Chief Judge Lawrence F. Stengel Discusses Diversity Efforts in the Federal Courts

By Wesley R. Payne IV, Esq.

In the Jumping Silos column, we normally explore different PBA committees and sections that members of the Minority Bar Committee may be interested in joining or learning more about. However, this time we will explore a slightly different topic — the diversity efforts in federal courts. I presume that many of our members are primarily state court practitioners and rarely, if ever, practice in federal court. Who better to address the federal court system than the chief judge of the U.S. District Court for the Eastern District of Pennsylvania, the Honorable Lawrence F. Stengel.

Chief Judge Stengel was born in Lancaster, Pennsylvania, and received his bachelor’s degree in English from St. Joseph’s University. After graduating from college, he taught at a Catholic high school for several years. Later, Chief Judge Stengel attended the University of Pittsburgh School of Law and received his Juris Doctorate degree. He practiced in Pittsburgh from 1980 through 1984 before returning home and practicing with his father from 1985 to 1990. From 1990 until 2004, he served as a judge on the Lancaster County Court of Common Pleas. He received his commission as a judge of the U.S. District Court for the Eastern District of Pennsylvania on June 21, 2004, and became the chief judge on Aug. 1, 2007. Prior to becoming the chief judge, he practiced through all regions of the state and served as a trial judge in both the state court and federal court systems.

Samuel G. Encarnacion, current PBA minority governor and MBC member, had nothing but good things to say about Chief Judge Stengel as a jurist, saying he “gives all parties a fair shot at trial.” To demonstrate the Chief Judge Stengel’s keen ability to understand situations and connect with people, Sam related a story of a criminal matter he handled before the chief judge in Lancaster. The defendant was a first-time offender but was charged with a number of auto thefts. During one of the motion sessions, the attorneys were presenting argument to the chief judge regarding the charges and the number of autos allegedly involved. The arguments became somewhat tense. To add a bit of levity and ease the tension, Chief Judge Stengel remarked to counsel that, due to the number of autos allegedly stolen, the defendant “was having one heck of a good rookie season.” All counsel had a laugh and the tension was diffused. Indeed, my interview with Chief Judge Stengel showed his passion for the law, the profession, people, justice and his sense of humor. He is driven to make the right decision for all people.

Since it was obvious that he enjoyed teaching high school and college students, I inquired of the chief judge why he decided to change careers and become an attorney. His response was thoughtful and direct. “My father was an attorney and, although I loved teaching and education, I stayed interested in the law. I felt it best to go back to school. I taught full-time at a Catholic High School, and I continue to teach as an adjunct professor at Franklin & Marshall College. As Dave Fawcett, a former president of the PBA, once told me, the best preparation for being a trial attorney is to be a teacher.”

He also related that as the eldest of six children, he felt “drawn to responsibility,” “liked a challenge” and “wanted to do something of consequence” with his life. It appears that teaching and the law both fulfill these requirements.

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Chief Judge Stengel

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Since it is not uncommon for the son of an attorney to become an attorney, I wanted to know why he wanted to be a judge. Specifically, I was curious if it was something he felt was the next step for him as the son of an attorney or if there was a different motivation. His motivation had nothing to do with outdoing his father but was based in the concepts of responsibility and doing justice. As Chief Judge Stengel related:

"After several years of trying cases, I wanted to be more involved in the decision-making process. I loved being a lawyer and advocate and wanted to do justice. I wanted to be the person that took the facts and law and made the best possible decision. I also wanted to provide a forum where lawyers and litigants felt they were heard and respected."

So a desire to be responsible for making the best possible decision, doing justice and creating a forum accessible to all is what motivated him to become a judge. With that in mind, I wanted to know why he would want to be a federal court judge when he theoretically had more autonomy in the state court judiciary. Again, his response was very candid:

"After 14 years as a state judge, I was asked to run for the Superior Court but wanted to remain a trial judge. I handled cases in federal court during my career, enjoyed the work and wanted to experience the federal court system, where I could have a national versus local impact."

Once again, the feeling of responsibility and caring about others and the desire to help on a national level or a larger stage motivated him to become a federal judge.

Chief Judge Stengel is also a modest person. When I asked him about topics such as diversity on the state and federal benches, women as first chairs at trials or addressing unconscious bias in courts, he did not respond with statements about what he has directed, but instead spoke about the programs underway in the courts and being led by other judges. As an example, he stated:

"We are right now under the direction of Judge Sanchez actively engaging in studying diversity in jury panels. It is important to make sure panels reflect the communities from all nine counties of the district. We want to make sure we get people from all walks of life and backgrounds because just one or two minority members of a panel can have an effect on how the panel views evidence."

He could have spoken about himself or his efforts, but that is not his way. So I pressed him a bit more about his individual activities.

When asked how he could get diverse and minority attorneys more involved in the federal court, he noted that the criminal bar in federal court is and has always been very diverse by race and gender. Again, he also explained other programs headed by other judges in the district with respect to internships for minority law students and clerkships for recent graduates. Finally, he highlighted a policy of Judge Weinstein of the Eastern District of New York and stated:

"Judge Weinstein has a policy of encouraging attorneys to assign important roles at trial to women. At the mandatory Rule 16 conference, she speaks with attorneys and encourages them to allow younger, diverse and women attorneys to handle significant roles in cases. Judge Weinstein attempts to allow opportunities for oral argument for younger, woman attorneys."

He also stated that pro bono work is a great way for young, diverse and female attorneys to get the opportunity to try cases in federal court. He related a story about two young associates at a large Philadelphia firm who handled a pro bono matter for a prisoner, which resulted in a jury trial on the prisoner's claim of excessive force. As Chief Judge Stengel related, the young attorneys received training from the federal court and the experience of trying a case in federal court from "soup to nuts," which they otherwise would not have had the opportunity to do. Chief Judge Stengel added that such a trial experience was one that many large firm associates do not have the opportunity to obtain.

