



PRESIDENT'S MESSAGE

A Voice at the Table

by Barbara Harris Chiang

When Justice Sandra Day O'Connor retired from the Supreme Court in 2005, I, as many women across the nation, was maddened when her seat was filled with yet another male justice. Not only had we lost the first woman appointed to the bench, we as women also lost a voice at the table. As a lawyer and a woman, the make-up of the post O'Connor Supreme Court offended my senses. I was left believing a layer of rubber had just been added to the glass ceiling for all of us.



After shattering a glass ceiling this year himself, President Obama has announced the nomination of Sonia Sotomayor to the Supreme Court. Sotomayor is both a woman and a minority, and will bring a unique perspective to the Supreme Court that is long overdue. I am glad we women will once again have a second voice at the table and hope that in the years to come women will continue to be invited to occupy the coveted seats.

Not only do we need more women on the Supreme Court, we need more women appointed to the judiciary at all levels. Locally, we need more women appointed to the United States District Court of the Northern District. I recently signed onto a letter to Senators Dianne Feinstein and Barbara Boxer on behalf of Queen's Bench, together with California Women

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MEMBER EDITORIAL:

Beyond Billing: The Value of an Attorney

By Tammy Dawson, Co-chair, Work-Life Balance Committee

Recently, I participated on a panel on work-life balance at a local law school as part of their diversity week program. The organizer stated that they wanted to examine the topic from a broader perspective than that of mothers of young children. I was excited, seized by a fit of uncharacteristic optimism. Could law students be realizing that all lawyers, not just mothers, would benefit from a better work-life fit?

My first clue that the discussion was not going to go in the direction I had hoped came when I met the three other panelists. They were all men. Two had only been out of law school for 2-3 years, and were not in a phase of life where work life balance challenges were at their most pressing. The third had two young children, and his wife was also a lawyer. However, he stated that it was really his wife that should be speaking to the audience. Later in the presentation, one panelist noted how much he loved to work, and that if you enter the legal profession, you have to expect long hours. Not to be outdone, another of them also chimed in with how much he loved working. Then, the moderator, a law student, asked what our positions were on turning off our Blackberries before going to sleep.

Sigh.

Please don't get me wrong. I enjoyed meeting my fellow panelists, and they all seemed quite sincere in their desire to help law students about to embark on their legal careers negotiate its demands. There is a valid place

for dialogues about the Blackberry dilemma and similar concerns as long as the current extreme demands of a legal career exist, and I don't mean to imply otherwise. However, for persons needing to increase their ability to attend to priorities in their life other than the practice of law, whether that be attending to young children, taking care of teenagers with drug addiction or anorexia, spending time with seriously ill parents or spouses, struggling with your own serious illness, or similar challenges, advice to solve your work-life conflict by turning off your Blackberry at bedtime is a bit like advice to take care of that pesky bullet hole by putting on a band-aid — it just does not address the true nature of the problem.

The underlying message my co-panelists were conveying when discussing how much they liked to work and that one should expect long hours upon entering the profession was that to be a "real" lawyer, worthy of respect, compensation and promotion,

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Beyond Billing

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you have to work hard, and working hard means working long. Setting aside the unrealistic nature of the message for many firm employees, is it true that in order to work hard you must work long? Are the most valuable employees the ones who devote themselves solely to work?

The benefits of having employees devoted solely to work are widely accepted. A lawyer who bills 2400 hours a year will bring more income to a firm than one who merely bills 2000 at the same rate; therefore, the 2400 hour a year lawyer brings more value to the firm, literally. The lawyer available 24/7, being more able to respond to clients and partners, and being more likely to bill more hours, is more valuable. Firms need this type of commitment from lawyers for the firm to achieve the level of success desired. Therefore, it makes sense to measure commitment, and eligibility for promotion and rate of compensation, on the amount of time billed. This has the added advantage of being easy to measure objectively. The cream always rises to the top anyway. These principles have near universal acceptance in law firm culture. However, there are long-term costs associated with attorneys working to the exclusion of all else. These costs may undermine much or all of the value law firms are so certain the current system provides.

High billable hour expectations at firms are causing extremely high rates of attrition. Attrition is expensive; it is believed to cost between \$200,000 and \$500,000 to replace a second or third year associate, one who has probably not even become profitable yet. Attrition is becoming pervasive in law firms. According to a 1997 NALP Foundation report, nearly 10% of associates left their firm within one year, 43% left within 3 years, and two-thirds left within 5 years. In analyzing the reason for the associates' departures, NALP concluded that "consistently working long hours may adversely affect attorney morale, satisfaction, and interest in continuing with the same employer."

