ON THE ROAD TO DIVERSITY
Report of the March 2008
Louisiana State Bar Association
Conclave on Diversity in the Legal Profession

By Kelly McNeil Legier
LSBA Director of Member Outreach and Diversity

On March 7, 2008, the Louisiana State Bar Association held an historic inaugural Conclave on Diversity in the Legal Profession in order to begin a discussion among attorneys regarding racial, ethnic, gender, and generational diversity. The one-day Conclave, which was approved for 6.08 continuing legal education hours (all of which were professionalism hours), was hosted in the Cabildo Room at the Hotel InterContinental in New Orleans in cooperation with the following local and specialty bar associations: Baton Rouge Bar Association, Lafayette Parish Bar Association, New Orleans Bar Association, Shreveport Bar Association, Greater New Orleans Louis A. Martinet Legal Society, Inc., Louis A. Martinet Legal Society, Inc. – Greater Baton Rouge Area Chapter, and the Louis A. Martinet Legal Society of Central Louisiana.

The hotel was compelled to bring in additional seating to accommodate the more than 115 participants, including approximately 40 percent non-minority attorneys, who converged on the Cabildo Room to explore one of the most pressing issues facing our profession: diversity. Participants received information from 27 highly-credentialed and renowned speakers. The speakers had traveled from across the state and also from as far away as New York to share their information and experiences regarding various diversity issues. They provoked discussions regarding the importance of diversity, educated on ways to improve diversity, and exposed how internal personal and organizational biases impede diversity.

FROM *MARBURY* TO *COOPER*

Participants were greeted with a warm welcome from Guy DeLaup (president, LSBA), Wayne Lee (chair, LSBA Diversity Committee) and Marta Schnabel (chair, Diversity Conclave Subcommittee and LSBA immediate past president). The first session then set the tone with an awe inspiring multimedia presentation, titled "From Marbury to Cooper," which traced the history of school desegregation in Arkansas.[1] Drake Mann (Gill Elrod Ragon Owen & Sherman, PA, Little Rock, AR) and Kendra Norwood (Staff Attorneys Office, United States Fifth Circuit Court of Appeals, New Orleans) and the presentation Executive Producer, Brian Rosenthal (Rose Law Firm, Little Rock, AR), narrated the presentation. Their words accentuated the historical value of the tapes from Supreme Court arguments, which were interwoven with newspaper clippings, film and

[1] Judge Timothy D. Fox (Pulaski County Circuit Judge), who was the producer, writer, and creative lead for this project, created the presentation for the Arkansas Bar Association to commemorate the 50th anniversary of the desegregation of the Central High School in Arkansas. Judge Fox and the Arkansas Bar Association graciously shared this presentation with us.

uplifting music. The presentation relayed a story of perseverance and hope, and demonstrated the significance of lawyers and the law in affecting change in society in the area of diversity.

MAKING THE BUSINESS CASE FOR DIVERSITY

Following the "From Marbury to Cooper" presentation, Kim Boyle (partner, Phelps Dunbar, LLP, New Orleans and LSBA President-Elect designee) briefly traced the Supreme Court cases decided after the desegregation of the schools until the present. She then moderated the "Making the Business Case for Diversity" panel discussion. The panelists included Marcus V. Brown (associate general counsel, Entergy, New Orleans), Hinton J. Lucas, Jr. (associate general counsel and chief administrative counsel, E.I. duPont De Nemours & Company, Wilmington, DE), Judy Perry Martinez (assistant general counsel-litigation, Northrop Grumman Corporation, New Orleans), Samuel E. Mathis, Jr. (director of diversity & inclusion, Pfizer, Inc., New York, NY), and K. Todd Wallace (shareholder, Liskow & Lewis, New Orleans).

The panel described how their organizations' business plans are encouraging diversity. Companies are improving diversity in the legal profession by helping firms with diversity planning, implementing recruiting programs, assigning work based on law firm diversity, and/or providing positive incentives for firms willing to actively take steps to be inclusive.

Corporations Are Requiring Diversity As Part of Their Business Plans

The corporate panelists described their organizations' business models for diversity. Marcus Brown indicated that Entergy tries to find talented people and provide a diverse working environment. Samuel Mathis explained first that Pfizer invests in diversity because it's the right thing to do. Additionally, he explained the diverse markets and people Pfizer encounters as a global company; it invests in diversity because it wants to grow its people and protect its brand and business. The attorney is then counted on the survey of his or her new firm employer.

Todd Wallace admitted that his firm's business model has reacted to the business plans developed by corporate America. Liskow & Lewis has formed a diversity committee and does diversity recruiting to get and develop talented minority attorneys. The firm tries to get the minority lawyers in early, train them, and do the best it can to keep them. However, if the lawyers decide to go in-house, the firm hopes to have them as some of its best clients in the future.

Diversity Problems from the Corporate Perspective

Ms. Boyle asked the panel to address the problems that the panelists see and to identify how the organizations are addressing them. Mr. Lucas said that some of the problems include assertions from firms that they cannot find minority attorneys, as well as inaccurately counting numbers of minority attorneys.

Mr. Brown identified hiring practices as a potential problem, recommending that law firms consider three to five-year attorneys rather than just recent law school graduates.

Ms. Boyle noted that the statistics of female law school graduates are not reflected in the partner level, associate general counsel, or general counsel levels. The women are coming up through the pipeline, but are not remaining in the profession 10, 15 and 20 years later. Panelists discussed this "disconnect."

Corporations Encourage Diversity Within Firms

1. Through Hands-On Assistance

Ms. Boyle asked the panelists to address what changes they have seen to improve diversity in the legal profession and in the community. Mr. Lucas said that duPont has partnerships with the firms it has chosen as outside counsel and talks to them about diversity planning; duPont then helps them develop and monitor those plans, and makes sure that the firms are maintaining those plans. DuPont tends "to use the carrot more so than the stick" to encourage diversity; however he noted that some companies have made significant progress using "the stick."

2. By Withholding Work

Ms. Boyle asked the remaining panelists whether their organizations use the "carrot" or the "stick" to encourage diversity. Mr. Brown said that Entergy has been aggressive when demanding law firm diversity. Firms need to build strong, diverse litigation teams that address the concerns of the company; they cannot present diversity "window dressing," i.e. simply sitting people at the table and bringing them to the meetings. He said, "Maybe there was a time when that was good enough. That's not good enough anymore." Mr. Brown explained that, with the addition of more minority in-house counsel, firms would see very different clients coming to their offices.

Ms. Perry Martinez explained that Northrop Grumman has a detailed business plan. It requires firms to complete a detailed questionnaire so that it knows that the firm does more than talk diversity. She indicated that firms are tremendously responsive to the "carrot" approach. She relayed that she has instructed the people within Northrop Grumman's legal department that if they request a list of mediators and arbitrators from a firm and it does not contain any women of minorities on it, they should send the list back to the firm for revision and indicate that the list will not be considered unless it contains some women and minorities. "And they give us that list," she said. Ms. Perry Martinez said that policy helps build the resumes of women and minority attorneys.

Mr. Wallace said that when Liskow went from having several minority associates to having none (after minorities left to go in house and for family reasons), his firm had to become more proactive in its recruitment of minorities. It also has had to be more aggressive in reaching out beyond law school to high schools and undergraduates so that they are interested in law school.

3. By Establishing Diversity Recruiting Programs

When duPont receives responses from firms that they cannot find minority attorneys to hire, it attempts to help the firms with their recruiting efforts. It established job fairs in four locations across the country to recruit minorities and women. As a result, the firms have had several summer associates, and several minority partners have arisen from the program.

