

# DIVERSITY AND THE BAR

A PUBLICATION OF THE OFFICE OF LEGAL SERVICES, ACCESS AND FAIRNESS PROGRAMS



BY JAMES HERMAN

ago, we could not have predicted your great successes.

This year's California Minority Attorneys' Conference, put on by our Ethnic Minority Relations Committee chaired by Robert Brown and Karriann Farrell Hinds, was a huge success. In a panel discussion, Godfrey Dillard, representing the intervenor students in *Grutter v. Bollinger*, brought huge applause with his assessment of the case as a "100 percent win for diversity." The University of San Diego campus was a fabulous venue and the programming and networking were first rate.

*Grutter, Lawrence v. Texas* overruling *Bowers* in favor of sexual privacy for gays and lesbians and *Brown v. Legal Foundation of Washington* upholding IOLTA funds make this a high-water year for the causes for which we have worked so hard.

This year, Chair Rob Force led the Committee on Sexual Orientation and Gender Identity Discrimination's good work in creating their second informational pamphlet on "The Legal Rights of Registered Domestic Partners in California." This pamphlet, along with "Your Rights and Resources" printed last year, will provide a vital resource for the lesbian, gay, bisexual and transgender community.

OUR ACCESS AND FAIRNESS COMMITTEES:

## NOTHING SUCCEEDS LIKE SUCCESS

I want to take this opportunity to thank the chairs and members of our Access and Fairness Committees for an extraordinary year. When we met for our orientation a year

The Committee on Women in the Law continues its statewide elimination of bias programs under the leadership of Chair Lisa Baird. I have had the honor over the last several years of participating in CWIL elimination of bias panels and observing the programs' value to the legal community first hand. CWIL expanded its programming this year to include mentoring women law students for their entry into the profession.

I was frankly delighted with the idea championed by the Committee on Senior Lawyers' chair Jay Foonberg for a "reverse mentoring program." Senior lawyers provide substantive legal assistance in their fields of expertise to younger lawyers in exchange for help with information technology and web training. This committee is also developing for publication materials on closing and/or selling a law practice.

The Committee on Legal Professionals with Disabilities, chaired by Joseph Teglovic, can be justly proud of the first ever State Bar online survey aimed at assessing the demographics and needs of lawyers with disabilities. I participated in this project as a moderator. I urge you to look for the survey on the State Bar web site and think of ways such a survey may be helpful for your programming.

It has been my honor to serve as President of the State Bar of California. I am especially proud of all your good work in striving to make the faces of our profession more closely reflect the people of the State of California.

James Herman, President of the State Bar of California, 2002-2003

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2004 MIDYEAR! BAR LEADERS CONFERENCE & STATE BAR LEADERSHIP FORUM (tentatively scheduled)

June 4 & 5, 2004 - SAN DIEGO, CALIFORNIA

Sponsored by the State Bar's Office of Bar Relations Outreach and Center for Access & Fairness

Contact Carol Madeja at 213-765-1329 or carol.madeja@calbar.ca.gov or

Rod Fong at 415-538-2143 or rod.fong@calbar.ca.gov



## MESSAGE FROM THE CHAIRS

### CLPD

JOE TEGLOVIC  
CHAIR



The Committee on Legal Professionals with Disabilities (CLPD) was established by the Board of Governors in 1995. Its charge is to explore, report, address and recommend policies and programs to promote entry into and full participation in the legal profession and legal system for legal professionals with disabilities and chronic medical conditions (LPWD). The committee needs your input. The following are three ways you could be of great help to us:

**Take Our Online Survey:** One obstacle facing the State Bar's mission is the lack of information on the status of its members with disabilities. Thanks to a grant from the State Bar Foundation, we are currently conducting an anonymous and confidential online survey directed towards this constituency. The survey seeks to ascertain areas where the Bar can improve its services. Please help us to address this important concern by urging all Bar members with disabilities to take the survey. It can be taken interactively by visiting <http://talkingpolls.com/calbar>. You can also request a written copy by calling (415) 538-2176.

**Give Us Your Thoughts on Development of Our Webpage:** The committee and State Bar staff are currently working to develop CLPD's webpage. What do you think would be helpful to California attorneys with disabilities in terms of information available online? Additions under consideration, for example, include

links to updates on both California and federal disability laws, reports from other professional organizations, including local bar associations, message boards, and information for legal employers. Any ideas you have as to how the webpage could better assist you in any aspect of your professional development would be greatly appreciated. Please email your suggestions to our staff liaison, Patricia Lee, at [patricia.lee@calbar.ca.gov](mailto:patricia.lee@calbar.ca.gov). All suggestions will be acknowledged and considered by the committee. Thank you for your help!

**Volunteer to Serve on the Committee:** CLPD consists of fifteen attorney/public members appointed by the Board of Governors to serve three-year terms. In addition to planning MCLE programs for the Annual Meeting, the committee also advises the Board on issues affecting LPWD, initiates new programs, and is the Board's liaison to attorneys with disabilities. The committee meets approximately six times per year, both in person and by conference call (plus subcommittee meetings as needed). Reasonable travel costs are reimbursed. Examples of programs we are currently undertaking include: expansion of the Pledge Project (a project to increase the employment of LPWD in the state), the Bar Examination working group (working as a liaison with the Office of Admissions to assist it with the issue of accommodating law students who sit for the bar exam), a publications committee (developing pamphlets specific to disability law for legal consumers) and judicial education.

In addition to helping create a more level playing field for LPWD, volunteering for committee membership has several other significant benefits. Your ideas carrying out the committee charge can become reality through committee recommendations to the Board. You can increase your professional contacts in the profession. You will likely develop lasting friendships with like-minded colleagues. You will become very well acquainted with the State Bar and its internal workings. All of these will serve to enhance your professional development.

The legal climate for the lesbian, gay, bisexual and transgender (LGBT) community heated up rapidly in 2003 with legislation pending in California to grant additional civil rights to domestic partners, legalization of marriage between same-gender couples in Canada, and the landmark Supreme Court decision in *Lawrence v. Texas*, which decriminalized private sexual acts between same sex consenting adults. These developments gave hope to a community that has suffered discrimination in employment, housing and benefits, as well as the stigma of living under laws which made their private conduct illegal in 13 of the 50 states.