The high rates of attrition have a negative impact on law firms. Perpetually recruiting and training new attorneys is expensive, particularly when considering the time partners must devote to it that cannot instead be spent on billable matters. Office morale is damaged. As attorneys repeatedly see their colleagues leaving, they are less likely to devote their limited time to training and mentoring their replacements. This in turn makes future attrition more likely. The firm loses the new business potential of the departing attorneys, of particular concern when diverse attorneys, who may have had greater access to different markets, leave. Clients, frustrated by the constant departure of attorneys with whom they have developed relationships, become less committed to the

law firm, and may even leave the firm. New clients are less inclined to hire firms with high rates of attrition.

The negative financial impact to firms is magnified when attorneys take their training, new business potential and, sometimes, clients to competitors. Similarly, when a departing lawyer who feels he or she was not treated well by the firm goes to a client, that lawyer is not likely to be inclined to send business to the firm.

Despite this, partners regularly undervalue or disregard the costs of attrition, even seeing it as desirable, a feeling magnified in the current economy. However, as the demands of practicing law rise and the rewards become more uncertain, fewer attorneys believe that the sacrifices needed to succeed are worth it, including attorneys seen by their firms as "the cream." While the current economic crisis may have slowed or halted attrition temporarily, as the economy recovers, dissatisfied lawyers will again begin leaving their firms. Firms that identify and address the reasons behind attrition now will be better able to retain their talent, and flourish, during recovery.

Along the way, firms may even discover that they have more cream than they thought. There is a business case for prioritizing employees' personal needs. Insecurity, fear, stress and anxiety interfere with the ability of attorneys to focus on their work and detract from their potential contribution to their firms. If firms want to enlist the full potential of their attorneys, it makes sense to have a work structure that gives them the ability to attend to personal needs. Attorneys who know that their firms have a vested interest in their personal needs are more likely to feel they have a mutually beneficial partnership with their firms. This is what engenders commitment, to the task and to the firm, from attorneys. Mandating an increasing number of billable hours at best misses the point regarding why firms need committed attorneys, and at worst undermines their cultivation.

There are other ways in which attorneys who do not devote themselves solely to work are valuable to their firms. Attorneys who are fatigued and burned-out are unlikely to produce their best work product. Fatigued lawyers may not always be aware their work product is suffering. In a study of college students, researchers found that although student performance decreased when the students were sleep deprived, their perception of their performance actually increased. Lawyers must be mindful of the potential for this effect. In addition, some clients have observed that lawyers with better balance in their lives bring a more well-rounded perspective to their approach to legal problems. Their ability to examine problems from a variety of angles leads to better results, and more satisfied clients.

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Beyond Billing

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Attorneys who are not fatigued are also better able to work efficiently. This is an important consideration in a profession that bills for its services on an hourly basis. In fact, billing hourly while utilizing a work structure that reduces efficiency and incentivizes lawyers to work on cases longer may place attorneys in a conflict of interest with their clients. This erodes trust between client and firm, loosening ties. Some clients, seeking to reduce costs and sensing that they have the leverage to make changes in this economy, are beginning to seek alternatives to the billable hour. Firms who embrace alternatives may well have a competitive advantage.

Attorneys with outside interests, from children to volunteer work to sports activities, have an edge in generating new business for their firm. Most clients want their business to go to someone with whom they have a relationship. A shared interest in kayaking or a shared experience working with children's schools can go a long way toward building and cementing relationships.

There are significant, unrecognized costs associated with overwork. Some of these costs are relatively straightforward to quantify, while others are more intangible. However, all are real and have a significant impact on firms' profitability and long-term success. This calls into question the commonly held assumptions that the attorney devoted solely to work is the most valuable.

For more information, read the following:

- Lotte Bailyn, *Breaking the Mold: Redesigning Work for Productive and Satisfying Lives*, (2006). Chapter 5 is particularly relevant.
- Lauren Stiller Rikleen, *Ending the Gauntlet: Removing Barriers to Women's Success in the Law* (2006).
- The NALP quote can be found in "In Pursuit of Attorney Work-Life Balance: Best Practices in Management," 28 (2005). The statistics can be found in "Keeping the Keepers II: Mobility & Management of Associates," 98 (2003).
- The statistics on the estimated costs of attrition can be found in Joan C. Williams and Cynthia Thomas Calvert, *Solving the Part-Time Puzzle: The Law Firm's Guide to Balanced Hours*, 18 (2004).

Another advantage to incorporating flexible work options is that it increases diversity in the workforce, and particularly in leadership. In my next column, I'll be discussing how flexibility cultivates diversity, and why having diversity in leadership should matter to law firms.