We also briefly spoke about his efforts as chair of the Judicial Resources Committee to incorporate diversity and inclusion principles in the federal court hiring process throughout the country. As Chief Judge Stengel related:

"As federal court judges, we do not appoint judges. But other hiring decisions are within our control. As chair of the Judicial Resource Committee, I help set HR policy for the federal judiciary. The chair of the Magistrate Judges Committee and I send a letter to the chief judge of each district where there is a magistrate judge opening to consider diversity when setting up new selection panels (that hire magistrate judges) and having diverse attorneys serve on the selection committees. We ask them to make diversity a priority when hiring magistrate judges."

So the judge’s approach is not merely to ask others to consider diversity in a vacuum, but to offer concrete ways to make sure that diversity is incorporated at each level of the decision making process and to ensure that minority attorneys have a voice in the process.

I asked about a story that PBA President Sharon López has shared about how Chief Judge Stengel helped launch the beginnings of her PBA career. He acknowledged that he asked her to represent Lancaster County on the Conference of County Bar Leaders in the diversity sector and stated that Sharon made the most of the opportunity. Again, he did not focus on his efforts but how Sharon excelled once given the opportunity. When asked why he did so, he explained:

"As president of the Lancaster County Bar Association in 2002, I started a diversity initiative. The Lancaster Bar Association had approximately 700 lawyers, and I wanted to see how we could increase the number of diverse lawyers in our bar association. I wanted firms to consider diversity in their hiring practices. Prior to becoming president of the Lancaster Bar Association, I served on the Board of..."
Chief Judge Stengel
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Directors of Leadership Lancaster and a commitment to diversity was an important issue in the local business community. We tried to have as diverse a class of local leadership trainees as possible. It was an outstanding program, and one of the best qualities of the program was its diversity."

In short, his experience with the greater business community allowed him to see the value of diversity in action. But, I suspected that was not the only reason that he would value inclusion. When asked directly why he cared about diversity at all, he explained, “Growing up in the 1960s and attending 16 years of Catholic school education helped me to be sensitive to the needs of others, and that was formative. I was taught to “value all people.” Certainly, that is something he has never forgotten.

His advice to new attorneys is: "Become active in bar associations and participate in local community events. Participate in pro bono opportunities. Be interested in people, be willing to prepare, study, work and read. Appreciate the story line. Realize it is important work that can make an impact on the lives of others. Read critically and write well and effectively and be willing to be an advocate. Diligently prepare. Respect each other [other attorneys], the law and process. Be humble about inserting yourself into the lives of others and take that work seriously and responsibly. The practice of law is an intellectual challenge and when dealing with people's lives as an attorney, you have the opportunity to make their lives better."

Chief Judge Stengel's comments emphasize the realization that what attorneys do has a real effect upon people's lives and that it is a responsibility and honor to be an attorney.

At the end of the interview, I realized that I had a number of things in common with Chief Judge Stengel, and I suspect that many of our members would as well. His approach to diversity and inclusion was refreshing, and his desire that “everyone have a seat at the table” was encouraging. His actions, as the chief judge and as the president of the Lancaster Bar Association, demonstrate that diversity is not a program or bullet point in an action plan sitting on a shelf, but a mindset of inclusion that is embedded in the process of the daily actions adopted throughout his life.

Wesley R. Payne IV, a partner in Philadelphia’s White and Williams LLP and chair of its diversity committee, is the Zone One governor on the 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.

EMPLOYMENT LAW
Enforcing Civil Rights at Work
By Sharon R. López, Esq.

I grew up while the civil rights movement and laws were expanding and developing. While the issues in the civil rights movement have changed over the years, the civil rights laws embedded in the anti-discrimination statutes continue to develop under Title VII of the Civil Rights Act of 1964. 42 U.S.C. § 2000e-2 (Title VII). Just like all laws, their promise of justice is not self-implementing, and there are tricky timing requirements for potential plaintiffs. As a minority attorney, I was frequently asked about civil rights enforcement long before I started practicing in the area. This article is intended to inform the non-civil rights practitioner on basic deadlines and requirements for anti-discrimination laws in the field of employment. Dabbling in any practice area is risky so make sure to refer any inquiring victim to an experienced practitioner.

Administrative Exhaustion is a Condition-Precedent to Federal Court Filing.

Before a victim of discrimination in the workplace can get his or her day in court, he or she must exhaust administrative remedies by filing a Charge of Discrimination with the federal agency charged with enforcing Title VII, the Equal Employment Opportunity Commission (EEOC). The charge is a simple form that requires the charging party to set forth the basic facts of the workplace discrimination and possible claims the party is raising, i.e., harassment, discriminatory termination, retaliation, etc. It must be signed and have the proper parties listed. It also must be filed with the EEOC within 300 days of the adverse employment action, i.e., harassment, discriminatory termination, retaliation, etc. The statutory purpose of requiring the charging party to file at the EEOC is to 1) make sure the charge is applicable to the employer as they are required to have Continued on page 4
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15 or more employees; 2) put the employer on notice so they can possibly resolve the matter with the charging party; 3) investigate the charge and conciliate with the employer where a finding of probable cause that discrimination occurred. Please note that Pennsylvania has its own anti-discrimination law, the Pennsylvania Human Relations Act (PHRA), which also requires administrative exhaustion. A charging party who believes the PHRA applies to his/her employment situation can use the EEOC to exhaust his/her claims under the dual filing provisions of the law. However, a charging party will not receive the benefits of the PHRA unless he/she files against an employer that has a minimum of four employees, and the charge must be filed within 180 days of the adverse employment action.

There are some very important benefits and protections offered to PHRA litigants that are not available under the Title VII. The first and most important is the uncapped damages that are available under the PHRA. Title VII caps damages based on the number of employees, but the PHRA does not. You could expose yourself to malpractice claims if you fail to advise a charging party to file within the 180-day PHRA deadline. See McKenna v. City of Philadelphia, 649 F.3d 171, 176 (3rd Cir. 2011) (jury awarded plaintiff $2 million in compensatory damages, but the district court reduced it to $300,000, based on the compensatory damages citing the Title VII cap).

