



ILLINOIS STATE BAR ASSOCIATION

DIVERSITY MATTERS

The newsletter of the Illinois State Bar Association's Task Force on Diversity

Editors' note

By Mary F. Petruchius, Sandra Blake, and E. Lynn Grayson

The ISBA embraces a broad definition of diversity as reflected in the committees that make up the Diversity Leadership Council. These committees address issues and concerns related to women, racial and ethnic minorities, LGBT individuals, disability matters, human rights and immigration. We strive each year to develop a well-balanced newsletter but every edition reflects the articles received and only certain of the diversity-related activities undertaken by the ISBA. Please visit the ISBA Web site at <http://www.isba.org/> to learn more about our diversity initiatives. If you are interested in writing for this newsletter, please contact one of the editors.

Our special thanks to ISBA President Paula H. Holderman for her leadership and support of diversity initiatives during her term. With her vision and guidance, the ISBA sponsored a number of one-of-a-kind events bringing Illinois attorneys together to promote diversity. These events included the 30 Female Blackstones Program, Count Me In Reception, Myra Bradwell Rise Up and Reach Back Program and Celebrating Women in the Profession Luncheon just to name a few. Thanks, Paula! ■

A night celebrating diversity

By Dina Ninfo, Sutter & Ori, LLC

On October 10, 2013 the Diversity Scholarship Foundation presented the Unity Award Dinner and 11th Annual Swearing-in of Bar Presidents Ceremony. Co-Chairs of the dinner were Deanna Blair, Jennifer Irmann, Judge Jessica O'Brien, Chloe Pederson and Kate Conway. Advertisement Chairs were Dina Ninfo, Mark Karno and Melanie VanOverloop. Honorary Co-Chairmen were Dan Webb, William Von Hoene and Floyd Perkins. This celebration of diversity brings together leaders and members of multiple bar organizations to promote and support the mission to increase diversity and inclusion within the legal community. Over 50 Bar Presidents participated in the swearing-in ceremony that was administered by

Chief Justice Thomas Kilbride. Chief Justice Kilbride was awarded a 2013 Unity Award for his efforts in furthering diversity while serving as Chief Justice of the Illinois Supreme Court. The theme for the dinner was "Embracing Diversity: Leading by Example." The 2013 Advocate for Diversity and Unity Award Honorees were the Honorable Lisa M. Madigan, the Honorable Ruben Castillo, the Honorable James F. Holderman and Larry R. Rogers, Senior, who were recognized for their efforts in advancing diversity throughout their careers.

Led by the efforts of President, Honorable Jessica O'Brien, the Diversity Scholarship Foundation was privi-

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A night celebrating diversity

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leged to make numerous contributions to individuals and organizations to further the goal of diversity. The \$5,000 Jerold S. Solovy Diversity Scholarship was bestowed upon nine law students through the Women's Bar Foundation and one aspiring law student seeking financial assistance to take the LSAT. Furthermore, \$1,000 was contributed to the Puerto Rican Bar Foundation to be distributed among three law students. Additional amounts were contributed to the following ISBA organizations to aid in their efforts to expand diversity; \$1,000 to the ISBA Leadership and Law Program and \$1,000 to the ISBA's Committee on Law-Related Education for the Public High School Mock Trial Competition. Another \$1,000 was awarded to the Just the Beginning Foundation, an organization that has a mission to diversify the legal community akin to that of the Diversity Scholarship Foundation. Finally, \$1,000 was awarded to the International Baccalaureate Diploma Scholarship Fund for students from Morgan Park High School, a Chicago Public School that is predominantly comprised of African American students. Students and teachers from Morgan Park High School attended the dinner and had the opportunity to speak one-on-one with attorneys and judges. At the end of the night, many of them were inspired and expressed an interest of attending law school in the future.

In 2013, the Diversity Scholarship Foundation made significant strides to assist attorneys with disabilities by forming two standing committees. The Diversity Scholarship Foundation Disability Law Student Scholarship Fund Committee which was established to assist in the marketing for and selection of scholarships for individuals with disabilities. The Disability Programming Committee was established to design programs to address issues that students and legal professionals with disabilities face. For the first time, the Diversity Scholarship Foundation was honored to award a \$1,000 diversity scholarship to Michael Pudlow, a disabled student from De Paul Law School.

This momentous and influential celebration of diversity could not be possible without the many generous sponsors who offer their financial support. The top sponsors included Platinum sponsors Exelon and Winston & Strawn, LLP and Gold spon-



Students from Morgan Park High School in Chicago, part of a community outreach program with the Diversity Scholarship Foundation. Morgan Park's students are 95 percent African American with a 92.2 percent graduation rate.



The symbolic swearing-in of bar presidents.

sor Power Rogers & Smith, PC. There were many other important sponsors including a Bronze Sponsorship from the ISBA. Lastly, this event was co-hosted by The John Marshall Law School, which has supported the collective swearing-in of bar presidents since 2002 when the event was merely a reception at the law school. This is a testament of The John Marshall Law School's commitment to diversity and unifying the legal community.

Once again this Unity Award Dinner was a huge success due to all those involved who believe in the importance of integrating diversity throughout all aspects of the legal profession. Each year, significant strides are made to expand these efforts. Through the participation of others, the Diversity Scholarship Foundation is able to grow and cast a larger net in their efforts to promote diversity. ■

Count me in: An ISBA Diversity Leadership Council Event

By Cory White, The International Business Law Group LLC

Editors Note: Our efforts at outreach and inclusion extended to members of the many ethnic and specialty bar associations. More than 100 members of the bench and bar, as well as the Consul of Mexico, accepted our invitation. We count the event a resounding success and are looking forward to a "Recount" in 2014.

During the 2013 ISBA Mid-Year Meeting the Diversity Leadership Council¹ ("DLC") saw an opportunity to reach out to and interact with the leaders and members of various diversity focused bar associations and groups throughout Illinois. The idea was born from discussions had throughout the 2013 bar year, and the execution was the product of hard work, careful planning, and the generosity and support of the ISBA community. The first "Count Me In" reception ("Event") was held during the Mid-Year Meeting and proved to be a rousing success.

A) What the DLC Set Out to Achieve

"Count Me In" had several primary purposes and goals: (1) to bring to together various diversity oriented bar organizations and to allow for a dialogue as to how diversity can be improved across the profession; (2) to allow the attendee groups to consider diversity issues that they would not otherwise consider; (3) to create a feeling of solidarity and support among the attendees; (4) to strengthen and create new professional relationships; and (5) to further establish the ISBA's commitment to diversity in the profession.

Generally, the DLC achieved its goals with an Event that was incredibly well attended and well received by the local professional community. The list of attendees included the leaders of various bar associations, as well as various ISBA leaders, including Paula Holderman, Richard Felice, Umberto Davi, and Vincent Cornelius (the then current President and Presidents Elect of the ISBA). The Event ultimately served as a community building exercise through which the attendees could rally around the cause of diversity, in all its forms.

B) How Can We Expect the Event to Grow and Improve in the Future

Although the DLC considered the Event

to be a success, there are plans to both improve and grow the Event. First, the DLC intends to hold the Event every year. Second, while the level of participation and discussion was good, the DLC wants it to be great. This includes encouraging more conversation among and between the attendees, particularly those attendees representing and reflecting different diversity perspectives. Finally, the DLC is seeking even greater ISBA involvement and participation—encouraging the leaders of the ISBA to come to future Events and presenting those leaders with an opportunity to confront and discuss the diversity issues which are important to the growth of the profession.

C) Sponsors and Participation

The Event would not have been possible without the contributions of sponsors who helped to cover the associated costs and expenses. Those sponsors are (listed in alphabetical order):

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The DLC would like to thank all of its sponsors and supporters, without whom the Event would not have been possible. ■

1. The DLC is composed of the leaders from the following ISBA sections and committees: Human Rights Section Council, International and Immigration Law Section Council, Diversity Pipeline Committee, Standing Committee on Women and the Law, Standing Committee on Racial and Ethnic Minorities and the Law, Standing Committee on Sexual Orientation and Gender Identity, and the Standing Committee on Disability Law.

DIVERSITY MATTERS

OFFICE

Illinois Bar Center
424 S. Second Street
Springfield, IL 62701

Phones: 217-525-1760 OR 800-252-8908
www.isba.org

CO-EDITORS

Sandra M. Blake
Mary F. Petruchius
E. Lynn Grayson

MANAGING EDITOR/ PRODUCTION

Katie Underwood
kunderwood@isba.org

DIVERSITY LEADERSHIP COUNCIL

Sandra M. Blake, Chair
John W. Moore, Vice Chair
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Ebony R. Huddleston, Ex-Officio

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Diversity Leadership Award

By Sandra M. Blake

The Diversity Leadership Award recognizes long-standing, continuing and exceptional commitment by an individual or an organization to the critical importance of diversity within the Illinois legal community, its judiciary and within the Illinois State Bar Association. Congratulations to the 2013 winner, Stacy Campbell-Viamontes and the 2014 winner, Annemarie Kill.

"Strong, professional, passionate and involved are all words that come to mind when I think of my friend, colleague and fellow Illinois State Bar Association member, Stacy Campbell-Viamontes. To say that Stacy Campbell-Viamontes is devoted to the legal profession and developing a diverse bar is an understatement," wrote Kristyn Dunn in her nomination of the 2013 Diversity Leadership Award winner.

"I had the good fortune of meeting Stacy during the first months of law school. It was then that I realized her strength in leadership and passion for diversity. Stacy quickly distinguished herself as a leader, was always well-prepared and never missed a class. During law school, she founded and served as the inaugural President of the Disability Law Organization at The John Marshall Law School—the first of its kind in the Chicago area.

"Stacy's dedication to this cause has never faltered.

"Since becoming a licensed attorney in Illinois, Stacy has worked tirelessly to identify issues of importance to the disabled, and took action to deal with those issues. Stacy was elected President of the Young Professionals Board of the Center for Disability and Elder Law (CDEL) in September 2012, and recently served on the Winter Benefit Committee which raised \$100,000 for that organization. CEDL provides pro bono legal services to low income residents of Cook County who are either elderly or who have permanent disabilities.

"Stacy is also a co-chair of the Committee on Lawyers with Disabilities for the Diversity Scholarship Foundation (DSF) and has participated as a panelist to assist Chicago architects in understanding and implementing the Americans with Disability Act guidelines that took effect in March 2012.

"Also in September 2012, Stacy was se-

lected to Just the Beginning Foundation's 20 Under 40 List. This exclusive list was created to recognize those in our legal community who are dedicated to 'reaching back and lifting up' to increase diversity in the legal community and the judiciary.

"She has made an effort to promote awareness of disability issues in our community, including, "The Time to Think About ADA Compliance is NOW!" published on HotellInteractive.com, July 2012 and "Are you Up to Date? ADA Standards for Accessible Design," a presentation designed for the American Institute of Architects (AIA) in Chicago, April 2012. Stacy presented on ADA issues at the AIA's fall 2013 event.

"Because of her passion to advocate for people with disabilities, Stacy and her husband, Dr. George F. Viamontes, coordinated with the DSF to establish the Disabled Law Student Scholarship Award (DLSSA). They asked guests at their October 2011 wedding to donate to the scholarship in lieu of traditional wedding gifts. After personally donating the money to fund the scholarship for the first two years, they have raised almost \$5,000 for the DLSSA to date. The inspiration behind the scholarship came from their desire to make a meaningful contribution in honor of their wedding day and stemmed from their love and respect for Stacy's father, who has a physical disability. The DLSSA will improve diversity within the legal profession by providing funds to disabled law students as they pursue a career in the legal profession.

"Stacy's commitment to diversity was recently acknowledged when she received the Outstanding Diversity Leader and Diversity Scholarship Foundation Partner Award from the DSF for her contributions to diversity in the legal field.

"In addition to expanding her diversity efforts in her first years of practice, Stacy also focused on honing her skills as a general litigation associate in the Chicago office of Hinshaw & Culbertson, LLP. Stacy handles a range of matters including personal injury cases and business litigation matters, and has experience defending cases at all stages of litigation from initial pleadings and discovery to trial preparation. She has participated in the 7th Circuit's Criminal Justice Act



Stacy Campbell-Viamontes (center), 2013 winner of the Diversity Leadership Award.



Annemarie Kill, winner of the 2014 Diversity Leadership Award.

program, traveling to visit her client in prison, drafting an appellate brief and reply, and advocating on behalf of her client in front of the 7th Circuit Court of Appeals.

"Stacy exudes enthusiasm for the law that comes across even when first meeting her, and I cannot applaud her enough for her commitment to diversity within the Illinois bar. It is without hesitation that I give Stacy Campbell-Viamontes my whole-hearted recommendation for the Diversity Leadership Award."

"The lawyers of the ISBA Standing Committee on Women and the Law proudly nominate Annemarie E. Kill for the Diversity Leadership Award. Annemarie is truly deserving of this award as she has made significant contributions to the advancement of diversity within the Illinois legal community, and more specifically within the ISBA. She has served as a member and chair of both the ISBA Diversity Leadership Council and Stand-

ing Committee on Women and the Law. She is a member of numerous organizations outside the ISBA which are committed to diversity. Annemarie is a leader in our profession and her commitment to diversity (based on gender, race, ethnicity, gender identity, and for other traditionally underserved groups) is unparalleled.

