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ARTICLES
Oral Advocacy, Brief Writing, and Professionalism: Tips for New Litigators
Advice for new litigators who need to know everything law school and bar study didn’t teach them.
By Safie Da Costa Soarès

For the new litigators who need to know everything law school and bar study didn’t teach them, and need it now, I gathered advice from Associate Judges Marisa J. Demeo and Yvonne M. Williams, on the Superior Court of the District of Columbia, and from two experienced practitioners, Nneka Ukpai, associate at Paul Hastings LLP, and Paula T. Edgar, partner at Inclusion Strategy Solutions LLC.

Oral Advocacy

What is the most common mistake among new litigators when it comes to oral advocacy?

Judge Demeo: New litigators often neglect to anticipate the arguments from the other side or the questions the fact finder is likely to have.

Judge Williams: Failure to be well prepared, including knowing the relevant cases and your facts.

Nneka Ukpai: Newly minted attorneys often attempt to mimic others who are effective. Although modeling good habits is encouraged, you have to be your authentic self if you want to gain trust and credibility in your field.

What makes for an effective opening statement and closing argument?

Judge Demeo: Effective opening statements and closing arguments will be tailored to the fact finder. If your fact finder is a jury, avoid being too technical and make sure your facts are presented clearly. If your fact finder is a judge, you can afford to engage in a more technical presentation.

Judge Williams: This depends on which side you represent. For criminal cases, if you represent the government, you may have a longer opening. If you represent the defendant, keep it short and focus on the reasonable doubt burden of proof and the relevant facts. Both should introduce the jury to what they are about to see. For closing arguments, be organized and demonstrate very clear knowledge of the facts and how they support your theory.

Nneka Ukpai: Both should have a clear and consistent theory and theme. The opening should tell a story and preview your key pieces of evidence, while your closing should tell the same story and remind the jury what they heard during the trial. Having a short and memorable theme will conjure your fact finder’s attention and help them review the evidence in the context of your story.
What is the most effective way to conduct a direct examination?

**Judge Demeo:** You want to guide your witness in telling the story by asking questions that break the story into segments because it makes it easier for the jury to follow. Also make sure your line of questioning covers all of the elements you are trying to prove.

**Nneka Ukpai:** The most effective direct examination makes the witness the star and the sole focus for the fact finder. This means that the attorney should fade to the background—first, by positioning themselves near the jury and, second, by asking only open-ended questions that allow the witness to give full narrative responses.

What are five key strategies for an effective cross-examination?

**Consolidated answer by Judges Demeo and Williams, and Nneka Ukpai:** (1) Only ask leading questions; (2) ask only one fact per question; (3) never ask a question you do not know the answer to; (4) be prepared to confront the witness with documents, including annotated transcripts and other prior witness statements; and (5) organize your cross-examination into logical blocks, and start and end on your two strongest points.

What are some crucial decorum rules to abide by in the courtroom?

**Consolidated answer by Judges Demeo and Williams, and Nneka Ukpai:** Until an attorney is familiar with a particular courtroom or judge, show deference to the court. This means requesting permission to move freely about the courtroom, requesting permission to approach the witness or the bench, requesting a simple “court’s indulgence” if you need a few moments to gather your thoughts, and standing when addressing the court. Some judges may be less formal than others, but start at the utmost deference level and let the judge peel it back if he or she so wishes.

What are three tips you wish you knew earlier on in your career regarding oral advocacy?

**Judge Demeo:** (1) Do not assume that the person you are arguing before knows the facts as well as you do; (2) knowing the weakness in your arguments is just as important as knowing their strength; and (3) it is great practice to find out a judge’s preference before you appear before him or her.

**Nneka Ukpai:** (1) Everyone makes mistakes—it is better to own your mistakes and correct the record than to have someone else do it for you; (2) opposing counsel may be just as nervous as you are; and (3) sometimes the best answer to a question is “I do not know, but I will get you the answer, Your Honor.”

**Brief Writing**

What is the best book you recommend to improve brief writing skills?

**Judge Demeo:** *The Bluebook.* Many attorneys still fail to cite cases properly.
Judge Williams: *The Elements of Style* by William Strunk and E. B. White. I also recommend using a thesaurus to avoid repetitions.