Securing Your Notice of Right to Sue and Filing in Federal Court

While some litigants prefer to let the EEOC complete its investigation and make findings, there are times when an employment discrimination victim may want to proceed to court as soon as possible. Title VII requires the charging party to wait at least 180 days to allow the EEOC to complete its process. After 180 days, the charging party can request his/her notice of right to sue in court. Exhaustion of administrative remedies is complete for Title VII once the party receives this notice. Note, however, that claims arising under the PHRA require a full year to exhaust properly. It also should be noted that claims arising under the Age Discrimination Employment Act only require 45 days to exhaust administratively.

Federal Question Jurisdiction and Filing in Federal Court

According to the Federal Judiciary Center, the filings in federal district courts across the country grew in 2017 by 6 percent. The statistics indicate most of the employment discrimination cases are resolved following discovery. See http://www.uscourts.gov/sites/default/files/data_tables/fjc_c4_0331.2017.pdf. (5,500 of the 9,719 cases filed resolved before pretrial). Only 2.4 percent or 229 of the total employment discrimination cases filed are resolved at trial.

Proving intent to discriminate is a challenging prospect. Unconscious bias impacts jurors as well as judges. As anyone who knows jury work understands, jurors often approach decision-making by placing themselves in the position of the party they most identify with at trial. Minorities who are the victims of discrimination are often misunderstood. In addition, an employer may offer a legitimate non-discriminatory reason for taking the adverse employment action that the juror finds believable, perhaps because they have made the same choices and decisions at work. This is one reason why so few cases get to trial.

Minority Attorneys Play A Special Role in Protecting Civil Rights at Work.

The saying goes that losing your job is one of life’s five big traumas. However, when a minority loses a job, it impacts that individual and his/her family and community triple-fold: 1) loss of income; 2) loss of earning capacity; and 3) loss of faith in the promise of justice. One timeline missed or failure to file a timely complaint can lead to long-term loss that can never be regained. Our minority community looks to us for support, representation and advice. They expect us, as lawyers, to know about all the criminal and civil laws that impact our community. Be careful in employment discrimination cases and make sure to confer with an experienced practitioner before offering advice. The law is not self-implementing and civil right employment enforcement has a lot of obstacles on the path to restorative relief. Make sure you are part of the implementation solution and not another obstacle on the path to justice.

Sharon served as the PBA’s 123rd president and will continue her leadership service as the Minority Bar Committee co-chair in 2018-2019. Sharon’s office, Triquetra Law, is in Lancaster, where she represents victims of unlawful employment practices. Sharon has been designated a Super Lawyer for Plaintiff’s Employment Litigation since 2013. Sharon was also recognized as one of the top 25 women lawyers in Pennsylvania for 2015 and 2016 by the Legal Intelligencer Journal.

Save the Date
10th Diversity Summit
Oct. 18, 2018
Philadelphia

Keynote Speaker:
Ambassador Crystal Nix-Hines (ret.), partner in the Los Angeles Office of Quinn Emmanuel

Panel topics will include:
• “Race and Wrongful Conviction in the United States”
• “Hot Topics in Diversity”
• “Business Development”

Save the date and watch for more information.
#BlackLivesMatter & #SayHerName

By Anthony D. Cox Jr., Esq.

In this generation of millennials, it is becoming more commonplace to seek social justice through the use of social media. The hashtags #BlackLivesMatter and #SayHerName were created to voice awareness surrounding the issue of racially motivated police misconduct cases. They cover a plethora of police misconduct cases dating from 2012 through today. The following summary is intended to provide a brief status update on some of the high-profile cases from the past 18 months.

Freddie Gray - April 27, 2016 (Update)

Freddie Gray was fatally shot on April 27, 2016, in Baltimore, Maryland. Since this shooting, protesters have continued to hashtag #BlackLivesMatter in hopes for justice. On Sept. 13, 2017, the U.S. Department of Justice (department) issued a decision that there was insufficient evidence to charge any of the Baltimore officers responsible for Gray’s death as they did not willfully violate his civil rights.

Alton Sterling - July 5, 2016 (Update)

After Alton Sterling was fatally shot on July 5, 2016, the #BlackLivesMatter protests continued across the nation. The department issued a decision identical to that in the Freddie Gray case, concluding that there was not enough evidence to bring federal charges against the officers responsible for Sterling’s death.

Philando Castile - July 6, 2016 (Update)

Philando Castile was fatally shot and killed by Officer Jeronimo Yanez in Falcon Heights, Minnesota. Yanez was charged with three felonies, specifically one count of second-degree manslaughter and two counts of dangerous discharge of a firearm.

On June 16, 2017, the jury issued a stunning verdict acquitting Yanez of all charges associated with the fatal shooting of Castile. This verdict fueled the #BlackLivesMatter movement. Immediately following the verdict, protests gathered at the Minnesota Capitol to express their displeasure.

Terrence Crutcher - Sept. 16, 2016

Terrence Crutcher was fatally shot on Sept. 16, 2016, in Tulsa, Oklahoma by Officer Betty Shelby. This incident began when Shelby and another officer arrived at an intersection in response to a 911 call. The video footage captured Crutcher walking on the road with his hands in the air as Shelby followed him. A few seconds later, Shelby was seen pulling the trigger, and a bullet struck and killed Crutcher. Shelby alleged that she pulled the trigger because she witnessed Crutcher reaching for a weapon.

Subsequent to the shooting, Shelby was charged with felony manslaughter. The case proceeded to trial and, after nine hours of deliberation, the jury returned a verdict of not guilty. Post-verdict, the jury foreman issued an interesting letter articulating “any officer put in that situation at that exact moment and regardless of the skin color, gender or size of the suspect, would have performed the same way, which is in accordance with their law enforcement training.” In other words, the foreman explained that the jury reached its verdict because it concluded Shelby was justified and acted in accordance with her training.

Jordan Edwards - April 29, 2017

Jordan Edwards was fatally shot by police Officer Roy Oliver in Balch Springs, Texas, on April 29, 2017. Oliver explained that he encountered Edwards when he was called to investigate reports of underage drinking at a house party. According to Oliver, he arrived to the house and heard gunshots and chaos outside of the home. When Oliver exited the house, he witnessed a vehicle with Edwards in the passenger seat driving towards him. The released video footage showed the exact opposite. The video footage showed Edwards’ vehicle driving away from Oliver. The footage further revealed Oliver firing multiple bullets from his patrol rifle as the vehicle continued away from him. One bullet shattered the front passenger window and struck Edwards. Following the shooting, a grand jury indicted Oliver on one count of murder and four counts of aggravated assault by a public servant, one for each of the other teens who were in the car with Edwards. Moreover, Oliver was fired for violating several department policies. Oliver is set to stand trial in June 2018.