2009 Agnes O'Brien Smith Scholarships

By Courtney M. LeBoeuf, Scholarships Committee

The Queen's Bench Scholarships Committee is pleased to announce that **Elisa Cervantes** and **Ning Yu**, two outstanding students from the University of San Francisco Law School, have been chosen to receive the Agnes O'Brien Smith Scholarship. Each of the Scholarship winners will receive a \$3,400 award.

Ms. Cervantes, a second year law student, has a distinguished record of academic excellence. At USF she is in the top 5% of her class and is an active participant in the Moot Court Program. Ms. Cervantes received the award for Best Oral Argument and was recently appointed to serve as the Moot Court Program's Executive Director for the 2009-2010 term. Ms. Cervantes also demonstrates a firm commitment to public service. She spent last summer in New Orleans interning with the Capital Post Conviction Project of Louisiana. Prior to that, she served as a Youth Care Advocate for the Mercy Home for Boys and Girls in Chicago where she worked with at-risk young women helping to improve their academic and life skills. While an undergraduate at Georgetown University, Ms. Cervantes was active in the Kids to College program. Ms. Cervantes is fluent in Spanish.



Ms. Yu, a second year law student, has also demonstrated academic excellence. In the top 20% of her class, Ms. Yu is active in USF's Moot Court Program and won the award for Best Brief. She was subsequently chosen by the Moot Court Program to serve as a Case Counsel to train incoming students on brief-writing and oral advocacy. Ms. Yu currently works as an assistant to Professor Bruce M. Price researching bankruptcy issues and editing articles for academic publication. Ms. Yu also demonstrates a solid commitment to promoting the public interest in the legal field. While an undergraduate at U.C. Berkeley, she interned with the Alameda County Public Defender's Office and the ASUC Student Legal Clinic. More recently she interned with the USF Internet and Intellectual Property Justice Clinic where she participated in efforts to educate the public about intellectual property rights. Ms. Yu is fluent in Mandarin.



Queen's Bench is proud to honor these two outstanding law students and wishes them both much success

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ANNOUNCEMENTS ...

MCLE Event: "Marketing Yourself in a Down Economy" July 14, 2009

11:30 a.m. Registration

12:00 p.m. to 1:00 p.m. Program (Lunch included)

Presented by Lori K. Teranishi

On Tuesday, July 14, 2009, the Business Development Committee is putting on an MCLE event entitled "Marketing Yourself in a Down Economy." The event is co-sponsored by Queen's Bench, Howard Rice Nemerovski Canady Falk & Rabkin, PC, and Payne & Fears, LLP. Our speaker, Lori K. Teranishi is a Marketing and Public Relations Strategist and Co-Principal of VPG, LLP. The event will be held at Howard Rice, which is located at 3 Embarcadero Center, 7th Floor, in San Francisco. This program is approved for 1 MCLE Credit. Space is limited so please RSVP early! Please see flyer for more details.



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NEWSLETTER EDITOR: Sarah M. King

ADMINISTRATIVE OFFICE:

816 E. Fourth Avenue
San Mateo, CA 94401-3317
Telephone: 415-249-9280
Facsimile: 650-344-1588

E-mail: QueensBench@astound.net

Internet: www.queensbench.org

ADMINISTRATOR: Maurine Killough

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Save the Date:

Congresswoman Jackie Speier to Speak At Queen's Bench Annual Judges' Dinner On August 27, 2009!

Don't miss out on the Queen's Bench Annual Judges' Dinner! Join dozens of judicial officers, scores of QB members and our many other guests for this flagship event. Our featured speaker is Congresswoman Jackie Speier, who represents the southwest quarter of San Francisco and most of adjacent San Mateo County in the House of Representatives. Ms. Speier was first elected in April 2008 after 18 years in the California Legislature. She currently serves on three influential committees in the House of Representatives—the Committee on Financial Services, the Committee on Oversight and Government Reform and the Committee on Energy Independence and Global Warming. She is sure to deliver an inspiring message!

News from Our Members:

Hon. Ruth Astle Awarded National Association of Administrative Law Judges 2009 Fellowship

Former Queen's Bench President Hon. Ruth Astle announces that she has recently been awarded the National Association of Administrative Law Judges 2009 Fellowship. She will be delivering an oral presentation at the NAALJ Annual Conference in Florida this Fall entitled "Ethics and Integrity in Administrative Adjudication: Issues and Solutions." Congratulations, Ruth!

Queen's Bench New Members

Please welcome the following new members who joined between May 1 and June 1, 2009:

- Carolyn Miller Bednarz
- Cristina Cinco
Law Offices of Cristina M. Cinco
- Sarah Clark
Law Office of Sarah Clark
- Danielle Claudat
- Sonya L. Gordon
- Kristine Meredith
The Danko Law Firm
- Jessica Tankersley



Spotlight on Committee Chairs

Molly Mrowka

Co-Chair Education Committee



Molly Mrowka is the Co-Chair of the Queen's Bench Education Committee. The Education Committee organizes programs on legal subjects with significant current professional and practical content, providing Queen's Bench members with Continuing Education of the Bar credits.