Notwithstanding these recent legal victories, the LGBT community continues to experience discrimination in various degrees in the courts, employment and in many other arenas of society. Discrimination continues in the courts, hate crimes occur and LGBT persons continue to lose their jobs because of their sexual orientation and gender identity, or they expend tremendous energy hiding their identity to prevent termination. It is clear that much work remains to be done to eliminate bias and discrimination against LGBT persons in the legal community and in the courts.

As the 2003 State Bar year draws to a close, CSOGID is pleased with its recent update of the Domestic Partner



CSOGID  
J. ROBERT FORCE  
CHAIR

brochure, its contribution to updating other State Bar substantive brochures, and its plans to launch the outreach program to community colleges and high schools, geared towards encouraging LGBT students to pursue careers in the legal profession. Looking ahead, the committee is also preparing to develop its "best practices" program for legal employers, designed to improve the recruitment and retention of LGBT persons in the legal profession. As always, CSOGID looks forward to co-sponsoring MCLE with other State Bar committees, especially on elimination of bias topics, and to working with all of the Access & Fairness Committees on joint projects focusing on education and outreach.



# CWIL

LISA M. BAIRD  
CHAIR

Many things come to mind as I reflect on my time as a volunteer on the State Bar's Committee on Women in the Law (CWIL). As I have noted before, what stands out foremost is that the committee is made up of an incredible group of attorneys -- amazing, accomplished women, dedicated to promoting diversity in our chosen profession. It has been a privilege to work with them these last few years. But what also stands out is the continuing need for programs like those sponsored by the State Bar's Access & Fairness Committees.

As part of its mission, CWIL talks to women throughout the state during its outreach program for law students, during its MCLE programs on gender equity and bias issues co-sponsored by local women's bar organizations, and through its essay contest for law students. Those conversations confirm the critical nature of the diversity issues facing the profession, from the advancement of women to the top levels of the practice, to how to value the contribution of attorneys who strike a sound work-life balance.

For example, CWIL's recent essay scholarship drew entries that were quite revealing about how law students view the profession on issues both fundamental and more mundane. In the former category, a number expressed a deep-rooted concern that they

would find the practice of law to be incompatible with having a family and children; given recent statistics about the retention of women in the profession and in private firms, that apprehension perhaps is well-grounded. In the later category, women law students apparently still are told that skirts are necessary if they are to be taken seriously during job interviews.

As another example, the judges and attorneys participating in and attending CWIL's programs on eliminating bias in the legal profession are all too often able to easily recount "war stories" about bias experienced in court or in their professional employment. In short, these are vital issues that need more attention from each attorney and our profession's leading institutions.

But through CWIL and the other Access & Fairness Committees, the State Bar can continue to play an important part in the dialogue and in education about these issues. Looking forward, although much work remains, the future of CWIL holds nothing but promise. I offer my wishes for its continued success, but know that success is assured with the committee under the stewardship of incoming Chair Sharon Hartmann, incoming Vice-Chair Pam Wagner, and our tireless and dedicated staff liaison, Kate O'Connor.

WELCOME  
MAYA BAIRD!



Lawyer in Training...

# EMRC

## KARRIAN FARRELL HINDS & ROBERT BROWN, JR. CO-CHAIRS



The 2002-2003 term of the Ethnic Minority Relations Committee (EMRC) constituted one of the most exciting and productive in its recent history. Over the course of the last year, EMRC successfully implemented several programs to reestablish our statewide importance in the effort to encourage and support the integration of attorneys of color within the legal profession.

The year began modestly enough with program planning for the 2002 State Bar Annual Meeting, held in Monterey in October 2002. EMRC members sponsored a program on avoiding discipline and participated in the first Diversity Awards Reception. After the meeting, EMRC members pressed forward to meet our goal of improving the diversity of the bar through attendance at several swearing-in ceremonies in both Northern and Southern California, speaking to high schools students regarding the rewards of a career in the law, and publishing articles in the newsletter. Although we are proud of all of our activities this year, we are most moved and honored by the strong attendance, reception and performance of the 2003 California Minority Attorneys' Conference held on July 12, 2003. The 2003 CMAC marked the return of the conference after a hiatus of almost eight years. Bolstered by a remarkably dynamic and timely plenary discussing the landmark United States Supreme Court case of *Grutter v. Bollinger*, as well as engaging programming, the event was widely successful. The conference reestablished the significance and importance of EMRC. In addition, by holding the event at the University of

San Diego, it solidified the importance of nurturing the relationship between bar associations and law schools.

Despite our success this year, the work of EMRC is far from done. We must strive to encourage attorneys of color to recognize and appreciate the importance of involvement in not only the State Bar, but local bar associations as well, whether minority or otherwise. Further, in the wake of depressed numbers of people of color practicing law, EMRC must lead the effort to recruit and retain attorneys of color within the legal profession. We are honored to have the privilege of leading the group during a time of great success. We are also comforted in knowing that we leave EMRC in the very able and devoted hands of officers-elect Blanca Quintero, Chair, and Rebecca Archer, Vice-Chair. They will lead and serve the legal community, including the attorneys of color, with youthful energy and enthusiasm. We offer our warmest and sincerest thanks to you all for allowing us the chance to serve the State Bar community this year. We welcome any opportunity to support the efforts of the Ethnic Minority Relations Committee in the years to come.

## MESSAGE FROM THE CHAIRS

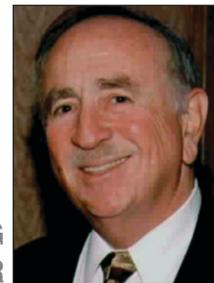
The 2002 - 2003 term was a banner year for the Committee on Senior Lawyers (CSL) with several major achievements proving the value of senior lawyers to the legal profession.

Our own member, Mary Pat Toups, was named by the American Bar Association as the Pro Bono Publico Lawyer of the Year. She will be honored in a special ceremony at the ABA Annual Meeting in San Francisco. We are very proud of her receiving this well-earned honor.

