers are progressing:

- Christine Jungco Gonong was a judicial extern for Hon. Susan Illston at the Northern District of California. After graduating from Hastings College of Law in 2002, Christine clerked for Hon. Mario R. Ramill, associate justice of the Supreme Court of Hawaii. Christine is now a research attorney for Hon. S. James Otero at the U.S. District Court for the Central District of California.
- Michelle R. Watts worked as a summer associate for the Office of the Chief Trial Counsel at the State Bar of California in 2002 and at the Los Angeles office of the Barger & Wolen law firm in 2003. She will graduate from Boalt Hall School of Law in May 2004 and join Barger & Wolen as an associate in its San Francisco office.
- Jocelyn De Guzman is completing a special program at Harvard Law School before graduating from Boalt Hall in May 2004. In summer 2002 Joy was a judicial extern for Hon. Raymond Fisher at the Ninth Circuit Court of Appeals in Pasadena and was a summer associate in 2003 with Gibson Dunn & Crutcher. She has accepted an offer from the firm to practice in its office in Los Angeles.
- Al Sambat completes the trio of award recipients from the Boalt Hall class of 2004. He was a summer associate at Heller Ehrman White & McAuliffe in 2003 in San Francisco. Al has accepted an offer to work after graduation as a lawyer in the honors program of the Antitrust Division, U.S. Department of Justice.
- Thor Vue is in his second year at Boalt Hall. Thor spent the past summer as an intern at the San Diego Public Defender's Office.

If you would like information about the AABA scholarship application process, please contact Bunnary Hin at buhin@hklaw.com. For information regarding the FBANC scholarship, contact Rachel Puno at Rachel_Puno@contractor.amat.com.

my name spelled correctly. I consider it a lack of respect when someone does not take the time to ensure that a person's name is spelled properly, and one of the things I want to encourage in awarding the scholarship is respect for one another. The only other condition I have for the award is that the FBANC not

decrease the amount or number of scholarships it previously awarded. I want my scholarship to augment, not replace, current offerings by the organization.

The award is intended to honor everyone who has served as a leader of the FBANC and is given to the applicant with the greatest

likelihood of eventually becoming president of the organization. This criterion encourages all applicants to think of themselves as future leaders of the bar.

The current leaders of the organization make the scholarship selection, which encourages connection between current FBANC leaders and the law student applicants and thereby facilitates mentoring. Past scholarship recipients are Christine Jungco Gonong (Hastings 2002), Michelle R. Watts (Boalt 2004), Jocelyn (Joy) De Guzman (Boalt 2004), and Albert (Al) Sambat (Boalt 2004). Joy is also a recipient of an ABA Legal Opportunity Scholarship. All of the scholarship recipients have a mentor relationship with one or more leaders of the FBANC.

Thor Vue (Boalt 2005) is the first recipient of the \$2,000 AABA scholarship I established early in 2003. I decided to establish this additional scholarship through AABA (virtually identical to the one established through FBANC) to honor the leaders of the organization, one of whom, Dale Minami, is the most recent recipient of the ABA's Thurgood Marshall Award and a past recipient of the Commission's Spirit of Excellence Award. Dale's own example of community service served as a catalyst for my own work in the funding of community service agencies.



**Giving money
to nonprofit
organizations
constitutes an
investment in the
community
and its members.**

The two scholarships are provided for through a donor-advised fund established through the Asian Pacific Fund, a philanthropic organization on whose board I have served for a decade. In supporting the scholarships through the Asian Pacific Fund, I hope to motivate others to make their own charitable investments. I prefer to use the term "investment" rather than "contribution" because at heart the giving of money to nonprofit service organizations constitutes an investment in the community and its members. Investments may take time to pay off, but if we lead by example often enough, new gains will be made sooner rather than later.

The other major reason for establishing the scholarship award is to help open the doors of opportunity for the recipients. Even if I cannot serve as a regular mentor to the scholarship recipients, the credibility I established and the connections I made in my career may make a positive difference in their lives. Michelle, for example, obtained a position with the State Bar of California after her first year in law school in part because her receipt of my scholarship made it easier for Mike Nisperos to distinguish her job application from others. And of course her success and the success of other scholarship recipients reflect favorably on each other.

The scholarships are the beginning of a virtuous cycle that may replicate itself in other virtuous cycles, all for the common and greater good. Perhaps one day a recipient of one of these scholarships will win a Spirit of Excellence Award—having been helped in tangible and intangible ways by a simple act of giving.

Raymond L. Ocampo Jr. is based in San Mateo, California. He mediates and arbitrates high-tech disputes and is a past chair of the Section of Science & Technology Law.