"Annemarie served the Diversity Leadership Council as its vice chair from 2009 to 2010 and chair from 2010 to 2011. From 2011 to 2012, she adeptly served as the Coordinator of Diversity Fellows. The ISBA Diversity Leadership Fellow program identifies diverse future leaders and provides them with the opportunity to find their niche within the ISBA, hopefully paving the way to future leadership roles.

"As the Coordinator of the Diversity Fellows, Annemarie led several efforts which improved the program and enhanced the positive experience for the Diversity Fellows. Under her leadership, the program instituted an initial orientation and reception for the Fellows. She was also instrumental in drafting a Fellows' handbook. During her term as coordinator, a second orientation and luncheon at the ISBA Midyear Meeting took place, during which the ISBA President and Vice Presidents addressed the Fellows. She also oversaw a revision of the Diversity Fellows' mentorship program, under which each Fellow is paired with an ISBA mentor. Mentors have served on the Diversity Leadership Council and have also held leadership roles within the ISBA. All of these improvements were aimed at improving the chances of success for the Diversity Fellows and, therefore, improving the diversity of the ISBA.

"Annemarie was a member of the Standing Committee on Women and the Law from 2000 to 2011. She served as its secretary from 2007 to 2008, vice chair from 2008 to 2009, and chair from 2009 to 2010. She was a positive role model for those on the committee through her spirit of leadership and inclusion. One of the missions of the Standing Committee on Women and the Law is to seek public recognition for the achievements of women lawyers. As committee chair, Annemarie spearheaded efforts to seek recognition for committee members through nominations for ISBA awards. In 2010, she was co-chair of the planning committee for the ISBA's "Celebrating Women in the Profession" luncheon.

"Annemarie has served on the ISBA CLE committee since 2009. In this capacity, she has served as CLE liaison to many diversity-

related committees and section councils, including the Human Rights Section Council, Disability Law Committee, and Sexual Orientation and Gender Identity Committee. Furthermore, she has coordinated numerous CLE events addressing the needs of women traditionally underserved in the justice system, including victims of domestic violence and human trafficking, and girls in the criminal justice system.

"Moreover, Annemarie has served on the ISBA Law and Leadership Institute (LLI) Committee. The LLI Committee is a statewide initiative to assist students from minority racial and ethnic groups which are underrepresented in the legal profession achieve academic success and aspire to career in the law.

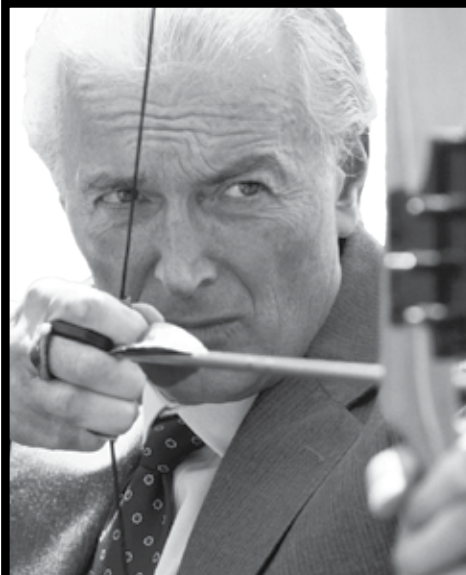
"Annemarie also gives generously of her time with other organizations serving historically disadvantaged groups. She has served on a Chicago Bar Association (CBA) and Women's Bar Association of Illinois (WBAI) Joint Task Force on Issues Affecting Women as they Age. In addition to her membership in the ISBA, CBA, and WBAI, Annemarie has been active in efforts to raise funds and awareness of issues in rebuilding Haiti and the Girl Scouts of America. She is a pro bono volunteer at the Cabrini Green Legal Aid Clinic and the Center for Disability and Elder Law in Chicago.

"A member of the Illinois Bar since 1995, Annemarie is a tireless advocate for social justice. She has been a member of the bar of the United States Supreme Court since 2005. Annemarie has prevailed in an employment discrimination case at the Seventh Circuit and successfully opposed the em-

ployer's Petition for Writ of Certiorari to the U.S. Supreme Court, despite the employer's powerful amicus, the International Municipal Lawyers' Association. This case garnered national attention; however, this is but a single example of Annemarie's commitment to social justice. She has authored numerous articles and book chapters and served as a guest speaker on numerous topics within her areas of expertise, including women's issues, civil unions, and grandparents raising grandchildren.

"Annemarie is, simply put, an outstanding lawyer, who gives selflessly of her time. She has been selected as one of the "Top 50 Women Lawyers" by Illinois Super Lawyer in 2011 and 2012. She has been selected as an Illinois Super Lawyer for seven of the last eight years. Annemarie has been an Illinois Leading Lawyer every year since 2010. In 2014, she was selected as one of the Best Lawyers in America in US News & World Report. She has been a member of the ISBA Assembly since 2008. Annemarie is a member of numerous organizations advancing the cause of diversity, as well as serving her law school and her profession. She is also a member of Mensa.

"Given Annemarie's significant achievements in advancing diversity, we know that she is extremely deserving of the Diversity Leadership Award. In fact, we cannot think of a more deserving nominee. She embodies the ideals, principles, and commitment to diversity which every attorney should strive to attain. We are proud to nominate Annemarie E. Kill for the 2014 Diversity Leadership Award." ■




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ISBA Standing Committee on Women and the Law 2013-14 report

By Mary F. Petruchius, 2013-14 Chair

2013-14 has been a busy year for the Standing Committee on Women and the Law (WATL).

The August 22, 2013 program and reception, **"30 Female Blackstones Gather in Chicago,"** was a huge success. This occasion honored the 30 women lawyers from across the country who congregated in Chicago in August of 1893 for the first-ever national meeting of women lawyers. It was inspiring to hear the panelists' stories of their personal journeys, complete with struggles and accomplishments.

At our annual meeting in June, Paula Holderman addressed the WATL members and set forth her plan and initiatives for the upcoming year. She asked the WATL to review the ABA's Gender Equity Toolkit to determine how we can apply it specifically to Illinois' and small to mid-sized firms. We formed a special Gender Equity Subcommittee to accomplish that goal. I am pleased to announce that on May 08, 2014, Paula and the WATL are presenting **"Because You're Worth It! Achieving Excellent Compensation & Advancement in the Legal Profession."** This program is the result of countless hours of dedicated hard work by this great subcommittee, whose members include Veronica Felton Armouti, Julie Neubauer, Emily Masalski, and Kristen Prinz.

The WATL was a proud co-sponsor of the wildly successful event at the Midyear Meeting at the Sheraton, **"Count Me In."** The DLC invited members from diverse bar associations across the state to be our guests to meet and network with one another over cocktails and delicious appetizers. The DLC hopes this will become an annual affair at the Midyear.

Angela Evans and the WATL CLE Subcommittee presented **"Bullying: Latest Trends, Developments and Legal Remedies"** in February, along with several other committees and section councils. Angela is currently working with Yolaine Dauphin to present an updated CLE on human trafficking that will be offered in the next year.

The WATL is continuing its tradition of producing award winners. Melissa Olivero is to receive the Northern Illinois University's Outstanding Alumni Award for the College of Law. Julie Neubauer, Emily Masalski and I will be attending the awards dinner to pay

tribute to Melissa on April 25. Tracy Douglas will receive the ISBA Young Lawyer of the Year for Downstate Illinois Award at the ISBA Awards Luncheon on June 20. This Committee will be in attendance to honor her, of course. The Committee has nominated several other individuals for numerous awards that have not yet been determined.

March 21, 2014 is a day that will live on in many WATL Committee members' memories for years to come. Our annual spring outreach program, entitled **"Myra Bradwell: The Practice of Law in the Wake of Her Legacy,"** was held at the Northern Illinois University College of Law. Rachel Morse from Jenner and Block presented a dramatic rendition of Myra Bradwell's struggle to be admitted to the Illinois bar. Using excerpts of actual court records and other historical documents and in period costume, Rachel brought Myra Bradwell to life. A discussion followed including this distinguished list of panelists: the Honorable Anne Burke, Joy Cunningham, Rita Garman, Shelvin Louise Marie Hall, Susan Hutchinson, Mary Jane Theis, and Diane Wood. Jennifer Gust from Hinshaw and Culbertson rounded off the panel as youngest and non-judge member. If anyone questioned what the phrase, "Rise Up and Reach Back" meant before that day, there was certainly no doubt in one's mind after seeing and listening to these magnificent women! After the program, attendees enjoyed a reception celebrating ourselves and honoring those who went before us!

Thanks to our great editors, the WATL newsletter, **The Catalyst**, continues to be published every other month featuring consistently outstanding articles by our member-authors. ■



The panel discussion included (seated, from left) Chief Judge Diane Wood, Illinois Supreme Court Chief Justice Rita Garman, moderator and ISBA President Paula H. Holderman; (standing, from left) Morse, event chair Mary Petruchius, Supreme Court Justice Mary Jane Theis, Hinshaw Partner Jennifer Gust, Appellate Justice Joy Cunningham, Appellate Justice Shelvin Hall, Supreme Court Justice Anne Burke and Appellate Justice Susan Hutchinson.

The Standing Committee on Racial and Ethnic Minorities and the Law

By Jameika Williams Mangum, The Mangum Law Firm, LLC

In March of 2014, the Standing Committee on Racial and Ethnic Minorities and the Law co-sponsored an event with the ISBA Standing Committee on Women and the Law and Northern Illinois University College of Law. The event offered a glimpse into the life of Myra Bradwell, a woman admitted to practice law in Illinois in 1890. Ms. Bradwell was previously denied admission based on gender.

Our committee is currently discussing Continuing Legal Education (CLE) and Website Video options that include current legislation and minorities. We have been approved for a program on the Voting Rights Act and current case law. We are also considering a future CLE or Website Video on human trafficking. In the Spring of 2015, the committee will plan a program relating to diversity and the practice of law. We are excited about our future endeavors. ■

Diversity and inclusion goes beyond the walls of Exelon's legal department

By Anthony Gay, Associate General Counsel, Exelon

Introduction

We've long known that having a diverse and inclusive workplace is necessary for success and good for business. A diverse and inclusive workforce makes companies more intelligent and innovative, and the legal profession is no exception. Diverse and inclusive law firms and legal departments attract and retain the best lawyers and legal professionals. They consider a broader range of options for their clients and, thereby, foster better solutions. Attorneys and legal professionals who can draw on their diverse backgrounds and experiences provide more informed legal advice. In addition, a diverse and inclusive team of lawyers and legal professionals is better able to communicate and relate to their clients and to the companies and communities they serve.

Exelon's legal department, and the company as a whole, operates in markets that are rich in diversity—of race, ethnicity, gender, sexual orientation, experience and thought. Accordingly, we understand that we must also be diverse and inclusive of all of our employees, our internal clients, and our outside legal service partners in order to succeed in these markets. Respecting the diverse characteristics of Exelon's employees, and creating an inclusive work environment, has led to improved service and a more engaged workforce and rewarding workplace. Beyond the walls of our department, we partner with those who share our diversity and inclusion goals, and seek to make a difference in the legal profession and in the communities we serve.

Exelon's Internal Diversity and Inclusion Initiatives

Our diversity and inclusion initiatives are led by our Diversity and Inclusion Committee, working in concert with Exelon's general counsel, Darryl Bradford, and the legal department's leadership. One of our primary initiatives is encouraging the recruitment, retention and development of diverse attorneys—both within the company and the outside law firms with which the company

partners to serve its internal clients.

We actively work to recruit diverse professionals to our legal teams by posting open positions with Exelon's diverse employee resource groups internally and with diverse organizations externally. Today, 37 percent of the legal department's lawyers are female and 22 percent are people of color. Women hold 34 percent of the legal department's leadership positions and minorities hold 22 percent of its leadership positions. Overall, 58 percent of the department's legal professionals are female, and 22 percent are people of color. While we are pleased with our progress, we also realize we must continue to work to maintain a high performing workforce that realizes the full benefits of maintaining a diverse team.

The legal Diversity and Inclusion Committee also promotes a culture of inclusion within the department and in Exelon as a whole. We do this by sponsoring strategic educational, pipeline and social events.

Educationally, the committee partners with employee groups within Exelon and with its law firms for diversity and inclusion seminars on topics such as implicit and gender bias, mentorship and sponsorship. Our pipeline programs include hosting diverse summer law clerks and providing the opportunity for diverse junior and mid-range law firm attorneys to work in our department on secondments. We also provide educational programs to high school students, both to serve as mentors and role models to diverse students and to inform them of, and prepare them for, employment opportunities in the energy industry.

Socially, the Committee sponsors free external learning events for employees. The most popular of these are our "Diversity & Dine" events, during which members have the opportunity to have a guided tour of, or attend an event at, cultural museums or organizations, followed by dinner at a restaurant featuring ethnic cuisine.