What are new lawyers’ most common mistakes in brief writing?

Judge Demeo: Citing case law from other jurisdictions when there is controlling law in their own.

Judge Williams: Filing briefs with typos in them, not effectively proofreading, and having incomplete and unsupported arguments.

Nneka Ukpai: Neglecting to organize their thoughts through a well-developed outline, and not looking to prior successful examples before beginning.

What makes a brief memorable?

Judge Demeo: A memorable brief will present the strongest argument first, but also provide alternative arguments and offer a thorough analysis.

Judge Williams: It has to be so well written that it could be used as an order.

Nneka Ukpai: I am a fan of alliteration and punchy opening lines. If you can make the readers smile, they will continue reading.

What are the three main qualities of an excellent brief?

Judge Demeo: (1) Well organized, (2) cites to sources that actually support the argument made, and (3) uses correct grammar and has no typos.

Nneka Ukpai: (1) Clear, concise writing. Make your point in as few words as possible. (2) Use plain language. This means avoiding legalese and Latin, especially phrases such as “assuming arguendo.” And (3) be relentlessly scrupulous in citation and characterization of case law. Your reputation before the court and in your professional community is your most valuable asset.

How does one properly edit a brief?

Judge Demeo: Take time away from it and reread it later. You might have a better way of organizing your arguments.

Judge Williams: If time allows, I recommend sleeping on it and then editing at the time of the day when your mind is the clearest.

Nneka Ukpai: Ask for help. When you have been staring at the same document for days, sometimes your eyes gloss over errors that are immediately apparent to others. There is nothing wrong with a fresh set of eyes!
What should a writer always keep in mind when drafting?

**Judge Demeo:** The need to be concise and on point. If you fail to do that, your main points will get lost.  
**Nneka Ukpai:** Always keep your audience in mind. If you are a newly minted attorney at a law firm, you are writing for the senior associate or partner who requested the work. You are also writing for a particular judge or panel of judges, so look to examples of briefs that have persuaded them in similar cases.

**Professionalism**

What is your advice to new litigators on proper dress code for the courtroom?

**Judge Demeo:** Look professional. You can have your own style, but make sure you are still identifiable as a lawyer even if you are not wearing a traditional suit. Under no circumstances should you appear in court wearing tennis shoes.  
**Judge Williams:** I recommend the traditional suit and tie. Remember that courtroom dress code is neither business casual nor casual. Unfortunately, many attorneys tend to forget this in state courts.  
**Paula T. Edgar:** It is important to remember that the legal profession is steeped in tradition. I recommend sticking to a formal dress code with 85 percent of your attire and using the remaining 15 percent to showcase your individuality with colors or accessories.

What are some overlooked professional qualities to have in the workplace?

**Consolidated answer by Judges Demeo and Williams, and Paula T. Edgar:** Being a team player—sometimes a colleague might need help with a task that is not part of your job description. Pitch in anyway. Civility, empathy, and cordiality are often overlooked, yet critical qualities of successful professionals.

What are the professional attributes that are mostly lacking, based on your experience?

**Judge Demeo:** Failing to identify and adapt to your workplace’s culture. It is critical to properly assess the culture at your workplace if you want to fit in and be successful. Don’t be too casual in a formal environment. Being too formal in a casual environment will also play against you. Another issue I see often is attorneys trying to conduct formal business in an informal way, e.g., calling chambers for relief that should be requested in a motion.  
**Paula T. Edgar:** Effective communication is severely lacking within the legal profession. Being strategic, straightforward, and civil when communicating, and avoiding assumptions and backhanded comments, would improve understanding and reduce contention.

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How do you deal with legal professionals’ lack of professionalism whether in telephone communications or others?

**Consolidated answer by Judges Demeo and Williams, and Paula T. Edgar:** If it is a telephone communication, tell the other party you would rather communicate in writing; it will defuse the situation and also create a record. If this happens in person, be forthright while maintaining a professional tone, and tell the other party what your expectations of communications are. You can say something like “I do not tolerate being talked to this way,” “what you said/did was inappropriate, we can move forward as colleagues with respect,” or “our past few conversations have been tense, is there something we should address before we go back on-line for our respective clients?” Lastly, if these strategies don’t work, ask a colleague or mentor for advice on how to engage.