Our Reverse Mentoring program is a great success. After many sessions, a website has been developed at [www.SeniorLawyers.org](http://www.SeniorLawyers.org). Any senior lawyer, law student, law school or bar association anywhere in the world can download the step-by-step procedures to create and operate a Reverse Mentoring program. Law students can mentor senior lawyers on how to send and receive e-mail and surf the net, and seniors can offer career guidance mentoring to the law students. Special thanks are due to J.P. Rems, a California senior lawyer who will shortly be a member of CSL, Robert Brown, President of The University of West Los Angeles School of Law, where the materials were developed and whose support made the program possible, and Dan Yang, a student at The University of West Los Angeles School of Law. Special thanks to the Lawyers' Club of Los Angeles and Sol Ajalat, former president and new committee member, and to Randy Salter for their support in creating the [www.SeniorLawyers.org](http://www.SeniorLawyers.org) website.

Our committee is very diverse in terms of gender, age, law firm background and other factors. We were successful in reaching a broader pool of committee applicants through the e-mail efforts of Mary Pat Toups and the Orange County Bar Association. This year, we hope to be even more diverse and invite applicants to apply to become a member of CSL. Also, several of our current and former committee members are active in the ABA Senior Lawyers Division.

## CSL



JAY G. FOONBERG  
CHAIR

We will have four blockbuster programs at the Annual Meeting including: Strategies for Closing/Selling a Law Practice: Begin, The Rest is Easy; Recent Developments in Elder Law; Tactics for Experienced Lawyers Seeking Employment; and Home-Sweet-Home: Fighting Predatory Lending. Many CSL members are participating in these programs. And you can learn a lot by attending.

I will still be around, working on four major projects: teaching senior lawyers how to use e-mail and the Internet via project Reverse Mentoring; creating a world wide senior lawyer to senior lawyer listserv to share problems and solutions; creating a state-wide and possibly nation-wide database of pro bono activities seeking senior lawyer volunteers to assist in the matching of volunteers and projects; and working on the problem of "Of Counsels" dividing fees with their firm.

There are so many people deserving of thanks, it is impossible to name them all. Every committee member is sincere and hard working. We are proving that senior lawyers can and do make a difference in the profession. Next year promises to be even more exciting under the leadership of Virginia S. Mueller. If there is a subject you wish CSL to consider at the September meeting or later meetings, please send me an e-mail at [Jay@Foonberglaw.com](mailto:Jay@Foonberglaw.com) with a copy to staff liaison Rodney Low at the following address: [rodney.low@calbar.ca.gov](mailto:rodney.low@calbar.ca.gov).

### STATE BAR COMMITTEE ON LEGAL PROFESSIONALS WITH DISABILITIES CONDUCTING ONLINE SURVEY

The State Bar Committee on Legal Professionals with Disabilities (CLPD) is conducting an online survey of attorneys with disabilities and chronic medical conditions.

The survey is being funded through a grant from the Foundation of the State Bar of California and is designed to gather information on the needs of legal professionals with disabilities. Results will be used to develop recommendations to promote their full and equal participation in the legal profession by identifying and removing obstacles currently impeding access to and advancement within the profession.

The survey will use Hertz Research's new *Talkingpolls* Program, providing an interactive format for participants to respond to questions on line, at their own convenience. The survey can be accessed at <http://talkingpolls.com/calbar> and will run through September 2003. A hard copy can be obtained by calling (415) 538-2176. Preliminary results of the survey will be released at the 2003 State Bar Annual Meeting in Anaheim. Final results and recommendations will be released by the end of the year.

Note: Participants experiencing technical problems can contact the consulting firm at [info@hertzresearch.com](mailto:info@hertzresearch.com)



EMRC co-chair Robert Brown, panelists, Prof. Roy Brooks, Charlotte Hasse, Andrea Guerrero, Godfrey Dillard, State Bar President James Herman, and EMRC co-chair Karriann Farrell Hinds

## CALIFORNIA MINORITY ATTORNEY'S CONFERENCE

BY SHIVANI BOMMAKANTY

### CMAC PLENARY SESSION EXAMINES GRUTTER

The Ethnic Minority Relations Committee of the State Bar of California hosted its California Minority Attorneys' Conference on July 12, 2003 at University of San Diego School of Law. The Conference was kicked off with a timely and engaging discussion entitled "Color Balance: Achieving Diversity in the Legal Profession." The Plenary addressed the history of case law related to affirmative action programs in educational institutions, analyzed the Supreme Court's majority and dissenting opinions in the *Grutter v. Bollinger* case and debated its impact on future efforts to achieve diversity. The panel was composed of Professor Roy Brooks of University of San Diego, Charlotte Hasse, law student at University of San Diego, Godfrey Dillard, lead counsel for intervenors in *Grutter* and Andrea Guerrero, author of "Silence at Boalt Hall: The Dismantling of Affirmative Action."

The discussion began with Professor Brooks who stated that the Supreme Court's decision was by no means radical or progressive. He opined that due to the wide support for diversity indicated by the amicus curiae briefs filed by many Fortune 500 companies including Microsoft Corporation and the U.S. Armed Forces, the Supreme Court was not in a position to second guess democracy. However, Godfrey Dillard provided an opposing viewpoint. In his opinion, the *Bakke* decision signified a major setback for proponents of affirmative action requiring their intervention to reverse the erosion of affirmative action programs in educational institutions. In *Bakke*, individual whites were suing predominantly white institutions for reverse discrimination. This paradigm shift was dangerous for individuals of color because they were absent from the discussion on discrimination and race. The realization that blacks were outside the debate necessitated their intervention. The intervenors represented the interests of blacks, Native Americans and Hispanics. The goal of the intervenors was to insure that race mattered in the application process. Mr. Dillard believed that the Supreme Court decision was a victory because it held that race can be used in the decision making process for admissions to the institution. Godfrey Dillard also provided some practical advice by emphasizing the importance of early intervention to

create an evidentiary record in the underlying case. He distinguished between intervention through Rule 24, where the intervenor is treated as a party at the onset of the litigation, and the filing of amicus curiae briefs as a "friend of the Court" at a laterstage. Furthermore, the intervenors as litigants were able to expose such facts as the de facto white preferences at the University of Michigan that gave points to white applicants for such factors as a parent alumnus.