Exelon's External Diversity and Inclusion Initiatives

Exelon Legal's commitment to diversity

and inclusion does not stop with its employees, however. We also team with our law firms and community partners that share Exelon's dedication to these values.

With regard to law firms, Exelon has designed and implemented programs to encourage, measure and reward diversity and inclusion at the firms with which we work. In 2005, Exelon established the Awareness, Action and Assessment (AAA) program, a cutting-edge initiative to reward outside firms that embrace diversity and inclusion.

The AAA program incents firms to hire diverse attorneys and meaningfully engage them to lead the firms' work performed for Exelon. The program requires firms to track and report data on their diversity performance on an annual basis, including the amount of work performed by diverse attorneys on Exelon's legal matters. Exelon provides feedback to the firms, helping them to measure progress and set goals. And we reward high-performing firms with more work and recognize top performers through our annual Diversity Honor Roll.

The AAA program has led to significant improvements in the utilization of diverse attorneys by Exelon's outside law firms. It also has been recognized as one of the most aggressive and effective diversity programs in any corporate legal department.

We also make an effort to utilize outside law firms that are certified minority and women-owned business enterprises (MWBES). In 2010, Exelon joined several corporate legal departments in a joint effort with the National Association of Minority and Women-Owned Law Firms (NAMWOLF) known as the Inclusion Initiative, which committed to spend \$30 million collectively with MWBE firms. After exceeding its first-year goal by 42 percent, Exelon increased its goals, and continues to be an active Inclusion Initiative supporter and participant.

Of course, these efforts would not be worthwhile without tangible results, and the Diversity and Inclusion Committee helps to keep our legal team accountable for retaining diverse legal counsel and law firms by tracking the department's diverse spend

and providing the legal team with quarterly updates on performance against these goals.

Exelon's Pro Bono Initiatives

A discussion of Exelon's commitment to the diverse communities we serve would not be complete without mentioning its pro bono efforts, by which the legal department works to provide legal services to those who cannot afford them. Since 2002, our legal professionals have worked on projects that help homeless individuals get birth certificates, teach students about the legal profession, help first-responders and the elderly to

draft end-of-life documents, and aid refugees seeking lawful permanent residence in the United States. In recognition of these efforts, in 2013 Exelon's legal department won the American Bar Association's Pro Bono Publico Award for outstanding volunteer legal services, becoming the first in-house legal department to win the award in over a decade. At Exelon, promoting diversity and inclusion is also about public service in the many communities where we provide energy.

Conclusion

Practicing and promoting diversity and

inclusion is critical to Exelon's legal department. Indeed, to us, the business case for diversity and inclusion is clear.

Being diverse and inclusive broadens our perspective, which increases the range of legal solutions we can provide to our clients. It creates a high performing and engaged employee and leadership pipeline, both within Exelon and with our legal service partners. It enables us to better and more credibly serve our clients and our communities, and it challenges us to learn, grow, adapt and advance.

This is what we do internally, and what we seek to inspire beyond our walls with those who share our goals. ■

Technology fosters diversity and inclusiveness in the legal profession

By Jayne R. Reardon, Executive Director, Illinois Supreme Court Commission on Professionalism

The legal profession is currently under siege by stressors challenging the paradigm of success that has been the touchstone of lawyers for generations. Technology is a major change agent disrupting the status quo. It also is putting a spotlight on diversity and inclusion in the legal profession.

I personally prefer the word inclusion rather than diversity. The difference between diversity and inclusion is the difference between being invited to the dinner party and being allowed to eat at the table—and even participate in after-dinner drinks. We may have achieved diverse representation of women and minorities in law schools and at the early stages of legal careers, but we know that representation at the top of organizations does not include women and minorities in a proportion relative to the general population.

Technology offers a unique opportunity for diverse lawyers to be more meaningfully included—and to compete with traditional powerhouses. Now everyone who has an internet connection has access to developments in the law and the world in real time. This means that solo and small practitioners—the majority of Illinois lawyers—have an opportunity to gain expertise and access resources to serve clients that previously were the province only of those in large

firms.

Because information is freely available, those who are creative, skilled in analyzing, and able to synthesize and apply legal principles in new ways to help clients, will be successful. In contrast, those who have profited not by responding to clients' needs but by leveraging their positions of power may be left out of the game. We are returning to a profession marked by lawyers creatively, effectively and efficiently demystifying the law and problem-solving for our clients. This may level the playing field for all lawyers, including diverse ones. Good ideas come from all directions.

I really appreciate this change in reflecting back at my years recruiting for law firms. The informal but pervasive touchstone in recruiting new lawyers then was: "Who would you not mind being stuck in an elevator with?" or "going on an out of town business trip with?" Choosing new associates by this method may lead to a cohesive and comfortable work environment. It also leads to like-minded candidates being hired. It does not lead to diversity of thought, to garnering different perspectives, to understanding our clients' needs or to crafting innovative solutions to address their problems.

Moreover, the very foundational basis of our government being by the people for the people is shaken when only some of the

people are included. Those members of the public looking at the legal and judicial systems from the outside may not trust that the system is fair and impartial.

Recognizing that a lack of diversity undermines the core values of our profession, the Supreme Court defined the purpose of the Commission on Professionalism (in Supreme Court Rule 799(a)) as including "foster[ing] commitment to the elimination of bias and divisiveness within the legal and judicial systems." To help in this large mission, one of the tools the Court provided was to very broadly define the professional responsibility CLE requirement (in Rule 794(d)) as including diversity issues. The Commission collaborates with interested individuals and organizations on programs and initiatives. We also encourage interactive diversity programs that explore methods to eliminate bias and divisiveness—in other words, to increase inclusion.

The hope is that increased opportunities for women and minorities are coming along with the new approaches—and apps—that are daily changing the way lawyers work. If so, we will revitalize our profession, earn greater trust from the public, and strengthen our communities and society. ■

This article was originally published in the Kane County Bar Association's *Bar Briefs* April 2014 Diversity Issue.

I Am Malala by Malala Yousafzai with Christina Lamb

Reviewed by Sandra Blake

Little, Brown and Company/New York, 2013

Jesus. Mohammed. Napoleon. Generations worldwide know them by their first names, alone.

Today that recognition belongs to rock stars and athletes—Cher, Madonna, Beyonce, Pele—and one amazing young woman who has not yet reached adulthood. Malala.

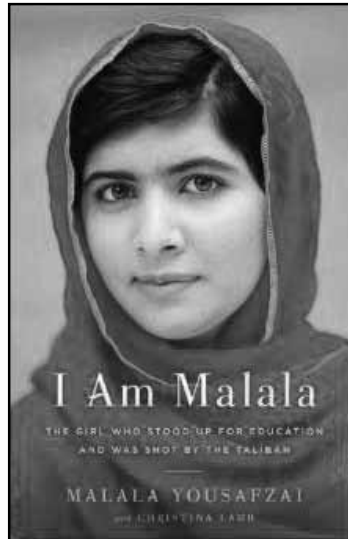
I Am Malala, as detailed in the subtitle, is the story of “the girl who stood up for education and was shot by the Taliban.” The book is much more than an autobiography. It is an introduction to Malala herself, her family and her community. It is a glimpse into her Pashtun culture, and a religious and political history of the Swat Valley in Pakistan.

The Swat Valley, according to the author, is the “most beautiful place in all the world... a heavenly kingdom of mountains, gushing waterfalls and crystal-clear lakes.” In fact, Swat is often called the Switzerland of the East. In ancient times, Buddhist kings ruled the valley for more than 500 years, followed by a period of Hindu rule. Islam was introduced to the Swat Valley in the eleventh century. Today the population is predominantly Muslim.

A princely state until it was dissolved, Swat is populated almost entirely by ethnic Pashtun, tribes which, since 1023 A.D., include the Yousafzais, from which Malala takes her surname. The author notes that some people believe the Pashtuns descend from one of the lost tribes of Israel, and throughout the book, she instructs on the Pashtun culture and code of conduct.

Hospitality is an important part of their culture, but Pashtuns rarely say thank you, *manana*. A Pashtun will never forget a good deed and is bound to reciprocate at some point. In Pashtun culture, kindness can only be repaid with kindness. It can't be repaid with expressions like “thank you.” The same applies to bad deeds, which a Pashtun will never forgive. According to a Pashtun saying, “The Pashtun took revenge after twenty years and another said it was taken too soon.” From beginning to end, the pages are peppered with the phrase, “Pashtuns are...” and “we Pashtuns...”

Although acknowledging pride in her culture, Malala takes issue with the treatment of women, citing some specific examples. She tells of one 10-year-old



whose father sold her to an old man who already had a wife but wanted a younger one, and of a 15-year-old girl who was poisoned by her family for flirting with a boy. She writes about a custom called *swara*, where a girl is given from one tribe to another to settle a feud. The custom is still practiced despite being banned. Without seeking her family's permission, a widow from Malala's village married a widower from another clan with which her family was feuding, compounding the dispute. Village elders gathered and resolved the issue by requiring the widower's family to marry their most beautiful girl to the least eligible man of the widow's family.

Malala writes that the birth of a daughter is not a reason to celebrate for most Pashtuns, but she was born “at dawn as the last star blinked out,” a good omen for a superstitious people. Her father named her Malala for “Malalai of Maiwand, the greatest heroine of Afghanistan ... who inspired the Afghan army to defeat the British in 1880 in one of the biggest battles of the Second Anglo-Afghan War.” Malalai is recognized as a Pashtun Joan of Arc. Malala's mother could neither read nor write for most of her life. Malala's father was a school owner and encouraged his daughter and other young girls to pursue education. In the face of cultural and political opposition, Malala accepted his challenge.

A superior student, Malala competed for and won numerous academic honors. While the Taliban tried to prevent women from attending school, Malala and her father spoke out in favor of education for girls. At the age of 12, Malala was fluent in Pashto, Urdu and

English. Malala joined her father and participated in a *New York Times* documentary called *Class Dismissed in Swat Valley*.

Some two years later, Malala was one of five nominees for the international peace prize of KidsRights, an Amsterdam-based advocacy group. Her name was advanced by Archbishop Desmond Tutu. She was also awarded Pakistan's first-ever National Peace Prize, re-named the Malala Prize in her honor. She dedicated prize money to the fight for education. The recognition concerned both her parents. Malala's father considered it a bad omen, because Pakistanis generally do not honor the living in this way. Malala's mother was concerned that the recognition endangered her daughter's safety.

Malala garnered an international profile and attracted Taliban death threats. Even knowing she was a target, Malala continued speaking publicly for education and attending school herself. She reminded her father that he had always said that “heroism is in the Pashtun DNA.” On October 9, 2012, Malala says her world changed. A masked Taliban gunman shot Malala in the face at point-blank range. The result of that action was anything but what the terrorist intended. The Taliban made her campaign for education global.

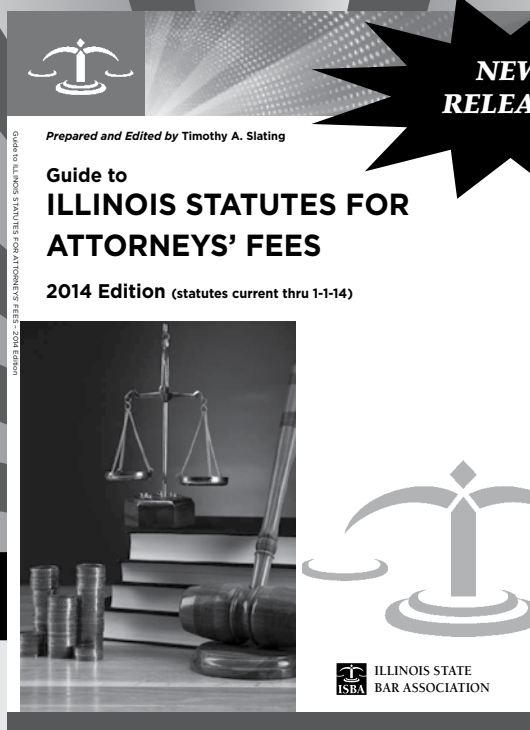
One of the doctors who treated Malala after her injury referred to her patient as Pakistan's Mother Teresa. Political leaders recognized Malala as the daughter of the nation. A United Nations envoy launched an “I Am Malala” campaign so that no child would be denied school by the year 2015. On her 16th birthday, Malala addressed the United Nations, advocating for the right of free education for every child, a right she maintains is guaranteed by Islam, as well.

She concludes her story: “I love my God. I thank my Allah. I talk to him all day. He is the greatest. By giving me this height to reach people, he has also given me great responsibilities. Peace in every home, every street, every village, every country—this is my dream. Education for every boy and every girl in the world. To sit down on a chair and read my books with all my friends at school is my right. To see each and every human being with a smile of happiness is my wish.

“I am Malala. My world has changed but I have not.”

This profile in courage is a must-read. ■

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Illinois has a history of
some pretty good lawyers.
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Girls' empowerment groups: Shaping the next generation of female leaders

By Mary F. Petruchius

"Gender equality and women's empowerment are fundamental to ... achieve equal rights and dignity for all. This is a matter of basic human rights."

—U.N. Secretary-General
Ban Ki-moon.