What are your pet peeves when it comes to email communications?

**Judge Demeo:** (1) The phrase “gentle reminder,” (2) personal messages in signature blocks, and (3) writing in all caps.

**Judge Williams:** Unprofessional or overly friendly tones, and typos. Even though an email is not a brief, you are still a lawyer and you are expected to use correct grammar.

**Paula T. Edgar:** Improper use of the “reply all” function. It becomes more of a nuisance than an added value to the people on the email chain when their inclusion is unnecessary.

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Discover’s Law Department Takes a Unique Approach to Diversity and Inclusion Efforts

Diversity and inclusion have been pillars of modern legal practice for years. Discover Financial Services’ Law Department is building on those pillars with a unique approach, while also achieving meaningful results.

By Jennifer Rubin, Brandon Blazo, and David Curcio

Diversity and inclusion have been pillars of modern legal practice for years. Discover Financial Services’ Law Department is building on those pillars with a unique approach, while also achieving meaningful results.

Discover’s executive vice president and general counsel, Kelly McNamara Corley, established a diversity and inclusion committee in the Law Department to further enhance the department’s focus on diversity and inclusion. The Law Diversity and Inclusion Committee is cochaired by Kareem Dale, director and senior counsel, and Raina Jones, director and senior counsel. The goal of the committee is to develop and implement effective diversity initiatives. Some of the ways in which the committee achieves its goal is by staffing diverse attorneys and minority- or women-owned law firms on Discover legal matters; supporting the company’s use of diverse suppliers; increasing the Law Department’s, as well as the company’s, diversity profile in the industry; and increasing diversity awareness in the company. The committee’s approach to diversity and inclusion has resulted in a multifaceted program that promotes and encourages diversity and inclusion in the Law Department, the company, and the community.

Scorecard Success
Discover’s Law Department believes it is in a unique position to hold law firms accountable for enhancing their diversity and ultimately affect the diversity of the legal profession as a whole. This belief led to creating a scorecard to assess law firm diversity programs, including the hiring, promotion, and retention of diverse attorneys. The scorecard data are used as part of the Law Department’s process for selecting outside counsel and to guide staffing on Discover matters. The committee tracks law firms’ progress and works with the firms to improve their diversity programs. The committee’s development of the scorecard was even adapted by other internal departments, with Discover’s Finance Department incorporating parts of it into its supplier diversity checklist. In addition, in September 2018, for the first time, the committee recognized Sidley Austin LLP for its work on improving diversity and inclusion, honoring the firm with the Discover Financial Services Law Department Diversity & Inclusion Committee Excellence in Diversity Award for driving best outcomes in diversity and inclusion. The winner was selected based on responses to the scorecard.
Supporting Recruitment and Retention
Recruiting and hiring diverse candidates can be a challenge, but the Law Department has made this one of its top priorities. For example, the committee developed a formal recruiting strategy that has resulted in constant success. First, the committee compiled a list of diverse bar associations and legal organizations to bolster the identification of a diverse pool of candidates. It then required both interview panels and slates of candidates to be diverse, and it designed interview questions to probe for inclusive qualities in job applicants.

“We have a long-standing commitment to diversity and inclusion, and we believe that commitment benefits our customers, our employees, and our shareholders, allowing us to become a leader in the financial services industry,” said Corley. “Part of that commitment is to attract and retain diverse talent, work with inclusive suppliers, and support diversity efforts at Discover and in the community.”

Building Awareness among Diverse Youth
To expand awareness of diversity and inclusion, the committee collaborates with law schools, law firms, bar associations, and legal organizations. This has led to hosting career panels for students at historically black colleges and universities, providing financial literacy training for organizations serving diverse populations, and participation in panels to discuss key diversity and inclusion topics in the legal arena. The Law Department also supports high school students of underrepresented populations, providing them with jobs that assist with paying for their high school tuition, mentoring, and career development opportunities.

Setting the Foundation for Others to Follow
Another key aspect of promoting diversity and inclusion is encouraging an ongoing dialogue about how diversity affects the business, professional relationships, and individuals’ perceptions of others. With this in mind, the committee partnered with a Discover Employee Resource Group to host a company-wide panel discussion with female African American members of Discover’s boards of directors on the importance of diversity in business. Through this panel discussion, Discover employees were empowered to help promote diversity and inclusion through various initiatives in their own line of business.

