

Increasing Diversity In The Legal Profession: From One Helping Hand To Another

By Michelle D. Jew, Newsletter Committee Co-Chair

On September 17, 2009, attorneys, judges, law students and other legal professions will have the opportunity to share their different experiences and opinions regarding diversity in the legal profession at Burnham Brown's Advancing Diversity fair. This free event, also sponsored by AABA, will take place at Burnham Brown's offices in Oakland from 5 to 7:30 p.m. Some of the participants will remember the civil rights movement during the 1960's and 1970's, which inspired many minorities to enter the legal profession.

It was the civil rights movement during the 1960's and 1970's which inspired Newton Lam to go to law school, and later to work for the San Francisco Public Defender's Office in 1981. Although Lam was eager to help people through his work, he was faced with an uphill battle against the "Asian stereotype."

"When I started law school, law was not seen as an area Asians do," Judge Lam said. "We were seen as humble and that we watch our words. Humility is not something people want to see in their lawyers. Culturally, we were not seen as aggressive as a lawyer should be. We were not loud as a lawyer should be. We were considered studious, and not aggressive. When I first got into the practice, people were warning me that I would not do very well being an Asian in the law because we are conservative."

Lam recalls the times when he walked into federal court to do a preliminary hearing in a criminal proceeding and getting confused for the "client," or other times when people were wondering why he was sitting in the courtroom. However, Lam said with some hard work, he was able to break the Asian stereotype.

"When I first got into the law, there was some prejudice. Any lawyer going into court will face some prejudice until people get to know what you can do," Lam said. "Whatever you see in my face, I can't change that. But I can change your opinion about me the next day and the next year based on what I can do in a courtroom. From that point, it didn't matter I was Chinese. They knew me from now on, and not as a caricature."

But Lam then said, "However, there are some people who have prejudices so deep that you can't do anything about that but to just appeal it."

Despite these prejudices, the number of minorities entering the legal profession has gradually increased over time. Donald Tamaki, partner at Minami Tamaki LLP, recalls witnessing this change through the years. Tamaki said during the late 1960's, he recalls seeing just a handful of minority lawyers practicing in their own law firms or working for the government because those were the only jobs available to minority attorneys during that time period. By the mid-1970's, Tamaki recalls seeing opportunities starting to open up for minorities. He said some law firms started to hire minorities, and some of his classmates were able to get jobs at the larger firms; however he said that was not the "norm."

Between 1976 to 1979, Tamaki recalls seeing the first wave of Asian Americans starting to graduate from law school.

"Before that, there was just one guy in the whole class," Tamaki said. "Now you have a dozen people coming out of Berkeley, 11 coming out of Hastings. Now there is a group of young Asian American Attorneys out there as lawyers."

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Tamaki said the big change was in 1980 when the first Asian American judge in Alameda County, Alameda County Superior Court Judge Ken M. Kawaichi, was appointed to the bench.

"That appointment was a long, political savvy lobbying campaign to get him on the bench. Before that, Asians were not seen as lawyers, let alone, as judges," Tamaki said. "The landscape has changed quite a bit"

According to a report by The Bar Association Of San Francisco's 2005 Report on Diversity titled "Goals and Timetables for Minority Hiring and Advancement," although progress has been made by San Francisco law firms, it is important to note that the state's minority population as of the 2000 census stands at 54 percent and growing. The 2005 report states that San Francisco's law firms and law departments cannot meet the legal needs of California's population if it only reflects a small slice of that population.

Progress in law firms has not been uniform among the different minority groups. According to the 2005 report, for San Francisco law firms, Caucasians made up 76 percent of the associates and 93% of the partners. Minorities made up 24% of the associates and only 7% of the partners.

Out of the minority associates, 15% were Asian Americans; 5% were African Americans and 4% were Latinos. Out of the minority partners, 4% were Asian Americans; 2% were African Americans; and 2% were Latinos.

"If we are going to be a represented form of government, let's be a representative form of the government. We should have representatives from all the people," said Lam about increasing diversity in the legal profession.

Tamaki agrees. "The fact that California has no single group which constitutes a majority, the bench and law firms should reflect that. More than that, there is talent out there. Look at all the talent that was wasted because they were not given the opportunity before. There are brilliant African Americans, Asians, and Latinos out there."

