What is Houston's Legacy?

Charles Hamilton Houston was a vice dean of Howard Law School and civil rights lawyer. Among those he mentored was Supreme Court Justice Thurgood Marshall. Although he did not live to see the decision, he engineered the legal strategy that ultimately resulted in the unanimous 1954 Supreme Court decision, Brown vs. Board of Education, which overturned "separate but equal" Jim Crow segregation.

The PBA Minority Bar Committee seeks to honor him by naming its newsletter "Houston's Legacy" and to continue his unfinished work.

For more information about Charles Hamilton Houston, see the article authored by Andy Saylor in the inaugural Spring 2015 issue of the PBA Minority Bar Committee newsletter, “Houston’s Legacy.”

ONWARDS AND UPWARDS*

Gladys M. Brown on leadership

By Thomas S. Lee, Esq., Editor-in-Chief


1. Describe your path to your current role as chairman of the Pennsylvania Public Utility Commission.

I attended University of Pittsburgh School of Law and graduated in 1988. Prior to joining the Senate, I served as a law clerk at the law firm of Caldwell & Kearns in Harrisburg, an assistant counsel for the Bureau of Professional and Occupational Affairs in the Pennsylvania Department of State and as a clerk for the Honorable Paul A. Simmons, Judge for the U.S. District Court, Western District of Pennsylvania. Since March of 1991, I served as counsel to the Senate Democratic leader, where I worked on many of the major utility issues that have been considered by the General Assembly in the last two decades, including all of the major deregulation bills for telecommunications, electricity and natural gas. In my time in the Senate, I had no problem doing the heavy lifting on utility issues that many did not want to take on. I did not aspire to serve on the PUC, but was honored to be appointed by Governor Corbett in 2013. I was appointed by Governor Wolf in 2015 to serve as chairman of the PUC.

2. Why did you go to law school?

Originally I planned on being a pediatrician. My high school chemistry teacher knew that I wanted to be a doctor and always pushed me a little harder than the rest by giving me extra work. In 12th grade I took a law and government course and was fascinated with the law and government. I decided to become a lawyer and majored in political science and English while in college. (Brown attended University of Pittsburgh as an undergrad.)

3. Do you believe that a successful lawyer has to take particular classes in college?

No. I believe that a person should take anything that they are interested in. You can focus on any major in college.

* A continuing series of articles and interviews on the topic of leadership and talent management

Continued on page 2
and become a lawyer. Your interests should determine your courses, and your chosen specialty or field should come from that interest.

4. As a leader of a group of people, what do you believe your role is?

As chairman of the PUC, it is my responsibility to guide the commission to fulfill our mission. A leader must provide guidance, give assurance and strike a balance between competing interests. In a broad sense, I have to balance the needs of consumers and the needs of utilities. On the tough issues, there is always a fine line to be aware of. A leader can’t put the load unfairly on the consumer or the utilities. Maintaining a balance is essential. I also give my time and attention to the everyday issues, such as interacting and addressing staff and personnel issues, and that of members of the General Assembly.

5. Do you believe that a leader is responsible for setting the tone of an organization or group?

Yes. Very much so. I try to lead by example by showing up and doing my job. I also believe that a leader has to know what kind of person they are and impart that style to the organization. I am a process and procedure person. I involve staff and make them part of the process. How I do that is to meet regularly with bureau directors and know what is going on within the organization. People can become isolated in their view, and I believe that it is important to get an understanding of all of issues and the state of moral, give attention to those issues and determine a direction. An example of what we do at the PUC is that we have an internal survey every two years that is done anonymously to allow all employees to identify the needs of the commission.

The survey allows us to set benchmarks and to revisit those benchmarks on a scheduled basis.

A leader also has a responsibility to give the people who work in the organization knowledge. Knowledge about what the organization is doing, in a larger sense, and the topical expertise and tools to do their individual jobs.

Another thing that is important is access to leadership. I host a series of brown-bag lunches with employees that have meet longevity benchmarks of service to the PUC. We have an amazing amount of dedicated long-term employees who serve the public at the PUC. These lunches are held on a quarterly basis and allow for me to interact with staff. I also invite staff to call me directly.

A final thing that I want to add is that I do believe not a leader has to come into an organization and change everything. Assess what works and what does not. Keep what works and improve and innovate the organization.

6. Do you have advice for leaders of dysfunctional or dying organizations?

That is a really tough question. Every organization has to know what its purpose is. An organization has to constantly assess itself and determine if it has outlived its stated purpose. Of course, people hold on to things. I do the same thing. Every organization starts with passion, energy and drive. If those things erode as time goes on, I believe that the organization should cut back on something. Like a rose bush, when you cut back something, it comes back better. People are very busy and have many competing interests in today’s society. The only thing I can suggest on this difficult issue is that an organization must do everything it can to identify a leader who is willing to do the heavy lifting. As they say, “From everyone who has been given much, much will be demanded; and from the one who has been entrusted with much, much more will be asked.”