Several departments at Discover have collaborated with the committee to sponsor discussions about race relations with community leaders. For example, Discover’s Business Technology Department partnered with the committee to host Lori E. Lightfoot, the chair of the Chicago Police Accountability Task Force at the time. In a company-wide forum, Lightfoot spoke to employees about race, community relations with the police, diversity, and the issues facing our hometown communities. In addition to educating employees on this vital issue, her presentation led several employees to start a group to meet regularly on how they can improve community outreach.

Joseph West, partner and chief diversity and inclusion officer at Duane Morris, hosted two training sessions for the Law Department on unconscious bias. The sessions encouraged
participants to learn about their unconscious biases on gender, race, ethnicity, sexual orientation, and physical and mental capabilities. Participants were amazed to learn about biases they did not realize they harbored. Many began work on dismantling buried stereotypes, and some described it as “life-changing.” Based on this success, other Discover departments have worked with West to conduct unconscious bias training for employees.

**Success Through Results**
Discover’s Law Department has been recognized by many organizations. In 2016, it was the recipient of the Association of Corporate Counsel’s Matthew J. Whitehead, II Diversity Award. In 2017, the Minority Corporate Counsel Association selected Discover as a national finalist for the 2017 Employer of Choice Award based on the committee’s tangible efforts and the Law Department’s overall commitment to diversity. Discover looks forward to finding innovative approaches to ensure that it continues to promote an environment that values diversity and inclusion.

*Jennifer Rubin, Brandon Blazo, and David Curcio are directors and senior counsel with Discover Financial Services.*
Four Federal Judges Talk about Their Journey to the Bench
Demystifying the process for lawyers considering serving in the judiciary.

By Rachel Pereira

The American Bar Association has consistently reiterated the need for diversity within various ranks of the legal profession, from law school through the bench. The commitment to ensuring that varied perspectives are considered and honored is critical at the judicial level. I interviewed three sitting members of the federal courts of appeals and one federal district court judge to find out about their journey to the bench, in an effort to demystify the process for lawyers considering serving in the judiciary. I spoke with Judge Denny Chin (Second Circuit Court of Appeals), Judge George Daniels (Southern District of New York), Judge Joseph Greenaway (Third Circuit Court of Appeals), and Judge Theodore McKee (Third Circuit Court of Appeals). All four judges were enthusiastic about their work and encourage others who are considering service in the judiciary to stay the course and persevere.

The pathway to the bench has been described as a wonderful and grueling process. What was your process like?

Judge Greenaway: Everyone has a different story. I was contacted by a member of the search committee, because my name had come up, and was asked if I was interested. That part was easy. The arduous part was once the process started. Although it was rewarding in the end, the process was lengthy. However, along the way, you find out there are a lot of people who like you as a person and consider you to be someone who will be the torch bearer of justice.

Judge Chin: There really are two aspects to one’s “pathway to the bench.” The first, of course, is the big picture—my family, including my grandfather and parents who led the way for me; my schooling and experiences in life that helped shaped me; and the different positions I held in the law—from clerking to being in private practice to serving as an assistant U.S. attorney. All of these were part of my pathway to the bench. The second aspect is the nomination and confirmation process. I went through this twice. The district court process was relatively smooth. The circuit court process was more complicated, as circuit court candidates are subject to greater scrutiny and politics are more of a factor. The circuit court process was more grueling at times, and it took far longer than it should have. But in the end, I was confirmed for the Second Circuit 98–0.

Judge Daniels: My process to become a federal judge included building skill and experience; developing both legal and personal skills, particularly effective communication skills. The process of obtaining a judgeship includes developing legal skills, demonstrating to others your strengths, and the politics of being known and respected for who you are and what you do. Whether you are appointed or elected to a judgeship, the process of exposing oneself for such scrutiny can be demanding but worthwhile and rewarding.

How and when did you know you wanted to transition from the practice of law to serving as a judge?
Judge Chin: I knew I wanted to be a judge even before I became a lawyer. After my first year of law school, I interned for Judge Henry Werker in the Southern District of New York. I loved the experience—I saw some trials, including a bank robbery trial; I drafted some opinions for the judge; and I saw justice in action. I decided that someday I would come back and be a judge myself.