Finally, Andrea Guerrero acknowledged that she was one of the last beneficiaries of the University of California at Berkeley's affirmative action program prior to the implementation of California Proposition 209, which made it illegal to use race in the admissions criteria. She stated that she authored the book "Silence at Boalt Hall: The Dismantling of Affirmative Action" to preserve the institutional

m e m o r y for future students and faculty. Her book chronicles the history of affirmative action programs and the impetus to create such programs at the University of California after the Civil Rights



Act. She focused on what the Supreme Court did not address in the *Grutter* case. The Supreme Court did not discuss the need for affirmative action. It was ironic that Justice Thomas' dissenting opinion acknowledged that tests on which grades and test scores are based are biased and needed correction. Justice Thomas' opinion stated that race should not be considered in the application process but institutions must correct biases inherent in the tests. Ms. Guerrero concluded by urging us to think about the reasons for affirmative action programs and to get involved in efforts to change the biases inherent in admissions criteria. The plenary ended with questions from the audience.

## CMAC Panel: Networking Yourself to Your Dream Job

BY  
DESIREE  
REED-FRANCOIS



Attendance is always a concern when you are moderating a panel in the last time slot of a Saturday convention. However in the case of the "Brokering Power: Networking Your

Way into Your Dream Job" seminar, the standing-room only audience proved this moderator's worries were for naught. Speakers from diverse backgrounds and careers discussed ways to develop your own personal support network, outlined career strategies and truly inspired their audience with their personal success stories.

Raymundo Mendoza, Deputy District Attorney for Santa Clara County, began by recapping his 16 year litigation career in both private and public sectors. He offered the well-earned advice to the diverse group of lawyers and law students that lawyers must not only do "good work" but must always continue learning and redefining their goals throughout their career.

Nicole Townsend, Pillsbury Winthrop associate in Silicon Valley, advised the group to get involved in their bar associations and communities. She offered her unique strategy at career advancement - hiring a career coach. In today's hectic world, a coach can guide you through the business of law and "keep your feet to the fire."

The final speaker, Ed Goines, Vice President of Business Affairs and General Counsel of the San Francisco 49ers, motivated the audience with stirring quotations and insights on his career path. Ed began in private practice and through perseverance and maintaining a strong network, landed his dream job. "There is no such thing as a self-made man," Ed professed. "We are made up of thousands of others. Everyone who has ever done a kind deed for us, or spoken one word of encouragement to us, has entered into the makeup of our character and our thoughts, as well as our success..."



This panel succeeded in dispelling the notion that networking is a negative trait and made the case that we must rely upon one another, offer a helping hand or a kind word in order for all of us to succeed. "There's always room at the top."

Panelist Ed Goines and USF 2L Sandra Jimenez

## Keynote Speech Delivered by HNBA President-Elect Carlos Singh



The keynote speech was delivered during the lunch by Carlos Singh, Assistant U.S. Attorney General from San Jose and President-Elect of the Hispanic National Bar Association.

Mr. Singh shared the following remarks:

I believe we are at one of those pivotal points in American history where we must decide as a group what are we going to do to advance opportunity, to advance ourselves, to attain more influence and other democratic ideals we strive for, and to achieve great goals.

On leadership: ...It makes no difference if you are liberal or conservative or democrat or republican. These challenges present all of us with opportunities to advance democracy, to attain the equality we seek and improve our lives and those of our children. The question to us is -- are we ready to lead this country? I believe we are. But to do so, we have to learn to become leaders.

...To better represent our communities, we need to inspire young people of color to attend law school and become lawyers. Lawyers are the leaders of communities.

On our communities: ...The Supreme Court believes diversity in higher education is a necessary and compelling interest in our society. However, we can't just sit back now with this victory -- a victory for diversity -- and believe that the battle is over. ...We just can't sit back and say this recent decision was a panacea for the lack of equal opportunity in higher education.

On the judiciary: ...We need more diversity on the bench. We need you to strongly consider becoming judges.

On coalitions: ...It's a great challenge and it will be measured in how well we build coalitions. Building coalitions is the way we will succeed.

On justice and integrity: ...As we learn to lead and we do lead, even on the race questions that affects us so much, let's do it in a way where we are examples to others in this country. As we lead by example, let's let everyone know that we stand for something good and that we believe in our country's ideals. Let's make sure that we always seek justice, that we speak justice and that we stand for justice. So the question to you is -- are you ready to take on the challenges of leadership?

# Practicing Law Is

## A MANY SPLENDORED THING

BY  
SEAN  
CARTER

CMAC was attended by approximately 200 minority attorneys, judges, professors and law students. I was one of them.

I have to confess that as a “recovering” attorney, I was somewhat apprehensive about attending the conference. Last year, I retired from law practice and embarked on a career as a legal commentator and humor columnist. You simply learn to control your desire to use Latin phrases, play devil’s advocate and keep track of your time in six minute increments. It’s a constant battle that must be fought “one day at a time.”

And although I’d been “clean and sober” from law practice, I know one thing leads to another. One day, you attend an innocent bar conference. The next day, you agree to have lunch with a former colleague. And before you know it, you are writing sentences that begin: “Wherefore in consideration of the premises ....”

However, as I had already agreed to participate in a panel discussion on alternative legal careers, I decided to take the risk. Besides, I was curious as to what would be discussed at a minority bar conference. Despite the fact that I’ve been a lawyer for ten years and an African-American even longer, this was my first CMAC.

Of course, I knew there would be some discussion on diversity. After all, in June, the Supreme Court handed down landmark decisions in the *Grutter* case. Therefore, it only made sense that the plenary and keynote address were aimed at achieving diversity in the wake of these decisions.

However, I was surprised to learn that the main thrust of the conference was skills development and leadership training. There were panel discussions on the art of cultivating clients, winning trial practice and employment law. In addition, there were panels on how to succeed in the private sector, how to become a judge and how to network your way into your dream job.