It's not easy for girls coming of age in today's media-saturated world to develop a healthy sense of self-worth, self-respect, and purpose as they prepare for their futures. In order to emerge from their teen years as strong, happy, and confident young women, girls must learn to successfully navigate peer pressure and negative messages about girlhood and womanhood. These influences have the potential to negatively impact their self-esteem, identity development, health behaviors and ability to make positive life decisions.

Girls' empowerment programs can substantially undercut delinquency and victimization of girls. These programs identify the risk factors associated with female adolescent problem behaviors, such as failure to complete high school, teen pregnancy and parenting, low self esteem and prior victimization, to help prevent girls from entering the juvenile justice system. Once involved in the juvenile justice system, girl offenders can be rehabilitated with a curriculum that focuses on developing girls' bonding, goal-setting skills, self-esteem, mental health, attachment to school, violence prevention, issues with authority and substance abuse prevention using such community-based programs, rather than the more intensive and restrictive institutional facilities.

Girls who are empowered with the information taught in these groups are equipped with tools and information to make positive choices and educated decisions regarding their lives. Such groups encourage the development of critical thinking skills and academic achievement, thus discouraging delinquent behavior.

Empowering Our Girlz (EOG) is a not-for-profit mentoring organization based in Chicago that serves as resource and network of support for girls ages 10-18. The organization's goal is to empower young girls with

their own potential to be leaders in their lives as well as in their communities. **EOG's** core program provides a series of seminars lead by various community leaders with a goal to boost participants' physical and social health. **EOG's** vision is to assist girls with goal setting and ultimately achieving a higher level of success when it comes to graduating from high school. **The E.O.G. Creed is:**

E-Everything around me deserves respect and will receive it starting with above all myself.

O-Obstacles are the struggles that will build my strength and see me threw to success.

G-Greatness is what I have and great is who I AM

If you would like to learn more about **Empowering Our Girlz**, you may like them on Facebook, follow them on Twitter or call 773.305.7588.

Cultured Pearls Empowerment Group for Girls, founded in 2011, has provided many services for young girls, ages 10-17 in the Chicago-land area. The participants are paired with professional business women who serve as mentors and advocates. They participate in character building series and workshops and give back to their community through community service, including volunteering at shelters, reading to children at the library and quilt-making for expectant teen mothers.

The **Cultured Pearls** Web site states the following:

We believe that empowerment originates from education. We are grounded in love and free from judgment, with the understanding that everyone has the ability to teach. We are committed to our community; our immediate community and beyond. We are committed to helping others. We are committed to renewing the spirit of our own. We use the media and the world around us as teachable moments in order to show our youth that the world that they wish to live in already exists, but is yet to be seen because it takes action and work. Every

person on the staff (including mentors) of Cultured Pearls Empowerment Group for Girls has a story that needs to be told. We identify with our participants because we have lived through various circumstances and situations, we have all "beat the odds" in some kind of way and we all understand that we are where we are in life in order to help others.

We believe that we will be influential in reversing the statistics that apply to our young minority girls, one life at a time. We are "cultivating our girls for greatness" with bi-monthly meetings that focus on self esteem, health and wellness, higher education, and etiquette, with a foundation of service to our immediate community and those abroad.

The De Kalb County Youth Services Bureau's **Girls Empowerment Group (GEP)** encourages girls to seek and celebrate their "true selves" by giving them a safe space, encouragement, structure and support to embrace their important journey of self discovery. A strength-based approach helps girls identify and apply their power and voice as individuals and as a group focusing on issues that are important in the lives of adolescent girls. Topics include learning about self, connecting with others, exploring healthy living and planning for the future. The aim of the program is to provide education and supportive counseling geared toward the specific needs of adolescent girls.

Winnebago, De Kalb and McHenry Counties have joined "Girls on the Run of Northwest Illinois," a national organization that promotes healthy eating and body image for young girls from 3rd through 8th grade, as well as teaching about cooperation. The program combines training for a 5K running event with healthy living education. It instills self-esteem through health education, life skills development, mentoring relationships, and physical training, which are accomplished through an active collaboration with the girls and their parents, schools, volunteers, staff, and the community. Girls on the Run's mission is to..."inspire girls to

be joyful, healthy, and confident using a fun, experience-based curriculum that creatively integrates running."

During the 10-week program, girls learn a different lesson about topics such as self-respect, positive self-talk, healthy eating, body image, peer pressure, and bullying. Activity and team building are constant themes of Girls on the Run. The program's motto is, "Preparing girls for a lifetime of self-respect and healthy living." For more information about forming a **Girls on the Run** program in your community, please call **815.893.0259**.

In McHenry County, Spring Grove has a girls' empowerment group for 6th, 7th, and 8th graders. This program provides a small group experience and it assists girls in strengthening their personal self development through discussion and self-awareness activities. By focusing on self-esteem, personal expression, and self respect, girls gain confidence and tap into their unique potential.

Girl Talk is an Atlanta, Georgia-based international non-profit peer-to-peer mentoring program in which high school girls mentor middle school girls to help them deal with the issues they face during their

formative early teenage years. Its mission is to help teen girls build self-esteem, develop leadership skills and recognize the value of community service. Since 2002, **Girl Talk** has served more than 40,000 girls in 43 states and 7 countries.

Through weekly chapter meetings facilitated by high school **Girl Talk** leaders, **Girl Talk** helps middle school girls learn from their peer mentors and better understand and address the issues they face. The girls develop confidence, leadership skills and compassion. **Girl Talk** provides the curriculum of life lessons used to facilitate the discussions at no charge. For more information on Girl Talk, go to its Web site, www.mygirltalk.org.

The Internet is full of websites that reach out to girls around the world to inspire and empower them. I urge the reader to check out www.sheheroes.org, which lists its following Top 10 Websites that are helping to empower girls: 7Wonderlicious; Girls Can't What?; GirlTalk (mentioned above); Targeting Teens; Educating Girls Matters; L'Oreal USA for Women in Science; Hardy Girls, Healthy Women; New Moon Girls, and Girls, Inc.

What can we do? For starters, we can ad-

vocate for laws and policies that will protect girls and promote girls empowerment. By closely scrutinizing the media, we can be aware of how race, gender roles, and stereotypes shape television programs, video games, books, music videos, cartoons, blogs, and Web sites. We can make sure that we consciously purchase products and support organizations that stress inclusion and convey positive messages about women. We can also commit to volunteering to mentor a girl or young woman and/or become directly involved in one of the many programs mentioned in this article or find one of our own online.

If young women grow up instilled with positive perceptions of themselves and informed in their choices, they can be the role models for future generations! ■

Mary F. Petruchius is a solo general practitioner in Sycamore, IL. She is the incoming 2013-2014 Chair of the Standing Committee on Women & the Law. Mary is also the CLE Coordinator for the Diversity Leadership Council and a member of the Child Law Section Council for 2013-2014. She can be reached at marypet@petruchiuslaw.com and her website is www.petruchiuslaw.com.

Human trafficking of children

By Dixie Lee Peterson

Recognizing the serious problem caused by the human trafficking of children, the General Assembly amended the Abused and Neglected Child Reporting Act to include human trafficking as abuse. The General Assembly also amended the definition of "person responsible for the child's welfare" to include the custodian of a child who commits or allows to be committed against the child "the offense of involuntary servitude, involuntary sexual servitude of a minor, or trafficking in persons for forced labor or services, as provided in Section 10-9 of the Criminal Code of 2012." 325 ILCS 5/3.

Thereafter, the Department of Children and Family Services amended its Rules and Procedures to mirror the statutory definitions as well as to add two new human trafficking allegations in Rule 300 Appendix B, Child Abuse and Neglect Allegations 40 and 90.

In FY 12 the Department's hot line received 72 calls of physical abuse of human trafficking of children of which 12 were indicated. The hot line received 31 calls of blatant disregard of human trafficking of children of which 2 were indicated.

In the Department's efforts to guard the State's youth from the dangers of human trafficking, the Department has a human trafficking coordinator who is responsible for collaborating with the FBI, local Sheriffs, law enforcement, the Cook County Public Guardian and University researchers. ■



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“Defamation”: A synopsis of the Kane County Bar Association’s Diversity Committee CLE Seminar

By Divya Sarang, Assistant States Attorney in Kane County and Priti Nemani, Argento & Battista, LLC

On October 17, 2013, the Kane County Bar Association’s Diversity Committee presented an Ethics CLE Seminar to KCBA members in a unique fashion through the performance of a live play.

The play *Defamation* is a riveting courtroom drama written by Todd Logan and directed by Richard Shavzin. Professional actors illuminate the way in which questions of race, religion, and class collide during a civil trial of a defamation suit brought by an African American plaintiff Ms. Regina Wade, a legal graphic designer from the south side of Chicago, against Mr. Arthur Golden, a wealthy Jewish realtor residing in upscale Winnetka.

The attendees were welcomed to the seminar by Kane County State’s Attorney Joseph H. McMahon. Following the welcome, Kane County Chief Judge Judy Brawka spoke about the importance of diversity to the legal profession in Kane County. Judge Brawka then introduced Justice Reyes of the First District of the Illinois Appellate Courts. Justice Reyes discussed the implementation of diversity and the obligation of the American justice system, as an exemplar of democracy, to illustrate a commitment to diversity.

Following Justice Reyes’s remarks, the audience was prepared by the performance troupe for the play. The plaintiff, Regina Wade is the owner of a legal graphics business in Chicago and is working to find new clients in a failing economy. Ms. Wade’s friend, Lorraine Jordan, also an African-American, is a lawyer at a large downtown law firm. Ms. Jordan introduces Ms. Wade to Arthur Golden, a real estate developer from Winnetka so that Ms. Wade can assist Mr. Golden with some pro bono graphic design for an upcoming meeting. Ms. Jordan had hoped that this introduction could lead to additional business for Ms. Wade in the future.

Through a series of direct and cross examinations of Ms. Wade, Mr. Golden, and Ms. Jordan, the attorneys for the plaintiff and the defendant manage to portray entirely different recollections of the meeting between Mr. Golden and Ms. Wade. The audience acts as the jury and watches closely as each side attempts to illustrate their side of the story.

The crux of the lawsuit brought by Ms. Wade against Mr. Golden arises out of a meeting between the parties at Mr. Golden’s home in Winnetka. After the meeting ends, and as Ms. Wade is leaving Mr. Golden’s house, she is accused by Mr. Golden of stealing his heirloom watch. This accusation ultimately leads to Ms. Wade losing the business of Ms. Jordan’s law firm, who was Ms. Wade’s biggest client. Ms. Wade brings a defamation suit against Mr. Golden for his repeated accusation that Ms. Wade stole his watch during the course of their business meeting, which she alleged caused her to lose the business of Ms. Jordan’s law firm.

Mr. Golden’s attorney is played by an African American woman, and Ms. Wade’s attorney is played by a Caucasian male. The dialogues between the characters are gripping and beautifully realized. Through the entire performance all the actors masterfully bring the characters to life and keeping the audience involved and on their toes.

Upon conclusion of the trial and of the play, audience members were polled by table to render a verdict in the civil suit. Many attendees struggled as they were forced to make a decision. *Defamation* playwright Todd Logan said he wrote this play to inspire a civil discourse, stating that “Whether we like it or not, we still have major divides in this country. Most of us still go to bed at night in cities, communities and neighborhoods that are segregated by race, religion, ethnicity and class.”

At the end of the play, attorneys Tim Reuland and Gary Johnson skillfully led and moderated a discussion with the audience consisting of over 100 attorneys. The audience was forthcoming, engaged and candid about why they would find for the plaintiff or the defendant and whether race, religion, gender or socio-economic status affected their judgment one way or the other.

The attendees also received an update in case law relating to civil rights and discrimination from Jennifer Soule and Kelly Lambert, including an interesting discussion about the recent decisions from the Supreme Court.

In sum, the seminar became more than a mere CLE. It provided KCBA members with

the opportunity to think and dialogue about some of the more difficult, unspoken issues that each of us confront as we engage in the practice of law. The Diversity Committee thanks all of the seminar attendees, speakers, and sponsors for their avid support of this event. ■

This article was originally published in the Kane County Bar Association’s *Bar Briefs* April 2014 Diversity Issue.

Divya Sarang is an Assistant State’s Attorney in Kane County. She has served in that position since 1993. In addition to her trial practice she serves as the Diversity Coordinator for the office and is responsible for administering professional development and training for the office. Divya also has a LL.B from India where she practiced law from 1983-85. She currently serves as the Chairperson for the Diversity Committee of the Kane County Bar Association.

Priti Nemani is an associate attorney with Argento & Battista, LLC where she concentrates her practice in the areas of residential and commercial real estate transactions, estate planning, and probate and guardianship matters.



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Law firm diversity: The new standard of workplace excellence

By Edward N. Druck and Michael J. Hernandez, Franczek Radelet, P.C.

What is Diversity?

Diversity means different things to different people. For the purposes of this article, when we use the term diversity, we are not just talking about hiring minorities or women. Nor are we talking about affirmative action. Rather, when we now speak of “diversity,” we really mean “inclusion.” Our Firm defines diversity as follows: “Diversity at Franczek Radelet P.C. means inclusion of employees of different race, sex, sexual orientation, gender identity/expression, religion, cultural and ethnic background, ability, nationality and other unique attributes that do not interfere with effective job performance and superior client service.”

