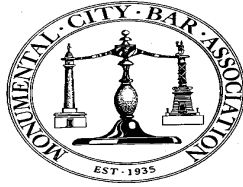


MONUMENTAL CITY BAR ASSOCIATION



MONUMENTAL MINUTES - OCTOBER EDITION

MONUMENTAL QUOTE OF THE MONTH

"Excellence is to do a common thing in an uncommon way."

Booker T. Washington

MESSAGE FROM THE PRESIDENT

Neil E. Duke

Ap-pre-ci-a-tion (n) (1604) a: Judgment, evaluation: esp: a favorable critical estimate b: sensitive awareness c: an expression of admiration, approval or gratitude.

Grat-i-tude (n) (1565) the state of being grateful: thankfulness.

Dear Monumental Members:

The importance of expressing appreciation and gratitude to others on a daily basis is often stressed, but all too often overlooked. With the start of a new Monumental year and with the first steps of our Association's new administration, I am duty bound to take a few moments to express sincere appreciation for the sustained kindness demonstrated by our Members over the course of the past year.

First, I must acknowledge the Monumental efforts of our now

Immediate Past President, James Butler. His energy was infectious, and his accomplishments are too numerous to detail within the confines of this space. Suffice it to say that J.B., as he is affectionately known to the Board, will be a truly hard act to follow.

Second, I am extremely grateful to the Board for the many hours they have expended on behalf of the Association over the past year. You may take note of the fact, that most of the Board is serving another tour of duty this year. This can be attributed to their devotion to our beloved Association. Trust me, my offerings of candy and other baubles had little to do with their commitment to serve a second term. My thanks to Kendra Ausby, Ginina Stevenson, Aretha Ector, Beverly Hughes, Lisa Joi Stancil, Nicole Love, Jameson Lawrence, Alison Leach and Reuben Lawson.

Finally, I thank everyone, General and Committee Member alike, for all of your contributions. Collectively, you are the engine that drive the MCBA! And for your efforts, please accept my appreciation and gratitude.

2004-2005 OFFICERS

Neil E. Duke - President
Kendra Y. Ausby - President-Elect
Ginina A. Stevenson - Secretary
Aretha J. Ector - Treasurer
Beverly F. Hughes - Member-at-Large
Lisa Joi Stancil - Member-at-Large
Nicole Love - NBA Delegate
K. Jameson Lawrence, NBA Delegate

2004-2005 MISSION STATEMENT

My goals as President of the MCBA are four-fold: (1) Increase our presence in the legal and general community and elevate our status as a significant contributor of worthy causes; (2) enhance our ties with other Bar Associations; (3) promote increased diversity in the practice of law; and (4) create programs to enhance and develop the legal skills of the Membership. This outline will hopefully serve as a guide for all of our activities.

UPCOMING MONUMENTAL EVENTS

Upcoming General Membership Meetings: November 4th and December 2nd, 2004

December 17, 2004. Annual Holiday Gala: "Celebrating Living History."

An unspoken, but highly important theme of our administration will be recognizing our trailblazers and building upon their inspiring legacy. With that in mind, this year's Annual Gala will incorporate a tribute and awards

ceremony for retired judges: Roger W. Brown, Solomon Baylor, Mabel H. Hubbard and Kenneth L. Johnson. Special thanks to Beverly Carter and Sandra Holmes for agreeing to serve as Program Co-Chair and Event Co-Chair respectively.

This year will mark a change in venue. The Gala will be held at The Engineers Club in historic Mount Vernon. If you have never attended an event at the Engineers Club, you are in for an elegant experience, second to none. Please check out the web site for the Engineer's Club and take a virtual tour. (www.esb.org).

The Gala promises to be the must attend event of the Holiday season so please consider purchasing your tickets as soon as practical (\$60 for paid members/\$70 for unpaid members and for tickets purchased after December 2, 2004). Tickets are available NOW.

MONUMENTAL ANNOUNCEMENTS, DISTINCTIONS AND HONORS

Curry adds spice to the Law Offices of William H. Murphy, Jr. and Associates

Congratulations are in order to the Law Offices of William H. Murphy, Jr. and Associates. Recently, the firm announced the addition of former Prince Georges County Executive Wayne Curry as *Of Counsel*.

MONUMENTAL COMMITTEES

By-Laws Revision Committee

Special thanks to Barry Williams and David Owens for agreeing to serve as Co-Chairs of the By-Laws Revision Committee. Please contact either Barry or David if you would like to participate in the process of updating our By-Laws.