As I drove home to the Los Angeles area that evening, two persistent thoughts ran through my head. First, I really should have gone to the restroom before leaving the conference. Second, attorneys in California are truly a diverse group.

This fact is often lost on attorneys like me, who have practiced in large law firms. During my decade of legal practice, I seldom ran across other minority attorneys. In fact, in my practice, minority attorneys were rare and not taken very seriously.

However, the truth of the matter is that minority attorneys make up a substantial part of the bar. In fact, one in every six attorneys in California is black, Hispanic, Asian or “other.” Of course, in a state where 52% of the population is “minority,” there is room for improvement. Nevertheless, cultural diversity does exist in the bar.

In addition, there is a great deal of practice diversity among minority attorneys in this state. From my narrow “upbringing” in large law firms, there were only three kinds of attorneys – transactional attorneys, litigators and those who couldn’t take the pressure anymore and went in-house.

Of course, with the possible exception of my 2002 income tax return, nothing could be further from the truth. At CMAC, I met attorneys who “practiced law” as judges, professors, corporate vice presidents, public interest advocates and consultants. In short, practicing law is a many splendored thing.

CMAC was an opportunity to celebrate our differences. And perhaps more importantly, it was an opportunity to realize our similarities. Regardless of our respective races, national origins and practice areas, we are all part of a glorious brotherhood. As lawyers, we share a common bond. We are united in our respect for justice, honor and those who had the good sense to go to Business School instead.

*Sean Carter is a legal commentator, stand-up comedian, public speaker, and the author of “If It Does Not Fit, Must You Acquit? – Your Humorous Guide to the Law”.*

## A MESSAGE FROM USD

Both students and professors at our law school feel we have benefited tremendously from having the 2003 California Minority Attorneys’ Conference held here. Students were more than happy to come out on a Saturday morning during their summer vacation to listen to words of wisdom that simply cannot be gotten in the classroom. I was told by several students that just being able to mix with so many successful minority lawyers and listening to their life stories—stories that were not very different from their own—gave them a real sense that they could succeed in the profession. Charlotte Hasse, the student who gave the student’s perspective on *Grutter* during the plenary session told me how much she cherished the experience as a unique opportunity for a student to engage members of the bar on a complex subject. As a law professor, I found particularly valuable the numerous exchanges of ideas I had with members of the profession who have a different, perhaps more worldly, perspective on law than do I. Seeing former students, who have grown into outstanding members of the profession, was simply a treat. But what the Conference did more than anything else was to bring diversity to a law school; it brought home in dramatic fashion the lessons of *Grutter*.



Prof. Brooks and EMRC member Shivani Bommakanty

**Roy L. Brooks**, Warren Distinguished Professor of Law, University of San Diego School of Law

## Across the NATION!

### ABA ANNUAL MEETING HELD IN SAN FRANCISCO

The population of San Francisco jumped by more than 11,000 during the week of Aug. 7-12, as the American Bar Association came to town for its 126th Annual Meeting. The ABA is the largest voluntary professional membership association in the world with more than 410,000 members. Over 7,770 members registered for the meeting. Members attended more than 1,700 meetings and events in the Moscone Center and surrounding hotels, restaurants, museums, clubs, and law firms throughout the City. Program information and the names of the approximately 500 speakers were listed in the 275-page program distributed on site. Members and guests were joined by U.S. Supreme Court Justice Anthony M. Kennedy, who spoke at the Opening Assembly. ABA President Alfred P. Carlton Jr. of Raleigh, N.C., presided over the meeting of the ABA Board of Governors. ABA President-elect Dennis W. Archer of Detroit was sworn in as the first African-American president of the association.

### MARY PAT TOUPS RECEIVES ABA PROBONO PUBLICO AWARD

On August 11, 2003, Mary Pat Toups was recognized by the ABA for her thirty years of helping those who could not afford a lawyer. She received the ABA's Pro Bono Publico Award along with two other individuals, a law firm, and a corporate law department at the ABA Annual Meeting in San Francisco. Debbie Segal, chair of the ABA Standing Committee on Pro Bono and Public Service, credited Mary Pat with raising the consciousness of fellow senior lawyers about the importance of "using their vast skills to do pro bono work, thereby offering to the community a new and valuable legal resource." Mary Pat currently advises senior citizens at the Senior Citizens Legal Advocacy Program of the Legal Aid Center of Orange County. She has been a member of the State Bar's Committee on Senior Lawyers since its creation in 2000.



### DALE MINAMI RECEIVES 2003 ABA THURGOOD MARSHALL AWARD



On Aug. 9, 2003, during the ABA Annual Meeting in San Francisco, California, Dale Minami, a San Francisco-based lawyer, received the ABA's 2003 Thurgood Marshall Award in recognition of his work to vacate the convictions of Japanese-Americans in the wartime internment cases and other work to advance equality for all Americans. Mr. Minami is perhaps best known for his work in vacating the convictions of Fred

Korematsu and other defendants in the wartime internment cases, helping to right a great historical wrong. In addition to his work for the Japanese-American community, he is credited with influencing the selection of African Americans, Latinos, Native Americans, and Asians for executive and judicial appointments at the state and federal levels. "In a climate that tested the patriotism and civil rights of selected Americans, Dale Minami's work sought, not just reparation for those wronged, but a better course for everyone," said Thurgood Marshall Award Committee Chair Georgina C. Verdugo. "His lifelong efforts on behalf of equality are as critical today as they were to Japanese Americans after World War II. He is a role model for all Americans and has lived the true calling of a lawyer, to seek justice where it has not prevailed."



## "Employers TAKE NOTE"

BY JENNIFER R. JOHNSON, STATE BAR COMMITTEE ON WOMEN IN THE LAW 2003 ESSAY SCHOLARSHIP RECIPIENT

Despite American rhetoric about gender equality, women are subject to widespread discrimination. While discrimination today is more subtle than in the past, in law it can be seen in the lower numbers of women in the ranks of partnership and higher-paid positions. This trend is often more pronounced in the legal arena, as firms that have a thirty percent female partner rate touting their numbers as some of the most egalitarian.