Judge Greenaway: When someone asked me. Becoming a judge wasn’t an ambition I had before it was suggested that I consider it.

Judge McKee: When I was in the City Solicitor’s Office, I had the opportunity to work in a court system that allowed me to see immediately how working with a good judge could make all the difference for the people in the cases I worked on. I was involved in some abandoned city projects (homestead housing). The judge I worked with was so perceptive and knew exactly what the legislation was designed to do; if we had the wrong judge it could have gone wrong. Once I realized the power of a perceptive judge to make change, I felt that it might be something I too wanted to do.

What were some of the personal and character-building challenges you faced that prepared you to serve on the bench?

Judge Daniels: Objectivity is one of the most important aspects of being a good judge; this comes from understanding each party’s perspective. The greatest challenge is being able to represent a variety of opposing perspectives and to understand and empathize with the rich and the poor, the accused and the prosecutor, the individual and the corporation, the perpetrator and the victim. Learning to see the world through eyes other than your own is both challenging and skill building.

Judge Greenaway: Everything you’ve experienced in life before you get on the bench prepares you for the bench. Being in house prepared me the most for the bench because seeing the inner workings of a Fortune 500 company is great preparation for commercial litigation. Nothing quite prepares you for sentencing; learning to be humble is a great trait to have.

Judge Chin: The challenges began early—we came to this country from Hong Kong in 1956. My parents spoke little or no English. My father was a cook in Chinese restaurants, and my mother was a seamstress in Chinatown garment factories. So we had little money, but my parents stressed education and hard work—and things turned out OK.

Do you recall a memorable experience in your nascent period as a judge? What was it like for you the first few times everyone in the room considered you “the” judge?

Judge McKee: It felt weird; it was humbling and embarrassing. It took me a while to get used it. My first courtroom was basically a closet. The defense table was no more than 15 feet away from me. It took the gild off of the lily. People were so obsequious.

Judge Daniels: The transition from being a lawyer to becoming a judge is demanding. You transition from having personal and professional allegiances to an individual client, to committing oneself to the rule of law. I always remember being advised by a colleague when I first became a judge. I was frustrated because I had gotten into an argument with a lawyer in court. My colleague said, “If you never remember anything else, remember this: You don’t have
to argue with anyone. You are the judge.” It emphasizes the power of the position that I should use rather than abuse.

Judge Chin: I do remember early on going to receptions and bar association meetings and suddenly being the center of attention. There also was some awkwardness as acquaintances weren’t sure what to call me. But you get used to it. One memorable experience as a new judge was the Megan’s Law case involving the constitutionality of the sex offender registration statute, as I found myself at the center of a controversial, high-profile case. When I ruled that certain aspects of the statute were unconstitutional, many disagreed with my decision. Indeed, the Daily News even gave me a nickname—“Denny ‘The Pervert’s Pal’ Chin.”

What resources or experiences would you suggest to lawyers who are considering a career in the judiciary?

Judge McKee: Getting here is so intricate, it depends on so many factors other than the aspiration. Do the kinds of things that enhance your reputation for integrity and excellence. Do what is professionally rewarding and makes you happy.

Judge Greenaway: Think about what judges do. Many people want to be judges because they think it is a prestigious job that will make life easier, or it’s hard work but it’s better than billing hours. Talk to judges and find out exactly what they do and how they go about it. I’d advise that you look before you leap. Get involved in the federal bar, the bar associations. Get involved in committees that bring you in touch with judges so that you can see and hear about the inner workings of the courts.

Judge Daniels: My advice for young lawyers who might want a career in the judiciary would be first find an area of the law that you enjoy and are good at, demonstrate publicly the skill you have developed, and let it be known that you have an interest in a judicial career. You never know who can be helpful and when an opportunity will present itself. Success is usually when skill and opportunity meet.

What has surprised you most about the judiciary since your appointment?

Judge Daniels: Two things surprised me the most—first, that there are still so many laws and situations that present novel questions or where reasonable minds can disagree. I have learned that there are very few right answers. There are instead answers that work and answers that do not. I have also realized that I cannot always expect others to agree with me, be appreciative of my efforts, or be happy about the result. Litigants do not come to court happy, and the only time both sides go away happy is when I perform a wedding. Otherwise, there usually is a happy winner and an unhappy loser.