4. By Demonstrating Respect for Firms That Show Respect and Loyalty to Their Attorneys

Judy Perry Martinez said that firms must be loyal to their female attorneys; they must try to understand the whole person, and make decisions to support the person. She talked about her firm's decision to support her financially when her doctor put her on bed rest during a pregnancy. Although she offered not to take a partner draw, the partners assured her that she should take her draw and they hoped that the firm would do the same for them if they were struck with a medical disability. She gave other examples of firm support, during which the firm gave attorneys time off to address family matters, such as adopting a child from another country and caring for a sick spouse. Ms. Perry Martinez suggested letting the partners get to know you as an individual. The downfall of law firms is their managing partners' lack of self-confidence and paranoia – being afraid to show clients the true depth of their bench. "From the clients' perspective, you only grow in their eyes in terms of their esteem for you, your value to [them], if they know the depth of your bench." She further advised that firms make sure that they are mentoring their members and that the client sees the talent that the firm has to offer.

Ms. Boyle concluded the discussion by asking the panelists to give their opinions on the good, the bad, and the ugly of diversity in the legal profession. Their responses were as follows:

	Good	**Bad**	**Ugly**
Judy Perry Martinez	So many people are striving to do the right thing.	There is so much more left to do.	None of us wants to look inward to see the missteps we have made personally or the times that we failed to put a hand out to help others up.
Hinton Lucas	We are making progress, even though it's been slow in some areas.	We have to push that much harder to advance diversity.	We still have people who have not gotten on the diversity train.

Marcus Brown	There are a lot of talented women and minority attorneys coming to the profession.	The fear of losing clients or money prevents people from teaching, mentoring, or being as supportive as they could be.	If you do not fix the diversity problem, it will cost you money.
Samuel Mathis	The dialogue continues.	It is just dialogue in many cases.	We are not challenging our cultures to have the hard conversations to advance diversity.
Todd Wallace	Progress is being made.	Retention is the bad news. It is one thing to increase the numbers; it is another thing to look at those attorneys seven and eight years down the road.	One or two minority hires are made in the firm and then those minority attorneys are pulled in too many directions to be a face person for the clients. It is not fair to the attorneys because they cannot develop their practices.

PLUMBING THE DIVERSITY PIPELINE

Tara B. Hawkins (administrative general counsel, Third Circuit Court of Appeal, Lake Charles) moderated the "Plumbing the Diversity Pipeline" panel discussion among the following panelists: K. Michele Allison-Davis (assistant dean of admissions and minority affairs, Loyola University College of Law, New Orleans), Linda Perez Clark (partner, Kean Miller, Baton Rouge), Eric Eden (director of admissions, Paul M. Hebert Law Center, Louisiana State University, Baton Rouge), Freddie Pitcher, Jr. (chancellor, Southern University Law Center, Baton Rouge), Lawrence Ponoroff (dean, Tulane Law School, New Orleans) and Maurice C. Ruffin (associate, Adams and Reese, LLP, New Orleans).

The panel analyzed the numbers of female and minority students applying to law school and acknowledged that the numbers of applicants have dropped. They suggested programs and efforts to reverse the trend. Those included programs to expose young children to lawyers so that they consider law as a career choice. The panelists also suggested programs to empower students with confidence that they can take the LSAT. Finally, the panelists recognized that law schools must reevaluate their admissions criteria and policies to reduce the emphasis on the LSAT.

The Issue

Ms. Hawkins began by explaining the pipeline issue as "the pathway to achieving law school student bodies and ultimately a practicing bar that reflects a multi-racial composition of people with a variety of perspectives and experiences." Ms. Hawkins

asked the panel members if they agreed that a pattern has emerged showing a decrease in minority applicants to law schools as well as in the numbers being accepted in law school.

While the panelists noted that statistically the law schools are graduating somewhere between 50-55 percent female and there does not appear to be a gender diversity problem, Dean Lawrence Ponoroff posited that very recent statistics from the Law School Admissions Council, the organization that reviews the LSAT and tracks these statistics, predict that law schools will start seeing a drop in female applicants over the next couple of years. Dean Ponoroff stated, "A fairly significant dramatic drop in the number of females taking the LSAT relative to males [suggests] there is a signal or a message out there nationally that this is not the most hospitable profession for women." Further, Dean Ponoroff noted that since Hurricane Katrina, Tulane has seen a change in gender statistics. "We have been, the last 15 years, 50/50 as indicated some years. One year, we had 57 percent (women). Since Katrina, for us it's been more like 60/40 male-female on gender." He speculated that the drop correlates with the pervasive negative national publicity New Orleans continues to receive; this causes perspective students to have qualms about attending school in New Orleans and appears to "resonate a little more deeply with women and, maybe more importantly, with their parents."

Dean Michele Allison Davis explained the pipeline problem in the context of minority students. She stated that the number of students of color who are applying to law school has dropped in recent years; consequently, the numbers of students being accepted to law school and graduating from law school have also dropped. "So as admissions officers, it makes our jobs much more difficult. If you're not seeing the candidates for acceptance… it becomes a K-12 problem as well. We've got to figure out how to make sure that enough students of color are going through the proper paths to get into college, to get out of college, and be qualified for law school."

Dean Ponoroff addressed the issue of the pipeline on the college level; he discussed the barrier presented by the statistical criteria by which law schools are evaluated for rankings in the U.S. News and World Report. He asserted that the rankings make the law schools numbers driven. Dean Ponoroff noted that minorities are underrepresented in the law school applicant pool covering the LSAT and GPA scores applicable to the rankings sought by the law schools. Dean Ponoroff noted further, "In point in fact, a couple of points difference on the LSAT, statistically, is meaningless. However, because those median benchmarks loom so large in how schools are evaluated, the truth of the matter is we can't ignore them." He proceeded to compare the law schools' number barrier with law firm hiring criteria:

> I think the same kind of number barriers exist with respect to the law firms. Y'all do the same thing when you want to interview only students in the top ten percent [or] the top fifteen percent. You're using class rank [and] grade point average as a proxy for billing; and it is, but it is a weak proxy…. You're concerned about prestige, the status [and] reputation of your firms, and the administrative convenience of a cut off. Just as we

> probably missed some students who'd be terrific law students because they don't have the numbers, you've missed some law graduates who would be and will be terrific lawyers because they don't meet your numeric benchmarks. Until we are ready to relax some of those biases, that is going to be a barrier.

Chancellor Pitcher, noting Southern's history of providing educational opportunities to African-American students, admitted that it gets entangled in the U.S. News & World Report's four tier ranking challenge because "nobody wants to be in the bottom tier." He explained that when law schools constantly push up the LSAT scores and GPAs, many minorities who would normally enter the pipelines at those schools are excluded. Many law schools might normally have given a chance to a student with a low 140s LSAT score and ended up with the student doing exceedingly well at the school; but now those law schools are turning their backs on students of that caliber to satisfy tier rankings. He further explained the reality that only a few minorities (blacks, Latinos, or any other group) have the high admissions numbers. "So what happens is out of a hundred you get two or three who get those high numbers." Further, if minority students have problems within the law school and do not make it, the impact is much greater because the starting number of minority students is so small. Chancellor Pitcher advised, "We have to be a little more circumspect, I think, in terms of how we look at African-Americans today, especially in view of the fact that the numbers are down."

In response to a question from the audience, the panelists gave the following diversity statistics about their law schools:

Tulane:	Minorities-	20 percent – 25 percent
	Gender -	50-50 ratio of females to males for the last 15 years
		40-60 ratio of females to males post-Hurricane Katrina
Loyola:	Minorities-	25 percent - 26 percent
	Gender-	52-48 ratio of females to males pre-Hurricane Katrina
		48-52 ratio of females to males post-Hurricane Katrina
LSU:	Minorities-	12 percent
	Gender-	50-50 ratio of females to males for more than a decade
Southern:	Minorities-	60 percent of African-Americans overall
	Gender-	52-48 ratio of females to males for the last four years

Possible Solutions

Ms. Hawkins directed the discussion towards solutions for attracting more of the best and brightest students into the pipeline.