Thomas S. Lee is a Harrisburg-based lawyer and public policy advocate. He was appointed to Governor Wolf’s Advisory Commission on Asian Pacific American Affairs in November 2015 and was selected to serve as a vice-chair of the commission. He also is an elected fellow of the American Bar Foundation.
Imogene L. Cathey is an amazing, energetic, enthusiastic personality who has taken on her challenge as the first general counsel of Seton Hill University (SHU). As an African-American female from Greensboro, North Carolina, Imogene anticipated some challenges coming to rural Greensburg. She welcomed these challenges as an artist would welcome a blank canvas, surrounded by brushes, paints, oils and other materials to paint the perfect portrait.

Imogene was the former general counsel of the University of North Carolina at Greensboro (UNCG), so she knew what it took to be general counsel for a major university. She worked her way up at UNCG, from associate general counsel to eventually becoming general counsel. Hard work — meeting with the university president and board members, putting out and heading off fires — was nothing new to Imogene. What was new was the fact that at UNCG, Imogene had a full staff of competent attorneys to assist her with the day-to-day legal issues of a large institution. Not so at Seton Hill. Hence, the blank canvas.

Instead of being overwhelmed by being a one-woman show, Imogene accepted the situation as a challenge that would provide an opportunity to structure a general counsel office tailored for the best interest of Seton Hill University. Initially, Imogene and her administrative support person were the only two people in the SHU Office of The General Counsel.

Imogene works well with Seton Hill’s new president, Dr. Mary C. Finger. With the approval of Dr. Finger, Imogene was able to secure a summer law clerk, who will stay on at modified work hours in the fall, and has plans to expand the office with a paralegal and other legal personnel sufficient to run a powerful office. Flying solo meant everything from picking out the type of file folders the office would use to advising the president of the college and meeting with board members. Once Attorney General Counsel Cathey has a full complement of staff, she can focus her attention on the broader legal needs of the university.

What’s important to Imogene — aside from being the best general counsel she can be — is work/life balance. Having been that attorney who worked until 10 p.m. every day and on weekends, Imogene has learned the importance of having fun and taking time for herself and family. Imogene regularly keeps in touch with her family and friends. In addition, she is trying to find a place to feed her soul and to get in that all-important workout in the mid of her busy day.

Imogene speaks very highly of her employer. The fact that she is the only person of color on the President’s Council, it is not because of a lack of desire or attempts on behalf of SHU. Imogene states SHU encourages diversity and inclusion. However, its location presents challenges in attracting people to the university. Imogene is appreciative of SHU’s desires to have a more diverse campus community.

Imogene loves the feel of the small university community in which she works. She has ventured out in the community of Greensburg to network and socialize with colleagues and enjoy the quaint environment. Imogene has joined the Allegheny County Bar Association and is engaged with Women in the Law and Homer S. Brown. On the state level, Imogene is a member of the Pennsylvania Bar Association’s Minority Law Committee and In-House Counsel Committee.

Being the first, Imogene has an opportunity to leave a great legacy to the SHU Office of the General Counsel. While she is SHU’s first chief legal officer, it is not her first tenure as general counsel. As such, this talented, well-prepared, hard-working university officer will use her skills and talents to set the standard for those who will follow in her footsteps.

Above all of her qualifications, what is most impressive is that this chief legal officer is down to earth, personable and easy to engage in thoughtful conversation. Seton Hill University has done well in selecting Imogene L. Cathey as its first general counsel.

Through her local and expanded community involvement, I am confident that Attorney Cathey will do her part in creating a more diverse campus community in all aspects of university life. ✪

Marsha Grayson is a management professional with comprehensive experience demonstrating quantifiable achievements and expertise in all facets of legal, management, government and social services. Her legal background includes litigation and successful resolution of complex matters related to family law, child welfare, housing and estate planning. She is a graduate of Elon University with dual degrees in accounting and business administration, Wake Forest School of Law, and completed her Masters in Applied Psychology from Chatham University.
#BlackLivesMatter & #SayHerName

By Sharon R. López, Esq.

The Civil Rights Movement opened the school house doors to racial integration and legally desegregated our country. Nevertheless, racial injustice still exists. The #BlackLivesMatter and #SayHerName movements embody the growing discontent minorities have with systemic racism and our legal system. Both movements advocate for dignity, justice, and respect for the black community.

As minority attorneys, we likely represent the voice of those drawn to these movements. As Charles Hamilton Houston, vice dean and dean of Howard Law (1929-35), eloquently stated, “A lawyer is either a social engineer or …a parasite on society…. A social engineer [is] a highly skilled, perceptive, sensitive lawyer who [understands] the Constitution of the United States and [knows] how to explore its uses in the solving of problems of local communities and in bettering conditions of the underprivileged citizens.” Accordingly, all lawyers should educate themselves about the ways the law helps and hurts minorities and work to eliminate racial bias.