Johnnie Rush - Aug. 24, 2017

A police body camera revealed Johnnie Rush being punched in the head excessively by Officer Chris Hickman in Asheville, North Carolina. Officer Hickman suspected Rush of jaywalking and trespassing. He chased Rush down, restrained him on the ground, shocked him with a stun gun and beat him on his head repeatedly. Footage revealed Rush pleading that he could not breathe and crying for help. Initially, there was no action taken after this incident.

However, the release of additional footage supported the claim that excessive force was used against Rush. On March 6, 2018, the State Bureau of Investigation issued a statement indicating that it would reconsider whether to investigate the police beating of Rush and bring corresponding charges.

Stephon Clark - March 18, 2018

Sacramento police officers are currently under scrutiny for shooting and killing Stephon Clark in his grandmother’s backyard because...
Public Speaking: Tricks to Make a Memorable Presentation

By Richard L. McCoy, Esq.

Personally, my fear is snakes. You will never convince me that a harmless garter snake isn’t lurking, ready to inject me with deadly venom. But that is me. According to surveys, fear of snakes ranks well below fear of public speaking. I can always avoid the reptile house at the zoo, but as an attorney, you are unlikely to avoid being asked to speak. So what are the tricks to help you make a memorable presentation?

My focus is on CLE programs, but many of the tips that improve those sessions are applicable to client presentations, openings to a jury or pitches to a prospective client.

The first advice is to know your audience. That may be easier said than done in some situations, but for CLE it is easy. Your audience consists of adult professionals who want to hear, and retain, pragmatic advice from an experienced practitioner (you). You were invited to speak, and you did the necessary preparation on the substance of your topic, so let’s presume that the knowledge is all in there.

How do you effectively transfer that knowledge from your head to theirs? The critical technique is to actively engage those in front of you (or beside you – but more of that later). Active engagement can and should take many forms, and you will need to use several of them in each presentation.

The first two minutes will set the tone for the entire speech. You need to plan it carefully. I have seen many types of “ice-breakers” and you can select the type that fits your audience and setting. One group that I know always goes around the room, requiring everyone to answer a simple but provocative question, like “Describe your first date in one word.” Everyone is actively engaged immediately, either thinking about what they will say or responding to what others say. That works in a relatively small group, generally among people who know each other well enough to say something personal.

In a larger group, I prefer brainstorming. You stand in the front with a flip chart, or anything that allows you to write. You ask a question that is:

• Open-ended
• Related to your topic
• Can be answered in a word or phrase
• With no “right” answer

If you are speaking on an elder law topic, you might ask, “Tell me some characteristics of your typical elder law client.” For a trial skills program, you might ask “Name some ways you can keep a jury awake at 3 p.m.”

You might have to “prime the pump” so have one or two answers ready to go if you have more than 30 seconds of silence. The trick here is to write all of the answers on your flip chart, mostly with your back to the audience. Why? You want people to say something out loud, and they are also afraid of public speaking. They don’t want to be embarrassed or be singled out. By writing on the chart, the focus of the room is on your developing list, not on who says one answer or another. And once people have said something out loud, they are much more likely to be actively engaged for the remainder of your presentation. You have them.

Another advantage of brainstorming is that you are not standing in front of an audience with all eyes on you, waiting for wisdom. Brainstorming helps you get past the first awkward moments without having to say much yourself.

One more advantage: You are not standing behind a podium. A podium is a barrier between you and your audience. Take the plunge…don’t use it. I recommend that you make your whole presentation while walking around the room. You will need a way to hold your notes and perhaps a prop, like a bar stool or cocktail table. Not only does this keep your audience engaged, it encourages you to speak informally, conversationally.

Do not introduce yourself at the beginning of a presentation. Boring. You can create an opening PowerPoint slide with three or four points about your experience that establishes your credibility, and just have it on the screen while your audience is coming into the room. It takes more time and planning, but you can also create a short PowerPoint intro with music and multiple slides that advance automatically, introducing both your topic and you. Show it beginning two minutes before your scheduled start.

PowerPoint is both ubiquitous and ubiquitously scorned. The use of visuals to supplement and reinforce your topic is important and PP slides are the easiest way to do that. You should use them. However, how you use them is critical.

First, do not hand your speech outline to someone else, ask them to “make the PowerPoint” then look at it for the first time when your audience sees it. Each PP slide should have a specific, identifiable reason to exist within the framework of your talk, and only you can make those decisions. Some types to consider are bullet points, pictures, graphs, videos or animations.

The classic bullet points are useful to:

• Help the visual learners in the audience follow your substance;

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• Increase the retention rate for everyone in the audience;
• Give the audience something else to look at other than you, keeping them mentally active.

It is extremely important, and easy, to create good PowerPoint. Bad PP is much worse than no PP. At best, your audience is distracted from your points while they try to read or decipher a poorly designed slide. At worst, they become angry at you for forcing them to strain and struggle to read it.

A basic rule of thumb is “five lines, five words.” Put at most five lines on a slide, each line with at most five words. It is cheap and easy to create a second, third or 20th slide if you have that much material under a single heading. Just duplicate the first slide with the heading, and replace the bullet points with the next group. The type must be big enough to be easily read by the person in the back corner of the room. Use 36 to 48 point type if possible, but a minimum of 30 points.

I do not think that it matters whether you use dark type on a light background or the reverse. What is important is contrast. Whatever is on your PP should be easy to read, so avoid light color type on a light background. Sometimes you have a great contrast, but when you want to emphasize a certain word, you change the text color with disastrous results:

- Start by encouraging active participation.
- Plan several changes of pace.
- End with a clever and practical takeaway.

If you are using one of the standard designs that come with PP, look at each slide to make sure the text is not obscured by the graphics.