1. Evaluating Admissions Policies, Especially the Use of LSAT Scores

Echoing Dean Ponoroff's number-barrier sentiments, Dean Allison-Davis pointed out that some law students who don't have the highest of numbers initially have gone on to excel and be extremely good law students and extremely good lawyers. "I think if you go strictly on very objective [admissions] criteria, without trying to get beyond those numbers and understand what they mean, then you will not have a diverse law school. You will not have a diverse law firm. You will not have a diverse profession…. It is incumbent upon admissions officers and faculty admissions committees to take those numbers and only use them in a narrow way because there are a lot of other factors that we can look at."

Director Eden suggested the following: "One of the things that admissions officers need to try to do is to educate about the proper use of the LSAT and of the process. It is a tough road and you need to be brave in order to sort of go upstream against this over-reliance on the LSAT."

Director Eden also described his findings concerning the correlation study he conducts at either the middle or the end of each incoming class' first year. He gathers data from the top 20 percent of students as well as the bottom 20 percent regarding their college GPA and LSAT and compares those figures to similar criteria from their first year in law school. Director Eden revealed, "Every year there are people in the top 20 percent of our class with LSATs in the high 140s, which is the bottom 10 percent of our pool, and conversely some people in the bottom [20 percent] had a 164 and a 3.8, which are fantastic numbers." He said that admissions recruiters must use these sorts of case studies to make the larger point in the next year.

Dean Allison-Davis noted that one barrier to achieving diversity is that the process has not been intentionally implemented. She emphasized that one of the first things that law schools and law firms have to do to achieve diversity is to accept that this has to be an intentional process; diversity won't ever happen if the issue is simply ignored. "You have to want to do it and you have to take the steps to do it," she stated. Dean Allison-Davis expressed further that being creative in the admissions process and making it a priority to have a diverse student body would lead to diversity. Director Eden then relayed some steps that LSU has taken regarding diversity. It reevaluated its own admissions policy after the Michigan cases, evaluated what diversity means, and identified a number of factors, in addition to LSAT and GPA, for the admissions committee consider in the admissions process.

2. Implementing Programs for Young Girls and Children of Color Before the College Level

Chancellor Pitcher said, "We have to look at programs way back into high schools and maybe into middle schools trying to get kids interested in the law." He explained that Hurricane Katrina significantly impacted the Southern University Law Center because it

affected the populations within the feeder schools from which Southern, and probably the other Louisiana law schools, draw applicants.

Maurice Ruffin spoke on "Choose Law," a program sponsored by the Young Lawyers Division of the American Bar Association. The program attempts to improve the pipeline issue before potential candidates reach the college level by having lawyers speak at high schools and middle schools. "What I see is too many issues," explained Mr. Ruffin. "One is visibility, and two is not understanding what it is that lawyers do." Many of the kids seem very interested in him as a lawyer but are under the misimpression that most attorneys are male criminal justice lawyers. "They seem to think it is impossible to get to law school and actually succeed in it. That's because they don't have that exposure. They don't understand what it is they have to do to get from point A to point B." Accordingly, Mr. Ruffin spends part of his presentation explaining to students that if they want to be lawyers they should start early: they must set a specific goal, get good grades in high school, and work on it. He noted, "For a lot of these kids you [have to] give them that kind of incentive early on and say: Look, it is not impossible if you start early on; work on your grades, work on your financial situation, whether it is a loan or a job as an undergrad. Work at that early; you can do it."

Linda Perez Clark described a two-day pre law prep program she implemented last year for minority college students at Kean Miller. Ms. Clark said, "It was a very gratifying experience and validated that there are certain folks who want to be in the pipeline but just don't know how to get there." The cost of the program to the firm was $5,000 (although the firm had budgeted $8,500), and it was easy to organize. The first part of the program was a panel discussion regarding the type of attorneys in the firm, law outlines, careers, law school and the law school admissions process; the second part was two segments of law school classes. Ms. Clark related how Carl Friedmans, a professor of remedial law at LSU, taught an intriguing class involving various hypotheticals (such as Beyonce, trademark and copyrights issues) and that the students were completely engaged. Additionally, Kean Miller provided participants with books such as the LSAT super prep book and Blacks Law Dictionaries and had a Kaplan representative do an LSAT prep segment for the students. Kean Miller will repeat the program this year and will measure its success partly on how many of the students decide to go to law school.

Dean Allison-Davis remarked that programs like Kean Miller's are important because they empower students of color to believe that they can succeed. She said many students of color have an "I can't" attitude because they have been told throughout their lives that black people and Latinos do not do well on standardized tests. "As long as they think that they can't, they won't. . . . I think figuring out where we need to hit students of color in the process, so that we can turn that mentality around to the 'I can' will turn those numbers around." Law schools have pressure from forces like U.S. News & World Reports and can exercise creativity only so far in admitting talented, diverse students. Therefore, Dean Allison Davis said, "It's incumbent upon everybody who's interested in seeing that pipeline grow to figure out a way to close the gap between the test scores and the performance scores." She noted that law schools know the students are talented;

when they do not rely exclusively on the LSAT scores and the students get into law school, they do fine: they graduate, pass the bar, and practice.

Additionally, Southern is plumbing the pipeline through a law camp it started in 2002. The law camp is a two-week program for high school students from Georgia, Alabama, Mississippi and Louisiana.

A participant in the audience mentioned a program developed by the Xavier University science department, which has an 86 percent success rate in admissions to medical schools. The program attracts sixth graders and continues working with them throughout high school. She noted the significant amount of attention and mentoring students receive; each student is assigned a mentor so that the student has someone to call if he or she has problems. The participant advised, "What we need to do is pull together the model that is there so we don't have to reinvent the wheel. … I really think that as a legal profession in this state we need to emulate it."

3. Implementing Prep Courses for Law Students of Color

Chancellor Pitcher described a program administered by Southern University in partnership with test prep representative Jose Rodriguez. The goal of the program is to empower students with confidence in their test-taking abilities. Southern invites students who scored between a 138 and 139 to participate in a six-week LSAT prep course on the weekends. The program sends the message to students that the school will not lower the admissions criteria to where they are, but that "we want to encourage [them] to come up to where we are." Southern pays for half of the cost of the program, and the student pays the other half. Chancellor Pitcher proudly explained, "We have had a number of students who are in law school right now as a result of this; they were able to pull their LSAT scores up dramatically because they were helped in the process. So this is something that we are doing in order to help our pipeline."

BREAKING BARRIERS & BUILDING BRIDGES

Naomi K. McLaurin (Managing Director, Southeast Region, Minority Corporate Counsel Association, Atlanta, GA) moderated the "Breaking Barriers and Building Bridges" panel discussion. The panelists included Sharon F. Bridges (partner, Brunini, Grantham, Grower & Hewes, PLLC, Jackson, MS), Shelley Hammond Provosty (Attorney at Law, New Orleans), Petrina R. Johns (The Hanover Insurance Group, New Orleans), Todd S. Manuel (Taylor, Porter, Brooks & Phillips, LLP, Baton Rouge), Karelia R. Stewart (assistant district attorney, Caddo Parish District Attorney's Office, Shreveport) and Michelle P. Wimes (national director of strategic diversity initiatives, Shook, Hardy & Bacon, LLP, Kansas City, MO).

Although the panelists noted the significant statistical improvements by women and minorities in the profession, the panelists recognized the obstacles preventing inclusion in the legal profession and offered many suggestions for programs through which firms can advance diversity. They suggested recruitment programs for law students as well as

mentoring, flexible schedule, and professional development programs for female and minority attorneys. Additionally, the panelists emphasized the importance of firm management embracing diversity and having several attorneys shoulder the responsibility of advancing diversity. They also articulated specific examples of and solutions for exclusions of women and minorities within firms.

The Issue

Ms. McLaurin began the discussion with statistics collected by the National Association of Law Placement in 2007. She stated that minorities comprise 5.40 percent of the partners in this country's firms, and women account for 18.34 percent. Within that statistic, minority women represent only 1.65 percent of the minority partners in the nation while minority men represent 3.4 percent. Women account for 45 percent, and minorities account for about 19 percent of the associates in the nation. Minority women account for about 10 percent of the associates in the nation. Minorities comprise 7.6 percent of Fortune 500 general counsel; there were only 90 female general counsel members of Fortune 500 companies. While noting that there has been some increase in the statistics over time, Ms. McLaurin invited the panelists to discuss the many barriers and challenges that remain.