Molly is a partner at the law firm of Dillingham & Murphy, LLP, and has spent the past 10+ years defending products liability/toxic tort cases (including asbestos, silica, semiconductor "clean room" chemicals, and herbal supplements). In addition to Products Liability, Molly's other practice areas include commercial litigation, premises liability, restaurant & retailer liability, and governmental entity defense. Molly has been a member of the faculty at Harris Martin and ADC conferences, presenting on the topic of Silica Litigation in California. She has also co-authored a chapter on the admissibility of expert testimony in the ABA SCIENTIFIC EVIDENCE REVIEW: ADMISSIBILITY AND USE OF EXPERT EVIDENCE IN THE COURTROOM, Monograph No. 6. In addition to her

law practice, she serves as a Court-Appointed Temporary Judge for Alameda County Unified Court in the Traffic and Small Claims divisions.

Molly graduated from the University of California at Davis with a degree in Political Science, and graduated with honors from the University of the Pacific, McGeorge School of Law, where she was a Third-Year Class Representative, Comment Editor of the *Pacific Law Journal*, and served as an extern for the Honorable Garland E. Burrell, Jr. of the United States District Court for the Eastern District of California.

In addition to the Queen's Bench, Molly is actively involved in the Bar Association of San Francisco, the Cal Aggie Alumni Association's Scholarship Committee, and the Defense Research Institute (DRI). Outside of the office and her community activities, she trained for and completed the Nike Women's Half Marathon to benefit the Leukemia & Lymphoma Society in October 2008, and is an active equestrian who trains in the Hunter/Jumper discipline in Walnut Creek, California.

President's Message

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Lawyers, encouraging the appointment of women judges to the Northern District.

In the Northern District, there are presently 14 active district judge positions, including three vacancies. Active judges are those who carry a full caseload. Depending on age and years of service, eligible judges may choose "senior" status, resulting in a reduced caseload. Senior judges do not occupy seats, rather, their seats become vacant, and new full-time judges may be appointed to fill their spots. Recently, Chief Judge Walker announced that Senator Feinstein nominated men to two of the three vacancies, one of which was created by Judge Maxine Chesney's announcement that she will take senior status in August.

Thus, the number of active women judges has shrunk to five out of 14, or roughly one third. Significantly, of the five remaining active female district judges, Judge Marilyn Patel is eligible to retire or take senior status; Judge Sandra Armstrong will be eligible to retire or take senior status in the next few years; and the legal newspapers have been reporting that Judges Susan Illston and Claudia Wilken are strong candidates for elevation to the appellate court.

Unless women are appointed to fill these vacancies, the Northern District could be heading back to the days when Judge Patel was the first and only woman district judge on the court. We cannot let this happen. Women need a voice at the table.

Agnes O'Brien Scholarships

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and happiness as they continue their legal education and begin their legal careers.

Thank you to this year's Scholarships Committee, who consisted of Adrienne Jacobs Miller, Rebecca Hooley, Mia Ottilia Solvesson, Pauline Farmer-Koppenol, Suizi O. Lin, and Courtney M. LeBoeuf. The Scholarships Committee reviewed applications from more than 40 candidates, each of whom submitted a resume and essay titled "Which of your life experiences encourages you to go to law school?" The Committee then interviewed the top six candidates to arrive at our scholarship recipients.

CALENDAR OF EVENTS

June

- 2** **Board of Directors Meeting**
6:00 p.m.
At Dillingham & Murphy
- 3** **Juvenile Hall Project**
7:00 p.m.
Youth Guidance Center
- 17** **Juvenile Hall Project**
7:00 p.m.
Youth Guidance Center
- 30** **Business Development Committee Meeting**
6:15 p.m.
Nossaman LLP

SAVE THE DATE
Judges' Annual Dinner
August 27, 2009

July

- 1** **Juvenile Hall Project**
7:00 p.m.
Youth Guidance Center
- 7** **Board of Directors Meeting**
6:00 p.m.
At Dillingham & Murphy
- 14** **Business Development Committee**
"Marketing Yourself in a Down Economy"
11:30 a.m.
Howard Rice Nemerovski Canady Falk & Rabkin
See [flyer](#) for more details.
- 15** **Juvenile Hall Project**
7:00 p.m.
Youth Guidance Center
- 28** **Business Development Committee Meeting**
6:15 p.m.
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816 E. Fourth Avenue

San Mateo, CA 94401-3317

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