By no means is ours the only way a diversity policy can be written, but we believe it reflects the latest trends in this area. For example, the policy specifically includes lesbian, gay, bisexual and transgender (LGBT) employees and part of our diversity commitment involves fostering an environment in which LGBT employees have the opportunity to thrive. We fully support those who wish to self-identify. But we also respect those who wish to uphold their right to privacy and we are committed to maintain confidentiality.

Our definition, moreover, incorporates both universal concepts of diversity along with principles relevant to our particular culture and practice. The latter point is often bypassed by many institutions, simply adopting canned marketing products. It is important not to overlook this step so that your diversity initiative is consistent with your business and your own culture.

As you might imagine, our policy did not start this way. It evolved over the years. Like with any good policy, a diversity policy and its components should be revisited periodically and updated. Further, diversity can, and should, be considered a standard of workplace excellence. As with any application of workplace excellence, best practices are evolving. Sometimes when viewed in this business practice context, the ever-evolving nature of diversity can be more easily understood by all employees.

Why Diversity Matters

While the business case for diversity can clearly be made, and will be discussed below,

the more important reason to adopt a diversity and inclusion initiative is because it is simply the right thing to do. Fairness, respect, equal access and opportunity are fundamental principles to the legal profession. So it should not be a stretch for lawyers to utilize those principals in their own workplace. We must lead by example. But how? There is no one size fits all. This article describes what one medium-sized firm has done, and provides suggestions about how others might benefit from undertaking similar initiatives. Certainly firm size, resources, and location can play a role in what type of diversity initiative you can undertake. And the results from any undertaking initially may be disappointing, or may not even be quantifiable. But that should not be an excuse for inaction; as that is the only true failure. So don't be afraid to take the plunge.

The Business Case for Diversity

A concept often used as a justification for diversity initiatives is the “Business Case for Diversity.” The Business Case for Diversity is how such an initiative or program will help the bottom line of a company of firm.

For example, demographics have and are changing the clients (businesses or individuals) we serve. Clients are looking for attorneys who speak their language, or understand the cultural or gender idiosyncrasies of their business. Some clients believe a firm with diverse experiences and perspectives is advantageous.

More pointed, many of the clients you serve—corporations (for and not-for-profit) or government—increasingly serve more diverse populations themselves. And they want their vendors to reflect their client base. Although firms might not be asked to exactly mirror their client's demographic make-up, they will need to show they are making efforts. And in order to do so, they will need to know what diversity looks like in the legal market place.

In fact some clients are demanding reports on diversity efforts. Many major corporations want reports from their law firms on their effort to increase diversity. Some are specific; seeking a report on diverse attorneys assigned to individual matters, firm diversity make-up, and diversity in firm leadership po-

sitions. Some government agencies request information on diversity efforts in their RFP process for legal work. This is a trend we see continuing to expand and trickle down to smaller companies and businesses.

Practitioners must understand that diversity can be defined in many ways. We must be ready to respond to these inquiries, or lose in the race for business, indeed not even get in the door. The issue of diversity in firm leadership marks one of the newest trends in the evolution of diversity and inclusion. Not only is the market demanding a diverse workforce, it is demanding that everyone has an opportunity for inclusion at every level of the business, especially diversity in leadership. *DiversityInc.* magazine, an excellent diversity resource periodical, dedicated much of its Early Fall Edition 2012 to the concept of talent development programs, the next level on the continuum of inclusion efforts.

Another example recognizing the significance diversity plays in the legal profession is when, in 2009, a group of CEOs from a number of national corporations, in conjunction with the Chicago Bar Association, formed the Institute for Inclusion in the Legal Profession (IILP). Its board of directors includes representatives from Phillip Morris International Inc., HSBC North America Holdings Inc., Office Depot and State Farm Insurance Companies, among other notable companies and legal institutions. See <http://www.theiilp.com/board>. IILP states: “IILP takes a real-world, common-sense approach that aims to acknowledge, understand, and address the reality of diversity in today's legal profession.” See <http://www.theiilp.com/about>. IILP serves as a great resource for law firms in their efforts to achieve best practices in legal diversity.

Getting Started

Even small steps matter. From simply expanding your list of vendors and service providers to include diverse business, to disseminating information about certain groups' commemorative days and observances, these measures provide positive momentum upon which you can continue to build. Perhaps the most important initial step is to get buy-in from everyone in your organization: partners, associates, and staff.

Educate and train everyone. As noted above, there are many civic and professional groups who would be more than happy to discuss their particular roles and the challenges that their members or group face. Just because you may not be able to have a broad based diversity and inclusion program is no reason not to have one at all. Make yours as comprehensive as you can.

The efforts at Franczek Radelet began with the adoption of our Firm Diversity Policy, now entitled Diversity and Inclusion Policy. See <<http://www.franczek.com/diversity.html>>. Law firm, government and corporate diversity policies are readily available online and it is recommended you review various policies to find one that you can model your own after and which fits your firm's or office's culture and objectives. Once a draft policy is prepared, management should meet to ensure that buy-in at the highest levels is confirmed. The draft policy should be shared with staff for their input as well. Once the policy is agreed upon, a point person or committee should be tasked with its implementation.

Although a point person for the initiative is recommended, the appointment of a firm diversity officer is not essential for smaller firms. For informational purposes, Franczek Radelet determined in 2006 to appoint a Firm Diversity Officer. Our Firm's Diversity Officer was charged with, inter alia, community outreach and research on best practices; efforts to enhance recruitment, retention and advancement; and diversity and inclusion training among all employees. We later determined that the issue was too significant and would benefit from additional input and guidance. So we appointed a committee, headed by our Diversity Officer, to lead our program.

As noted above, our policy at Franczek Radelet has our diversity definition along with statements of principles and how we achieve diversity. In total this represents our Diversity Initiative foundation. How our firm addresses and achieves diversity can be a road map for your program too. Here is how we defined that process.

How We Achieve Diversity and Inclusion

Maintaining and expanding the diversity of the Firm's attorneys and staff is a central tenet of this Policy and will be achieved through:

- **Training and compliance**—Regularly communicating this policy and its underlying rationale and values to all shareholders and employees; Full compliance is a condition of employment by the Firm;
- **Recruitment**—Actively recruiting from a diverse attorney and staff pool;
- **Retention**—Maintaining an effective orientation program and mentoring practices for all new attorneys and staff;
- **Work Assignment**—Ensuring that all attorneys and staff receive challenging work assignments and that all attorneys receive client exposure opportunities consistent with their demonstrated skill and ability; and
- **Firm Leadership**—Seeking to include a diverse group in Firm leadership and management.

Each part above is important to our program. What follows is a discussion of some of the particulars of how we implemented these concepts.

Recruitment

A key item in any diversity initiative should be the recruitment of qualified diverse individuals. We are fortunate to have one of the premier job fairs for diverse candidates right in our own backyard. It is coordinated by the Cook County Bar Association ("CCBA") - the largest African American Bar Association in Illinois, and one of the oldest in the country, being founded in 1920. Its founding members C. Francis Stradford, Wendell E. Green, and Jesse N. Baker were also among the founding members of the National Bar Association, America's leading National African American Bar Association. Of course, CCBA is not the only African American Bar Association in Illinois, the Black Women Lawyers' Association of Illinois is another well-respected organization serving minority women lawyers. CCBA's job fair, however, is the gold standard for attracting diverse candidates. This year's job fair will be held at the Embassy Suites in Chicago on August 8, 2014 and registration for employers begins in the Spring. See <http://ccbaminorityjobfair.org/>. Diverse candidates from all over the country attend this event. Though smaller in size, local law

schools also hold similar job fairs.

Another way to recruit diverse individuals is to advertise in the various affinity groups' magazines and support these organizations by sponsoring or attending their events. Our Firm has supported many diverse groups for a number of years and has been able to make contacts to call upon when we do have hiring needs (or simply have questions).

While these recruiting measures are part of our diversity initiative, we found they did not, by themselves, consistently provide us with a qualified pool of diverse candidates. The reasons for this are varied; sometimes it was simply a matter of timing, other times it may have been too many competing firms for too few candidates, or because our practice is limited to labor and employment and education law our needs did not match the interests or experiences of the available candidates. But whatever the reason, we looked for other ways to find talented people. So in 2011, we came up with what we believed to be a creative and exciting pipeline program we call LEADS. LEADS stands for Legal Education for the Advancement of Diversity and Scholarship. We feel this fellowship program to be unique in terms of its focus and structure.

The LEADS eight-week summer program is designed for diverse first and second year law students with an interest in pursuing a legal career in private practice representing employers in labor and employment matters. This is a group of candidates historically underrepresented in this practice area. The goal of the program is to provide concentrated labor and employment legal experience while developing a pipeline of highly qualified, diverse candidates for future employment in the legal profession.

The LEADS curriculum is comprised of six specific learning and experience modules aimed at exposing the Fellows to the core elements of our firm's labor and employment practice. Each module includes different substantive activities, such as attending or participating in an arbitration or negotiation for the Collective Bargaining/Grievance Procedures module, completing a substantive assignment in that particular sub-specialty, and collaborating with the other Fellows on a presentation for all Franczek Radelet attorneys. Additionally, to convey our Firm's culture, each module is supported by a team of lawyers (partners and associates) who serve as a resource to the Fellows and provide

more detail about the nature of our practice in that module topic. Furthermore, we have successfully partnered with some of our clients to assist us in providing experiences at the clients' places of business which allows our LEADS Fellows to gain a unique perspective on what clients need and seek in terms of legal services.

While this kind of program may not be right for your firms or practices, the point is to inspire lawyers and firms to come up with their own ways to meet and recruit qualified diverse candidates if existing avenues are not sufficient or successful for you.

Retention

Once you have your diverse talent bases, you have to be able to retain them. This often proves as, if not more, difficult than recruiting the employee in the first place. For this purpose our Firm developed another (and complementary program to LEADS) called LAUNCH. LAUNCH picks up where LEADS left off. It bridges the gap between our standard new employee orientation efforts and the work undertaken by our Associate-Paralegal Development Committee by ensuring that all new lawyers in their first year of practice

receive the assistance they need for development including mentoring, general practice and professional skills, and training in a cross-section of focused legal subject matter.

Resources

While the dual purposes of this article is to help make the case for diversity in law firms and to be a resource as you contemplate your own diversity initiative, there are a wealth of other resources to consider (several of which we have already mentioned). Many of the affinity bar associations have collected numerous written resources in addition to publishing their own articles. Other organizations such as the Institute for Inclusion, Equality Illinois (focusing on LGBT issues) <<http://www.equalityillinois.us>>, the Illinois Hispanic Lawyers Association of Illinois <<http://www.hlai.org>> and the Indian-American Bar Association of Illinois <<http://iabachicago.org>> hold events and seminars that discuss the latest diversity developments and trends.

Results

But what has diversity done for us lately? Has it improved us as a firm? As people? We think it has. In terms of economics, having di-

verse attorneys has allowed the firm greater access to communities and individuals who eventually became clients that we would not otherwise have been able market our services to. In particular, the growing legal needs of the Latino business communities have been a particular focus of some of us who have ties to those communities. And it has enhanced our reputation. Perhaps less quantifiable but no less important is that diversity has allowed us to deliver higher quality legal services to our clients and function better as a business by bringing together different experiences and perspectives. Drawing on this broader base of experience forces us to look at our client's legal issues from different angles which we believe provides a fuller analysis of their problems, particularly the implications and practical affects our legal advice has for their business and employees. At the end of the day, diversity has enabled us to deliver higher quality legal services to our clients while at the same time enriching us as individuals. What could be a better result than that? ■

This article was originally published in the Kane County Bar Association's *Bar Briefs* April 2014 Diversity Issue.

Kane County diversity colors even common problems

By Judith Miller, Esq., Legal Services Director, Administer Justice

It wasn't that long ago that suburbia was considered the bastion of homogenous middle-class life. Diversity of race, religion, ethnicity and economic standing were considered the stuff of cities. But we can no longer make such assumptions. Recent statistics concerning the City of Chicago, its surrounding suburbs, and even specifically Kane County, point in a different direction.

The Heartland Alliance Report of 2011 revealed that the suburbs within the Chicago metropolitan area have eight percent (8%) more households living in poverty than the City itself. Interestingly and unfortunately, the poverty rate in Kane County is even higher, with 10.1% of its population—over 52,000 people—living in poverty.

Despite the flip in poverty vs. wealth percentages from the city to the suburbs, the City of Chicago continues to have more than 36 organizations available to address the legal needs of the poor while the suburbs have

but a few. Among those few suburban based organizations is a faith-based, non-profit legal aid clinic named Administer Justice. With its main office in Elgin, Administer Justice serves mainly Kane County. In 2013, Administer Justice served 2,819 clients through appointments, coaching and pro bono representation. It served an additional 3,480 individuals through seminars and workshops. Even more—over 17,022 impoverished individuals—were educated on legal issues through outreach events. Of those served, nearly half (47%) considered themselves to be Latin American heritage, while 40% called themselves Caucasian, and 9% African American.