That Thunder You Hear

continued from page 2

next century would be the problem of the color line. A century later he would probably be telling us, "I warned you. Were you listening? What have you done to change that?" As a nation, not enough.

My generation started school at the time of *Brown v. Board of Education*; we went to high school as the 1964 and 1968 Civil Rights Acts were enacted. We are now enforcing those same laws that were passed when we were kids to eliminate discrimination. Although the Court approved the limited use of race in law school admissions, Justice O'Connor hoped that it will not be necessary in twenty-five years. We will be in our eighties. Will there then be time to rest?

In these moments of such philosophical thought, I am reminded of the short poem "Invictus" by William Ernest Henley. Although I'm sure he wasn't thinking about racial and ethnic minority lawyers—he could have been:

Invictus

Out of the night that covers me,
Black as the Pit from pole to pole,
I thank what ever gods may be
For my unconquerable soul.

In the fell clutch of circumstance
I have not winced nor cried aloud.
Under the bludgeonings of chance
My head is bloody, but unbowed.

Beyond this place of wrath and tears
Looms but the Horror of the shade,
And yet the menace of the years
Finds, and shall find, me unafraid.

It matters not how strait the gate,
How charged with punishments the scroll,
I am the master of my fate:
I am the captain of my soul.

(From *The Oxford Book of English Verse: 1250–1900* (1919).)



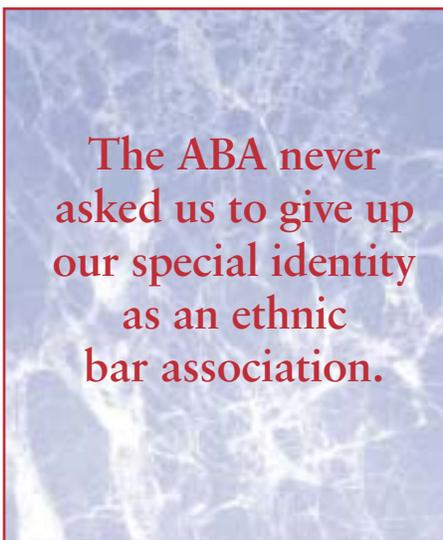
In Praise of Partnerships That Work

R u t h e C a t o l i c o A s h l e y

I sang good-bye to the board of the National Asian Pacific American Bar Association (NAPABA) in Hawaii on November 16, 2003, as I finished my year as president. My lyrics, to the tune of "Hello, Dolly!" ended with "Time for me to take a hike, fellas . . . Watch out world, I'm free again tonight." Thus ended a year that was full of adventure, frustrations, triumphs, and growth—and few free nights.

NAPABA is one of four national ethnic bar associations in the United States (the others are the National Bar Association, formed in 1925; the Hispanic National Bar Association, in the 1980s; and the National Native American Bar Association, in 1977. NAPABA, founded in 1989 by a small group of committed Asian Pacific American lawyers, was experiencing all the same issues that adolescents usually face. We were entering our fifteenth year of existence and were ready to make that next step to independence as we grew in membership, clout, and finances. We needed more staff and wanted to increase our membership services and areas of impact. During my president-elect and presidential years, we had only one full-time staff member, our executive director, Grace Yoo. As inspirational and competent as she was, Grace had her hands full with fundraising, administration, and representing NAPABA in many different arenas.

It had been a few years since any of our boards had taken a serious look at where we were, where we had been, and where we wanted to go. Each preceding board had tinkered with these issues, but I believed we needed a professional to take us through the process of strategic planning. This is where



the American Bar Association (ABA) became our partner.

Our presidential terms run for three years (which includes the year preceding and following the actual presidential term). During my year as president-elect, it was important for me to plan what I wanted to accomplish in my yearlong opportunity at the bully pulpit. Because the time goes by quickly, it was important to hit the road running; to do so, I needed help. Just then, I was privileged to meet staff from the ABA Division of Bar Services when Grace and I attended the Bar Leadership Institute held yearly in Chicago for incoming presidents of bar associations. For the first time, presidents-elect and executive directors of the national ethnic bar associations were invited to dinner with committee members of Bar Services. At this dinner, valuable new relationships were developed.

For years the ABA Commission on Racial and Ethnic Diversity in the Profession and the Council on Racial and Ethnic Justice had been NAPABA's conduit to all things at the ABA. Becoming acquainted with

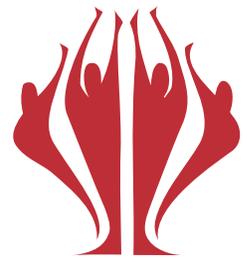
the many additional programs offered by Bar Services opened yet another source of valuable assistance from the ABA. Our history with the Commission and the Council had been extremely positive. I was ready for more of the ABA, and Bar Services fit the bill perfectly. Before I began my year as president, I asked whether the department could assist our board in strategic planning and provide a facilitator for free. The answer was a resounding yes!