Next, plan to stop talking about every 10 minutes. (This may not work with a jury.) Ask a question. Hand out a self-graded quiz. Show a short video. Whatever you need to do that snaps your audience back to attention. Remember, they have clients emailing them. They have children with a school play that evening. Their attention wanders. Except for the most extraordinary speaker, your voice alone will not keep them focused.

If you are comfortable, walk to the back of the room, particularly if you want your audience to focus on a PowerPoint slide. With a wireless microphone, you can be heard while standing anywhere. During one presentation, I started in the back of the room. It keeps them alert.

By the way, you may want to consider taking voice lessons. A wonderful trial lawyer told me that, early in his career, he realized that he would be using his voice to make his living, so he decided to have it professionally trained. He was still taking lessons in his 60s.

You may want to consider using an audience response system. There are several companies that offer web-based systems. You have to prepare multiple choice questions (generally in PowerPoint) and upload them to the system. The audience members use their smart phones to log into the system. They get to vote on which answer is correct and their cumulative answers appear almost instantaneously as a bar graph on the screen. The questions can be tricky. It is fairly easy to think of a question, and you know the right answer. The hard part is thinking of three plausible but wrong answers. But the rewards of this extra effort are better learning and great evaluations.

Finally, you need to plan the last two minutes. I have seen many outstanding presentations end with a thud when the speaker looks confused and says “Well, I guess that’s it. Thanks.”

You should plan a quick summary of your three most important takeaways. Perhaps you can refer back to the brainstorming list if your question resulted in a list of topics you intended to cover. The ending should be practical, crisp and memorable. Don’t summarize the important cases, but describe how a practitioner needs to change his or her forms as a result of the cases.

Your next speech can and should be useful and fun for both you and your audience. Start by encouraging active participation. Next, plan several changes of pace. End with a clever and practical takeaway. I will never be comfortable with snakes, but you can be comfortable and successful with your next presentation.

Disciplinary Board Announces Diversity Data Collection

The Disciplinary Board of the Pennsylvania Supreme Court has announced the addition of a voluntary question on 2018-19 annual registration forms to collect gender, racial and ethnic demographic information. The data will establish a demographic baseline and track demographic changes to help identify and eliminate barriers to fairness within the court system and the legal profession.

The PBA has long supported the collection of diversity data. A resolution by the PBA Diversity Team, Commission on Women in the Profession, Minority Bar Committee, and Civil and Equal Rights Committee calling on the PBA to request that the court and the Disciplinary Board to include a diversity question was approved by the PBA House of Delegates in November 2013.

Read the Disciplinary Board of the Pennsylvania Supreme Court’s announcement.
Reflections on MBC Achievements

By Michael H. Reed, Esq.

I am honored to have the opportunity to briefly share my thoughts on the contributions and achievements of the Minority Bar Committee since its formation 30 years ago. Prior to the formation of the committee, the Pennsylvania Bar Association had noted a lack of racial diversity in its leadership and membership. Through the committee, the PBA sought to reach out to and provide greater service to minority attorneys in Pennsylvania. The initial aspirations for the committee were modest. But within the first year and a half of its existence, the committee held its first statewide Minority Attorney Conference attended by over 300 people; sponsored a resolution adopted by the Board of Governors interest to minority lawyers and their communities including immigration, court interpreter competency, affirmative action, capital punishment, farm worker rights and other civil rights issues.

I am most pleased with three programs.

First is the ability of the MBC to engage in the legislative process in Harrisburg. In 1994, when I introduced a resolution to the Board and House to assure the competency of court interpreters, PBA had no legislative staff able to interact daily on bills needed by lawyers and the legal profession. PBA President Jim Mundy made that happen a few years later. Twelve years later, after a series of legislative hearings and negotiations with the Supreme Court, my resolution became Act 172, signed into law by Gov. Ed Rendell. I was able to present testimony before legislative committees on behalf of PBA about the bills. Now all lawyers are able to order interpreters in all courts and state agencies of the Commonwealth so that their clients can be heard in their native language and that they can understand what happens in their case.

Second, before 2000, racial minority members of PBA did not have an opportunity to sit on the Board of Governors unless they were elected a governor of their zone or chaired a section of the association. After presenting a resolution for designated seats, with the support of PBA President Tom Cooper and the committee he appointed, MBC has a guaranteed seat on the Board. With the support of the Diversity Committee, the House approved a second seat several years ago. By having racial minorities seated on the board, we have gained greater visibility and stature in the association, paving the way for MBC members to run for officer positions and zone governor seats. Since then, MBC members have succeeded in serving on the PBA Nominating Committee, which approves the slate of PBA officers.

Third, I am particularly impressed by the MBC annual Minority Law Days for high school students. In 2017, 200 high school students showed up in Philadelphia to attend a six-hour program, where students argued both sides of a case before their peers. I hope that we will see greater numbers of MBC members and lawyers volunteer for that event as a way of reconnecting with the future generations of Pennsylvania lawyers. The programs occur.

Three MBC Accomplishments

By Tsiwen Law, Esq.

In looking back upon 30 years of involvement with the PBA Minority Bar Committee, I am most pleased with three programs.

First is the ability of the MBC to engage in the legislative process in Harrisburg. In 1994, when I introduced a resolution to the Board and House to assure the competency of court interpreters, PBA had no legislative staff able to interact daily on bills needed by lawyers and the legal profession. PBA President Jim Mundy made that happen a few years later. Twelve years later, after a series of legislative hearings and negotiations with the Supreme Court, my resolution became Act 172, signed into law by Gov. Ed Rendell. I was able to present testimony before legislative committees on behalf of PBA about the bills. Now all lawyers are able to order interpreters in all courts and state agencies of the Commonwealth so that their clients can be heard in their native language and that they can understand what happens in their case.

Second, before 2000, racial minority members of PBA did not have an opportunity to sit on the Board of Governors unless they were elected a governor of their zone or chaired a section of the association. After presenting a resolution for designated seats, with the support of PBA President Tom Cooper and the committee he appointed, MBC has a guaranteed seat on the Board. With the support of the Diversity Committee, the House approved a second seat several years ago. By having racial minorities seated on the board, we have gained greater visibility and stature in the association, paving the way for MBC members to run for officer positions and zone governor seats. Since then, MBC members have succeeded in serving on the PBA Nominating Committee, which approves the slate of PBA officers.