To address bias and police misconduct, President Obama established the Task Force on 21st Century Policing (Task Force). Divided into six key areas, most notable is monitoring the use of police force policies and investigative stops to improve police relationships within the community. While not a bad tactic, the more fundamental problem continues to be racial bias coupled with the erosion of exclusionary clause in criminal cases and the expansion of qualified immunity in civil cases.

According to “The Counted,” a project of the Guardian, nearly 25 percent of black deaths were police-related. This data supports the concerns raised by the movements. But the individual stories are just as compelling. In the spring 2016 issue of At Issue, the deaths of Eric Garner, Michael Brown, Akai Gurley, Tamir Rice, Walter Scott, Freddie Gray, and Sandra Bland were reported. Since the issuance of the Task Force Final Report, police-related deaths of blacks continue to rise.

**Delrawn Small - July 4, 2016**

Delrawn Small, an unarmed black man, was killed by an off-duty Brooklyn police officer while driving his family to a Fourth of July fireworks show. What lead to the shooting is in dispute. The matter is being investigated and no charges have been filed.

**Alton Sterling - July 5, 2016**

Alton Sterling, a homeless man, was selling cds outside of a convenience store in Baton Rouge. Officers responded to reports of an armed man, later identified as Sterling. The officers yelled that Sterling was armed, tackled, and fatally shot him in the back and chest. Witnesses captured the shooting on video, which quickly went viral. It was later revealed that Sterling carried the gun to protect himself from muggers. The officers involved are on administrative leave pending the outcome of the FBI investigation.

**Philando Castile - July 6, 2016**

Philando Castile, a cafeteria supervisor in St. Paul, was fatally shot in front of his girlfriend and her child during a traffic stop. When asked for identification, Castile revealed that he had a license to carry a gun, which was in his car. The officer told him to put his hands up and not to move. When Castile moved to put his hands up, the officer fatally shot him. His girlfriend live-streamed the video on Facebook. Protests prompted an investigation. Initially placed on leave, the officer returned to work to perform administrative duties pending the investigation.

Law enforcement’s ability to stop, even where there is no reasonable suspicion or probable cause at the time of the stop, was recently reviewed by the U.S. Supreme Court in *Utah v. Strieff*. In a 5-4 opinion, the court found the exclusionary rule not applicable because the officer found a legal reason to stop the defendant after the search. Justice Sotomayor dissented and pointed out the severe impact this decision will have on minorities and their experiences with police.

This case involves a suspicion less stop, one in which the officer initiated this chain of events without justifi-

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Foster v. Chatman: Batson to the rescue to prevent purposeful discrimination

by Judge Stephanie Domitrovich, Ph.D.

In 1987, Timothy Foster, an 18-year-old African-American who is poor and intellectually disabled, was convicted by a jury of murdering a 79-year-old Caucasian woman and was sentenced to death by an all-white jury who rendered the guilty verdict and decision of death against Timothy Foster. He had been on death row for nearly 30 years. The relevant constitutional provisions in this case are the Fourteenth Amendment (equal protection) and Sixth Amendment (right to impartial jury from fair cross-section of the community).

Peremptory strikes differ from “for cause” strikes, where lawyers must explain upfront to the court reasons to exclude particular jurors. For peremptory strikes, the lawyers instead merely use their assigned number of peremptory strikes in a discretionary fashion to eliminate jurors, although there are exceptions. Lawyers cannot use their discretion in peremptory strikes to cause purposeful discrimination. The United States Supreme Court case of Batson v. Kentucky, 476 U.S. 79 (1986), mandated a three-step process to prevent abuse when exercising peremptory strikes in order to foil attempts at purposeful discrimination during jury voir dire: (1) the defense, as the objecting party, must show a prima facie case of discriminatory use of peremptory challenges; (2) the prosecutor, as the opposing party, must provide race-neutral reason for challenged peremptory strikes; and (3) the defense, as the objecting party, has the burden of demonstrating intentional discrimination.

Pursuant to these Batson mandates, which prohibit the use of peremptory challenges or strikes on the basis of race, Timothy Foster’s defense counsel objected to the prosecutors’ eliminating all four qualified African-American jurors. The prima facie case was established by the defense because all four qualified African-American jurors were eliminated by the prosecutors leaving an all Caucasian jury. The burden then shifted to the prosecutors to prove their peremptory strikes were based on race-neutral explanations to avoid purposeful discrimination. The trial court judge reviewed these explanations and accepted the prosecutors’ eight race-neutral reasons for striking each of the African-American jurors.

After the trial, defense counsel obtained new evidence in discovery through the Georgia Open Records Act and had

Sharon R. López is the president-elect of the Pennsylvania Bar Association. She will ascend to the presidency on May 12, 2017. Ms. Lopez was the first editor of the Minority Bar Committee newsletter, “Houston’s Legacy.” She is the managing partner at Triquetra Law, a boutique civil-rights and plaintiff’s employment law firm located in Lancaster, Pennsylvania. Ms. Lopez was honored to be selected as a SuperLawyer for the last three consecutive years.