Young Lawyers' Committee

Congratulations to Ken June, Young Lawyers' Committee Chair for his efforts in securing a \$1,000.00 ABA grant to enhance our technology database and membership directory. Big things are in store this upcoming year from the Young Lawyers' Committee, so stay tuned.

Judicial Selections

Kudos are appropriate for Committee Chair, Kendra Ausby, and her tireless band of committee members for their efforts in conducting judicial candidate interviews. The Court of Special Appeals, the District Court for Charles County, and in short order, the District Court for Baltimore City . . . with more yet to follow.

Legislative Affairs

C.J. Balint, Committee Chair, has been sharpening his pencil (and elbows), in anticipation of another combative General Assembly legislative session. Get in touch

with C.J. Balint if you would like to enter the fray.

MONUMENTAL COMMUNITY OUTREACH

Personal thanks to Valda Ricks for agreeing to Chair the newly-created Community Outreach Committee. In her role, Valda will ensure that we, as an Association, are living up to our most noble goal of service to the community.

A TRIP AROUND THE BAR

Alliance of Black Women Attorneys

On October 31, 2004, the Alliance will host its Annual Meeting in conjunction with a Brunch and Fashion Show, starting the year off in grand fashion. The event, which is also a fund raiser, will be held at Martin's West. At that time, new officers for 2004-2005 will be sworn in. For further information, please contact, Cheryl Haskins (Cheryl.Haskins@baltimorecity.gov).

MONUMENTAL PRACTICE POINTS

A. Federal Laws to Consider When Organizing a Business in Maryland

- by Luke T. Cooper

Although the law surrounding organization of limited liability companies has become fairly flexible, there may be important tax-legal requirements to be met once the company is a duly organized entity. One such requirement to consider, is IRC §

6231 which requires each LLC that is classified as a partnership to designate a tax matters member if it has 10 or more members. The tax matters partner of a partnership signs the 1065 partnership tax returns and represents the partnership before the IRS in all tax matters for a specific taxable year. Failure to designate a tax matters member could result in civil penalties including the IRS' unilateral designation of a tax matters member.

Luke T. Cooper, Esquire, specializes in Mergers and Acquisitions and Commercial Finance with Jones & Associates, P.C. 111 S. Calvert Street, Suite 2700, Baltimore, Maryland 21202

B. It's Not Over Until It's Over: Filing Notices of Voluntary Dismissal in Maryland

- by the Editor

So you just settled that thorny piece of litigation that you have been dying to remove from your desk. Remember, "just because it's over doesn't mean that it's over." Maryland Rule 2-506 provides the framework for voluntary dismissals and stipulations to dismiss actions. Reaching an agreement with opposing counsel, does nothing to alert the court of that event. Wise counsel is always advised to ensure for the filing a dismissal motion. Consider the following:

JOINT STIPULATION OF VOLUNTARY DISMISSAL WITH PREJUDICE

Plaintiff, and Defendant, ("the Parties"), through their respective undersigned counsels and pursuant to Maryland Rule 2-506, hereby file this *Joint Stipulation of Voluntary Dismissal with Prejudice* in the above-captioned matter and state the following:

1. On _____ 2004, Plaintiff filed a *Complaint* against Defendant in the Circuit Court for Baltimore City, Maryland.

2. The Parties have reached a settlement in the above-captioned case and now wish to remove this matter from the Court's docket. A trial date has been set for _____, 2004 and, in all likelihood, is still on the Court's calendar.

3. Maryland Rule 2-506(a) provides that, "a plaintiff may dismiss an action without leave of court (1) by filing a notice of dismissal at any time before the adverse party files an answer or a motion for summary judgment or (2) by filing a stipulation of dismissal signed by all parties who have appeared in the action." *Id.*

WHEREFORE, the parties have signed this *Joint Stipulation of Voluntary Dismissal with Prejudice* and respectfully request that this Court issue an *Order* dismissing Plaintiff's *Complaint* with prejudice.

MONUMENTAL FEATURED ARTICLE OF THE MONTH

While many firms have made progress in hiring minority associates, minting new partners of color remains a problem. That's why some firms have turned to laterals.