Sharon Bridges said, "One of the key barriers I have found for women and minority attorneys is not having access to opportunities that promote and advance them within the legal profession." She suggested that minority attorneys need to "toot our own horns." Because firms looking to hire minority attorneys and general counsel looking for minority outside counsel are "looking for stars, we need to do a better job of showing that we are stars." She suggested that minority attorneys could do this by sharing their successes: sharing victories at trial, successful dismissals, and successful motions for summary judgment on behalf of clients. "We need to share those stories," she emphasized. Ms. Bridges also suggested sharing when they have articles published in DRI and other professional publications. Another challenge identified by Ms. Bridges for women and minority attorneys is navigating the legal profession. She emphasized the need for mentors to help guide new attorneys, to give advice, to share their successes and failures, and to assist in navigating the landscape.

Petrina Johns noted that the lack of networks and relationships that promote opportunities for advancements and growth could also be considered a barrier. She stated that it is a challenge for women and minority attorneys to determine what place they hold in the law firm, what they contribute to the organization, and how their skills brings value to the organization.

Ms. Provosty discussed a study, titled "A Career in the Courtroom: A Different Model for the Success of Women Who Try Cases," that the DRI Task Force on Women Who Try Cases conducted. Task force members interviewed over 100 attorneys regarding the recruitment and retention of women in law firms. They looked at whether the firms were teaching the women competence as lawyers, whether the women were involved in litigation or just a discrete aspect of the case, and whether the women were getting an

equal opportunity for promotion. Ms. Provosty also said that the survey team evaluated mentoring of women, law firms' flexibility regarding work schedules, and firms' willingness to put women on firm committees. The complete study is available at http://www.dri.org/dri/webdocs/Women_in_the_Courtroom.pdf.

Possible Solutions

In addition to discussing the background of the recruitment and retention issue, the panelists offered suggestions and best practices for Conclave attendees to consider incorporating in their firms.

1. ***Expanded Summer Associate Programs***

Michelle Wimes discussed best practices that firms could employ to avoid some of the challenges identified by the other panelists. She described the many programs that Shook Hardy & Bacon (SHB) has implemented. For example, the firm has expanded its summer associate program by offering positions to first-year law students to establish relationships with them. SHB hopes that when the students decide where they want to practice, their firm will come to mind as one of those places.

2. ***Attain a "Critical Mass of Minorities"***

Attaining a critical mass of minorities refers to the point at which the number of minorities already practicing at the firm fuels further growth in the number of incoming minorities. Ms. Wimes explained, "If you don't have a critical mass of minority attorneys in senior positions in the firm – senior attorneys, partners – you're going to have a difficult time recruiting diverse attorneys because they're not going to have anybody that they can look up to and say 'Oh, I can be successful in this firm as well because there is someone there who looks like me and is doing what I'm doing.'" She explained further that firms that have attained a critical mass of minorities have a much easier time recruiting. Ms. Wimes reiterated that firms must be intentional and deliberate in their recruitment efforts.

3. ***Creative Diversity Programming to Fill Voids***

Ms. Wimes also discussed the creative diversity programming that SHB implemented after noticing needs in the area that no one was serving. For example, because there was no diversity job fair, SHB contacted other firms in the Kansas City region, Illinois, Nebraska and other places in the Midwest and created one for minority law school students. SHB also partnered with a local high school to create paid internships for high school students interested in law school. The program includes regular presentations to encourage their interest in law and to give them knowledge of what it's like to work in a legal environment.

4. Mentoring and Networking Opportunities for Female and Minority Attorneys

Karelia Stewart discussed how law school resources can assist female and minority attorneys. She relayed her own experiences at Loyola University College of Law, where she had the opportunity to meet several alums and interact with female judges who participated in programs at the school.

Additionally, Ms. Bridges explained how mentors can serve as "champions" for women and minority attorneys. She said, "We all need champions… someone who will sing your praises, particularly during evaluations. If you're in a firm, there's no way you're going to make partner if you don't have a partner willing to tell the other partners within the firm: 'This person is a star. This person is worthy of partnership.'" Finally, Ms. Bridges stated the need for "super delegates." She explained her meaning of a super delegate in the following context: A person who is pledged to the female or minority attorney, and during crunch time is there to write a letter or make a phone call on the attorney's behalf or make a key introduction based on their relationship that's going to help the attorney get his or her foot in the door to get a new book of business.

Regarding best practices at his firm, Todd Manuel emphasized further how critical it is to have a mentoring program. He explained that minority attorneys need a means of obtaining feedback regarding their work. Mr. Manuel explained that firms need programs to facilitate communications between associates and the partners with whom they are working. Further illuminating that point for the Conclave participants were handouts donated by the MCCA regarding mentoring programs, best practices in firms, best practices in corporations, and the criteria large firms tend to use to promote minority attorneys.

5. Partners Must Embrace Diversity as Important

Mr. Manuel reiterated the message that the success of recruitment efforts hinges on partners in the firm being sold on the importance of diversity. He emphasized to participants that it's important to sell their partners on the reality that different people are needed to bring other ideas to the group and that diversity should be celebrated. Mr. Manuel further noted the importance of selling to minority students the opportunities that the participants' organizations can provide them.

6. Develop Mechanisms to Identify and Correct Exclusions or Delays in Advancement Toward Partnership

Sharon Bridges explained that women and minority attorneys tend to leave firms when they know that they are not advancing to partnership. She said that when an associate has consistently received evaluations of "poor" or "good" on a scale that included evaluations of outstanding, excellent, good, and poor criteria, he/she realizes that they are not advancing along the partnership track and seeks another job. Ms. Bridges also discussed lack of inclusion as a reason that women and minority attorneys leave firms near the time of partnership consideration. For example, if a female is not being selected for teams in

an area in which she is handling significant matters, or if she is a litigator but never gets placed on the trial team as first, second, third or fourth chair, she is being excluded and is not advancing; she will likely leave the firm.

7. Sharing the Diversity Responsibility

Mr. Manuel warned that new minority associates alone should not shoulder the responsibility to diversify the firm. Ms. McLaurin explained that often the female and minority attorneys are held responsible for developing and advancing diversity programs, however the responsibility should originate with the partners. "I think that diversity starts at the top," Ms. McLaurin said. "It starts with management and trickles all the way down to the very bottom of the firm. You cannot put your female lawyers out there -- your African-American lawyers out there -- and make them the sole people responsible for taking these initiatives by themselves."

Other panelists agreed, relating how they spread themselves thin trying to learn how to practice law right out of law school while simultaneously waving the diversity flag (i.e., serving on different committees, traveling and speaking on panels). Ms. McLaurin characterized the responsibility as a heavy burden for young associates to bear. She explained that while waving the diversity flag is certainly important work, "It's for all of us to do. Young attorneys need to be learning how to develop their craft, quite frankly, billing their billable hours, and not going out doing all of the recruitment or minority or the gender issue."

8. Offer Flexible Work Schedules to Foster Greater Work/Life Balance

Karelia Stewart commented on the importance of a good work/life balance. She discussed female associates leaving firms because of inflexibility and because they are given work assignments and tasks different than those given to young male associates. Ms. Stewart emphasized, "There are a lot of challenges that women have in terms of wanting to be involved in so many other things in order to be well rounded. So it's key to promote the work balance in terms of being involved in all of that."

9. Offer Exit Interviews to Identify Potential Inclusiveness Problems

Ms. Stewart stressed that firms should have formal exit surveys, so that if diversity pitfalls of which the firm management was unaware contributed to the female or minority attorney's decision to leave the firm, the firm can receive notice of the problem and take steps to remedy it. In many instances, an associate who appears on the track to move up will suddenly leave the firm if they just cannot take the treatment and/or the inflexibility any more.

