



PRESIDENT'S MESSAGE

Networking Made Fun

by Barbara Harris Chiang

I have a confession. I am addicted. I'm totally and completely addicted. What is this addiction? Facebook.



In early June I attended CWL's Affiliate Conference. At one of the sessions, a public relations expert discussed the virtues of using Facebook and other social networking sites as marketing tools. She explained that she spends an hour to 90 minutes each night "marketing" and catching with up people via such Web sites.

I was skeptical and thought, "I don't have an extra hour in the day to devote to social networking!"

A few days later at my daughter's kindergarten graduation, all the moms were talking about Facebook, and their collective exclamation to me was ultrasonic.

"You're not on Facebook?!" the group vocalized in three-part harmony. I swear I thought I heard harps and the flutter of angelic wings. "You HAVE to set up an account!!"

"Noooo way!" I replied. "I don't have extra time in my day to devote to this crazy fad."

"Barb, don't worry you'll find the time," they said.

After so much talk, I had to find out what the buzz was all about.

So, I created my account and started looking for — and finding

continued, page 3

Ricci v. DeStefano: New Evidentiary Standard for Title VII Employment Discrimination

by Mary Catherine Wiederhold

On June 29, 2009, the United States Supreme Court decided the case of *Ricci v. DeStefano*, adopting a new evidentiary standard that will make it harder for minorities to file racial discrimination claims against employers.

The action was filed by 18 firefighters who would likely have been promoted based on their performance on a 2003 competitive exam, had the Civil Service Board of New Haven not refused to certify the test results. The plaintiffs claimed that New Haven had discriminated against them in violation of Title VII of the Civil Rights Act, which prohibits employment discrimination on the basis of race, color, religion, sex, or national origin. Title VII prohibits both intentional discrimination ("disparate treatment"), as well as, in some cases, practices that are not intended to discriminate but in fact have a disproportionately adverse effect on minorities (known as "disparate impact").

The case arose in the context of continuing disparity amongst senior level officers in the New Haven fire department. Although approximately 30% of all firefighters in New Haven were African-American, only 9% of the senior officers (captain and higher) were African-American. Likewise, Latino firefighters comprised 16% of New Haven's firefighters but made up only 9% of the senior officers.

The disputed 2003 test was given to all firefighters who wished to become officers. Unlike other municipalities, which typically use a skills assessment test and an oral interview that analyze real world situations, the New Haven test included a written component weighted at 60% of the qualification score and an oral component weighted at 40%. "The results showed significant racial disparities." (*Ricci v. DeStefano* 557 U.S. at ___, 2009 DAR 9567, 9585 (2009) (dis. opn. of Ginsburg, J.))

Faced with this quandary, the New Haven Civil Service Board held public meetings to determine the best course of action. Some firefighters complained that not all firefighters who wanted to take the test had equal access to the study materials. Indeed, the firefighters with the easiest access had relatives in the fire service. Other firefighters complained

continued, page 2

INSIDE THIS ISSUE

Hughes v. Pair	2
Spotlight on Committee Chair	3
Announcements	4
Committees & Appointments	5
Calendar	6

***Hughes v. Pair*: California Supreme Court Sets Standard for Sexual Harassment In Business Relationships Outside the Workplace**

On July 2, 2009, in a case of first impression, the California Supreme Court ruled that claims under a state statute prohibiting sexual harassment in professional business relationships outside the workplace would be governed by the same “pervasive or severe” standard that is applied to federal and state claims for sexual harassment in the workplace.

Civil Code Section 51.9 prohibits sexual harassment in certain business relationships, including relationships with attorneys, physicians, psychiatrists, dentists, real estate agents, accountants, bankers, building contractors, executors, trustees, landlords, and teachers. The statute was enacted in 1994 to address relationships between providers of professional services and their clients, where the relationship cannot be easily terminated. Among other things, the plaintiff must show that the defendant has

engaged in unwelcome verbal, visual, or physical conduct of a sexual nature—or of a hostile nature based on gender—that was “pervasive or severe.”

In *Hughes v. Pair*, the Supreme Court determined that the words “pervasive” and “severe” should be given the same stringent interpretation given to those same terms in state and federal hostile work environment claims under Title VII of the federal Civil Rights Act of 1964 and California’s Fair Employment and Housing Act.

Under this standard, with respect to liability under Section 51.9, “the relevant inquiry is whether the alleged sexually harassing conduct was sufficiently pervasive or severe as to alter the conditions of the business relationship,” taking into account the nature and context of the particular business relationship.