By **Brian Zabcik**
[The Minority Law Journal](#)/Spring
2004

<http://www.minoritylawjournal.com>

It was in the early nineties, Alec Wightman says, when the lawyers of Baker & Hostetler first began to notice how monochromatic they were. Indeed, ethnic minorities accounted for less than 5 percent of attorneys at the Cleveland-based firm at the time. Wightman, now one of the firm's co-executive partners, says that in response, "we formed a diversity task force and charged it to generate some thoughts on how to attract and retain minority lawyers. One of the things we did was to look at the bottom of the pyramid and [how we could] get more minorities into our associate ranks."

As a result of its initial efforts, Baker & Hostetler began to have some success in hiring associates of color, Wightman says. But the firm made less progress in diversifying its partnership. That point was driven home at a 2000 conference for all of Baker & Hostetler's attorneys of color. The meeting, Wightman says, "opened our eyes to the lack of diversity in our senior ranks. First,

our young minority lawyers told us that they needed role models. Second, we heard from our clients that they're not only looking at statistics, but at the staffing that we bring to their matters." In particular, Wightman notes that in-house attorneys from two of the firm's major clients -- Cardinal Health, Inc., and Ford Motor Company -- both stressed diversity when they spoke at the conference.

The solution to Baker & Hostetler's dilemma? Laterals. In 2001 the firm embarked on a shopping spree, bringing on six minority lateral partners over the next two years. Thanks to these hires -- as well as associates of color who came up through the ranks -- 6.5 percent of Baker & Hostetler's partners are now minorities, a proportion that's well above the national average for large firms. And clients like Cardinal GC Paul Williams are happy: "Of all the large firms with whom we've done business, [Baker & Hostetler has] shown the most market progress."

The firm still has room for improvement, as Wightman admits. He notes that Baker & Hostetler has only one minority attorney in a management role, for example. And in this year's Diversity Scorecard -- Minority Law Journal's annual survey of attorneys of color at the country's largest firms -- Baker & Hostetler ranks at number 72, a respectable but not stellar showing.

But the firm's progress has been especially notable given its midwestern roots. Studies by The

National Association for Law Placement, Inc. (NALP), regularly report that minority attorneys flock to the major coastal cities. This pattern repeats itself in MLJ's survey -- the top 20 firms in this year's Scorecard are headquartered on the coasts. However, through a combination of lateral hires, client prodding, and formal diversity programs, Baker & Hostetler has managed to overcome the misfortunes of geography.

How it did so is worth examining, since partner diversity continues to be a big problem for most firms. Attorneys of color comprise 14.2 percent of associates and other nonpartner attorneys at the 236 firms in the latest Scorecard, but only 4.4 percent of partners. Both percentages are a far cry from the proportion of ethnic minorities in the general U.S. population: 37.3 percent, according to the 2000 census.

This year's survey looks more explicitly than ever before at how well firms are doing in hiring minority Americans. In the past, MLJ has calculated a firm's diversity score by the formula: Minority Attorneys/All Attorneys. Because several firms were counting their Latin American and Asian attorneys as Hispanic Americans and Asian Americans, the formula has been changed to explicitly exclude attorneys who are not U.S. citizens. The new equation is: Minority U.S. Citizen Attorneys/All U.S. Citizen Attorneys [see "[Defining Diversity](#)"].

Due to the formula change, many firms with a substantial overseas presence saw their rankings shift this year. The addition of 21 firms that didn't participate in the previous Scorecard also shook up the standings. (This year's response rate is the highest ever.) Finally, because the percentage of minority attorneys is so low at most firms, a slight change in the actual number of minority lawyers often had a significant effect on a firm's ranking.

However, the churning was limited. Of the top 20 firms in this year's Scorecard -- which looks at overall diversity among both partners and nonpartners -- 14 are repeats from 2003 [see "The Most Diverse"]. As it has for over a decade, Miami's Steel Hector & Davis continues to top the list, even though the firm's minority percentage dropped considerably from last year as a result of the exclusion of non-American lawyers.

New York's Paul, Weiss, Rifkind, Wharton & Garrison clocks in at number two, jumping six places from its 2003 showing. Paul, Weiss isn't the only strong performer among Manhattan-based firms; 11 of this year's top 20 call the Big Apple home. The Scorecard's third-place finisher, Palo Alto-based Wilson Sonsini Goodrich & Rosati, leads a pack of seven California firms in the top 20. Besides Steel Hector, Washington, D.C.'s Arnold & Porter is the only other firm in the top 20 not based in New York or California.