In response to questions from the audience regarding the information received during and acted upon after an exit interview, Sharon Bridges noted that when a star associate or partner is leaving the firm, the person conducting the exit interview will listen and will try to get that person not to leave or, alternatively, will try to implement measures to

prevent other stars in the firm from leaving. Michelle Wimes explained that it's hard doing exit interviews because people are not always one hundred percent candid regarding their reasons for leaving; the legal community is very small and no one wants to burn bridges. Ms. Wimes identified mechanisms used at her firm to encourage candor: having members of the associates committee, the professional development committee, and the search committee participate in the exit interview; and avoiding interviews conducted by that person's immediate supervisor. Ms. Wimes further explained how the firm handles candid information, when obtained: (1) The information is given to her as the director of strategic diversity initiatives, to the firm-wide chair of the diversity committee, to the members of the executive committee, and to the firm's managing partner. (2) The information is analyzed and then it is determined whether the issue would be resolved best by developing programming or policies or by having a conversation with someone.

10. Create Professional Development Plans for Female and Minority Attorneys

Petrina Johns noted that it is important for firms to establish programs that will aid female and minority attorneys in cultivating professionalism and forming business development plans. She explained, "I think that often times when we receive placement, we are intended to fill a gap or meet a specific need within the organization, and it's usually based on what the firm or the organization needs at the time. There is little emphasis on identifying what it is that is important to you." She suggested that firms attempt to identify what talents the attorney would like to strengthen and what other areas or interests he/she wishes to expound upon and learn more about. Ms. Johns explained that there should be a balance between the goals of the firm and those of the associate when forming a professional development plan. "There should be some implementation of . . . what your desires are long term and still meeting the needs of the firm or the organization as well."

DIVERSITY: TOUGH ISSUES

During lunch, Kay H. Hodge (partner, Stoneman, Chandler & Miller, LLP, Boston, MA, Member, ABA Commission on Racial and Ethnic Diversity in the Profession and President, National Conference of Bar Presidents) gave a keynote address, titled "Diversity: Tough Issues."

Ms. Hodge reminded participants that the founding documents of our country did not address race and gender. She noted further that diversity includes many personal characteristics besides race and gender. She commended the LSBA on adopting a broad diversity statement that includes so many characteristics.

Barely 10 percent of the lawyers in the country belong to racial or ethnic minority groups even though America's overall population is increasingly becoming more diverse. Thus, the many "minority litigants are forced to navigate a system that is nearly all white," she said. When the key players in the justice system (lawyers and judges) are all white, it makes litigants question whether the system will treat them fairly. Yet, as she further

noted, public trust and confidence in the justice system is essential to its survival and effectiveness in an increasingly pluralistic society, and the viability of the justice system will depend on the legal profession's ability to increase diversity within its ranks. Ms. Hodge remarked that despite the many diversity programs, the profession has not made much progress.

Ms. Hodge showed how the diversity problem is reflected statistically. By 2004, over a third of the population was non-white. Minority participation in the legal profession lags behind virtually all other professions and most other major categories of work. For example, in 2000, minorities comprised 25.5 percent of the civilian labor force: 20.8 percent worked as accountants; 23.1 percent worked in computer science; 24.6 percent of surgeons and physicians; and 18.2 percent of college and university professors were minorities. By contrast, minorities comprised 9.7 percent of lawyers.

Young People's Negative Perceptions Are a Barrier to Diversity.

Ms. Hodge noted that aggressive programming of other professions has contributed to the statistical disparity. However, she opined that the problem may be much deeper. Ms. Hodge suggested that the profession is no longer viewed as "noble." Ms. Hodge shared the results of a focus group she evaluated. The results reflected that many young people's opinions of lawyers were derived from television and other reflections of popular culture, that young people never saw lawyers on their campuses, and that they viewed lawyers as deceitful, liars, cheats, and generally despicable. She said that lawyers need to do a better job of educating students and getting young people interested in the profession.

Unhappy Lawyers Are a Barrier to Diversity.

Ms. Hodge also explained that unhappy lawyers cannot recruit people to the profession. She noted that many lawyers have indicated that they would not want their children to pursue a legal career. Many young lawyers have confessed that they would not chose law if they had the opportunity to do it all over again. She warned, "Unless and until we are able to convince ourselves that this is a profession that offers more than just a paycheck, we will have a difficult time selling it to others." Ms. Hodge noted further that it is difficult to recruit minority students to a profession that many minorities do not even want their children to join, or to a profession in which majority attorneys are leaving in large numbers.

Quality of Life Issues Pose a Barrier to Diversity.

Ms. Hodge touched on other areas requiring attention. She suggested that lawyers address the work/life balance issues in order to become the profession many of us thought we were joining.

Educational Deficiencies Are a Barrier to Diversity

Further, Ms. Hodge raised education as a problem for diversity. She said that lawyers need to provide real and meaningful educational opportunities for our children so that they have options. We should serve on school boards and committees and get involved in school programs. Ms. Hodge also insisted that lawyers demand that our education system educate minority children in a way that makes college a realistic possibility. Additionally, we need to articulate to children that we want them to consider law as a career. She advised, "If we take an interest in students of color, it will help provide them with the opportunities they are not otherwise receiving."

Possible Diversity Initiatives

Ms. Hodge warned that diversity efforts must be designed for the organization's culture; "one size does not fit all." Some suggestions will not work in all organizations. However, Ms. Hodge identified several efforts that work in most organizations.

1. Embrace diversity as a priority and support minority attorneys

Ms. Hodge recommended that if a firm wants a diversity effort to be successful, the firm must embrace diversity and demonstrate their commitment to diversity. Ms. Hodge said that lawyers, too, must embrace diversity. She explained that diversity is more than statistics. "Meaningful inclusion means examining compensation systems and firm policies to ensure that minority lawyers are given opportunities to benefit the businesses they generate." She discussed how corporations help spur law firms to develop diversity initiatives. For example, an insurance company approached a law firm when it learned that the minority attorney doing its work received no benefit from the firm. The insurance company warned the firm that if it did not give the minority attorney a benefit, it would take its business elsewhere. Ms. Hodge said, "Minority lawyers are not just window dressing. They must be given meaningful roles in law firms."

Addressing issues raised in earlier panels, Ms. Hodge recommended that if there is not a critical mass of minorities in a law firm, minority attorneys in the firm need to get management to support them in attending programs where they can network with other minority lawyers.

2. Give diverse attorneys meaningful roles

Ms. Hodge recommended that a firm should give diverse people roles throughout the firm. "Successful organizations have diverse people in all areas of the organization, not just on the diversity committee. When diverse people observe other diverse people where decisions are made and important events happen, they are more likely to feel included and pay more attention to what the organization is doing, rather than wondering why no one like them is in charge."

3. Designate diversity as a strategic goal

Ms. Hodge suggested making diversity one of the organization's strategic goals with measured goals for success. "By adopting metrics, the organization is not only making a public statement about its commitment to diversity, but it is also saying to the world that achievement of that goal is important." She noted that Shook, Hardy and Bacon's example of tying citizenship and civility questionnaires to compensation is a new and different way of gathering metrics.

4. Have the hard conversations regarding diversity

Ms. Hodge explained that the organization must be willing to have a hard conversation that encourages discussion about diversity and inclusion without shutting down the questions and concerns. People should not be discouraged from talking out of concern that their statements will be perceived as politically incorrect. "We all have questions. We all have things we don't understand. We ought to have the conversation with each other." The conversation will result in overall change faster. Ms. Hodge further challenged, "At the end of the day, each person must take personal responsibility for making the profession and our society more inclusive."

5. Be truly welcoming and inclusive

Ms. Hodge explained that an organization must be welcoming and inclusive. She said that minority and majority attorneys must take the time to get to know diverse people and to include them in all day-to-day conversations and events. She recommended that this involves "active listening" within the organization and getting real time input from minority attorneys on how the firm can be more inclusive. She said that this conversation should occur when the minorities come into the firm rather than as they exit.