According to Palo Alto Area Bar Association President Soyeun Choi, the rapidly changing world has

helped increased the number of minorities in the legal profession. "There are just too many smart, talented students out there to be kept out by old systems. These students grow into sharp, right minded professionals who then apportion some time out of their lives to create a fairer system for future generations," Choi said. "People of color are not inherently altruistic but the more of us have the opportunity, the more likely the good ones join AABA and make a difference."

Choi also said it is now accepted by Asian cultures to become an attorney. "Also, our respective Asian countries have developed so much, honing their own legal systems and inculcating an appreciation for the rule of law that the legal field is no longer considered some mysterious job, less stable than medicine or engineering. Children of new immigrants have so many more options, which is a relief because it is really difficult to fake interest in Organic Chemistry just to get into med school."

Having greater diversity in the legal profession is beneficial to all.

"It is imperative to have minorities as partners in law firms and as judges on the bench," said Daisy Hung, Diversity Pipeline Programs Manager of The Bar Association of San Francisco. "Minorities need to be in decision-making roles in the profession- a profession that has profound effects on our society and on individual rights. It is important to have diverse perspectives and experiences represented in these leadership positions to encourage robust dialogue, and help dispel stereotypes. Having diversity on the bench and in law firms gives individual clients and traditionally marginalized communities at least the perception of – if not actual – inclusion, access, and justice in our legal system. For students and attorneys, it shows us that it is possible – that we can get there."

Despite the increase numbers of minorities in the legal profession, there is still room for improvement.

"The difference is impressive," said Alameda County Superior Court Judge Carol Brosnahan. "But we have not yet a totally level playing field in some areas of the private bar. The public bar, the Public Defenders and the District Attorneys, are far ahead in the diversity of their staffs."

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Diversity does not only have to improve for people of color and for women, but for those who are openly gay.

Sheryl Phipps, a legal editor for LexisNexisMatthew Bender, is an openly gay attorney. She said it is hard to determine whether being gay affects someone getting a job, or getting fired, based on sexual orientation since employers cannot ask about a person's sexual orientation during a job interview. However, she believes the legal profession seems to be less apt to use sexual orientation as a bias.

"I have seen a tolerance for openly gay attorneys here in the Bay Area," Phipps said. "However, I am not so sure that level of tolerance exists outside the Bay Area."

Judge Brosnahan said one way to improve diversity in the legal profession is to get involved with their local bar associations.

"I think that one way minority attorneys can do to improve diversity is to involve themselves as much as possible in the activities of the organized bar, whether it is the local bar association, the state bar, the conference of delegates, the ABA, as well as the minority bar associations. They should apply to be on committees, not only those related to diversity, but also those in practice areas that are of particular concern to minorities, such as immigration and landlord tenant."

"Even with this tough economy we all need to maintain our commitment to diversity in the legal profession, and do what we can to increase diversity, said Hung, who encourages improving diversity through volunteering, mentoring, or donating money.

Susana Garcia, member of the San Francisco La Raza and East Bay La Raza Lawyers Association, Deputy Regional President for Region 17 of the Hispanic National Bar Association, and attorney at Burnham Brown, said improving diversity can begin as early as elementary school.

"Increasing diversity in the legal profession really comes down to the pipeline idea," Garcia said. "There needs to be support for diverse students

every step of the way, starting in elementary school, then in high school, and into college and law school. There are so many hoops to jump through in order to obtain a legal education and to successfully enter the legal profession. Those of us who have achieved this feat are key in encouraging and helping others to enter the profession."

Ronnie Gipson, an attorney at Burnham Brown, recalls when he was in law school at the University of San Francisco, as the president of the Black Law Association, one of the goals of his board was to increase the number of Black law students who attended their law school. During the summer before the fall semester, they worked with the school's admissions department and embarked on a campaign to contact every Black law student who was granted admission with a letter encouraging them to select his law school. As a result, in the fall, the law school had an entering class of 1L's which had the largest composition of black law students in the school's history.

"As a consequence, the law school benefited from a more diverse and invigorated student body," Gipson recalls about his experience. "Positive change happens in the field of law when groups and individuals become motivated to make change."

Tamaki encourages people to "lend a helping hand on the way up."

"Open some doors to other people, especially folks who have been marginalized. Who better than us to understand how they feel. Keep the ladder going and understand that we need to be good lawyers. Lawyers play a fundamental role in making things better for people," said Tamaki who encourages people to be politically active, playing leadership roles, and doing pro bono work. "All this progress has been made from the time I went to law school and it would not have happened if people sat on their hands and said, 'I got mines, who cares about everyone else.' Everything counts in that regard. I am hoping people are energized to do that kind of work."