Lawyers of color continue to comprise a substantially higher

proportion of nonpartners than partners. This, and the fact that nonpartners outnumber partners by a 1.5-to-1 ratio, means that the firms which do best on the Scorecard are the ones with the highest percentage of minority associates.

In order to determine how well firms are doing in adding color to their upper ranks, it's necessary to look at partners alone. That's why the main [Scorecard chart](#) now lists a firm's minority partner percentage. One thing this statistic reveals is that there's often little relationship between the amount of diversity among a firm's partners and among its nonpartners. Indeed, of the ten firms that rank highest for overall diversity, only two -- Steel Hector and Wilson Sonsini -- are also among the top ten for partner diversity [see "Minority Partners: Highest Percentage"].

Why do minority lawyers account for so few partners compared to associates? Partly it's because attorneys of color didn't enter the pipeline in substantial numbers until the nineties (first as students, then as associates). But as every recent discussion of legal diversity has pointed out, firms have had an ongoing problem in retaining associates of color. "The numbers are not great for us making it through the ranks," says Deborah Broyles, an African American partner at Thelen Reid & Preist and chair of its diversity committee.

Some firms have had better luck than others in diversifying their

senior ranks, however. By comparing minority data collected by The National Law Journal in 1998 and 2003, it's possible to identify which firms have been most successful in adding partners of color. Among the 163 firms that ranked on the NLJ's charts in both years, Wilson Sonsini raised its minority partner percentage the most, by 7.4 points. Baker & Hostetler followed with a gain of 5 points, and both Thelen Reid and Shook Hardy & Bacon diversified their partnership by an additional 4.8 points. (This is the net rise; each firm also lost a few partners of color over the past five years. These figures and those that follow are based on partner rosters as of September 30, 2003.)

It's important to note that what's being measured here is the amount of increase in the minority partner percentage, not the degree of partner diversity. Of these four firms, only Wilson Sonsini has an especially large chunk of minority partners (12 percent), though the other three all have a minority partner presence well above the Scorecard average.

What accounts for the progress at these firms? Four factors stand out: coastal locations, lateral hires, client encouragement, and formal diversity programs.

Geography -- As noted, both NALP's and MLJ's surveys regularly show that minority attorneys cluster in East and West Coast metropolises. So it's little surprise to see that Wilson Sonsini did so well in making

minority partners. Its main office (home to all but two of the firm's 18 partners of color) is in the San Jose metropolitan area, which has the second-highest concentration of minority attorneys in the country according to NALP. Likewise, Thelen Reid's diversity success is partly due to the fact that it's the product of a 1998 merger between two well-established firms in San Francisco and New York. Nine of its 12 minority partners were in those two cities.

The coastal pattern also held up at Shook Hardy. Only one of its 11 minority partners was based in the firm's home office in Kansas City, Missouri. Another three operated out of California and Washington, D.C., while the biggest chunk -- six -- were in Miami, which NALP says is the most diverse legal market in America. Baker & Hostetler, the other heartland firm in this group, offered a partial exception to the coastal rule. While five of its 19 minority partners worked in California, eight were based in Ohio, including four in its Cleveland headquarters.

Laterals -- Baker & Hostetler wasn't the only firm to boost its minority partner numbers with substantial lateral hiring. Six of the 12 partners of color that Thelen Reid added between 1998 and 2003 joined as laterals; at Shook Hardy, the breakdown was nine of 12. Wilson Sonsini was the best by far at growing its own; only two of its 19 recent minority partners were laterals.

But the hiring pattern was markedly different at each firm. For the most part, Thelen Reid added to its established offices in New York and San Francisco with minority laterals from other large national firms such as Paul, Hastings, Janofsky & Walker, and Akin Gump Strauss Hauer & Feld.

In contrast, Shook Hardy has been on an expansion binge, and almost all of its recent minority laterals joined its new outposts in California and Miami. Additionally, most of Shook Hardy's recent hires came from smaller firms. Lea Ann Souza-Rasile, for example, joined the Miami office from Carlton Fields, a smaller regional firm. Souza-Rasile, an Asian American litigator, explains that she "was looking for something broader, and Shook has offices in the four corners of the United States."