Ricci v. Destefano

Continued from page 1

that because the test was developed by a company outside of New Haven and no current senior officer had reviewed it, “[a] number of the exam questions . . . were not germane to New Haven’s practices and procedures.” (*Id.* at p. 9586.)

The Supreme Court held that New Haven’s decision to throw the test results out for fear of engaging in disparate impact discrimination violated the plaintiff’s rights to be free of disparate treatment. Drawing a standard developed for purposes of the Equal Protection clause of the U.S. Constitution, the majority held that race-based actions intended to remedy or avoid disparate impact may only be taken where the employer has a “strong basis in evidence” to believe it will be subject to disparate-impact liability if it fails to take the action. Writing for the majority, Justice Kennedy reasoned that “[a]pplying the strong-basis-in-evidence standard to Title VII gives effect to both the disparate-treatment and disparate-impact provisions, allowing violations of one in the name of compliance with the other only in certain, narrow circumstances.” The Court then went on to hold that New Haven had not met the new standard.

Justice Ruth Bader Ginsberg wrote the dissenting opinion, summarily dismissing the new standard as “un-

impressive.” She also argued that “[t]he Court stack[ed] the deck by denying respondents any chance to satisfy the newly announced . . . standard” by remanding the case to the lower courts. The City was not allowed to present evidence in the lower courts that might have proven its case under the new evidentiary standard. The dissent found that New Haven knew that its test was flawed, not justified by any business necessity and therefore the petitioner firefighters had not shown that the City’s failure to certify the test results “violated Titled VII’s disparate-treatment provision.” (*Id.* at p. 9591.)

Although the majority opinion dealt solely with race, Title VII also protects against employment practices that have a disparate impact on women. Analysts predict that the Supreme Court’s new “strong basis in evidence standard” might chill efforts by employers to comply with Title VII and eliminate sex-based barriers in employment.

Mary Catherine Wiederhold is the Chair of the Queen’s Bench Legislative Issues & Reproductive Rights committee. She can be reached at mcw@mcwrealestatelaw.com

Spotlight on Committee Chairs



Mary Catherine Wiederhold

Chair of the Legislative Issues and Reproductive Rights Committee

Mary Catherine Wiederhold is Chair of the Queen's Bench Committee on Legislative Issues & Reproductive Rights. The Committee was established to ensure that women's rights related to their reproductive health and welfare continue to be protected in our society. In addition, the Committee highlights important cases and legislative issues through a regular column in the Queen's Bench newsletter.



Membership Director for the Lawyers' Club Inns of Court. She has volunteered at the Bar Association of San Francisco Legal and Referral Clinic and for the Volunteer Legal Services Program. In addition, she has taken cases from the AIDS Legal Referral Panel and appeared on KALW's "Your Legal Rights" to discuss residential tenant-landlord issues with the public. She also writes the legal column for the Miraloma Life (San Francisco) newsletter.

As an attorney, Mary Catherine is the head of a small firm that specializes in real estate and business litigation, representing businesses and individuals in state court.

Ms. Wiederhold graduated from the University of California at Berkeley with a Bachelor of Arts in English. Before becoming an attorney, she worked as a commercial real estate appraisal associate for a national appraisal firm. Mary Catherine went to law school at the University of San Francisco Law School.

Mary Catherine is a member of the Bar Association of San Francisco. She is also the secretary for the San Francisco Lawyer's Club and the

President's Message

Continued from page 1

— long-lost friends from high school, college and law school.

And I woke up one morning, my hand still curled around my laptop, my mouth dry, my brain screaming at me to log on. I was addicted. (My husband now refers to himself as a Facebook widower.)

In less than a month, I had close to 200 connections. And I did find the time every night to catch up with people I haven't seen or even spoken with in nearly two decades. When I connect with an old friend, "see" what they're doing, I smile ear to ear and the endorphins pour into my bloodstream.

It's not the same as running into someone at the grocery store and exchanging niceties.

IT'S BETTER!!

I can find out more about people from their "information" section than I ever could in a five-minute conversa-

tion standing in front of the organic asparagus (plus it is hard to do that when you live 1000 miles away from where you grew up). Many people list their current employers, title and contact information, along with personal information about their families (including photos).

Although I have used this as a way to catch up with old friends — as opposed to marketing — I can definitely see how catching up with friends leads to marketing and getting professional leads.