One aspect that plays into gender disparity in the workplace is the fact that women more often take time off to have children. Legal careers require increasingly long hours and thus are seen as somewhat incompatible with part-time work and/or flexible scheduling. But even women who do not want children may get put on the "mommy track" because they are capable of having children. Now that more women are entering law school, continuing to fail to consider issues that women face when entering the legal workforce will be more problematic and is anachronistic.

One problem contributing to ongoing inequality that faces women in various contexts today is the social perception that the gender issue is no longer an issue. This problem comes to a head when a woman who recognizes that gender is still an issue, the law school interviewee, comes face-to-face with a woman who does not, her interviewer. In this circumstance, the interviewee may ask the interviewer about her experiences as a woman in the legal profession. The interviewee who sees gender inequities as a persistent problem considers this a valid and important question, relevant to her career. But the interviewer who does not believe that gender is a problem sees something different. For her, the logical explanation for the interviewee asking a "gender-loaded" question is that she is a troublemaker or radical feminist. She will not be considered for the job. This situation also can take place with male interviewers, but in the real-life situation recounted below, the interviewer was in fact a woman.

As a second year law student, I participated in On Campus Interviews, which is the way to find a job for those wanting to work at a large firm. While many people I knew picked as many firms as caught their attention right up to the maximum number allotted, I took a different approach. I specifically selected only firms with numbers indicating they had made an effort in the area of gender equality. The information I considered, when available, was the number of women associates and women partners; the number of minority associates and partners; the availability of parttime, flextime, or telecommuting work options; the actual number of people who took advantage of alternative work hours; and maternity and childcare leave options. This process truncated my list of potential firms, leaving just eleven that met these criteria. I bid only those eleven firms. I realized that taking this position could have cost me a job at these firms. I wanted to see if the firms were willing to walk their talk.

During interviews, on campus and at callbacks, I asked gender-loaded questions. I had only one negative experience. The interview for that firm was with two people at once, one of whom was a sixth-year almost-partner female associate. When asked if I had any questions, I wanted to ask something that indicated I'd done my "homework" in researching the firm. I asked, "I notice that your firm has a stated policy of working toward equal employment opportunities for women and minorities. As a woman, what have been your experiences with this policy?"

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## THE FUTURE FOR LESBIAN, GAY, BISEXUAL, & TRANSGENDER STUDENTS IN CALIFORNIA SCHOOLS LOOKS BRIGHT

BY OLIVER CLEARY, CSOGID MEMBER AND J. ROB FORCE, CHAIR OF CSOGID

Did you know that 2 out of 3 lesbian, gay, bisexual, transgender or questioning (LGBTQ) youth experience some form of harassment or violence at school because they are gay? And that 53% of San Francisco Bay Area high school students surveyed said that they hear homophobic comments frequently at school (at least daily, up to 10+ times a day), and 67% of students surveyed said they frequently or occasionally make such comments themselves. Most alarming is that 84% of students surveyed said that they rarely or never hear staff members intervene when anti-gay comments are made and 48% said they do not think their campus is safe for LGBTQ students.

According to a report released by Human Rights Watch in May 2001, entitled "Hatred In The Hallways", a survey of LGBTQ public high school students in seven cities across the United States, LGBTQ students reported having food thrown at them, being pushed down stairs, being beat up in front of school staff who looked the other way, and worse. In some cases, teachers or administrators participated in abuse against students who either identified as or were perceived to be LGBTQ.

Until fairly recently, even the most serious cases of abuse went unnoticed. Victims were routinely ignored or blamed for their own suffering. Administrators frequently transferred the abused student, rather than punish the perpetrator, and the problems were only compounded rather than solved.

LGBTQ students exert an inordinate amount of energy just to survive their school years and escape abuse. A disproportionately high number of them drop out, attempt suicide, or engage in other harmful behavior. Others fight back and organize against abuse and discrimination by forming gay-straight alliances. Others have sought to hold their school accountable by filing civil action against the school for failing to provide a safe educational environment. Some of these cases have settled while others have resulted in awards of significant monetary damages.

### THE LAW - A.S. 537

In 1999, California law was amended to change the bleak environment dramatically for LGBTQ students. Assembly Bill 537, introduced by State Senator Sheila Kuehl, and known as the Student Safety and Violence Prevention Act of 2000, was enacted to provide certain protections to public school students in California. Prior to the enactment of A.B. 537, anti-discrimination statutes protected students from harassment and discrimination based upon "race, color, religion, ancestry, national origin, disability, and gender." A.B. 537 amended those statutes to include actual or perceived sexual orientation and gender identity. The bill was codified in the Education Code and Penal Code and now prohibits intimidation, interference, oppression or threats to any other person enjoying their Constitutional rights based on the perception of their sexual orientation or identity. By enacting this new law, California joins eight states and Washington, D.C. that ban discrimination based on sexual orientation and gender identity. The bill's sponsors overcame opposition when legislators realized that the proposed amendments to existing law were intended to provide a safe educational environment to all students and not just those who openly self-identify as LGBTQ.

Pilot programs led by Human Rights Watch in Los Angeles have trained 85 administrators and counselors on preventing, identifying and confronting abuse and discrimination against LGBTQ students. The second phase of the pilot program will provide similar training to 1,000 teachers. This limited pilot program, successful as it is, affects only about 16,000 public school students and is almost entirely run by volunteers because A.B. 537 is essentially an unfunded state mandate. In other words, there is virtually no money allocated to implement the training, education and administration required to effectively protect those who are perceived or identify as LGBTQ.

At a hearing held mid 2002, called by Sen. Kuehl and Assemblyperson Jackie Goldberg to determine how well A.B. 537 has been implemented, students, teachers and administrators testified that significant problems still exist. The universal sentiment was to thank the legislators for the new law and to ask for more significant help. To assist in this effort, California Gov. Gray Davis recently appointed a deputy chief of staff to help coordinate implementation of A.B. 537. However, given the current state budget crisis, it is apparent that for the present, efforts by volunteers will continue to be the driving force behind protecting LGBTQ high school students.