The variety of legal issues is as diverse as the backgrounds of those served by Administer Justice. Although legal aid has a reputation of mainly handling family law issues, the statistics gathered by Administer Justice calculate only 40% as family law. Housing

comprises 28% of the legal issues and tax controversies with the IRS comprise 19%.

The 19% stated above as the percentage of "tax controversies with the IRS" does not provide a full picture. When you consider the tax consequences inherent in everyday transactions—business and personal—the number of tax issues handled by Administer Justice, through advice and education, would easily put taxes as the number one legal category addressed. Taxes and death, the saying goes, hit us all. Not much diversity there.

Sometimes, however, the tax issues lay hidden within larger issues. Such was the case of the young Hispanic man who was driving uneventfully one evening when he was pulled over by a police officer. Believing he had not violated any traffic laws, this young man, (I'll call him Joe), was quite surprised. Surprise turned to shock when the officer told him there was a warrant out

for his arrest. As Joe tried to make sense of the situation, he pleaded for his innocence. Nonetheless, he was taken to jail. Someone, it turns out, had stolen Joe's identity and was committing crimes in his name. To make matters worse, Joe began receiving notices from the IRS saying he owed over \$16,000 in back taxes.

Joe turned to Administer Justice—not for the criminal issues, but for the tax issue. Administer Justice operates a Low Income Taxpayer Clinic (LITC) with the help of a government grant and a panel of pro bono attorneys and support volunteers. With the help of an attorney, Joe eventually cut through the IRS red tape and gained freedom from IRS accusations. His tax liability was reduced to zero and his identity restored.

Ivan had a different, but equally common tax problem: the IRS refused to allow a dependent claimed on the federal tax return. In Ivan's case, the dependent was his son. Ivan (not his real name) was a legal immigrant with one teenage child that he had raised as a single parent since the child's infancy. Year after year, Ivan claimed his child as a dependent. And year after year, the IRS disallowed his claim. Ivan could not understand the IRS' refusal. With the help of professionals in his church who spoke the same native tongue, Ivan tried to work with the IRS and gather all the evidence needed. But the IRS has strict evidentiary rules and Ivan could not grasp what was expected of him to prove his case. With Administer Justice's help, Ivan found a way to gather the evidence. Most of the evidence came by way of signed affidavits from school and church officials, and his various landlords—all of whom remembered him, liked him, and were willing to testify on his behalf. In the end, the IRS stopped its 15% levy on Ivan's meager wages and instead sent him a refund check for more than \$10,000.

Yet even though taxes are a common thread that runs through all our lives, tax problems reflect the diversity of our population and must be advocated on an individual basis. This was certainly the case of the refugee who was denied the Earned Income Tax Credit (EITC) because he did not have the birth certificates of the family members he claimed as dependents. Not only did he not have birth certificates, but each family member had a different last name. This was a little too confusing—and out of the norm—for the IRS to easily accept. The U.S. Tax Code does not necessarily contemplate a situation

where a taxpayer is a refugee from a country where each person's first and last names are made up at birth, with no tradition of common surnames and no birth certificates issued.

In order to help this refugee family, an Administer Justice attorney filed the case in U.S. Tax Court and lined up experts who would testify about the traditions of the country regarding naming conventions and birth records. Further evidence of familial relationship came via the U.S. State Department paperwork that the refugee received when he entered the country. In light of this evidence, the U.S. Tax Court held that the man properly claimed a dependent relationship with his two family members and therefore allowed him the EITC.

With nearly three thousand individual cases each year—with such diverse issues as guardianship and adoption, to wrongful eviction and identify theft—Administer Justice must rely on a large cadre of attorneys with diverse practice areas, cultural backgrounds and language skills, and availability. Some

attorneys regularly take pro bono cases for direct representation; however, this accounts for less than 10% of the cases. Most of our volunteer attorneys give a distinct number of hours per week (or per month or per year) at one of our six clinic locations where we help individuals in a one-time intake session with brief advice and counseling. Others give of their time and talent during special coaching sessions where they help pro se litigants navigate the legal process, set realistic goals, and gather relevant evidence.

In an August 2010 letter to the U.S. Supreme Court Chief Justice, the U.S. Department of Justice stated: "Dispensing justice fairly, efficiently, and accurately is a cornerstone of the judiciary." Of course we know that this cannot be done unless we acknowledge our differences and recognize the imbalances that work against fairness, efficiency and accuracy. ■

This article was originally published in the Kane County Bar Association's *Bar Briefs* April 2014 Diversity Issue.

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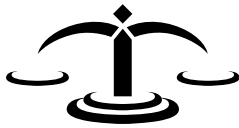


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Diversity Leadership Fellows Program



ILLINOIS STATE BAR ASSOCIATION

During the past several years, the ISBA has invested considerable time and effort to increase the diversity of our Association. We have published a report card noting the lack of diversity within our ranks; restructured the diversity-related committees; recognized outstanding contributions to society through the establishment of a diversity leadership award; and developed a pipeline program, the Law and Leadership Institute, with high school students to increase the diversity of our profession as a whole.

2010-2011 was the first year of appointments to ISBA committees and section councils of the Diversity Leadership Fellows program. This program is designed to identify promising attorneys of diverse background who are not currently members of the ISBA and acclimate them to the ISBA under the mentoring of established leaders within the various section councils and standing committees within the association, such as section and committee officers, assembly members and Board of Governors candidates.

We are looking for attorneys who show leadership potential and would add to the diversity of our section councils and committees—whether because of race, gender, sexual orientation, geographic location, practice area, or other background or experiences. Fellow candidates may be nominated by ISBA members or self-nominate.

Our goal is to have a list of nominees by September 1 so President-elect Richard Felice can appoint Fellows for the 2014-2015 fiscal year. We encourage you to submit nominations by June 30 to: Rachel McDermott, Section and Committee Staff Liaison, at rmcdermott@isba.org. Please include the following information about the nominee: name, contact information, place of employment, type of practice, year of admission, and a brief description of the nominee's leadership potential and how you think they would add to the diversity of the ISBA.

Program for 2014-2016:

Program Purpose: The purpose of the Diversity Leadership Fellows Program is to increase diversity and meaningful inclusion in the active membership of the ISBA and its section councils and committees; to give further emphasis to ongoing efforts to raise awareness of the importance of diversity and inclusion to the ISBA; and to ultimately develop a diverse group of future leaders of the ISBA. These goals will be achieved by introducing new members (especially young lawyers and under-represented groups) to the work, structure, and policies of the ISBA. This program is intended to complement the newly instituted program of appointive "under-represented" seats on the Board of Governors.

Program:

I. Coordinating Illinois State Bar Association Committee

The Diversity Leadership Council will be the association group that coordinates the two-year Fellows Program.

II. Previous Diversity Fellows

The Fellows that were appointed prior to July 2014 will serve as resources to and will participate in the training of new Fellows, under the direction of the Diversity Leadership Council.

III. Selection of New Fellows

There will be three new Fellows selected for this two-year program.

- A nomination process will be conducted to select the new Fellows. Candidate nominations will come from attorneys who recognize leadership potential in a candidate. Self-nominations are also encouraged in this selection process. Nominations require the submission of the candidate's name, place of employment, type of practice, year of bar admission, and a brief description of the candidate's leadership potential.
- A candidate must be a non-member of the ISBA for at least three fiscal years.
- It is envisioned that the nomination class be a group of diverse attorneys, emphasizing candidates who are lawyers who have practiced less than 10 years and are part of an under-represented group. Under-represented groups include women,

lawyers with disabilities, and lawyers from under-represented racial, ethnic, sexual orientation or gender identity groups.

- The ISBA President-elect, based on the recommendations of the Diversity Leadership Council, will select three candidates from the nomination class to serve as Fellows for two years.

V. First Year as Fellow

During the first year of the program, the Diversity Leadership Council will conduct orientation for the new Fellows. The orientation will allow the Fellows to begin to understand the work, structure, and policies of the ISBA. Fellows will continue to attend Diversity Leadership Council meetings throughout their fellowship to further their education and involvement in the ISBA. Fellows will be given opportunities to attend Board of Governors and Assembly meetings, networking events, Mid-Year and Annual meetings, and other events that are deemed by the Diversity Leadership Council to be appropriate for their advancement.

Each Fellow will be assigned a first year mentor from the membership of the Diversity Leadership Council, as approved by the Fellows Program Chair. The Fellow and first year mentor should communicate at least once every 30-45 days and meet in person on a quarterly basis. The Fellows Program Chair should oversee the mentors and ensure they receive basic training regarding mentoring professionals, professional development and diversity. The Fellows Program Chair should also monitor mentor/Fellow contact to facilitate the growth of that relationship.

In anticipation of the second year, each Fellow should select three committees or councils on which to work. The Fellow should attend at least one of each of the selected committee or council meetings to get an understanding of each committee's work. The first year mentor will facilitate an introduction of the Fellow to a contact/liaison on the Fellow's selected committees with whom the Fellow will interact.

The Fellows Program Chair will periodically meet with each Fellow to discuss committee activities, the program in general, and other ISBA activities and experiences.

V. Second Year as Fellow

At the beginning of the second year, Fel-

lows will request appointment to a section council or committee. The appointment will be reviewed and approved by the ISBA President-elect. Fellows will have full voting rights during meetings and will be expected to fully participate in the work of the section council or committee.

Each Fellow will be assigned a second year mentor from among the membership of the Fellow's selected section council or committee, as approved by the Fellows Program Chair. The Fellow and second year mentor should communicate at least once every 30-45 days and meet in person at least once every six months. The Fellows Program Chair should oversee the mentors and ensure they receive basic training regarding mentoring

professionals, professional development and diversity. The Fellows Program Chair should also monitor mentor/Fellow contact to facilitate the growth of that relationship.

The Fellows Program Chair will periodically meet with each Fellow to discuss committee activities and actively monitor the program to ensure that the stated goals and objectives are being met.

At the conclusion of the two-year fellowship, the Fellows are encouraged to remain active ISBA members and to consider running for the Assembly or other leadership positions within the ISBA.

VI. Privileges of Fellows

The Fellows will receive two years of com-

plimentary ISBA membership. Fellows are expected to attend the ISBA Mid-Year and Annual Meetings. The registration fees for these meetings are complimentary, as are admission to meal functions at these conventions during their two-year fellowship. For business meetings other than those conducted at the Mid-Year and Annual Meetings, Fellows will be reimbursed according to the ISBA reimbursement policy.

VII. Evaluation

The progress of this program will be re-evaluated by the Standing Committee on Scope and Correlation in the spring of 2016. ■

Civil Rights Act decisions may limit workers' ability to sue for discrimination

By Tracy Douglas, Staff Attorney, Governor's Office of Executive Appointments

In a pair of 5-4 decisions this past June, the Supreme Court limited the definition of supervisor and increased the standard of causation for retaliation under Title VII of the Civil Rights Act. These decisions will make it easier for employers to defend against discrimination and retaliation claims. They may also limit the effectiveness of Title VII by restricting when the employer has strict liability for supervisor harassment and decreasing reports of harassment because employees fear retaliation, claims which must now be proved with but-for causation. This article will examine the rulings and discuss the impact on Civil Rights Act claims.

An employer is strictly liable for a supervisor's harassment of the victim, but an employer is liable for co-worker harassment only if the employer was negligent in controlling conditions of the workplace. An employer can escape liability for supervisor harassment if there was no tangible employment action taken against the victim and the employer can establish the affirmative defense that "1) the employer exercised reasonable care to prevent and correct any harassing behavior and 2) the plaintiff unreasonably failed to take advantage of the preventive or corrective opportunities that the employer provided." The issue before the

court in *Vance v. Ball State University* was what qualifies a person to be a supervisor so that the employer has strict liability.

The Supreme Court adopted the rulings of appellate courts that limited "supervisor" to someone who has the power to "take tangible employment actions against the victim." The Equal Employment Opportunity Commission (EEOC) defined a supervisor more broadly as a person who was "authorized 'to undertake or recommend tangible employment decisions affecting the employee' or a person who was 'authorized to direct the employee's daily work activities.'" The Court rejected the EEOC's guidance because "supervisor status would very often be murky" and would confuse juries. The definition adopted in this case includes the ability "to hire, fire, demote, promote, transfer, or discipline the victim" and the ability to "cause 'direct economic harm' by taking a tangible employment action." The majority reasoned that this bright-line standard would make more sense to a jury because it would be clear whether a person had those powers in order to be a supervisor.

Justice Ginsburg's dissent argues that the majority's approach will leave employees without recourse when they have co-workers who can assign tasks or alter the work

environment but do not have the power to take tangible employment actions. Ginsburg maintains that the new rule "diminishes the force of Faragher and Ellerth, ignores the conditions under which members of the work force labor, and disserves the objective or Title VII to prevent discrimination." While the majority argues that employees will still be able to prevail by showing the employer was negligent, Ginsburg points out that those claims are harder to win than a claim where the employer has strict liability. By limiting who qualifies as a supervisor to those who can hire and fire employees, the majority restricts employer's strict liability, favoring employers over employees with a narrow definition of supervisor.