Diversity achievements by one group cannot be viewed as a loss to other groups. "The more equitable distribution of power benefits the profession as a whole and will help to ensure that the profession and the justice system are better able to serve the public and to merit its confidence. We must work together and advance each other and advocate for each other. When an issue affects one group, we should all ban together and speak out."

Ms. Hodge stated that the need for diversity extends beyond race, ethnicity, and gender. She explained further that we should be the exemplars on the issue of diversity and should refrain from perpetuating stereotypes. As exemplars, we should educate and welcome lawyers of other ethnic groups, lawyers with disabilities, and those of all sexual orientations. "It's the right thing to do, and it will help enhance the quality of justice and the decisions we make." She said there is no excuse for doing nothing. Ms. Hodge referenced a speech by Robert Kennedy regarding the ability of a single person to make a difference in the enormous array of the world's ills– with numberless acts of courage and beliefs that send forth a tiny ripple of hope that, with other ripples, strike down the mightiest walls of oppression. She then urged the audience to start a tiny ripple of hope,

pay it forward, and invest in the future of the legal profession with conferences similar to the Diversity Conclave.

ARE YOU DIVERSE OR INCLUSIVE?

Dorothy Reese, MPH, MSW, CDP and Margaret Montgomery-Richard, PhD (DMM & Associates, LLC, New Orleans) presented the interactive session titled "Managing High Performance Law Firms in the 21st Century: Are You Diverse or Inclusive?" The session, which involved a video and several exercises for participants, focused on three issues: the impact that individual differences have on the workplace, how understanding diversity impacts an organization's office culture, and how actions consciously and unconsciously affect clients. Participants completed a questionnaire that assessed how much they knew about diversity; they then learned distinctions between human and business diversity as well as internal and external diversity.

Demonstrate Commitment through Leaders Walking the Talk of Diversity

Mrs. Reese discussed the importance of inclusion and concluded that when the work environment is not inclusive, employees will not remain. She also stressed that diversity strategies require a "top-down approach." An organization cannot start in the middle; diversity requires a supportive and committed leadership. First, the leaders must be "visibly committed" – that is, the people working in the organization must believe that the leaders live and believe the diversity principles that they articulate. Second, the leaders must recognize and understand true diversity issues and that diversity goes beyond race. Third, leaders must be willing to challenge the status quo to address diversity issues. She noted that Generation X is changing the face of corporate America; leaders must be more flexible and more creative to address work-life balance issues to continue getting Generation X people to work in their organizations. Fourth, leaders must be willing to evaluate how different groups within the organization perceive the organization. Mrs. Reese also discussed how biases and prejudices of employees impact the organization's clients. Because what happens in the work environment affects the organization, employees need to be well oriented.

Provide Work Environments That Are Understanding and Respectful

Mrs. Reese discussed developing a strategic approach that creates a work environment where people are more understanding and respectful of each other. Diversity has to be a biased-free infrastructure for an organization to meet its goal. She also discussed the attributes of an inclusive organization: (1) demonstrates commitment to diversity, (2) has a holistic view of all employees, (3) gives access to opportunities, (4) has an equitable system of recognition, acknowledgment, and rewards, and (5) provides opportunities for professional development. Mrs. Montgomery-Richard then helped participants with an exercise in which they evaluated the attributes of their own organizations. She discussed the framework for developing an inclusive organization. She also addressed the intersection of the organization's culture and the employees' perceptions.

Diversity Definitions Must Be Inclusive

Mrs. Reese discussed the "buy in" for a company to become a high performing organization. Management must embrace diversity; it must define diversity, and members of the organization must be able to see themselves in that definition. Employees must understand what is in it for them. Mrs. Reese discussed employees being able to communicate effectively with diverse staff members, clients, and constituents of the organization. Diversity helps employees respect each other so that they work more effectively together. She said, "When people recognize that there are cultural differences that actually exist between age groups, they can adapt and modify." One employee can recognize that the other employee is not disrespecting him, but rather the other employee has a different point of reference. Mrs. Reese gave the following examples of generational cultural differences that are the sources of conflicts within an organization: dress (i.e., certain generations dress a certain way and offend the members of another generation) and forms of address in communication (i.e., calling someone by his first name rather than as Mrs. X). Mrs. Montgomery-Richard gave the example of older female attorneys wearing stockings and younger females resisting stockings. Mrs. Reese noted that in many instances regarding generational and cultural distinctions, people simply don't understand the differences.

Mrs. Montgomery-Richard discussed the bottom line regarding diversity. Mrs. Reese explained that the internal and external dimensions of a person have a powerful impact on her attitudes and behaviors about other people. She also discussed how geographic locations impact people. For example, people make assumptions of entitlement, privilege, and wealth and develop biases based upon the parishes or neighborhoods from which others come. She further explained that educational background and parental status (i.e., single parent) are sources of bias and conflict, which impact the organization.

To expound upon these ideas, Mrs. Reese and Mrs. Montgomery-Richard showed participants a video of a woman who encountered several people while in a train station. Readily apparent were her biases and assumptions concerning the various people with whom she came in contact, triggered in large part because of the people's racial characteristics and style of dress. Mrs. Reese said that some of the key concepts of the video revolved around culture and how decision-making is affected by our perceptions, assumptions, biases, values and stereotypes. She said that we are all affected by "ethnocentricity," a person's values and how the person was raised. There must be awareness that differences exist and employers must appreciate those differences. Everyone processes the environment through his own personal "cultural lens." "Your cultural lens is who you are as an attorney, as a father, as a mother, as a husband, as a wife, as a son, as a daughter and impacts how you see the world and process it." Mrs. Reese also noted the function of "micro-inequities," which are the unconscious messages that one person sends to another. Those unconscious messages have a significant impact on workplace dynamics and performance.

In conclusion, Mrs. Reese advised that all members of an organization should have input in the diversity strategic plan and that goals should be measurable. Also, every member

of an organization must have training regarding the organization's diversity strategy. Further, she recommended that organizations post the diversity plan where all have access to it and provide recognitions/rewards for achievement of goals.

THE JUDGMENT ON FUTURE DIVERSITY

S. Dennis Blunt (partner, Phelps Dunbar, LLP, Baton Rouge) moderated the "Judgment on Future Diversity" panel discussion. The panel consisted of Hon. Kern A. Reese (Civil District Court, New Orleans), Hon. James E. Stewart, Sr. (Second Circuit Court of Appeal, Shreveport), Hon. Ulysses Gene Thibodeaux (Third Circuit Court of Appeal, Lake Charles) and Hon. Fredericka Homberg Wicker (Fifth Circuit Court of Appeal, Gretna).

The judges discussed the importance of diversity within the court system and among the courts' publics. They also evaluated the impact of Supreme Court precedent concerning juries and judicial districts on the composition of the courts and the staffing of cases. Further, the judges provided insight regarding their perceptions of symbolic rather than real diversity and provided advice to firms regarding the benefits of diversifying.

Diversity Improves the Community's Perceptions Regarding Justice and Makes Judges Better Judges

Judge Wicker explained the difference between the bench and the courthouse. The Voting Rights Act of 1965, through *Clark v. Edwards*[2] and *Chisom v. Roemer*,[3] diversified the bench; however the courthouse is not diverse. She stated, "That's an elephant in the living room. And it's the same elephant in the living room of the law firms and the courthouses except that we're being paid by public money. So that makes it worse in my mind."

Judge Wicker also discussed the importance of intra-court diversity, which evaluates whether the bench and courthouse are diverse. She explained, "Intra-court diversity does a couple of things. It makes the community feel better. It makes people feel like . . . there's a stake for them in justice [and] . . . It makes us better judges." She demonstrated how the exchange among judges of different perspectives regarding the law brings about better administration of justice. She shared part of a conversation that she had with an older judge, during which he said that judges are still trying to give babies to their mothers in custody disputes. She responded: "I'm sorry but not only is that not the law, but I have a little bit different perspective on that. . . . I try to give those babies to the parent who keeps their best interest in mind."