Third, I am particularly impressed by the MBC annual Minority Law Days for high school students. In 2017, 200 high school students showed up in Philadelphia to attend a six-hour program, where students argued both sides of a case before their peers. I hope that we will see greater numbers of MBC members and lawyers volunteer for that event as a way of reconnecting with the future generations of Pennsylvania lawyers. The programs occur.
Since 1989, the committee has annually organized and presented conferences and summits featuring educational presentations on an array of “bread and butter” practice issues as well as substantive law and public policy topics. The meetings have also featured awards honoring Pennsylvania lawyers who have had distinguished careers as judges, public officials or private practitioners and prominent keynote speakers, including a U.S. senator and the mayor of Philadelphia. Ongoing activities of the committee include cosponsoring annual “Minority Law Days,” community outreach, mentoring and “pipeline” development programs.

The committee has been remarkably resilient in its ability to attract new leadership and dedicated members who have continued the work of the committee over the years. The committee has served as a bridge through which the PBA has reached out to the larger legal community on diversity issues and served as a platform through which the PBA has attracted additional minority attorneys to its membership. I believe that the committee’s good work paved the way for the subsequent creation of the PBA Commission on Women in the Profession and the PBA’s GLBT Rights Committee, the latter being created during my term as PBA president. Looking back over the last 30 years, I believe that the committee has fulfilled and surpassed the expectations of its founders in serving the PBA, its members and the wider community.

Michael H. Reed is former president of the Pennsylvania Bar Association and was the first chair of the Minority Bar Committee. He is the Pennsylvania State Delegate in the American Bar Association, having previously served on the ABA’s Board of Governors. He is special counsel with the firm of Pepper Hamilton LLP, having joined the firm in 1972 and been a partner from 1980 to 2013. He received a B.A. in political science from Temple University in 1969 and a J. D. from Yale Law School in 1972.

Tsiwen Law is a founding member and past chair of the PBA MBC, past chair of the Civil and Equal Rights Committee, past delegate of the PBA House, and governor on the PBA Board. He currently serves as co-chair of the MBC Legislative Subcommittee and a member of the Diversity Committee and the Membership Committee. He is a graduate of the University of California, College of Letters and Science, the University of Michigan School of Public Health and the University of Pennsylvania Law School.

Anthony D. Cox, Esq. is an associate attorney at Thomas, Thomas & Hafer LLP, where he specializes in labor and employment law and commercial litigation. Anthony is very active in the community and dedicated to service. Anthony currently serves as a member of the Minority Bar Association and spends a lot of his time working closely with Widener University Commonwealth Law School’s Black Law Students Association. Specifically, Anthony teaches workshops encompassing professional development and academic enhancement. He has won a number of awards for his service including both the Distinguished Service Award and Starla J. Williams Student Service Award during his law school tenure.
Please allow me to introduce myself. My name is Maraleen Shields. I am a shareholder in the Lehigh Valley-based law firm, Fitzpatrick Lentz & Bubba. I have spent the bulk of my career practicing health care law and litigation in northeastern Pennsylvania.

In 2016, shortly after returning to work following my second maternity leave, I received a call to action from incoming PBA President, Sharon López. She urged me to get off the sidelines. Stop lurking on committees. Become engaged. Use my voice. So, I did.

While I have been a member of the PBA for nearly my entire career, I had never truly been involved in a meaningful way. Over the years, the excuses and justifications piled up. First, I was too busy with my career and developing practice. Later, I was too busy with my still very young family. Then, I thought I was too far away from Philadelphia and Pittsburgh to get involved. Somehow, a call to action was all it took. First, it was a short-term committee membership. Then, it was an opportunity to speak at the Midyear Meeting. Now, it is sub-committee chair assignment. I am pleased to answer the call to serve as chair of the Rising Star Program Subcommittee.

Houston’s Rising Star Award recognizes and elevates outstanding achievements and accomplishments of members of the PBA Minority Bar Committee. For the last six years, the Rising Star Program has been dormant. No awards have been given. It is my charge to breathe new life into this program, but I cannot do it alone. Now, I issue a call of action to each of you.

I personally welcome you to become a member of the Rising Star Program Subcommittee. This is your opportunity to help shape this program for many years to come. Subcommittee members should budget one to three hours a month to assist with the process of identifying, vetting, and interviewing potential award recipients as well as profiling chosen award recipients.

Even if you cannot become a subcommittee member, this is still a call of action to you. Be our eyes and ears. Be on the lookout for promising Minority Bar Committee members. We are looking for people who perhaps have been overlooked, but nevertheless deserve to have their work recognized. We are looking for people who will use this platform as a springboard to achieve even greater heights both in their profession and in community.

Each recipient of the Rising Star Award will be profiled in Houston’s Legacy, the PBA Minority Bar Committee newsletter, which is published in spring and fall each year and posted on the PBA website. In addition, each recipient will be honored at either the Diversity Summit or Minority Attorney Conference. There, the awards recipient will be honored and welcomed into the esteemed company of past recipients of the Rising Star Award. Nomination forms may be found through this link on the PBA website.

After nearly a decade of medical malpractice defense and risk management experience, Ms. Shields joined Fitzpatrick, Lentz & Bubba in 2014, where she is a shareholder. As a member of the Firm’s Healthcare Group, her practice focuses on peer review and credentialing matters, licensing and professional board disputes, Health Care Quality Improvement Act (HCQIA), Health Insurance Portability and Accountability Act of 1996 (HIPAA) and Health Information Technology and Economic and Clinical Health Act (HITECH) compliance, the OIG exclusion program, and risk mitigation and event management. Ms. Shields is also a member of the firm’s Litigation & Trial Practice Group. She has been recognized as a “Pennsylvania Rising Star” several times. Originally from Pittsburgh, she relocated to the Lehigh Valley in 2006. In 2015, she was named to Lehigh Valley Business’ “Forty Under 40.”
MINORITY BAR ACTIVITIES

Come One, Come All!