Interestingly, many minority laterals say that practice concerns came first when they decided to change firms; diversity ranked second. For Ulrico Rosales, the chance to dive deeper into the booming Silicon Valley scene led him to leave San Francisco's McCutchen, Doyle & Enersen in 1998 for Wilson Sonsini. After having satisfied himself that he would have the "opportunity to excel," Rosales adds, "I was pleasantly surprised -- and I did do some due diligence on this -- that [Wilson Sonsini] was committed to the diversity concerns that I shared."

Likewise, Michelle Fujimoto says that when she decided to join Shook

Hardy last year, "I didn't look at their diversity numbers at first." But after the firm's attorneys began to talk about their diversity philosophy, she checked out their statistics and liked what she saw. "I felt that [the firm] did have a very good philosophy about gender and ethnicity and diversity," says Fujimoto, an Asian American litigator who now heads Shook Hardy's office in Irvine, California.

Clients -- Paul Williams says that since he joined Cardinal as assistant GC in 1995, he's had "many talks" about diversity with Alec Wightman, the company's relationship partner at Baker & Hostetler. The firm is principal outside counsel to Cardinal, a drug and medical supply distributor based in Dublin, Ohio. But, Williams emphasizes, he's been talking to his other outside counsel, too. "Cardinal has told all of our large law firms that diversity is important to us, and will be taken into account when we decide where our work will go."

Other firms are getting similar feedback. According to Thelen Reid's Broyles, "Clients have been speaking pretty clearly and loudly about diversity. They've been very interested in talking about what we've been doing, what they've been doing, and how we can partner together whenever possible." One example: the 15-year-old California Minority Counsel Program, which connects attorneys of color with potential clients around the state. Broyles points specifically to CMCP's annual business development conference, where minority

attorneys -- even young associates -- can pitch their services to the program's member corporations. "It's not often that junior associates have the chance to talk to a GC or an assistant GC," Broyles says.

Wilson Sonsini's clients generally haven't made an issue of diversity, according to Rosales. Rather, it's accepted as a given, says Fred Alvarez, who chairs the firm's employment practice. "A lot of our clients are start-ups and open to diversity among their own management," Alvarez explains. "So when an African or Latino partner shows up to give them advice, they don't think it's unusual." Indeed, Wilson Sonsini has contributed to the diversification of management in the Valley, losing two African American corporate partners to local tech companies: David Drummond, now the GC at Google, Inc., and Nevan Elam, currently CFO at E2open, Inc.

Diversity programs -- Most of these firms have institutionalized their efforts to recruit and retain lawyers of color. Not only do Baker & Hostetler, Shook Hardy, and Thelen Reid have diversity committees (a standard feature at most firms these days); each has rolled out other, more ambitious initiatives.

Though other firms have held retreats for their minority lawyers, Baker & Hostetler is one of the few to have one annually. Shook Hardy, meanwhile, has joined the growing list of firms that employ a diversity director. Proving that there's always an exception to every rule, Wilson

Sonsini doesn't have a diversity committee. What's more important, according to Alvarez, is that the firm has placed lawyers of color in several frontline management positions.

In 2000 Thelen Reid conducted one of the most innovative diversity projects yet: a survey of minority law student attitudes. John Heisse, the former managing partner of Thelen Reid's San Francisco office, explains that the firm polled minority students at eight law schools where it regularly recruits. To Heisse, the most interesting finding was that almost two-thirds of the minority students said white students had the edge in the recruiting process. Given the current emphasis on diversity, Heisse says he thought minority students would feel they had the advantage. Instead, these students of color believed that their white peers would do better because they shared the same culture as most of a firm's attorneys.

One finding that didn't surprise Heisse: Like most law students, the study's participants were "pretty cynical." Asked to rank four possible rationales for law firms' diversity programs, the students put "a desire for equity and a level playing field" at the bottom. The top-ranked reason: "a fear of looking unfriendly toward minorities, resulting in an inability to attract other attorneys to the firm."

The message for firms? Having a diversity program isn't enough.

Sincerity and substance, it seems, matter more.

NEXT EDITION: NOVEMBER 2004

EDITOR'S NOTE: This Newsletter is entirely dependent upon the articles and announcements submitted by our Members. As such, please forward your ideas and materials to my attention at neduke@ober.com. Thanks to Luke Cooper for his submission to this month's Monumental Minutes and the Minority Law Journal for permission to reproduce the featured article of the month.

Disclaimer: The material contained in this Newsletter are provided as a public serve and on an informational basis. These material are not intended to be a comprehensive statement of Maryland law, and are not intended to convey legal advice.