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[2] *Clark v. Edwards*, 725 F. Supp. 285 (M.D. La. 1988) (holding the system of electing judges in Louisiana violated § 2 of the Voting Rights Act).

[3] *Chisom v. Roemer*, 501 U.S. 380 (1991) (reversing the holding of the Fifth Circuit *en banc* and declaring that the Voting Rights Act applied to judicial elections).

Lacking Diversity Can Taint a Firm's Credibility

Mr. Blunt polled members of the panel on the benefit of having a diverse trial team. Judge Reese explained that if a trial team is reflective of the community, it sends a message that the team is an inclusive group of individuals. He explained, "If folks cling to nostalgic, old considerations, prejudices and biases, that sends a perception of prejudice and bias as well."

Judge Thibodeaux noted that if judges constantly see that a particular law firm is non-diverse, the perceptions from the bench could color how the judges view the firm's credibility. Judge Thibodeaux advised, "The more diverse you are, the more opened-minded some of the judges will be; the more credibility you'll have when you make certain arguments in certain cases. And in the long run, it works out for you."

Judge Reese similarly advised firms to avoid the perception that they are non-diverse because "perception is 90 percent of reality." He further explained that how firms are perceived will ultimately determine how they are treated. "If you're perceived as somebody who's enlightened, progressive, knowledgeable and prepared, then your reputation evolves into that. If you are perceived as somebody who is narrow-minded and unfocused, then you'll be locked into a certain mode. And your credibility is impaired as a result." He stated that firms have the power to decide what their reputations are, and then they have to develop and nurture them.

Judge Stewart commented about the impact on diversity of *Batson v. Kentucky*, 476 U.S. 79 (1986). He explained that after *Batson*, lawyers no longer had the excuse or the ability to just have one type of person on juries; consequently, the complexion of juries started changing. "Therefore, it was necessary for the lawyers to change the complexion of the people sitting at the table. You had more women and blacks sitting on the bench. They understood, or they should understand, that now we have to deal with a diverse society." Judge Stewart warned that if firms do not understand the need to change and diversify, then they are behind. He explained that it is dangerous when a judge can walk in the courtroom, without knowing the names of the lawyers, and know who is representing which party and the situation.

Judges Do Not Respect Symbolic Displays of Diversity

Judge Reese suggested that firms remain sincere in their efforts to demonstrate to the bench that they are inclusive and progressive. He said conversely that many firms engage minority attorneys to join a trial team in the eleventh hour before trial and that minority attorney does not have any trial responsibilities. He then related his own experiences of being engaged at the eleventh hour while he was in private practice:

> I was trying to make a living like anybody else; but the one condition I would always put was that if you're going to engage me, don't engage me for my pigment, engage me for my capability. I want to take witnesses; I want to pick the jury; and, if you can part with it, I'll do the closing

> argument. And if you let me, I'll win your case. Because that's what it should be about. . . . You hire somebody because of what they bring to the table, and hopefully they help you become successful.

Judge Thibodeaux was even more adamant about the message that firms send when they hire minority attorneys to sit at counsel table without allowing those attorneys to participate in the trial. "It's an insult to bring somebody to just sit there as a face thinking that that can influence a judge. Diversity is more than faces on the bench. It's more than faces at a counsel table. I'm not interested in symbolic forms of racial diversity." Judge Thibodeaux discussed guidance on diversity laid out by the United States Supreme Court in *Regents of the University of California v. Bakke*, 438 U.S. 265 (1978)[1]. Judge Thibodeaux said that Justice Powell's statements in *Bakke* ring true today: "The nation's future depends upon leaders trained through wide exposures through the ideas and morals of students as diverse as this nation." He reminded the audience that the Supreme Court already pronounced that diversity is important.

Judge Wicker echoed Judge Thibodeaux's and Judge Reese's opinions that firms that hire minority attorneys to simply sit at counsel table offend the jury, offend the court, and ultimately offend their clients. She added that it is a bigger disservice than it is a service for a firm to simulate diversity as opposed to really bringing along a diverse group of young lawyers who will grow into partners. The firms that take the latter approach will get the business. The panelists also remarked that women are playing a more significant role in several of the appellate courts in the state and those women who are presenting are doing incredibly well. Judge Wicker noted an anomaly within her court within the week: 50 percent of the attorneys presenting oral arguments were African American.

Mr. Blunt conveyed how he handles the 11th hour addition of a minority attorney by opposing counsel. He explained that he remarks during opening statement about how the minority attorney will examine witnesses and present evidence just as he will. Mr. Blunt's comments often compel opposing counsel to give the minority counsel a meaningful role that he or she otherwise would not have had in the trial.

Judicial Clerkships, Externships and Internships Can Foster Diversity by Helping Minority Attorneys Gain Experience that Firms Will Trust

Judge Thibodeaux opined that judges and judicial candidates must be capable of and willing to defend their perspectives regarding the values of marginal groups in our society. He explained that he often receives calls from attorneys interested in hiring minority attorneys but having difficulty, according to them, in finding individuals who are "qualified." "I get calls all the time asking me for good minority candidates for their law firms. I say: 'What do you mean by good? I've hired them so they must good. So why do you have to qualify that?' " Judge Thibodeaux explained that those firms are looking for more than a good minority; they are seeking a "super" minority. He further

[1] *Bakke*, a landmark decision of the Supreme Court of the United States on affirmative action, barred quota systems in the college admissions process but affirmed the constitutionality of affirmative action programs giving equal access to minorities.

explained that the judges "have to form linkages with law firms and call law firms and say 'Hey, listen if you're looking for associates, then I've got a really good candidate.' Whether that candidate is a Black American; whether that candidate is Vietnamese; whether that candidate is Puerto Rican or Russian; I've had them all. . . . But I think we have to have those linkages with law firms to make this thing really happen."

Judge Wicker added that judges can use the intern program already in place in the court system to hire young lawyers and give them experience and put them in a position where judges can vouch for their experience and competence. She explained that every single judge in this state can have externs, and on her court each judge is allowed two summer interns. Judge Wicker described the experiences of the 12 summer interns on her court in 2007: "We really had a good time. All summer long those kids read and wrote and we talked. They didn't get paid, so that meant they had to work at night. . . . [W]e did an inter-court [presentation] where they got up and spoke so that I could . . . vouch for all of those kids. And . . . if they didn't do a good job, I could say they didn't do a good job." Judge Wicker related that when she identified students with poor writing skills, she mentored them by advising that they take two writing classes when they returned to law school; she also recommended that the students see particular frequently published professors. Judge Wicker reiterated that there are things that the judiciary can do to reach out and create scenarios to help young lawyers move along, such as hiring minority attorneys and students as term law clerks and summer and winter interns.

Firms and Law Departments Must Expand Their Views of Diversity and Their Applicant Pools

Mr. Blunt then addressed the disparity between larger firms and smaller firms in the area of diversity. Judge Stewart identified the problem as a matter of perception because many people perceive diversity as a quota. He explained that diversity is positive because it challenges the law firm to be its best. Judge Stewart explained further: "I'm from Caddo. At one point, I was the only minority on the bench and opinions that developed in the court from just hearing a different view made us a better court. It makes you a better law firm because you start hearing a voice that you've never heard or considered. Not necessarily is it always right, but it makes you consider that voice. So if you want to be your best, you challenge yourself by going out -- it's very easy for us to always deal with what we know."

Judge Stewart also identified people's reluctance to exit their comfort zones as a hindrance to diversity. He relayed: "I know colleagues who have been on the bench for 30 years, who've never interviewed anybody other than a white male from LSU Law School, for a clerk position, simply because they became comfortable with them. But once we move to be our best and start interviewing other people – whether it's male, female, black, white, women – then we challenge ourselves to hear a different voice and to be better lawyers and better judges." He noted that firms will continue having problems with diversification if they continue perceiving "qualified" as a person fitting one particular stereotype.