Yes, my name is Barb and I'm an addict. I'm a happy addict, and I choose to feed my Facebook habit (although I can quit anytime I want!) If you haven't tried it, you should. If you don't like it or you don't have the time, you never have to do it again. But, trust me, you'll like it and you'll find the time . . . and it is justifiable, it might even help you get some business.



ANNOUNCEMENTS ...

MCLE Event:

“Women, Stress and Substance Abuse”

September 17, 2009, 12:00 p.m. to 1:00 p.m.
Program Presented by Rebecca A. Stanwyck, LCSW

On, Thursday, September 17, 2009, the Queen's Bench Education Committee is presenting a free brown-bag lunch program entitled “Women, Stress and Substance Abuse.” Our speaker, Rebecca A. Stanwyck, is a licensed clinical social worker who specializes in Psychotherapy and Behavioral Consulting. The location of the event will be determined as the date nears. This program is approved for 1 hour of MCLE Credit for the Prevention,



Detection, and Treatment of Substance Abuse That Impairs Professional Competence. Space may be limited so please RSVP early! Please see the flyer for more details.

SAVE THE DATE!!

Queen's Bench 2009 Judges' Diner

The Annual Queen's Bench Judges' Dinner will be held on **Thursday, August 27, 2009** at 5:00 p.m. No-host cocktails will be followed by dinner at a location to be announced. Please watch future newsletters and announcements for additional details. Queen's Bench warmly welcomes Keynote Speaker Congresswoman Jackie Speier. Please see the accompanying flyer, mark your calendars and look for future details!



Queen's Bench New Members

Please welcome the following new members who joined between June 2 and July 13, 2009:

- Wenlei Johnson
Kaufman Dolowich Voluck & Gonzo LLP
- Maryam Nemazie
- Katherine A. Threlfall
Financial Law Group
- Tyreen Torner
Fox Rothschild LLP
- Laura Vocke



QUEEN'S BENCH NEWSLETTER

Published monthly by the Queen's Bench Bar Association of the San Francisco Bay Area, a California nonprofit corporation

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

2009 OFFICERS

BARBARA L. HARRIS CHIANG President
AMEE A. MIKACICH First Vice President
SOPHIE N. FROELICH Second Vice President
LISA FREITAS Secretary
REBECCA HOOLEY Treasurer
SARAH M. KING Asst. Secretary/Treasurer
KELLY J. ROBBINS Immediate Past President

2009 DIRECTORS

VANESSA HIERBAUM
PAMELA MARKERT
ANNIE O'DONNELL
LISA KLOTCHMAN RAUCH
PATRICIA ROSENBERG
HON. ANNE BEYTIN TORKINGTON

2009 COMMITTEE CHAIRS AND SPECIAL APPOINTMENTS

Amicus Briefs

Suizi Lin
Furtado Jaspovice & Simons
22274 Main Street
Hayward, CA 94541
(510) 582-1080 (T) / (510) 582-8254 (F)
suizi@fjslaw.com

Awards

Lisa Klotchman Rauch
(415) 990-7289 (T)
lkrauch@pacbell.net

Heidi Hugo
Brydon Hugo & Parker
135 Main Street, 20th Floor
San Francisco, CA 94105
(415) 383-5001(T) / (415) 384-0981 (F)
hhugo@bhplaw.com

Business Development

Annie O'Donnell
Hedani, Choy, Spalding & Salvagione LLP
595 Market Street, Suite 1100
San Francisco, CA 94105
(415) 778-0800 (T) (415) 778-0700 (F)
aodonnell@hedanichoy.com

Jamie Godin
Futterman & Dupree LLP
160 Sansome Street, 17th Floor
San Francisco, CA 94117
(415) 399-3906 (T) (415) 399-3838 (F)
jgodin@dfdlaw.com

Conference Of Delegates

Andrea Carlise
Patton Wolan Carlise LLP
1814 Franklin Suite 501
Oakland, CA 94612-3744
(415) 987-7500 (T) / (510) 987-7575 (F)
acarlise@pwc-law.com

CWL Liaison

Kelly Robbins
Robbins Family Law
601 California Street, Suite 2100
San Francisco, CA 94108
(415) 788-5400 (T) / (415) 788-5455 (F)
kelly@robbinsfamilylaw.com

Domestic Violence

To be determined

Education

Molly Mrowka
Dillingham & Murphy LLP
225 Bush Street, 6th Floor
San Francisco, CA 94104-4207
(415) 397-2700 (T) / (415) 397-3300 (F)
mj@m@dillinghammurphy.com