By Marisa H. Lattimore, Esq.

As we spring into spring, our subcommittees are continuing to move forward with the fantastic work they are doing.

Diversity Summit

Our next big event is the Diversity Summit, which will be held on Oct. 18, 2018, in Philadelphia. Andrea Farney and Tyrone Powell are co-chairs of this awesome conference and are planning to conduct six panels. Panel topics include “Race and Wrongful Conviction in the United States,” "Hot Topics in Diversity” and “Business Development.” This summit is extra special as it is our 10th Anniversary Celebration! The amazing keynote speaker is Ambassador Crystal Nix-Hines (ret.), partner in the Los Angeles Office of Quinn Emmanuel. Not to be missed, this will be an exciting, informative and educational seminar. We look forward to seeing you there.

Minority Law Day Programs

Also very popular are our Minority Law Day Programs. Although we haven't produced a Pittsburgh Minority Law Day Program for a couple of years, one finally appears to be on the horizon. Bridget Gillespie and Verdell Dean are working on a prospective program that involves “stop and frisk issues.”

Our Central Pennsylvania program is chaired by Rachel Hadrick. As many of you know, our Nov. 6, 2017 event was awesome! We had a record number of 90 students participate from seven schools. We thank Professor David Raeker-Jordan from the Widener University Commonwealth Law School, who conducted a group session that gave the students the experience of a lifetime — to see what it is like to be in a law school classroom. Lucky them! Also, a special thank you goes out to the 24 committed, hardworking volunteer attorneys who helped to make the program such a success. They are as follows: LaToya Bellamy, Gladys Brown, Raziya Brumfield, Hermione Cadet, Anthony Cox, Pam Cross, Morgan Davis, Stephen Ekema-Aghaw, Rick Estacio, Andrea Farney, Joy Fleming, Clarissa Freeman, Ana Paulina Gomez, Rachel Hadrick, Trent Hargrove, John Jusu, Matthew Krupp, Arlene Marshall-Hockensmith, Mike Sand, Susan Simms Marsh, Erica Townes, David Trevaskis, Shaleeta Washington and Lisa Watson. We couldn’t do it without you! The late Professor Starla Williams, who spearheaded this event in the past, would have been proud. The next fantastic Central Pennsylvania Minority Day Law Program will be conducted in November.

Our amazing Philadelphia Minority Law Day Program was held on Nov. 13, 2017, and was co-chaired by Nigel Scott and Mike Lee. The keynote address was delivered by the distinguished Vernon Francis of Dechert, LLP, who gave the students a primer on First Amendment issues that were at play in the day's fact pattern. The students were requested to consider competing free speech interests asserted by both proponents and opponents of preserving Confederate monuments. A record 200 students from 14 or 15 schools participated in the event. Yes, that is right — 200 students attended the Philadelphia program and only 15 volunteer attorneys. What a fabulous job those 15 volunteers did with their limited numbers! As you can discern by the extraordinary number of participants, the students are extremely committed, interested and engaged in this program. A special thank you goes out to the hardworking, dedicated 15 volunteer attorneys who didn’t flinch at the overwhelming number of students. They are as follows: Antoinette Hubbard, Marisa Lattimore, Tswen Law, Mike Lee, Syreeta Moore, Kristin Mowery, Joe Nguyen, Alex B. Norman, Jonah Santiago Pagan, Wes Payne, Mike Reed, Nigel Scott, Prince Altee Thomas and David Trevaskis. Again, we couldn’t do it without the volunteer attorneys. Our next Philadelphia Law Day will be held in November. Please consider coming out and participating in this wonderful event. Take note that an added bonus to this already rewarding experience is that you receive CLE credits for your service.

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Other Subcommittees
Most of you know that we have other wonderful subcommittees that are doing amazing work. The Minority Attorney Conference, which was an annual event, will now be held every two years. The next conference will be conducted in October 2019. Although it appears to be a long time coming, it will be here before we know it. The co-chairs are Gina Thomas and Marisa Lattimore.

Our Government Attorneys Subcommittee is co-chaired by Gina Thomas and Beverly Rampaul, who plan to conduct “lunch and learn” programs. You can lunch and learn at the same time—what is better than that?

The Membership Development Subcommittee is chaired by Jackie Martinez. Her role is not only to enhance our membership numbers but also enhance our membership experience.

Our Governance Subcommittee is chaired by Marisa Lattimore. That subcommittee recently revised the operating procedures of the Minority Bar Committee (MBC). Andy Saylor was instrumental in moving those revisions forward.

The Nominations Subcommittee is co-chaired by Carlton Johnson and Syreeta Moore. They keep us abreast and informed of the various awards and open seats that are available.

Our Community Outreach Subcommittee is co-chaired by Norris Benns and Prince Thomas. They continued the tradition and held its 5th Annual Martin Luther King Day event at Shiloh Baptist Church. Not only was this year’s attendance the best ever but the audience was very engaged in the program. Topics that everyone found extremely interesting and informative included “Bankruptcy,” “Wills and Powers of Attorney” and “The Affordable Care Act.”

Our Legislative Report Subcommittee is chaired by Tsiwen Law and Rhodia Thomas. This subcommittee brings important state and federal legislative matters that impact both the MBC and the PBA to our attention. This enables our committee and the PBA to mobilize attorneys throughout the state around legislation that affects us and determine what can be done. They coordinate with Ashley Murphy the monitoring of state legislation brought before our committee.

Our esteemed Newsletter Subcommittee is chaired by Tom Lee, who helps to keep the “presses” rolling with the assistance of the editorial board that consists of Wes Payne, Jackie Martinez, Marisa Lattimore and Arlene Marshall-Hockensmith.

You can make a difference in our profession by joining our Minority Bar Committee. If you are interested, you can contact one of our co-chairs, Mike Lee or Norris Benns, or you can contact Louann Bell.

As Mahatma Gandhi said, “Be the change you want to see in the world.”