Judge Chin: I was most surprised at first by how isolating it is to be a judge. At a law firm or in a law department, you have partners, associates, colleagues, support staff. A district judge works independently, with a staff of only four people. The circuit court is less isolating, as we sit in panels of three judges and we work together much more.

Judge McKee: On the federal side—the process; it’s very impressive. If people truly understood how much thought went into the process of deciding cases and drafting opinions, they would be happy. State side—sentencing was very difficult; the emotional difficulty of sentencing is taxing.
How do you handle the need to be an “expert” in all areas of the law on the federal bench?

**Judge Greenaway:** I don’t think you handle it; it’s part of what is intrinsically humbling about the job. You have to pick up a new case and learn a new business and process. You have to be willing to say you don’t understand. It’s the blessing and the curse of the job to continually learn. When you are constantly bombarded with new information, it makes you more humble.

**Judge Chin:** One of the things I’ve enjoyed the most about being a judge is the variety—it is fun to be exposed to so many areas of the law and so many different aspects of society. You have to listen carefully to the lawyers, who usually are specialists, and you have to work hard to learn the new areas.

**Judge Daniels:** As a federal judge, I am a specialist in nothing but expected to be an expert in everything. Usually, a skilled lawyer is expected to know a lot about a little bit. A judge is expected to know a little bit about a lot.

If you could have any other profession, what would it be?

**Judge Greenaway:** I long ago gave up on my hope to become a professional baseball player; I would be a full-time professor.

**Judge Chin:** I almost went into teaching and I’ve always enjoyed teaching. The other possibility is writing—it would be great fun to be a novelist or screenwriter.

**Judge McKee:** A woodworker, although I wouldn’t enjoy getting rid of the object once I made it.

How do you remain neutral when dealing with issues that have personal significance to you or on which you hold a strong opinion?

**Judge Chin:** One thing I’ve learned is that judges can’t be result-oriented. Judges can’t be “lawless” in the sense that they must apply the law even if the end result is not what they would personally want. If you follow the rule of law rather than your own personal preferences in any particular case, justice will be better served in the long run.

**Judge Greenaway:** I don’t find that difficult; not because we merely call balls and strikes, but because as judges you get used to the idea that the only thing that matters in decision making is the record before you. Our entire system relies on neutrality. Personal feelings must be of absolutely no consequence.

What is something that your clerks would say is the most unique aspect of your approach to the bench?

**Judge McKee:** I don’t take myself too seriously.

**Judge Chin:** Perhaps that I have a Ping-Pong table in chambers.

What is your “pre-game” ritual before you take the bench, if you would care to share?

**Judge Chin:** In the circuit court, my pre-game ritual has two steps. First, I finalize my binder—a three-ring binder that has a section for each case on the calendar that day (typically, five or six cases). I put my bench memos or draft summary orders and notes into the binder. Second, I put
my briefs together for my clerks to take to the courtroom, with a rubber band around each set of briefs. Then, at 9:55 a.m., with five minutes to spare, I head to the courtroom. 

**Judge McKee:** I get up and work out in the morning. I also make a cheat sheet of my cases beforehand and I review the cheat sheet—ironic that I make the cheat sheet because I find that I never need to use it on the bench.

*Rachel Pereira* is a legal affairs advisor and director of Title IX and equal opportunity at Vassar College in Poughkeepsie, New York.
A Former Trial Attorney Shares Her Insights as an Outside Counsel Turned Company Executive
By Robert K. Dixon

Alicia Wilson is Vice President of Community Affairs and Legal Advisor at the real estate firm Sagamore Development Company. Sagamore is majority-owned by Under Armour CEO Kevin Plank, who has charged the firm, in part, with turning the city of Baltimore into a hotbed for talent through the redevelopment of land in South Baltimore.

At Sagamore, Wilson oversees the implementation of community benefits agreements that were entered into between the city of Baltimore, Sagamore, and local communities in Baltimore. In particular, she was the lead negotiator of those agreements and with community groups, and now oversees the delivering on promises that Sagamore made to the community. She also gives strategic advice on complex crisis management and general public relations advice to the company’s corporate executives. Before joining Sagamore, Wilson was a highly accomplished trial attorney is currently a member of House of Delegates for the ABA.