Similarly, in *University of Texas Southwestern Medical Center v. Nassar* the Supreme Court constrained claims for retaliation by requiring the plaintiff to show that "the desire to retaliate was the but-for cause of the challenged employment action." This standard will require "proof that the unlawful retaliation would not have occurred in the absence of the alleged wrongful action or actions of the employer." Retaliation is banned by 42 USC §2000e-3(a), and the Court decided that retaliation was not included in "any employment practice" language of §2000e-2(m),

which is governed by the motivating factor analysis, where a plaintiff can prevail if “discrimination was one of the employer’s motives, even if the employer also had other, lawful motives.” The Court reasoned that Congress could have made the motivating factor standard apply to retaliation, but it did not. The Court rejected the guidance of the EEOC that retaliation claims were covered by the motivating factor standard under Skidmore deference analysis because it failed “to address the specific provisions of this statutory scheme” and was generic in the discussion of the causation standards. The Court asserted that allowing a motivating factor standard would increase frivolous claims.

Justice Ginsburg dissented, arguing that the “Court has seized on a provision, §2000e-

2(m), adopted by Congress as part of an endeavor to strengthen Title VII, and turned it into a measure reducing the force of the ban on retaliation.” Ginsburg asserts that “any employment practice” would cover retaliation and that retaliation is a form of status-based discrimination. The dissent contends that but-for causation will not mean that a plaintiff can’t prove unlawful retaliation, but it will mean that “proof of a retaliatory motive alone yields no victory for the plaintiff.” Ginsburg also points out that “a strict but-for test is particularly ill suited to employment discrimination cases” and it may cause victims of harassment to not report it out of fear of retaliation.

Together, the Vance and University of Texas Southwestern Medical Center major-

ity opinions narrow the definition of supervisor and limit retaliation claims, making it easier for employers to defeat Title VII claims. However, as Justice Ginsburg’s dissents point out, they may also have the effect of making it harder for employees to successfully sue employers and preventing legitimate claims from being brought because workers fear retaliation, which is now subject to a stronger causation standard. Limiting who qualifies as a supervisor for the purposes of strict liability and limiting retaliation to proof of but-for causation seem to favor employers and reduce the force of Title VII. Congress can overturn the Court’s limitations of Title VII if Congress disagrees with what the Court has done. But with the current Congress and other issues, that will be hard to pass. ■

Diversity in Kane County: A way it might arrive

By Patrick M. Kinnally, Kinnally Flahert Krentz Loran Hodge & Masur PC

diversitē

:the quality or state of having many different forms, types or ideas or elements

:the inclusion of different types of people in a group or organization.

—(Merriam Webster Dictionary Online, www.merriam-webster.com)

Recently, I attended one of our Kane County Bar Association Diversity Committee meetings chaired by Divya Sarang at the Kane County State’s Attorney’s office. It was an eclectic group attended by many different attorneys with views of how diversity in the legal profession can become more of a reality in Kane County than it is. After the meeting concluded, either Divya or Cat Battista, gave me the baton to write about this topic. I am not sure why—possibly, because my views on the topic are outspoken, and perhaps out-dated.

So, let’s recap the meeting. First, the attendance was exceptional. Equally comprised of women and men, persons of color, and government and private practitioners. The debate was spirited with individuals voicing strong opinions of the need for diversity in law firms as well as our judiciary. One attorney from a larger firm in Chicago opined that diversity is a given since the clients he serves require it. In other words, you do not get their

business unless his law firm staff is diverse. This may be salutary in creating opportunities for lawyers at large firms. But there is a disturbing and, I believe, contrary view in an impressive recent publication, *The Lawyer Bubble “A Profession in Crisis,”* Harper, Basic Books (2013)[Bubble]. It provides insights on the reality of the law profession in 2013. More on this, later.

Another topic discussed was meritocracy and what that denotes in law firm culture. There is an interesting study on this which you may want to review. *Examining the Relationship Between Merit and Diversity in Large law firms.* Dr. Arvin N. Reeves, *For the Defense* (DRI, 10/2011). Dr. Reeves argues that a meritocracy should be a construct of which the building blocks should be ability as well as opportunity. It is argued that a true meritocracy focuses on eradicating inequality in opportunity. Hard to argue with that. Dr. Arvin’s premise is that opportunity to achieve is the door that is closed, at least in large law firms. It is this opportunity to achieve, Dr. Arvin posits, which will show true ability. (See also, *Sustaining Pathways to Diversity* (2009), Minority Corporate Counsel Association www.mcca.com). Meritocracy has several components which includes not only the value of what one produces, but the fact that a lawyer’s success is perceived to promote the goals of the law firm. Historically this has occurred in a non diverse milieu. This may not

be what our legal profession should reflect, but its currency cannot be denied.

Diversity in Kane County public law firms and in our judiciary is a matter of public record. The largest law firms in the County are our State’s Attorney and Public Defender’s offices. Next, is our judiciary. Their record on diversity is admirable, although there is room for improvement if measured as a percentage of the population. Women represent 50.1% of the population in Kane County but only 30% of the judiciary (9 women out of 30 judges rather than 15 women out of 30 judges). Latinos represent 31.2% of the population but only 3% of the judiciary (1 Latino out of 30 judges rather than 9 Latinos out of 30 judges). African American representation almost mirrors the population percentage of 6% with 1 African American out of 30 judges. Numbers can confuse: but generally, for most of us they add up correctly.

In my small private firm, we have seven lawyers, all white men. For the last 20-plus years we have hired no less than five female lawyers. We have employed an ethnically diverse staff, mostly women-paralegals who have worked for us for many years. All of the female lawyers have departed either to start their own firms, left the practice, or went to work for corporations. So we have not been successful in maintaining gender diversity. This happened for a couple of reasons.

First. All of the white male attorneys that

have worked with me came from a work ethic based on meritocracy. This has proven to be a standard that comprises long hours; attracting clientele based on our firm's commitment to our local community by service on not for profit Boards; performing *pro bono* work; and perhaps, resistance to any challenge to that model. It is a business hegemony which has proven quite successful from an economic perspective.

Second. Without being smug, I believe all of the women whom have left my firm would say they valued the experience they gained while working with us. Yet, perhaps not on the standard they expected. In this regard, we failed to meet their expectations on various levels. These include: different life styles, such as family obligations, personal interests and time off away from work. Balancing one's life between work and other interests is more important today than it was in prior generations, of which I am one. The cases they worked on were interesting on various topics. They engaged in meaningful legal work and were encouraged to become involved in the community, bar association activities, writing, and continuing legal education. Yet, none of them ever stayed.

A variety of reasons may exist. Two, seem paramount.

Initially, all of the women were young and right out of law school thereby creating a generational difference that is not primarily related to gender. All of my partners are white males who grew up in a law firm history where the paradigm for success came from the top down. The pyramid. Namely, a few at the top created opportunities for hard working lawyers who were all white males trying to get ahead or become equal with those at the perch. When they did, it caused law firm fissure. A few examples were: Reid, Ochenschlager, Murphy and Hupp; Brady and Jensen; Puckett Barnett, and Dreyer, Foote and Sterit. Only two of those larger Kane County firms survive today.

Perhaps a better approach in today's world might be to consider what the Illinois Association of Defense Trial Counsel is trying to achieve by utilizing reverse mentoring (Silverstein, "IDC Pairs Younger and Older Lawyers for reverse Mentoring" (*Chicago Daily Law Bulletin*, 1-21-14). The focus is on looking at what the younger generation may know and view as to what should comprise their working life. That seems apt. In short, instead of telling young lawyers what they should be doing, ask them what they think they should be doing. This program endorsed by the Illi-

nois Supreme Court on Professionalism may prove to be worthwhile. We'll see how it fares.

The second issue is where we all come from; namely, our training to become lawyers. This model also, needs a makeover.

Of course, in smaller arenas such as Kane County, the elephant in the room, which no one wants to acknowledge, is jobs, or the dearth thereof. Twenty four percent of those who earned legal degrees in 2000 are no longer practicing law (*Survey, American Bar Association, Debra Cassens Weiss* (2/8/14). In 2012, employment rates for the class of 2011 hit an eighteen year low: nine months after graduation only 66% were in jobs requiring bar membership....only 55% of 2011 graduates had found full time, long term employment necessitating bar passage. (*Bubble* p. 26). In 2012, according to the National Association of Law Placement, 50% of law school graduates went to work in solo practice or in a firm of 2 to 10 lawyers. (*Brave New Firms, Loo, Chicago Daily Law Bulletin*, February 13, 2014). Many recent graduates are on their own, or enter a labor market where demand as well as opportunity is at a nadir.

Unfortunately, in part, this result falls to the ill-conceived curricula of our legal educators, of whom I am one. Client and practice skills are lacking in a world that is based on client requirements which must be answered with immediacy. If diversity in small firms in Kane County is to become a reality, it must be based on a better educational foundation for servicing clients. This, too, must come at a lower financial cost to obtain it. Law schools need to curtail their need to make money on law students. The current law school curriculum, with its continued love affair with the Socratic method, is not only archaic, but fails to train students to be able to act as lawyers. It is no coincidence that the Illinois Supreme Court has a basic skills course for newly admitted attorneys. (ILL. SCT. R. 790-798). Think about that.

Deans and Law Professors can postulate the value of having a diverse legal profession. You cannot argue with their view. But, until they prepare those who want to work in small firms (and that is most of us) to address the needs of clients and include the notion that those needs require knowledge on a variety of topics, law firm diversity will not occur. Maybe, if law schools focused on teaching students on how to conduct S. Ct. R 402 conferences, close a real estate transaction, or why jury instructions in a civil case are important, in lieu of theoretical ideas about the Fourth Amendment, the Rule in Shelley's

case, or the federal rules of civil procedure, we might provide law firms cogent reasons for hiring. Maybe if the Illinois Supreme Court expanded S.Ct. Rule 711 to private firms, law students could show why those firms need to hire them.

Too, the generational difference must face an eclipse. I believe this is happening, albeit slowly. Diversity need not cause division in private, small firms. The top down model needs to be challenged. Law school curricula must incorporate courses where law students start working in law firms as part of their education; and, for compensation. This is an opportunity for gender, racial and cultural diversity to flourish. It would give future lawyers the chance to show how they can achieve or show their mettle and give small firms a chance to recognize their ability by employing them. Their merit will show why they need to be included, not only based on ability but on attributes such as multi-lingual proficiency, cultural sensitivity and varied life experiences, all of which contribute to the energy and vibrancy of a pluralistic law firm environment.

Medical professionals have used this model for years with good success. They are called residencies. When medical students graduate they are ready to practice. Most law students are not so equipped. Law schools should consider this prototype instead of American Bar Association fiat to the contrary. Instead of making a doctorate in law a two or three year degree, maybe it should take longer and include a residency that results in practical knowledge and experience. We do not need more untrained lawyers. We have 90,000 lawyers in Illinois. Is that too many? We need more law students who understand that being a lawyer requires a commitment to the community where they practice. In this regard, less may prove to be more. If this occurs then perhaps we can realize that a true meritocracy includes diversity as one of its essential elements in the small firm business design in Kane County.

That's my view, how imperfect that it is. Perhaps, you disagree. My being wrong may be a good thing. Let's keep the discussion going so we reach the point where opportunity, minority status, and ability can comprise worth for the clients of the small, private law firms in which we serve. ■

This article was originally published in the Kane County Bar Association's *Bar Briefs* April 2014 Diversity Issue.

Myra Bradwell: The practice of law in the wake of her legacy

By Julie A. Neubauer, Aronberg, Goldgehn, Davis & Garmisa and Emily N. Masalski, Deutsch, Levy & Engel

As women attorneys, we do not spend most days dwelling on the struggles that those who have come before us in our profession have endured. We just work, going about the task of building our practices and serving our clients. Achieving true equality with our male professional counterparts should render our gender wholly arbitrary. With each new generation of attorneys graduating from law school, we come closer to that goal.

Nevertheless, there is an inherent value in understanding our history or herstory, if you will. It gives us perspective; sometimes it even gives us pause. On a chilly day in March, on the campus of Northern Illinois University, we found ourselves in the presence of herstory alive today. The ISBA Standing Committee on Women and the Law with co-sponsor Standing Committee on Race and Ethnic Minorities brought together the past and the present in a compelling presentation. We were first brought back to the beginning of our participation in this profession and then we experienced just how far we have come.