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Foster v. Chapman
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secured the prosecution team’s privately prepared notes about potential jurors, with all of four African-Americans in the pool listed on one sheet headlined “Definite NO.” The prosecutors’ notes referencing jury selection (1) marked the names of the African-American prospective jurors with a “B” and green highlighted them on four copies of the venire list; (2) circled the word “BLACK” next to the “Race” question on five juror questionnaires; (3) identified three African-American prospective jurors as “B#1,” “B#2,” and “B#3”; (4) ranked the African-American prospective jurors against each other in case “it comes down to having to pick one of the black jurors;” and (5) gave verbal explanations to the court for their strikes that were contradicted by their own notes.

Chief Justice Roberts delivered the Majority opinion wherein the court held that the evidence sufficiently established purposeful discrimination. The court found this discrimination was of the type prohibited by Batson. The defense had clearly shown that these prosecutors’ strikes were based on purposeful discrimination. Based on the information obtained through the Georgia Open Records Act, the Court held the evidence demonstrated the prosecutors were never seriously considering allowing these four qualified African-American prospective jurors to serve. They found the reasons for striking them were likely pretextual. Further, the court stated credible support existed for Timothy Foster’s argument that he suffered purposeful discrimina-
tion: several Caucasian jurors had the same traits as the black jurors but were allowed to serve on the jury; the prosecutors’ explanations for striking the African-American jurors shifted over time; the prosecutors had made misrepresentations of the record to support their strikes; and the prosecutors’ notes continually highlighted race. The majority had “the firm conviction” that at least two African-American jurors were removed due to their race by prosecutors “motivated in substantial part by discriminatory intent.”

Justice Samuel A. Alito, Jr. wrote a concurring opinion as to the judgment. Justice Alito noted the United States Supreme Court did not have jurisdiction to review state court decisions on state law claims, and, therefore, he determined the proper course of action in this case would be to have his court decide the relevant federal law question influencing the state court’s decision and then remand this case to have the state court decide the issue in light of the clarification from the United States Supreme Court in this case.

Justice Clarence Thomas dissented and indicated the United States Supreme Court likely did not have proper jurisdiction over this case since the state courts seemed to base their decisions on issues of procedural state law. Therefore, the United States Supreme Court should have vacated the lower decision and remanded for clarification regarding whether the state court’s decision implicated an issue of federal law before deciding Timothy Foster’s case. Justice Thomas also argued the trial court’s decision was essentially a credibility determination that should have been granted more deference by the Majority. Moreover, Justice Thomas believed this new evidence did not invalidate the trial court’s credibility determination.

In her article, Peremptory Prejudice: Racism Still Infects Jury Challenges, Even If Most Aren’t As Blatant as These Awful Georgia Prosecutors, Dahlia Lithwick believes that, despite this ruling being clearly the right decision, “it’s important to understand how limited an opinion it really is.” Lithwick, who has authored articles about the courts and law for Slate and hosts the podcast Amicus, states “[m]ost prosecutors don’t use green highlighters and the letter B to perform publicly the extent of their racial intentions.” She indicates “[t]his is a strange outlier case, made stranger by a state’s open records laws and the completely implausible arguments proffered to explain the prosecution’s conduct.” Lithwick further states: “There is nothing in (the Majority’s) opinion that would really limit the use of peremptory challenges that come wrapped in plausible-sounding explanations, even when the underlying intent is to strike black jurors.”

Lithwick also noted that Foster’s counsel of record, Stephen Bright, Esq., did not believe this decision would end jury selection discrimination. Bright holds the same belief that Justice Thurgood Marshall held in Batson v. Kentucky: voir dire discrimination “would end only
I am often asked why some women have such harsh things to say about women seeking high political posts and the few women in those posts. The more interesting question may be why so many people — women and men — support having a female leader.

After all, we’ve been taught to distrust and dislike smart, capable women who seek leadership. Those of us born in the United States grew up in a country that has never had a female president. We are at the peak of female representation in the United States Congress, and 80 percent of our congressional representatives are male. For every woman in Congress, there are four men. We have the most women on the Supreme Court of any time in our history, and only three justices are female. Six are male, so the male justices outnumber the female justices by a factor of two-to-one. Women make up only 25 percent of the presidents of the top 100 universities. Male university presidents outnumber female university presidents by a factor of four-to-one. Among the Fortune 500 companies, there are only four women CEOs; male CEOs outnumber female CEOs by a factor of 124-to-one.

Watch all but a handful of television shows, and you will see women in subservient roles. The leads are portrayed by men. The people depicted as having ideas and those executing the ideas, are men. The people in power — the people in government, the lawyers, judges, doctors — are virtually always depicted as men. Shows that have strong female leads stand out because there are so few of them.