Recently, Wilson shared her perspective on the following questions:

What have the highlights and challenges been during your tenure at Sagamore?
The highlights would have to include getting the largest tax increment financing legislation passed in the country, and the largest community benefits agreement signed and ratified in 6 months. Some of the challenges are really trying to pull together and sympathize with diverse groups, with diverse self-interest, and trying to find common ground. For example, if you are negotiating with 200 groups, you probably will not be able to get all 200 to agree to every detail in the agreement. So, I must negotiate in a way that everyone leaves feeling that they were part of the negotiation and had their voice heard and that they have a stake in the success of the development.

How has your previous experience as a trial attorney aided you at Sagamore?
There are several similarities between the work I did as a trial attorney negotiating matters and the work I’m doing now for Sagamore. In addition, as a trial attorney, you must know how to distill issues down to what really matters, which is an important part of my job at Sagamore. Further, as a trial attorney, you are a people person; you are selling people, whether it be to a jury or a boardroom, you are trying to convince people that the plan or the strategy you are proposing is the one that they should adopt. So, having to do all that as a trial attorney whether it be trying to craft a closing argument or negotiating an agreement that tries to settle a matter with multiple parties, all of that, nothing is lost in terms of utilizing help in moving things forward.

What was the biggest challenge associated with the change from being an outside attorney with going in house?
The biggest challenge is moving from being an advisor to also being an advisor and consumer of advice. As such, in this new role, I act upon advice I receive but I also give advice with a business mindset.

What advice can you offer to women who want to go in-house?
Attorneys interested in making the transition in-house should continue to grow in their practice, to take on tasks that others ordinarily would not do, so that they can get really rich experiences. They should make
make sure that they are getting the sort of experiences that are substantive. If they are doing document review but they are not having rich experiences, such as going to trial, negotiating settlements, and other opportunities that enable them to raise their profiles in the community, they are really going to miss out on developing and refining the skills that will enable them to get an in-house position. Simply doing the rudimentary work at the law firm isn’t enough.

**What has been your role as a member of the ABA’s House of Delegates?**

During the first year I really used it as a learning opportunity, to get an understanding of my delegation, which is the Maryland delegation, to understand the resolution process and how such resolutions could impact people on the ground. In this past session, we had resolutions related to, for example, law school accreditations and [President Trump’s travel ban]. During this past session, I learned to collaborate across delegations and how the public interprets what we do. I have been taking this opportunity to really learn the process inside and out.

**Going forward, what do you want to accomplish as a delegate?**

I would like to bring to the floor issues and resolutions related to assisting attorneys in the middle point of their law careers, attorneys of color, and millennial attorneys. I think the legal profession is shifting at such a rapid speed, so I want to propose resolutions that add value to these types of attorneys to make sure they have a richer, rewarding practice.

**What are the biggest challenges facing the legal community in the next five years in your opinion?**

I think the cost of legal services is a huge issue. It continues to go up and up and up at a rate that is not congruent with other parts of the market. I’m not sure if that is because firms want to increase profits or if they actually believe the services rendered this year are 10 percent more the next year. I think there is going to be a shift, probably led by in-house counsel, against the exorbitant rate that most firms charge.

**What are the biggest obstacles for law firms in terms of delivering on their diversity and inclusion goals?**

It’s all about the pipeline. I have heard, over and over, people complain, for example, that they can’t find talented black attorneys. But these same people typically do not employ a sufficient plan to seek out and obtain diverse talent. To get the best and brightest folks in the majority population they zealously compete with other firms to seek out such talent. But they do not employ the same tactics for obtaining minority attorneys. Instead, they take a more passive approach. Talented minority attorneys are out there; firms are just going to have to recruit them.

_**Robert K. Dixon** is a partner at Wilson Turner Kosmo in San Diego, California. He also serves as editor for the Section of Litigation’s Diversity & Inclusion committee._
Justice Adrienne Nelson Blazes Trails

Learn about the first African American to serve on Oregon’s high court in the state’s 159-year history.