### QUEER YOUTH ACTIVISM

The Queer Youth Action Team (QYAT) supports the implementation of A.B. 537, but notes that the alarming statistics of abuse cited above have not yet been significantly impacted despite the passage of the bill. The QYAT is a Contra Costa based organization whose mission is to decrease the transmission of HIV/AIDS in the LGBTQ youth community. They endeavor to do this by decreasing homophobia with the hope that queer youth will treat themselves and their health better if they are confident in their identity. Given studies on suicide rates and mental health in the queer youth community, and the impact of mental health on personal health decisions, they are on the right track.

Student run organizations such as QYAT and Gay-Straight Alliances (GSA's) are vital to ending harassment by promoting respect and tolerance in schools. The Gay-Straight Alliance Network is a youth-led organization that connects school-based GSAs to each other and community resources. Through peer support, leadership development, and training, GSA Network supports young people in starting, strengthening, and sustaining GSAs and builds the capacity of GSAs to: create safe environments in schools for students to support each other and learn about homophobia and other oppressions; educate the school community about homophobia, gender identity, and sexual orientation issues; and fight discrimination, harassment, and violence in schools.

Ask your school's district administrator or principal if there is a GSA on your child's campus. If not, ask why. Your child deserves to learn in a diversity friendly, tolerant and safe educational environment. Contact the QYAT and get involved. Encourage your local school district to support their work. A safe school in which harassment is not tolerated will lead to a world in which harassment is not tolerated.

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## CALIFORNIA SUPREME COURT ADDRESSES BOY SCOUTS ISSUE

BY JEFFREY ERDMAN, VICE CHAIR OF CSOGID

The California Supreme Court, in response to requests by the San Francisco, Los Angeles, Alameda and Santa Clara County Bar Associations, as well as other interested individuals and groups, undertook a comprehensive evaluation and study of requests to amend provisions of the California Code of Judicial Ethics concerning membership in private organizations. The issue before the court addressed the exception for “nonprofit youth organizations” set forth in Canon 2C, which prohibits judges from belonging to organizations that practice “invidious discrimination on the basis of race, sex, religion, national origin, or sexual orientation.”

These groups argued that the exception – commonly referred to as the “Boy Scouts Exception” – allows judges to belong to the Boy Scouts of America despite the fact that the Boy Scouts openly discriminates against gays and lesbians. Such discrimination, the groups argued, leads to an “appearance” of bias – if not “actual” bias – on the part of the judicial officers who belong to the Boy Scouts. This issue was considered to be especially significant in light of the report issued in January 2001 by the Judicial Council’s Advisory Committee on Access and Fairness, which revealed that there are a substantial number of California court users who have experienced adverse treatment and/or the appearance of bias on the part of the California judiciary.

The California Supreme Court concluded the study by unanimously adopting new language in the commentary to Canon 3E explaining that, even if membership in an organization is permitted under the Code, in some instances, a judge should disclose the membership on the record and, if appropriate, disqualify him or herself from presiding over the case. The Supreme Court decided it was more appropriate to clarify the judge’s obligation to disclose their membership and recuse themselves than to eliminate the “Boy Scouts Exception” altogether. Specifically, the Court decided that, even when membership in a particular organization is permitted by Canon 2C, Canon 4, or any other canon, the judge should still disqualify him or herself in a particular case when doing so would be appropriate pursuant to Canon 3 and the Code of Civil Procedure section 170.1. Furthermore, pursuant to Canon 3, even if the judge believes there is no basis for disqualification, the judge should disclose the membership to the parties or their lawyers if the judge believes they may consider it relevant to the question of disqualification.

“This represents a middle ground,” according to the Chief Justice Ronald George, who believed that the Court needed to take into account both the concerns of judges and of the gay community. While many members and supporters of the gay community felt that the action did not go far enough, most advocates, including Angela Bradstreet, who led the drive as president of the San Francisco Bar Association, called the new standards “a very big step forward.”

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### THE FUTURE FOR LESBIAN, GAY, BISEXUAL, & TRANSGENDER STUDENTS IN CALIFORNIA SCHOOLS LOOKS BRIGHT

For more information on GSAs go to:

[http://www.religioustolerance.org/hom\\_psg4.htm](http://www.religioustolerance.org/hom_psg4.htm)  
<http://www.gsanetwork.org/>

For more information on the current state of treatment of LGBT issues in California schools see:

QYAT: <http://www.qyat.org>

Ask your local school district to have a “Schools Out Day” like that in Canada, see:

<http://www.outinsandiego.com/home/news.asp?articleid=2242>

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## “Employers TAKE NOTE”

BY JENNIFER R. JOHNSON, STATE BAR COMMITTEE ON WOMEN IN THE LAW 2003 ESSAY SCHOLARSHIP RECIPIENT

Her answer was a sharp “I’ve never been treated like a woman. It doesn’t matter if you’re a man or woman, the best person for the job gets it.” Unfortunately, I can’t convey the interviewer’s tone in print; her words rang of “I can’t believe you’d ask such a question—what do you want, special treatment?” I knew that was it; I wasn’t getting a callback.

The point of this example is that this woman was the gatekeeper for this job opportunity. Her firm probably thought it was promoting equality by having a very senior female associate as their face for the interview process. Her firm probably assumed that because she is a woman she would help bring in other women. But just having more women in a firm’s “numbers” or putting a woman’s face on the interviewer is not enough. Women entering the legal profession want real equality, and we recognize that this is not it.

I had several callback interviews, despite my “radical” behavior. At the interviews, I continued to test the waters. I wore pantsuits instead of skirts. I asked female partners what it had been like for them, what they thought had been different because they were women and whether they had families. I knew this was a risk. But it was a calculated risk, and one that I was not only willing to take on, but felt obligated to in order to be true to myself.