Holly Schaitberger
Maple, DeLacey & Mussallem LLP
450 Sansome Street, Suite 1101
San Francisco, CA 94111
(415) 655-2900 (T) / (415) 655-2910 (F)
holly@mdmdfamilylaw.com

Employment/Work-Life Balance

Tammy Dawson
2350 43rd Avenue
San Francisco, CA 94116
(415) 317-0797 (T) / (415) 731-3927 (F)
tammy.dawson@comcast.net

Michelle Fowler
Flexperience LLC
P.O. Box 117586
Burlingame, CA 94011
(800) 850-9591 (T) / (650) 240-3526 (F)
michelle@flexperienceconsulting.com

Historian

Sheila A. Dolan
77 Harper Street
San Francisco, CA 94131
(415) 642-5097 (T) / (415) 642-5099 (F)
sdolan@pipeline.com

Judicial Appointments

To be determined

Juvenile Hall Project

Nancy Sullivan Walter
16 Roanoke Street
San Francisco, CA 94131
(415) 586-3270 (T) / (415) 254-1351 (F)
nancy.walter@sbcglobal.net

Legislative Issues & Reproductive Rights

Mary Catherine Wiederhold
Law Offices of Mary Catherine Wiederhold
1458 Sutter Street
San Francisco, CA 94109
(415) 533-0735
mcw@mcwrealestatelaw.com

Marketing & Communications

Barbara L. Harris Chiang
Dillingham & Murphy LLP
225 Bush Street, 6th Floor
San Francisco, CA 94104
(415) 397-2700 (T) / (415) 397-3300 (F)
bhc@dillinghammurphy.com

Membership

Sophie N. Froelich
Nossaman LLP
50 California Street, 34th Floor
San Francisco, CA 94111-4707
(415) 438-7293 (T) / (415) 398-2438 (F)
sfroelich@nossaman.com

Mentorship

Alison Crane
Bledsoe Cathcart, Diestel
& Pedersen LLP
601 California Street, 16th Floor
San Francisco, CA 94108
(415) 981-5411 (T) / (415) 981-0352 (F)
acrane@bledsoelaw.com

Hon. Anne Beytin Torkington
Office of Administrative Law Judges
U.S. Department of Labor
San Francisco Federal Bldg.
90 Seventh Street, Suite 4-800
San Francisco, CA 94103
415-625-2200 (T) / 415-625-2201 (F)
torkington.anne@dol.gov

Newsletter Editor

Sarah King
Tufts, Stephenson & Kasper LLP
235 Montgomery Street, Suite 1035
San Francisco, CA 94104
(415) 835-2207 (T) (415) 705-5301 (F)
sking@tsklaw.com

Programs

Amea A. Mikacich
Filice, Brown, Eassa & McLeod LLP
Lake Merritt Plaza
1999 Harrison Street, 18th Floor
Oakland, CA 94612-3541
(510) 444-3131 (T) / (510) 839-7940 (F)
aam@filicebrown.com

Scholarships

Hon. Adrienne Jacobs Miller
San Francisco Superior Court
375 Woodside Avenue, Dept. # 5
San Francisco, CA 94127
(415) 753-7749 (T) / (415) 753-7750 (F)
amiller@sftc.org

Rebecca Hooley
Contra Costa County Counsel's Office
651 Pine Street, 9th Floor
Martinez, CA 94553
(925) 335-1854 (T)
rhooley@cc.cccounty.us

Contact Your President...

Barbara L. Harris Chiang
Dillingham & Murphy LLP
225 Bush Street, 6th Floor
San Francisco, CA 94104
Tel: (415) 397-2700
Fax: (415) 397-3300
bhc@dillinghammurphy.com

CALENDAR OF EVENTS

July

- 28** **Business Development Committee Meeting**
6:15 p.m.
Nossaman LLP

August

- 4** **Board of Directors Meeting**
6:00 p.m.
At Dillingham & Murphy
- 5** **Juvenile Hall Project**
7:00 p.m.
Youth Guidance Center
- 19** **Juvenile Hall Project**
7:00 p.m.
Youth Guidance Center

- 27** **Annual Judges' Dinner**
5:00 p.m.
Keynote Speaker: Congresswoman Jackie Speier
Details to be announced. See [flyer](#).

SAVE THE DATE
September 17, 2009

MCLE Event:
Women, Stress and Substance Abuse

Speaker: Rebecca A. Stanwyck



www.queensbench.org

816 E. Fourth Avenue

San Mateo, CA 94401-3317

Queen's Bench Newsletter

July 2009