By Stephen E. Chappelear

Justice Adrienne Nelson recently celebrated her one-year anniversary as a member of the Oregon Supreme Court. When she assumed her seat on the court, she was the first African American to serve on Oregon’s high court in the state’s 159-year history.

But that was not Justice Nelson’s first time to be a “first.” She has been a trail blazer and civil rights champion her entire life.

Education
Justice Nelson was born in Kansas City, Missouri, and grew up in southwest Arkansas with a brother, raised next door to her grandparents by her mother and stepfather. She was the first African American valedictorian of her high school since integration. Her mother retained a civil rights lawyer in order for her to receive her earned academic rank.

Justice Nelson graduated from the University of Arkansas with a bachelor of arts degree, summa cum laude, with double majors in criminal justice and English. She was very active in college and excelled academically as evidenced by her being inducted in Phi Beta Kappa and Mortar Board. She then completed her law degree at the University of Texas School of Law.

Law Practice
After a stint as a contract analyst for an insurance company, Justice Nelson worked as a public defender in Portland, Oregon, with Multnomah Defenders, Inc., a nonprofit public interest law firm, for almost three years.

Then she spent five years with the Portland law firm of Bennett, Hartman, Morris & Kaplan. She served as the senior attorney/coordinator of the Student Legal and Mediation Services at Portland State University.

Judge Nelson
In 2006, the governor of Oregon appointed Justice Nelson as a judge on the Multnomah County Circuit Court. When she received that appointment at age 39, she was the only African American judge in the entire Oregon state court system and only the second African American female judge in the entire state. She was elected to a new six-year term in 2012.

Justice Nelson was appointed to serve as an associate justice on the Oregon Supreme Court in January 2018. She won election in November 2018 to a full six-year term.

Bar Service
Justice Nelson has been very active in the legal community. She is a frequent speaker on a number of topics including diversity, increasing equality, leadership, and professional development. She shares a deep commitment to the rule of law and to the legal profession.
Currently, she serves on the ABA Standing Committee on Public Education (an appointment by the ABA president) and is the Oregon delegate to the ABA House of Delegates. Previously, she has been elected seven times as an Oregon State Bar delegate to the ABA House of Delegates. She earlier served on the ABA Commission on Disability Rights.

She was a member of the ABA Law Practice Management Magazine Board and was a member of the ABA Gavel Awards Standing Committee.

She has also served as president of the Multnomah Bar Foundation and president of the Oregon State Bar Foundation Board.

Justice Nelson is also an active member of the Oregon Minority Lawyers Association, the Oregon Chapter of the National Bar Association, and Oregon Women Lawyers. She is a past president of Queen’s Bench, the Portland Chapter of Oregon Women Lawyers; her tenure as president marked the first time Queen’s Bench had a woman of color as its leader.

Community Service
Justice Nelson sits on the Reed College Board of Trustees, the Self-Enhancement, Incorporated (SEI) Board of Directors, the Girl Scouts Beyond Bar Advisory Board, and the Oregon Community Foundation Metropolitan Portland Leadership Council, where she chairs the outreach to the Black Community Committee. She is a tireless encourager and connector helping people succeed by living their best lives.

Honors and Recognitions
Justice Nelson has received many accolades for her service to the legal profession and the community. Justice Nelson is a past recipient of the Multnomah Bar Association’s Award of Merit and the Oregon State Bar’s Diversity and Inclusion Award.

She received the Oregon Women Lawyers Judge Mercedes Deiz Award in 2003 for promotion of women and minorities in the legal profession and in the community, and the Oregon State Bar President’s Public Service Award in 2007.

Justice Nelson has been named a Lewis and Clark Law School distinguished honorary graduate for her mentoring and diversity activities at the school.

When Oregon Governor Kate Brown appointed Justice Nelson to the Oregon Supreme Court, she noted that Justice Nelson “has made extraordinary strides to make the trial bench more receptive to the needs and experiences of diverse and underserved communities in our state.” She further said, “Judge Nelson is a widely respected civil rights champion, whose perspective on the bench moves us closer to our shared vision of justice for all.”

Stephen E. Chappelear is a member at Frost Brown Todd in Columbus, Ohio, and a member of the Section of Litigation’s Diversity & Inclusion committee.
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