Not all female law students make employment decisions on this basis. I might even say most do not. Some would say I was in the fortunate position of having high enough grades to have choices. But I knew I would not be happy working at a firm that did not share my values. Many women would not make employment decisions on this basis, not because it is not a consideration that is important to them, but because they have decided that getting a job -any job- is more important than their values when it comes to looking back at that large law school debt. Having “a job” shouldn’t be that important. The reality is that these issues are important to any woman considering a family. These are issues each woman will have to confront eventually. And these are biases that every woman -whether she wants a family or not-will have to confront. Women should not have to feel that they risk job opportunities for asking about what is important to them. This is what firms today need to know.

As for my results, in the end I had more than one offer and have a great job secured for fall with an employer I can be proud of. I had a choice, despite sticking closely to my beliefs. I’d be willing to bet I’m a better fit and more likely to stay at this firm as a result of this process. I am not sorry I missed out on the job “opportunity” at that other firm. In fact, I think the interviewer made the right decision. I don’t belong at that firm; I don’t want it as an employer any more than it wants me as an employee. This is just one woman law student’s story, but I am not alone. Women law students now comprise more than half of the law school population, and we are increasingly aware of the issues we face as women. Employers take note.

*Jennifer Johnson graduated from the Santa Clara University School of Law in May 2003 and will be practicing with Fenwick and West.*

## CWIL PARTNERS WITH WLALA

# “Celebrating Leadership”

Promoting the advancement of women in the legal profession is a critical charge of the State Bar Committee on Women in the Law (CWIL). So, when the Women Lawyer’s Association of Los Angeles invited CWIL to support their ground-breaking event honoring women attorneys who have distinguished themselves in the legal community, CWIL eagerly accepted. The inaugural event, “Celebrating Leadership,” was held at the hip new Standard Hotel in downtown Los Angeles on May 6, 2003. The forty-three women award recipients were some of the best and the brightest in the business legal community including some of the region’s most prominent law firms and Fortune 500 companies.

The keynote speakers, the Honorable Shirley Hufstедler and the Honorable Kim McLane Wardlaw, were emblematic of the spirit of the event. Former Justice Hufstедler, an icon in the national legal community, broke many barriers as co-founder of the legendary business law firm Hufstедler, Beardsley et. al. She has also served on the Ninth Circuit of the United States Court of Appeals and as past-president of WLALA’s predecessor organization the Women Lawyers’ Club. She is currently a partner at Morrison & Foerster. Justice Hufstедler remarked, “It is such a pleasure to recognize this moment in history with WLALA. It certainly represents a very different time from when I was licensed to practice law with only seven other women in the state.” Similarly, former Justice Kim McLane Wardlaw has carved an impressive career. She was also a justice on the Ninth Circuit of the U.S. Court of Appeals, a former partner at O’Melveny & Myers, and a past-president of WLALA.



WLALA Awardees at the “Celebrating Leadership” event in Los Angeles.

Sharon Hartmann, 2003 Vice-Chair of CWIL presented all the honorees with special State Bar recognition certificates. Honorees also received commendations from John Chiang of the State Board of Equalization and Los Angeles City Attorney Rocky Delgado.

The State Bar Committee on Women in the Law congratulates the recipients of Los Angeles Women of Distinction Award and thanks WLALA for its dedication to promoting women in the legal profession. To learn more about WLALA visit the organization’s website at [www.wlala.org](http://www.wlala.org) or call (213) 892-8982.

## WIN/WIN: Volunteer for an Access & Fairness Committee

How often are you presented with a choice that is a win-win situation? If you volunteer for the State Bar, you will be in that enviable position. You will have the chance to do good for others, and do good for yourself and your career.

### Do Good For Others

- Introduce high school students to the law
- Counsel pre-law students
- Mentor law students
- Develop programs for lawyers
- Advise the Board of Governors

### Do Good For Yourself

- Meet bar leaders and other important people
- Collaborate with other attorneys
- Learn about the State Bar and other bar associations
- Enhance your resume
- Feed your soul

The State Bar is committed to ensuring that all attorneys in California have equal access to the legal profession. One of the key tenets of the State Bar’s Mission Statement is to “assure the full and equal opportunity of all persons for entry and advancement in the legal profession.” Consistent with this mission, the State Bar encourages every member to become involved in activities and committees aimed at achieving a diversified membership. The best way to become involved is to become a member of one of the Access & Fairness Committees described throughout this Newsletter. Committee members serve for a three year term and meet four to six times a year. The application process begins on December 1, 2003 and ends February 2, 2004. Information about each committee, qualifications necessary for service and the application form can be found on the State Bar’s website at [www.calbar.ca.gov](http://www.calbar.ca.gov). For additional information, contact the committee’s staff liaison:

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## NEWS AND EVENTS

### California Minority Counsel Program's Annual Business Development Conference

November 20, 2003 in Los Angeles

For more information, send an email to [cmcp@sfbar.org](mailto:cmcp@sfbar.org) or call (415) 782-8990.

### Creating Visibility: Practical Advice for Marketing Your Firm's Diversity

Sponsored by the State Bar's Center for Access & Fairness, California Minority Counsel Program, and the Practising Law Institute.

January 13, 2004 in San Francisco

For more information, contact Rod Fong at [rod.fong@calbar.ca.gov](mailto:rod.fong@calbar.ca.gov) or call (415) 538-2143.

### Bar Leaders Conference & State Bar Leadership Forum *(tentatively scheduled)*

Sponsored by the State Bar's Office of Bar Relations Outreach and Center for Access & Fairness

June 4 & 5, 2004 – SAN DIEGO, CALIFORNIA

Contact Carol Madeja at (213) 765-1329 or [carol.madeja@calbar.ca.gov](mailto:carol.madeja@calbar.ca.gov) or Rod Fong at (415) 538-2143 or [rod.fong@calbar.ca.gov](mailto:rod.fong@calbar.ca.gov)

## COMMITTEE INFORMATION ONLINE

To access the Access & Fairness Committee information on the State Bar website, go to [www.calbar.ca.gov](http://www.calbar.ca.gov). Click on "Attorney Resources," then "Committees and Commissions" and finally on "Standing Committees" for a list of committees. Select the committee of your choice. For assistance, contact the Office of Legal Services, Access & Fairness Programs at [programdevelopment@calbar.ca.gov](mailto:programdevelopment@calbar.ca.gov) or (415) 538-2328.



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