My first board meeting included a full day of strategic planning with a staff member from Bar Services prior to the actual board meeting. Imagine thirty-five lawyers in one room, sharing the adjective that best described each of us and creating visions with Play-Doh . . . and at the end of the day coming up with a mission statement we all agreed on. That's a big job, and Bar Services led us through the process with finesse.

The mission statement read as follows: "We are the national voice for the APA legal profession. We promote justice, equity and opportunity for APAs. We foster professional development, legal scholarship, advocacy and community involvement." Imagine all those lawyers hammering this out word for word. Without the guidance of an experienced ABA facilitator, I doubt we could have finished all this in one day.

The ABA Commission on Racial and Ethnic Diversity and Division of Bar Services continued to partner with us throughout the year, providing resources, setting up meetings to create a pipeline, assisting with appointments, keeping us in the information loop, and helping us in more ways than can be imagined. Yet in all of this, the ABA never asked us to give up who we

January 16-20, 2004	NAPABA MLK Weekend Ski Vacation	Colorado
February 4-10, 2004	ABA Midyear Meeting	San Antonio, TX
February 7, 2004	Spirit of Excellence Awards Luncheon	Marriott Rivercenter Grand Ballroom San Antonio, TX
March 25-26, 2004	Spring MCP Meeting	Philadelphia, PA
March 26-27, 2004	HNBA Midyear Conference & Moot Court Competition	Albuquerque, NM
April 15-16, 2004	NNABA Annual Meeting	Albuquerque, NM
April 15-17, 2004	ABA Section of Dispute Resolution Annual Conference, Forum on Expanding Opportunities for Minorities and Women	Sheraton New York Hotel & Towers Additional information: 202.662.1680 or dispute@abanet.org
June 16-18, 2004	National Conference for the Minority Lawyer	Hotel Nikko San Francisco, CA
June 19, 2004	Commission Business Meeting	San Francisco, CA
July 31-August 7, 2004	NBA Annual Meeting	Westin Charlotte Charlotte, NC
August 5-11, 2004	ABA Annual Meeting	Atlanta, GA
October 2004	HNBA Annual Meeting	New York, NY
February 9-15, 2005	ABA Midyear Meeting	Salt Lake City, UT
August 4-10, 2005	ABA Annual Meeting	Chicago, IL
August 3-9, 2006	ABA Annual Meeting	Honolulu, HI



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

were or to lose any of our special identity as an ethnic bar association. It encouraged us to pursue our special mission to meet the needs of Asian Pacific American lawyers. In fact, the ABA used *our* expertise and membership on issues in which we have special concerns: diversity in the legal profession, civil rights, and encouraging more APA lawyers to become involved on a national level.

Our partnership with the ABA has helped NAPABA to grow as an organization. It provided us with

resources that we would not have had but for this partnership. It has helped us to do things we could not have done alone. It has shown us great respect as an organization and has made us feel that the partnership works both ways. As I fade into the sunset, I offer warm and sincere thanks to all at the ABA who made this past year one I'll never forget.

Interested in finding out how the Division of Bar Services may be able to help your association grow? Contact

*Jennifer Lewin at 312.988.5361 or
lewinj@staff.abanet.org.*

Ruthe Catolico Ashley is the immediate past president of the National Asian Pacific American Bar Association and director of career services for the University of the Pacific, McGeorge School of Law.

Proclaim Your Priorities with “Let’s Diversify the Profession” T-Shirts



Are you looking for a perfect after-holiday gift for that hard-to-please lawyer of yours? The ABA Commission on Racial and Ethnic Diversity has just the right item: a limited edition “Let’s Diversify the Profession” T-shirt.

Silk screened with our adaptation of Shakespeare’s infamous lawyer quote—*The first thing we do, let’s diversify the profession*—this 100 percent cotton, preshrunk shirt will suit that special someone you have in mind. Fit will not be a problem—it comes in four sizes (M, L, XL, XXL), and this limited edition shirt won’t break your bank account, either.

For a limited time, you can get this T-shirt for a mere \$15 (plus shipping and handling). Don’t wait until you see this item being sold to the highest bidder on eBay. Act now before supplies run out!

To place your order, contact Blanche Stephney at stephneb@staff.abanet.org or 312.988.5643.



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