Watch commercials. You’re taught that women stay in the home, clean, cook, and take care of children. We are not depicted as running companies, let alone our government. We are not shown as leaders.

There are a few movies that feature headstrong female characters in leading roles — “Suffragette,” “Divergent,” “Real Women Have Curves,” “Bridget Jones’s Diary,” “The Hunger Games,” “The Help,” “Pocahontas,” “Clueless,” “Legally Blonde,” “Crouching Tiger, Hidden Dragon,” “The Color Purple,” “Pretty in Pink,” “Out Of Africa,” “Waiting to Exhale,” “Aliens,” “The Wizard of Oz,” “The Wiz” and “Erin Brockovich” — come to mind. I don’t think it’s a coincidence that each of them was a blockbuster. People want to see strong, smart, capable and confident women on the big screen.

Sadly, these few films (and the few more with strong female leads) stick out because Hollywood has done such a terrible job of including strong female characters on the big screen. Women on film are rarely portrayed as even speaking characters. According to a recent report from the University of Southern California’s Media, Diversity & Social Change Initiative, in the 700 biggest box office smashes between 2007 and 2014, women played under a third of the speaking characters.

Quoting from the Geena Davis Institute on Gender in Media webpage, the data across the film industry is jaw-dropping, especially as to what children are being shown:

• Males outnumber females 3 to 1 in family films, a figure that has remained stagnant since 1946.
• Females are also underrepresented behind the camera. Across 1,565 content creators, only 7 percent of directors, 13 percent of writers, and 20 percent of producers are female. This translates to nearly five males working behind-the-scenes to every female.

• From 2006 to 2009, not one female character was depicted in G-rated family films in the field of medical science, as a business leader, in law, or politics. In these films, 80.5 percent of all working characters are male and 19.5 percent are female, in contrast to real world statistics, where women comprise 50 percent of the workforce.

According to Danielle Paquette’s piece in The Washington Post entitled, “Not even a third of speaking roles in popular movies go to women:”

“The gender ratio doesn’t appear to be improving[.] Last year, 21 of the 100 top-grossing fiction films featured a female protagonist or co-protagonist, a seven-percent drop from 2013. The plots of the most recent Oscar nominees for Best Picture, meanwhile, all centered on guys.”

We are taught from the time we are born that women should not be aggressive. That is a male trait. We should not speak up. We should not dominate any

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What we’re taught about women who rise

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women, and many dislike and distrust women who rise.

So I would like to know why those of you who admire women leaders, do so.

My answer is because I was raised by a mother who owned her own business and raised eight kids, who showed me that women can do anything they want. She had me work in her store, see the award-winning pet food packaging designs she conceived, and engaged me in conversations about her latest negotiations and business deals. She showed me that I could be a business owner, too. She also taught me critically important business tools that I use to this day: how to negotiate, compromise, reach consensus and move forward.

I was raised by a father who viewed his wife as an equal. Indeed, I suspect one of the things that attracted my dad to my mom is her self confidence, which mirrored his own. My dad showed me that he saw me as an equal as well. He loved being a doctor. He viewed it as the best job in the world, and he brought my siblings and me — my sister and brothers — into his office to show us what he did, in the hope we would want to become doctors, too. Like my mother, he showed us we could do anything we wanted. We could become doctors — the best job in the world.

A birthday card from my parents said, “The best part of being your parent has been watching you grow into this wonderful, independent woman.”

One other major influence was the one television show I saw growing up that reinforced my parents’ outlook on gender equality, “Star Trek: Voyager.” Vice Admiral Kathryn Janeway was depicted on it as the smart, highly capable, and compassionate commander of the starship’s top notch crew.

Rather than distrusting and disliking women leaders, I was taught to view them as equals and to admire and respect them.

If you do too, what led you to do so?

Sheryl L. Axelrod is the president and CEO of The Axelrod Firm, PC, a four-attorney woman-owned law firm with offices in Philadelphia and Washington, DC, in which she provides strategic, results-driven advice and representation to businesses in their general and product liability, employment, commercial and appellate litigation matters. She is an award-winning advocate for equality, diversity, and inclusion, and heads the Fearless Women Network, a non-profit dedicated to shattering glass ceilings and obliterating unequal pay. In addition to serving as a member of the Pennsylvania Bar Association (PBA) Minority Bar Committee, Ms. Axelrod serves on the executive council of the PBA Women in the Profession Commission (WIP), as co-chair of the WIP Diversity Committee, on the WIP Diversity Team, and with DirectWomen, the only national non-profit organization dedicated to advancing women lawyers onto major corporate boards.

1 The Geena Davis Institute draws from research conducted by Stacy Smith, Ph.D. at the USC Annenberg School for Communication & Journalism.

PBA DIVERSITY TEAM 2016-2017

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*Not eligible for reappointment in this position because this term coincides with their term on the Board of Governors.
MINORITY BAR ACTIVITIES

Come one, come all!

By Marisa H. Lattimore, Esq.