Judge Thibodeaux emphasized the importance of law firms resisting the urge to repeatedly hire from the same pool. "We had a habit of hiring in-house. Well, if you're going to hire in-house and all of your folks are of the majority race, you're going to continue to do that. So you have to expand your pool, you have to advertise. You have to go out and recruit, you have to ask friends. You've got to call your buddies in these law firms and say 'Hey, you got anybody? We're looking for this type of person with these talents. Do you know anyone with these talents?' It has worked in our court from a staff perspective." Judge Thibodeaux agreed with Judge Reese about the impact of his diverse clerks, "I learned a lot from my law clerks who don't look and act like me." The judge recommended that firms revamp their internal hiring mechanisms to make the legal society, the court, and the firm's staff look like what is should – the world around us.

Judge Wicker noted that in addition to diversity voids in smaller practices, diversity is lacking in many parts of the government sector, especially offices like the district attorney's office where the salary is low. "The mantra is always – well you know, we just can't find people who are willing to do the job for the money." She then reflected, "I was one of those broke kids with a maximum in loans who wanted to learn to try cases, and I wasn't doing it for the money." She identified the problem as a recruitment issue: "Do the DA's offices go to the law schools and interview? Do judges who are looking for law clerks go to the law schools? . . .The bottom line is, if you make a little effort you get a lot."

Judges and Firms Benefit from Diverse Views and Ideas

Mr. Blunt questioned the panel regarding the validity of the perception that African American judges primarily retain African American clerks. Judge Reese confirmed that he has had very diverse clerks. "[Diversity is] an enlightened business concept, which does two things: 1) from a staff standpoint, you have different perspectives and you have insight in cultural considerations that you never considered." He described his experience with one of his earlier clerks who was Vietnamese. "What that experience gave me was insight into a culture that I know very little about. And I now understand some of the values and some of the morals and some of the principles that that aspect of the Asian community is grounded in. And when cases came before me, and I had the domestic docket at the time; that insight gave me a little bit more gravitas to deal with the problems before me. And that's the value of that."

Judge Reese then extrapolated how firms could gain similar value through an attorney who brings a different perspective. While attending the deposition of an African American while in private practice, Judge Reese often had to assist the attorney taking the deposition to help him understand what the deponent was communicating. "I would be sitting there translating because I understood the idiomatic expressions and the pronouncement that maybe the majority attorney didn't. But because I was there, communication was made and everybody understood what was being said."

Judge Reese also touched on the business benefit of diversity for firms. He explained that racism is not profitable, but diversity very much is. "You open yourself up to new

markets. You possibly increase your profitability. I've learned that diversity is not sitting around ultimately singing 'kum-by-ya,' which is certainly a laudable goal. But when you can bring a whole new market, that increases your profitability and bottom line. Then it makes good business sense." He also noted that many commercial clients are gravitating towards "firms that have diversity as a goal within the firm and not just a goal that's a tag line on a website." Mr. Blunt noted that as the demographics of this country become more and more diverse, firms will have to diversify to remain profitable.

Judge Stewart reminded the audience that we live in a global world. "You cannot allow yourself to be compartmentalized. You have to become expansive if you're going to be successful." He emphasized that those who fail to be expansive are going to be left behind.

Judge Thibodeaux remarked, "It's more than just being a face on the court. If you're just a face on the court, then you might as well not be there. . . . You have to be an effective voice on that court in terms of the decision making process. And you may come to the same result. Same result, but I think your analysis maybe different."

In closing, Mr. Blunt asked the panelists to summarize what needs to be done from a diversity standpoint, both within the court and at the law firm level. Judge Thibodeaux described the transformation of the court that has allowed diverse views to contribute to common decisions. He explained:

> "In 1991 when I ran for judge, there were four open seats. Those four judges were white males who all lived within five miles of each other. There were no blacks, there were no women, there were no rednecks represented on the court. In the twenty something years that have passed, part of it because of changes in the law and public pressure, now you have white males, white females, black females, black males, rednecks, Baptists, Catholics. It's a more diverse court. But no one can say it's a worse court than it was 30 years ago. Simply, you now have a court where everybody has one vote and they are forced to deal with each other's views and come out with a common decision. …If you take that out of the public sector and put it in the private sector, you will go through a metamorphosis of understanding; your firm will be better because you have all these different opinions in your firm, still operating on the same goal of making money and making your firm better. Then hopefully in less than 20- something years you'll realize that your firm is not worse than it was, but it's actually better than it was before you did this."

Mr. Blunt reminded the audience of the promise of diversity that arose from *Brown v. Board of Education*.[4] He paraphrased a statement from Mary Francis Berry, who was at

[4] In *Brown v. Board of Education of Topeka*, 347 U.S. 483 (1954), a landmark civil rights opinion, the Supreme Court overturned its precedent going back to *Plessy v. Ferguson*, 163 U.S. 537 (1896), by declaring that state laws establishing separate public schools for black and white students denied blacks equal educational opportunities.

one time the Chair of the U.S. Commission on Civil Rights: "If we want to ensure justice we must give voice and power to previously silenced narratives -- voice and power, not just a face. Remembering that what the law does is a part of everyone's story. Otherwise, the law has no validity and is an illegitimate exercise of power."

Mr. Blunt further advised the audience that their efforts in making diversity real makes the law a legitimate exercise of power. He also referenced Justice Breyers who described *Brown v. Board of Education* as the promise of true racial equality. Justice Breyers discussed racial equality not as a matter of fine words on paper, but as a matter of everyday life; it is about the nature of a democracy that must work for all Americans. He said that racial equality is "one law, one nation, one people." It must be defined not simply as a matter of legal principle, but in terms of how we actually live. The verses should not be fine words on paper, but they should be a principle guided by how we actually want our law firms and our courts to work. Mr. Blunt further challenged the audience to embody the statement on our nation's seal -- "E Pluribus Unum" --"Out of many, one."

CONCLUSION

Throughout the Conclave, panelists consistently expressed the importance of embracing diversity, making diversity a priority, and demonstrating with actions the importance of diversity. They discussed how law firms, businesses, judges, and the entire system of justice benefits from the diverse exchange of ideas and cultures and how they can be crippled by bias and prejudice. Further, panelists explained that the definition of diversity must be inclusive (*i.e*, extending beyond race, ethnicity, and gender), and actions must reflect a welcoming and inclusive atmosphere.

The panelists recommended that all members of an organization shoulder the responsibility of advancing diversity, have the hard (even non-politically correct) conversations on inclusiveness and biases, and generate sincere, rather than symbolic displays of diversity. Panelists warned that diversity efforts and initiatives must be aggressive, intentional, and measured in order for a legal organization to experience meaningful results. Further, programming should include flexibility, mentoring, networking, and other professional development support. Most importantly, there must be a conscious commitment to diversity.

As Ms. Hodge explained, the members of the LSBA, and the law firms and law departments within it, should be the "exemplars" on the issue of diversity. Public trust and confidence in the justice system is essential to its survival and effectiveness in an increasingly pluralistic society. Consequently, the viability of the justice system will depend on the legal profession's ability to increase diversity within its ranks. We must advance diversity because, as Ms. Hodge emphasized, "[i]t's the right thing to do, and it will help enhance the quality of justice and the decisions we make."

The evaluations from the program demonstrate that the attendees enjoyed the program and found the discussions enlightening. Most gave the program and speakers the highest rating of "4."

Planning for the Second Annual Conclave on Diversity in the Legal Profession as well as the most appropriate means for continuing the diversity dialogue is already underway. The LSBA wants the second Conclave to be a meaningful continuation of the discussion begun during the first event, rather than simply an updated duplication. Those interested in assisting are encouraged to contact LSBA Director of Member Outreach and Diversity Kelly McNeil Legier.