Marisa 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 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.
One of the strengths of the Pennsylvania Bar Association (PBA) is its tradition and ability to develop committed leaders through its sections and committees. In the Minority Bar Committee (MBC), we have seen a number of members blossom and develop as leaders within the PBA. Although development of leaders within the committee and section structure is a PBA strength, said development is not always consistent throughout the various committees and sections. Further, younger and diverse attorneys may not immediately get the opportunity to develop their leadership potential exclusively in the committees and sections due to the different structures of the committees or sections. To address these issues, nearly a decade ago, the PBA reinitiated the Bar Leaders Institute (BLI). The BLI provides an additional pathway for involvement, exposure and development as future leadership of the PBA.

The BLI is co-chaired by Philip H. Yoon and Melinda C. Ghilardi. Both are very active in the PBA. Phil is a MBC member, chair of the Law-Related Education Committee and a member of the inaugural BLI class. Melinda is also a true friend of the MBC. She is a former Zone Governor, former co-chair of the Women in the Profession Committee and former chair of the PBA Diversity Team. Both encourage and actively seek out participation in the BLI class by young, diverse attorneys.

The class size is limited to 10 attorneys but a number of MBC members have partaken in the program. And, it is that time of year when the BLI is looking for participants in the next class. Therefore, younger members of the MBC that are currently licensed in Pennsylvania, have demonstrated leadership ability in some capacity and are interested in participating in PBA leadership may wish to consider applying to the BLI class for 2018-2019. Applications are due May 4, and the selections made in early June.

The purpose of the BLI, as stated by the PBA, is as follows:

The PBA Bar Leadership Institute provides emerging leaders, representing a broad cross-section of the diversity of the PBA membership, with an opportunity to learn about the PBA while actively participating in key meetings. Participation in the Bar Leadership Institute provides numerous opportunities to network with PBA members and leadership and helps build lasting relationships that will serve as an invaluable resource for future success. The Bar Leadership Institute looks to the future of the organization by developing well-informed, committed leaders who will serve the PBA for many years to come. It familiarizes participants with the day-to-day operation of the association, provides a foundation on governance and policy issues and introduces the participants to PBA staff and resources.

If you know a young leader reach out and encourage him or her to apply. If you are a young leader, visit the PBA website for details and to complete an application.

www.pabar.org/bli.asp

Applications for the 2018-2019 PBA BLI class are due May 4, 2018.

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Bar Leadership Institute
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well-informed, committed leaders who will serve the PBA for many years to come. It familiarizes participants with the day-to-day operation of the association, provides a foundation on governance and policy issues and introduces the participants to PBA staff and resources.

Accordingly, the BLI looks to the future of the organization, as a whole, by developing well-informed, committed leaders who will serve and lead the PBA.

There is a substantial seven-month time commitment to participate in the program, but it can be extremely rewarding. The BLI orientation provides insight to the day-to-day operation of the PBA. It also allows the participants to engage in the governance structure by attending at least three key yearly meetings and encouraging participation in other important meetings and events throughout the year. During the orientation process, each BLI participant receives a resource manual and is paired with an experienced and committed mentor who is a member of the Board of Governors. Additionally, participants get the opportunity to interact and connect with the PBA leadership and experienced attorneys in their area of practice. Finally, participants have the opportunity to obtain a significant number of CLE credits.

Participants are required to attend the following meetings:

1. The Young Lawyers Division Summer Meeting
The meeting is held in July and is a natural kick-off for the BLI class. Here the new BLI class gets an opportunity to meet and begin to form relationship with the leadership of the Young Lawyers Division. The BLI members not only attend the Young Lawyers Division Summer Meeting and participate in the YLD business meeting but participate in an orientation session, PBA Leadership Training Program (with CLE credit) and various events to connect with other young lawyers. Through this event, the participants are introduced to one of the most active, dynamic and energetic groups in the PBA.

2. The Board of Governors, Committee/Section Day, House of Delegates Meetings
These meetings are held over three consecutive days in November. BLI members experience and learn first-hand about the governing structure of the PBA by attending a Board of Governors (BOG) Meeting. The BOG is the central management group of the association. Participants interact with the staff during a tour of the PBA headquarters at the Maclay Mansion and while connecting with the Board of Governors and Committee and Section Chairs. They attend the committee and section chair roundtable followed by committee and section meetings. The committees and sections are the lifeblood of the organization and carry out much of the work of the PBA by reviewing proposed legislation and proposing important resolutions to the Board of Governors and House of Delegates (HOD). Participants also have dinner with the Pennsylvania Bar Foundation, the charitable arm of the PBA. Finally, participants attend the HOD meeting. The HOD is the ultimate policy-making body of the association and it directs the business affairs of the BPA. In short, participants get to observe and participate in all levels of the association’s governance, structure and management.

3. Conference of County Bar Leaders (CCBL) Meeting
This meeting is held the following February. The CCBL was created to: 1) establish a closer relationship between local bar associations in Pennsylvania, the Pennsylvania Bar Association and the American Bar Association; 2) provide a forum for the mutual interchange of ideas among bar associations; 3) provide training, guidance, resources and assistance to local Bar Associations and their leaders; 4) stimulate the work of the bar associations generally; and 5) promote the standing of the legal profession and the courts, improve the administration of justice, and improve the economic standing of the legal profession. BLI participants are provided the opportunity to interact and connect with county bar association leadership.

The program has been an outstanding success. As noted by Chuck Eppolito, PBA president-elect and a past co-chair of the BLI, the program has produced 14 House of Delegate members, two Board of Governors members, 18 YLD leaders, 16 committee and section leaders, two Pennsylvania Bar Foundation leaders and seven County Bar leaders. Further, several BLI participants have received the PBA Young Lawyers Division Michael K. Smith Excellence in Service Award and/or been recognized in The Pennsylvania Bar News “Making a Difference” column for their work in their respective communities. And, more leadership positions, awards and acknowledgments for the past BLI class members are yet to come! I am sure there is a future PBA president among them as well.

So if you are a young, licensed Pennsylvania attorney with leadership ability and would like to become more active in the PBA, consider applying for the next BLI class. Participants in the class do not have to have and are not anticipated to have an extensive PBA resume, just a desire to become more involved in leadership of the PBA. It may be just the thing to propel your career in the PBA and help form connections to assist you in your law practice.

BLI application deadline: April 4
Get details and application materials.