Although regrettably the summer is coming to an end, I am excited that some of the Minority Bar Committee’s (MBC) signature programs will begin.

9th Diversity Summit

The 9th Diversity Summit will be held on Oct. 20, 2016 at the Harrisburg Hilton. Andrea Farney and Tyrone Powell are the co-chairs of this excellent educational and informative event. The distinguished Honorable Timothy Lewis is the keynote speaker. There will be a panel discussion on how to become a judge; a voting rights panel; a panel dealing with the state of diversity in the Pennsylvania Bar Association; a panel concerning LGBT issues and Fisher II; and a panel pertaining to managing partners and diversity practices. This fantastic conference offers 5 ethics CLE credits!

Minority Law Day

Central Pennsylvania Minority Law Day, which is an Annual Law Day celebration, will take place on Nov. 1, 2016 at the Widener University Commonwealth Law School. Ed Lanza is chair of this wonderful event that brings together high school students and volunteer attorneys. For the first time, CLE credits will be offered to participating lawyers.

Michael Lee and Nigel Scott are co-chairs of our awesome Philadelphia Law Day, which is also an Annual Law Day Celebration. The event will take place on Nov. 8, 2016 at the PBI Center in Philadelphia. Mike and Nigel commented, “We are happy to announce that Minority Law Day volunteers are now eligible to receive CLE credit for their participation in this great event. For many years our volunteers have been the cornerstone of the program, and we view this as a great way to reward them for their dedication. We also hope that the added incentive will raise not only awareness of the program, but hopefully increase participation as well moving forward.”

The Pittsburgh Law Day will be held in the Spring of 2017 in conjunction with Duquesne University Law School and the University of Pittsburgh Law School. Lisette McCormick and Lanre Kukoyi are the co-chairs. The Law Day celebrations will be rewarding not only to the students and participating lawyers but also to the communities.

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Other Subcommittees

The Community Outreach Subcommittee, co-chaired by Prince Thomas and Norris Benns, plans to have a “You and the Law Event” this fall. This subcommittee seeks to establish working relationships with community organizations throughout the commonwealth that are dedicated to the advancement of social, economic and educational justice for minority communities.

The next Minority Attorney Conference will be held in October 2017. The subcommittee is lucky to have four chairs: Nefertiri Sickout, Syreeta Moore, Gina Thomas and Cherylle Corpuz.

The Nominations Subcommittee, co-chaired by Carlton Johnson and Syreeta Moore, identifies members for leadership positions in our Minority Bar Committee, the PBA and the Pennsylvania Bar Institute. This subcommittee also looks at obstacles minorities face in obtaining leadership positions and what can be done to mitigate those problems.

Tiwen Law and Rhodia Thomas co-chair the Legislative Subcommittee. This subcommittee updates the MBC on bills and laws affecting minorities and the practice of law. It also researches bills to

9th DIVERSITY SUMMIT

OCT. 20, 2016 • HARRISBURG HILTON

Get the event brochure. Register online.
JUMPING SILOS

The PBA’s Military and Veterans’ Affairs Committee – Why join?

By Wesley R. Payne IV, Esq.

A lthough many members of the Minority Bar Committee (MBC) are active members and leaders of other Pennsylvania Bar Association committees, some of our members have not branched out and may be reluctant to join other committees. The PBA is rich with leadership and other opportunities for our members. In short, there are a number of substantive PBA committees which our members and the PBA would mutually benefit from our members’ participation and voices.

One of those committees, which I have chosen to highlight in this article, is the Military and Veterans’ Affairs Committee. Started in 2005, the committee of approximately 80 members is relatively new. It presents its members with many opportunities for leadership on projects and within the committee’s leadership structure and offers a vehicle for its members to get involved in the PBA and the larger legal and military communities.

The mission of the committee is to coordinate statewide efforts that address legal matters affecting active, Reserve and National Guard military service members, retirees, veterans and their families. The functions of the committee are to:

• Operate as a focal point for all civilian and military lawyers practicing in Pennsylvania who handle legal matters regarding active, reserve and National Guard military service members, retirees, veterans and their families;
• Subsidize and support the efforts of the county bar associations’ Military Affairs committees;
• Serve as a liaison between the ABA and PBA Legal Assistance for Military Personnel (LAMP) programs and county bar association;
• Maintain liaison with the legal assistance offices at Carlisle Barracks and Fort Indiantown Gap;
• Maintain liaison with County Department of Veteran Affairs director;
• Work closely with the PBA Legal Services to the public committee to support LAMP program education and LAMP referral list;
• Advise the PBA president regarding legal matters affecting the military and their families in Pennsylvania;

Over the years, the committee has expanded and reduced its efforts where needed. For example, the committee has expanded its efforts in conjunction with David Travaskis and the PBA pro bono office to include pro bono civil legal assistance services and advice to present and former military service members and their families. Likewise, as the need for the mobilization of full scale units to be deployed has lessened, the committee has reduced its efforts with respect to mobilizations. And the committee is always looking for good ideas and fresh suggestions from members on what it can do to further the mission of the committee.