In a crowded auditorium, over 100 eager attendees enjoyed a wonderful performance

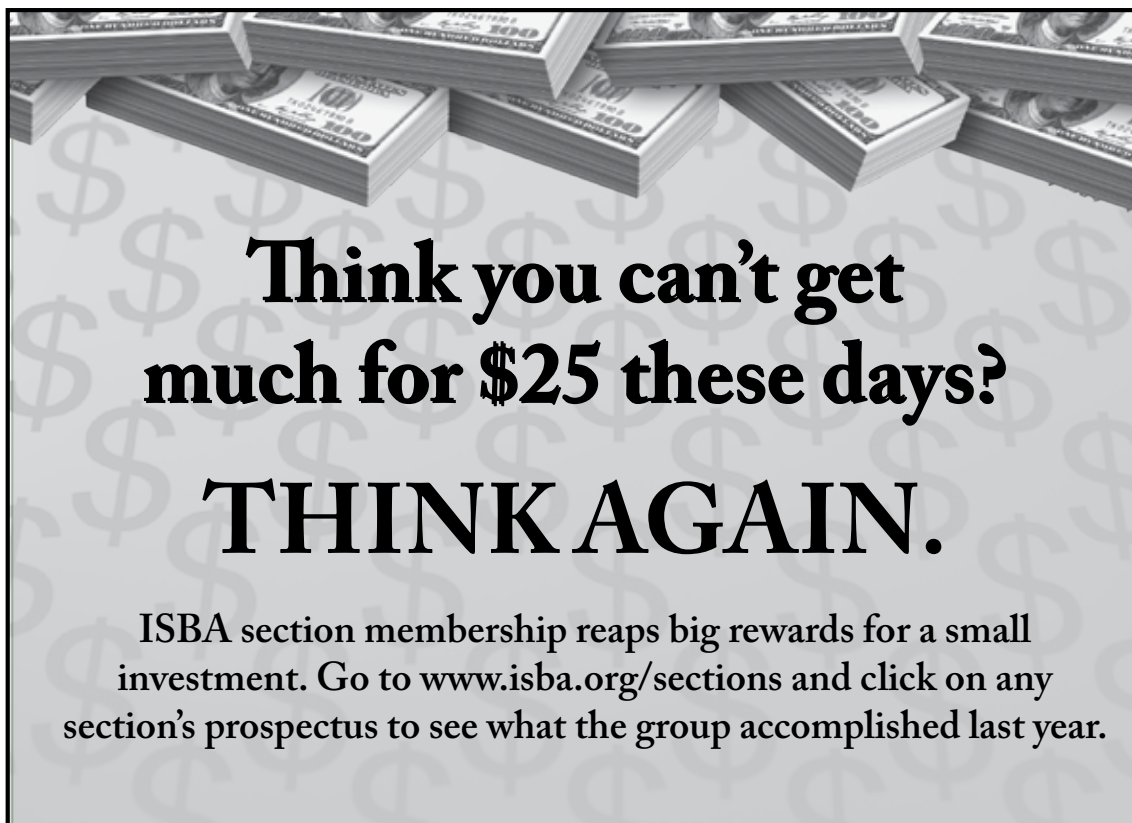
by Jenner & Block litigation attorney (and trained actor), Rachel Morse. Morse brought us back to the mid to late 1800s in a dramatic rendition of the tenacious and spirited Myra Bradwell. Mrs. Bradwell had a dream of becoming a lawyer and although she was a worthy contender, she was repeatedly rejected based solely on the fact that she was female. Ms. Morse delivered a flawless performance using excerpts of actual court records and other historical documents. She brought Bradwell's trailblazing story to life and captivated the audience.

Following Ms. Morse's performance, a panel comprised of eight distinguished jurists and female leaders took the stage. ISBA President Paula Holderman moderated the panel and took us on a generational journey through the stories and experiences of each panelist. We learned so much about the challenges and triumphs each speaker faced during their careers. It was truly remarkable to have such a power panel on a Friday afternoon at Northern Illinois University School of Law. Never before has Illinois simultaneously had a female Chief Justice of the Illinois Supreme Court, a female Chief Judge of the

7th Circuit Court of Appeals, three female justices total on the Illinois Supreme Court and a female President of the Illinois State Bar Association. To have all of these notable women come together on stage, along with three additional female Appellate Court justices and a leader in the movement for attaining gender equality in the legal profession, sharing their experiences with us was nothing short of herstory in the making.

A very special thanks to the Honorable Chief Judge Diane P. Wood, Chief Justice Rita B. Garman, Justice Anne M. Burke, Justice Mary Jane Theis, Justice Joy Virginia Cunningham, Justice Shelvin Louise Marie Hall, Justice Susan F. Hutchinson, and Jennifer K. Gust for sharing their stories with us. Your openness and willingness to share deeply personal and professional challenges took tremendous courage and we are forever grateful.

Mary F. Petruchius, Chair of the Standing Committee on Women and the Law and Melody Mitchell of NIU College of Law coordinated this outstanding, unforgettable program. ■



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Reflections on Blackstones Event

By Erin M. Wilson

On August 22, 2013, 120 years after the first gathering in Chicago, the female, and this time, supporting male Blackstones, gathered to celebrate women past, present, and future. This event, hosted by Winston & Strawn, the Seventh Circuit Bar Association President Julie A. Bauer, and Illinois State Bar Association President Paula H. Holderman, was an auspicious gathering of talented and dedicated attorneys, professors, and judges. The Blackstones had originally gathered during the 1893 World's Fair and were comprised of professional women who were excluded from the planning of the Fair. These women formed the Queen Isabella Association, with the goal to fight for women's suffrage and advancement in historically male professions. The term of "Blackstone" came from the Chicago Legal News.

The first panel celebrated the Blackstones' accomplishments from 1893 to 2013, and included panelists Gwen Hoerr Jordan, assistant professor at Northern Illinois University College of Law, Justice Ann Claire Williams of the United States Court of Appeals for the Seventh Circuit, Justice Rita B. Garmen of the Fourth District, and Dean Nina S. Appel, of Loyola University Chicago School of Law. I was inspired to be among the diverse subset of panelists, and amazed by the stories they told of the talent, success, and unbending spirit of so many women in the face of adversity.

There was much to learn and take in during both panels. I want to highlight just a few historical figures that captured my attention that afternoon.

- Ada Kepley was the first woman to graduate from law school, and she graduated from the University of Chicago Law School.
- Myra Bradwell was one of the first women to apply for admission to the Illinois bar. She was denied at first because she was a "married woman," so it was said that the laws of coverture prohibited her from entering into contracts. When pressed on the issue, the Bar admitted it was really just because she was a woman. When the case went to the U.S. Supreme Court, in *Bradwell v. Illinois*, 83 U.S. 130 (1873), the Court ruled that there is no right to practice law protected by the Fourteenth

Amendment, and Illinois was allowed to reject her application. Ultimately, Ms. Bradwell reapplied to the Bar and was admitted in 1890. It was Ms. Bradwell who held the protest meeting at the World Fair in 1893, because outside of a focus on charity, there were no events for women. Ms. Bradwell was clearly a leader both of and ahead of her time.

- There was much discussion of African-American lawyers and judges. Most interesting was Constance Baker Motley, the first African-American woman appointed to the federal judiciary by President Linden B. Johnson in 1966. She was employed as a maid, and in her spare time gave lectures. A man who heard her speak was so impressed that he offered to pay her tuition through undergraduate and law school.

One constant theme that women perpetually experienced, throughout even the twentieth century as they endeavored to become professionals and academics, was skepticism as to "why you think that you can take the place of a man." When interviewing, women were asked not of their school record,

interests in law, or professional experience, but rather whether they could type and make coffee, and what methods of birth control they planned to use. Themes of domesticity often supplanted substantive questions evidencing concern with professional competency and talent. The presenters emphasized their satisfaction upon hearing that younger attorneys who hear these stories for the first time, are genuinely shocked, because this discrimination and treatment is rarely experienced, and certainly no longer the norm. I believe the take-away from the day was to be thankful for those who have paved the way for women to be practicing in the numbers that we are now, and certainly that women in the legal profession are no longer simply stewards of fresh coffee. But also that there is still much progress to be made to truly be on par with men professionally; and, as our sisters before us have done, we too must put equality at the forefront of importance. ■

Erin M. Wilson is an associate at O'Connor Family Law, P.C. She has been on the Young Lawyers Division of the ISBA since 2009 and this is her first year on the Standing Committee for Women & the Law.

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July

Tuesday, 7/1/14- Webinar—Introduction to Fastcase Legal Research. Presented by the Illinois State Bar Association—Complimentary to ISBA Members Only. 3:00.

Tuesday, 7/1/14- Teleseminar—Picking the Right Trust: Alphabet Soup of Alternatives. Presented by the Illinois State Bar Association. 12-1.

Tuesday, 7/8/14- Teleseminar—Asset Based Finance- Part 1. Presented by the Illinois State Bar Association. 12-1.

Wednesday, 7/9/14- Teleseminar—Asset Based Finance- Part 2. Presented by the Illinois State Bar Association. 12-1.

Wednesday, 7/9/14- Webinar—Advanced Tips to Fastcase Legal Research. Presented by the Illinois State Bar Association—Complimentary to ISBA Members Only. 3:00.

Thursday, 7/10/14- Webinar—Boolean (Keyword) Searches on Fastcase. Presented by the Illinois State Bar Association—Complimentary to ISBA Members Only. 3:00.

Tuesday, 7/15/14- Teleseminar—Employment Taxes Across Entities. Presented by the Illinois State Bar Association. 12-1.

Thursday, 7/17/14- Teleseminar—Estate Planning for Real Estate- Part 1. Presented by the Illinois State Bar Association. 12-1.

Friday, 7/18/14- Teleseminar—Estate Planning for Real Estate- Part 2. Presented by the Illinois State Bar Association. 12-1.

Tuesday, 7/22/14- Teleseminar—Opinion Letters in Transactions Involving LLCs and S Corps. Presented by the Illinois State Bar Association. 12-1.

Friday, 7/25/14- Teleseminar—Ethics and Lateral Transfers of Lawyers Among Law Firms. Presented by the Illinois State Bar Association. 12-1.

Monday, 7/28/14- Teleseminar—Small Commercial Leases: Negotiating and Draft-

ing Issues. Presented by the Illinois State Bar Association. 12-1.

Tuesday, 7/29/14- Teleseminar—Structuring For-Profit/Non-Profit Joint Ventures. Presented by the Illinois State Bar Association. 12-1.

August

Friday, 8/1/14- Teleseminar—Choice of Entity Considerations for Nonprofits. Presented by the Illinois State Bar Association. 12-1.

Tuesday, 8/5/14- Teleseminar—Selling to Consumers: Sales, Finance, Warranty & Collection Law- Part 1. Presented by the Illinois State Bar Association. 12-1.

Wednesday, 8/6/14- Teleseminar—Selling to Consumers: Sales, Finance, Warranty & Collection Law- Part 2. Presented by the Illinois State Bar Association. 12-1.

Wednesday, 8/6/14- Webinar—Introduction to Fastcase Legal Research. Presented by the Illinois State Bar Association—Complimentary to ISBA Members Only. 11:00.

Thursday, 8/7/14- Webinar—Advanced Tips to Fastcase Legal Research. Presented by the Illinois State Bar Association—Complimentary to ISBA Members Only. 11:00.

Monday, 8/11/14- Webinar—Boolean (Keyword) Searches on Fastcase. Presented by the Illinois State Bar Association—Complimentary to ISBA Members Only. 11:00.

Monday, 8/11/14- Teleseminar—Ethics of Beginning and Ending an Attorney-Client Relationship. Presented by the Illinois State Bar Association. 12-1.

Tuesday, 8/12/14- Teleseminar—Defending Business Audits- Part 1. Presented by the Illinois State Bar Association. 12-1.

Wednesday, 8/13/14- Teleseminar—Defending Business Audits-Part 1. Presented by the Illinois State Bar Association. 12-1.

Thursday, 8/14/14- Teleseminar—Alternatives to Trusts. Presented by the Illinois State Bar Association. 12-1.

Tuesday, 8/19/14- Teleseminar—Planning in Charitable Giving- Part 1. Presented by the Illinois State Bar Association. 12-1.

Wednesday, 8/20/14- Teleseminar—Planning in Charitable Giving- Part 2. Presented by the Illinois State Bar Association. 12-1.

Wednesday, 8/20-Thursday, 8/21/14- Oakbrook, Oak Brook Hills Resort. Adult Protection and Advocacy Conference. Presented by the Illinois Department of Aging; Co-sponsored by the ISBA Elder Law Section. 10:45-4:30; 8:30-10.

Tuesday, 8/26/14- Teleseminar—Early Stage Capital for Growing Businesses: Venture Capital and Angel Investing- Part 1. Presented by the Illinois State Bar Association. 12-1.

Wednesday, 8/27/14- Teleseminar—Early Stage Capital for Growing Businesses: Venture Capital and Angel Investing- Part 2. Presented by the Illinois State Bar Association. 12-1.

Thursday, 8/28/14- Teleseminar—Planning with Special Needs Trusts. Presented by the Illinois State Bar Association. 12-1.

September

Thursday, 9/4/14- Teleseminar—Employment Agreements- Part 1. Presented by the Illinois State Bar Association. 12-1.

Friday, 9/5/14- Teleseminar—Employment Agreements- Part 2. Presented by the Illinois State Bar Association. 12-1.

Monday, 9/8/14- Webinar—Introduction to Fastcase Legal Research. Presented by the Illinois State Bar Association—Complimentary to ISBA Members Only. 1:00.

Tuesday, 9/9/14- Teleseminar—UCC Toolkit: Promissory Notes. Presented by the Illinois State Bar Association. 12-1. ■