Veterans, soon-to-be returning veterans and their families are owed a great debt by our nation. This committee cannot address all the needs of Pennsylvania’s veterans and military personnel. But the committee helps with the veterans’ transformation back into civilian life. The committee also provides a mechanism to address legal issues unique (and not so unique) to military personnel and, if possible, prevent minor issues from becoming significant matters.

My experiences as the former chair and co-chair of the Military and Veterans’ Affairs Committee for the past several years have given me a number of advocacy and lobbying opportunities that may not have presented themselves in my regular practice.

One such opportunity was to testify on the issue of special Veterans’ Courts at a joint hearing of the State House Judiciary and Veterans’ Affairs & Emergency Preparedness Committee alongside Colonel Stephen C. Miller. Another opportunity was to work on a lawyer’s military desk reference manual with members of the committee and various county bar associations to assist attorneys handling cases involving military members.

Yet another opportunity was to plan and present at the Pennsylvania Bar Institute’s Continued Legal Education programs regarding Veteran’s Courts and making the Veteran Courts of Pennsylvania a unified system as opposed to a county-by-county system. Another presentation dealt with how to access benefits through the Veterans Administration. There are also opportunities to work on resolutions, such as the reso-
PBA’s Military and Veterans’ Affairs Committee
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olutions on statutory language regarding special license plates for recipients of the Medal of Honor and to honor World War I veterans. Both were approved unanimously by the PBA board of governors and House of Delegates.

The committee also works with interdisciplinary groups on presentations to assist veterans in the transition from the front lines to the home front. This initiative involves working with members of the Veteran’s Administration, judiciary and mental health professionals and non- legally trained advocates to identify and assist veterans in their transition back to being civilians. Finally, the committee, in conjunction with the Young Lawyers Division, hosted a special Wills for Heroes event.

Francis X. O’Connor, the current committee chair, initiated the Lawyers Saluting Veterans program during his year as PBA president. The program is alive and well and offers PBA members the opportunity to handle cases in their area of practice or expertise for Pennsylvania’s military veterans, free of charge. Through Lawyers Saluting Veterans, find your own niche and fill it by choosing what service you are able to provide for a veteran. It may be as simple as writing a letter or looking over a lease or other legal form that is confusing to him or her. Or maybe you have the time and ability to help in a more substantive way. Be creative, then let us know about it. I call upon each of you to volunteer for this “mission.”

Frank’s vision for the committee in the future is to grow the committee and get even more involved with veterans and provide more opportunities for our members.

You do not have to be a former member of the military to participate. All PBA attorneys are welcome and encouraged to join. So give the Military and Veterans’ Affairs Committee a try at the next Committee/Section Day on Nov. 17.

Wesley R. Payne IV, a partner in Philadelphia’s White and Williams LLP and chair of its diversity committee, is an at-large minority governor on the PBA Board of Governors. A member of the PBA House of Delegates, Payne is active in the PBA Minority Bar Committee and a former chair of the PBA Military and Veterans’ Affairs Committee. Payne is the treasurer of the Philadelphia Bar Association, a member of the Barristers Association of Philadelphia and president of the Philadelphia Association of Defense Counsel. He is active in pro bono and civic activities. A cum laude graduate of Washington and Lee University, Payne received his J.D. from the University of Maryland School of Law. He served in the U.S. Army Judge Advocate General’s Corps from 1988 until 1991.

Come one, come all
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be reviewed by the MBC and drafts resolutions to address pending legislation.

Jackie Martinez is chair of our Membership Development Subcommittee, which is actively working to increase and retain membership in the MBC and the PBA as a whole.

The Government Attorneys Subcommittee, co-chaired by Gina Thomas and Beverly Rampaul, encourages the recruitment, hiring and retention of minority attorneys within the government.

Andrea Farney and Will Sylianteng are co-chairs of the Professional Advancement Subcommittee. I chair the Governance Subcommittee.

The most recent addition, the Newsletter Subcommittee, is chaired by Tom Lee, who chairs the editorial board and is responsible for pulling together our impressive newsletter. The editorial board staff consists of Wes Payne, Jackie Martinez, Marisa Lattimore and Arlene Marshall-Hockensmith.

I thank all the chairs and subcommittees for their hard work and commitment and Andy Saylor for his dedication. This hard work and commitment make our Minority Bar Committee an amazing success, but it enables us to, as Mahatma Gandhi said, “Be the change you want to see in the world.”

We look forward to seeing you at our upcoming events!

Marisa H. Lattimore is counsel for Super Bakery, concentrating on intellectual property. She served as manager of diversity and professional development initiatives for Wolf Block LLP. She helped create a series of professional-development lectures designed to transition associates into legal practice with a multidisciplinary firm. She worked for the Supreme Court of Pennsylvania for more than 20 years, serving Chief Justices Robert Nix, John Flaherty and Stephen Zappala. Marisa is a director on the board of the Senior Law Center, the only nonprofit organization in Pennsylvania dedicated solely to protecting the legal rights of the elderly.
with the elimination of peremptory strikes.”

Historically, in English and American law, the right of peremptory challenges or strikes is considered as a right in jury selection which enables attorneys to reject a certain number of potential jurors without stating a reason with the exception being *Batson* issues. Attorneys consider peremptory strikes as a major part of voir dire and provide attorneys with the opportunity to veto potential jurors merely on hunches.

The idea behind peremptory challenges is that if both parties have contributed to the configuration of the jury, both parties will find the jury’s verdict more acceptable. The existence of peremptory challenges is argued as an important safeguard in the judicial process, allowing both defendant and prosecutors to eliminate potentially biased jurors except when *Batson* issues exist. The use of peremptory challenges permits attorneys to use their training and experience to dismiss jurors who might vocalize the correct responses, but might otherwise harbor prejudices that could infringe the rights of the defendant to a fair trial.

I am an optimist who believes in the right to peremptory strikes; eliminating the availability of peremptory strikes is not the answer to avoiding purposeful discrimination in the selection of jurors. Instead *Batson* entrusts trial judges with making important determinations to avoid purposeful discrimination. The Timothy Foster case is a shining star demonstrating that *Batson* is an effective tool for trial judges to implement to prevent purposeful discrimination. Trial judges and lawyers must be diligent at this early stage of voir dire to prevent such abuse by trial judges participating and attending voir dire in person. I am aware that in many jurisdictions where counsel can waive the presence of trial judges during voir dire, the trial judges accept such a waiver. Trial judges should be present in order to be vigilant in overseeing our voir dire process. This early phase of court called voir dire sets the stage to establish the perception of justice in the eyes of the defendants and constituents we serve.

We as trial judges should witness first hand voir dire for any violations of *Batson* and implement the vital mandates of *Batson* in order to do the right thing! The *Batson* “ball” is in our court to speak. We must not only call the balls and strikes, but we have to know about the *Batson* pitching. No foul balls count and no *Batson* purposeful actions of exclusion of jurors should ever occur in a discriminatory fashion. We as lawyers and judges must be vigilant and diligent. Timothy Foster waited nearly 30 years for *Batson* to be implemented and for justice to be rendered for him. We have the duty to prevent such harm from ever occurring in our courtrooms. *Batson* did come to the rescue of Timothy Foster.

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**Endnotes**

1 Dahlia Lithwick, Peremptory Prejudice: Racism Still Inflicts Jury Challenges, Even If Most Aren’t As Blatant as These Awful Georgia Prosecutors, http://www.slate.com/articles/news_and_politics/jurisprudence/2016/05/john_roberts_s_court_sees_racism_in_foster_v_chatman.html
AFFINITY BAR PARTNER NEWS

Asian Pacific American Bar Association of Pennsylvania announces scholarship winner

The Asian Pacific American Bar Association of Pennsylvania (APABA-PA) announces that Kenneth Ling has been selected as the inaugural recipient of the Archer APABA-PA Diversity Scholarship.

Ling, a 2L at Rutgers Law School, will receive a $5,000 scholarship and will spend next summer working at Archer & Greiner and the law department of Amerisource-Bergen. Kenneth has been included on the Dean’s List during his first two semesters at Rutgers Law School and earned first-year honors for being in the top 25 percent of his class. He is also a staff editor for the Rutgers University Law Review. Ling has also served as a judicial intern for The Honorable Jacob Blea III, Superior Court of California, Pleasanton, CA.

The Archer APABA-PA Diversity Scholarship was established to attract outstanding diverse law students to the legal profession in the Greater Philadelphia region. It is the Selection Committee’s goal to not only help students financially, but also contribute in a larger capacity by taking an active and ongoing role in furthering the professional development of exceptionally qualified diverse law students.

John Encarnacion, president of APABA-PA said, “The quality of the applications we received was amazing. We are thrilled to offer this opportunity to Kenneth who exemplifies the characteristics and potential needed to become a future leader in the legal profession.”

APABA-PA will present Ling with the scholarship at the bar association’s annual gala on Oct. 28 at the Sheraton Philadelphia University City Hotel.

Upcoming PBA Events

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<td>Workers’ Compensation Section Fall Meeting • Hershey</td>
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<td>Oct. 6</td>
<td>Environmental and Energy Law Section Fall Social Event • Harrisburg</td>
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<td>Oct. 13</td>
<td>Women in the Profession Mentoring Receptions • Harrisburg, Philadelphia, Pittsburgh &amp; Scranton</td>
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<td>Oct. 17</td>
<td>Mock-Trial Initiative Training for Lawyers • Philadelphia</td>
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<td>Public Utility Law Section Meet &amp; Greet • Harrisburg</td>
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