

the INNOVATOR

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Improving Diversity in the Legal Profession Through ABA Resolution 113

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“The dynamism of any diverse community depends not only on the diversity itself but on promoting a sense of belonging among those who formerly would have been considered and felt themselves outsiders.”

—Justice Sonia Sotomayor

Taking Action: ABA Resolution 113 and the ABA Model Diversity Survey

The ABA House of Delegates (House) passed ABA Resolution 113 (*ABA 113*) in August 2016.¹ The resolution has four fundamental principles and urges its signatories to: (1) support *ABA 113*; (2) ask any firm they retain as outside counsel to complete the ABA Model Diversity Survey (Model Survey); (3) encourage unretained firms to complete the Model Survey; and, (4) use information acquired from the Model Survey as a factor when evaluating new firms to hire for their legal services.² Additionally, *ABA 113* calls for all legal service providers to expand and create opportunities for “diverse attorneys,” as broadly defined by ABA Goal III.³

The Model Survey is a tool for corporations to solicit standardized diversity data from outside counsel, leading to more informed decisions about the diversity of a firm and its teams providing legal services.⁴ With the onus on firms and their corporate clients to use the Model Survey as their primary tool for assessing diversity, over time the survey will serve as a vehicle for evaluating the profession as it evolves to better reflect diversity.⁵ If a firm wishes to maintain confidentiality while using the Model Survey, this may also be done through the “client matter” feature.⁶

Former ABA President Dennis Archer, spoke in favor of the proposal and presented a list of ABA entities and

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2016 Spirit of Excellence Award Winners

ABHAY NADIPURAM

On February 4, 2017, the ABA Commission on Racial and Ethnic Diversity in the Legal Profession will honor four attorneys with the Spirit of Excellence Award. The award is presented to lawyers who excel in their professional settings; who personify excellence on the national, state, or local level; and who have demonstrated a commitment to racial and ethnic diversity in the legal profession.

Thomas W. Fredericks

Tom Fredericks has centered his life on serving the Native American community. Mr. Fredericks was born and raised in the Fort Berthold Indian Reservation in North Dakota. Before becoming a lawyer, Mr. Fredericks created the poverty program at Standing Rock to help his fellow Native Americans climb out of poverty. Mr. Fredericks was dedicated to bringing “Indian rights to the forefront.” The poverty program was the first Native American-managed program independent of the U.S. Department of Interior’s Bureau of Indian Affairs.

While a law student at University of Colorado-Boulder, Mr. Fredericks was a founding member of the Native American Law Student Association. After graduating from law school, Mr. Fredericks joined the Native American Rights Fund (“NARF”). His “goal was to empower tribal institutions.” Mr. Fredericks helped create the Native American Bar Association, and was its first president. Mr. Fredericks eventually served as Associate Solicitor and Assistant Secretary for Indian Affairs under President Jimmy Carter. He developed a water policy for Native Americans which allowed tribes to utilize their “Winters Doctrine” rights by funding tribes to develop facilities to use the water. Mr. Fredericks is proud of the progress that Native Americans have made during his 50-year career serving Native Americans. “I am proud to say that Native Americans are now engrained in every aspect of the governmental structure of the country.” “Tribal governments are now recognized

governments that have the sovereign authority to govern their territory and their citizens.”

Kenneth G. Standard

When Kenneth G. Standard was a student at Harvard College, he was one of 10 black students in his class of 1,200 males. In sister school Radcliffe College’s freshman class of about 300 young women there were no black students. Later at Harvard Law School, he started as one of three black students in his class of about 560. When he graduated in 1962, he was the only one, which may explain the strong sense of duty that he feels to help minority law students navigate their way.

After graduation from law school Ken applied and interviewed for the 12,000 member Harvard Club of New York City (N.Y.C.). He was admitted to the Club, becoming its second black member. After several years of membership he achieved his first invitation to take a leadership role within the Club, becoming a member of the School’s Committee. He later became a member and subsequently an officer of the Admissions Committee. After concluding his service on the Admissions Committee, he was nominated for and elected to the Board of Managers of the Club. He continued to fill a variety of leadership positions within the Club and eventually became its president, its first racial and ethnic minority to serve in that role. In fact, in all of his leadership roles within the Club leading to the presidency he was the “first” to serve in such a role. Ironically, as President, he was able to unite



THOMAS W. FREDERICKS



KENNETH G. STANDARD



PEGGY A. NAGAE



STEPHEN N. ZACK

the Club's membership and bring to fruition a long deferred plan to renovate and expand the landmark clubhouse, which included the first locker room for the Club's female members.

Mr. Standard has had a storied career as a litigator and counselor. He began with the Securities and Exchange Commission, where a chance meeting led to an opportunity to serve on a special New York Governor's temporary commission (Moreland Act). Upon the commission completing its assignment, Ken was hired as the first minority attorney at the then New York Telephone Company and, junior as he was, hard to believe now, he was also the highest ranking minority in the company at the time. From there he went on to Bristol Myers Co., where he, after three years, was made a Vice President of its then Products Division. After a change in control and reorganizing of the company many years later he went on to lead the law department for the N.Y.C. Schools system. Eventually, Ken found his way into the law firm world and became a member of the national firm Epstein Becker & Green, where he also became its first general counsel. He also chaired its Diversity and Inclusion Committee until he stepped down from partner to Of Counsel status.

Mr. Standard also chaired or co-chaired a number of New York State Bar Association ("NYSBA") committees and served as President of the 77,000 member Association from 2004–2005. While President he was able to initiate an ongoing program that enables inner city high school students to spend a day at one of New York State's 15 law schools meeting with students and faculty and attending mock classes.

Mr. Standard's long career has included service in three governmental entities, three corporations and two law firms. Along the way, he has not forgotten the most important service, to help others navigate their way. He also has not forgotten to credit the many people who

encouraged and supported him over the years, his parents, older siblings, many teachers, Boy Scout leaders, and most significantly, his late wife, Valerie.

Peggy A. Nagae

Ms. Nagae helps companies and law firms develop its leaders specifically through the lens of diversity and inclusion. She has dedicated her life to diversity and inclusion; her motivation largely stemming from her family's experience of being incarcerated during World War II as Japanese Americans. She attended Vassar College in New York, which she says taught her that "as a woman you could do anything you wanted and twice as good as a man." After graduating from Lewis and Clark Law School, she worked as a litigator doing both civil and criminal defense work. However, as a female, Asian American attorney, she did not always fit in. Yet, Ms. Nagae says that she always felt the need to speak-up for justice.

Before starting her consulting firm in 1988, Ms. Nagae served as Assistant Dean of Academic Affairs for the University of Oregon School of Law, where she served under then-Dean Derrick Bell, one of her role models. In 1983, Ms. Nagae became lead counsel for Mr. Yasui when Mr. Yasui filed a *coram nobis* petition in the federal court to reopen his 1942 case, *Yasui v. United States*, premised on Mr. Yasui's intentional violation of the military curfew imposed on American citizens of Japanese descent. The court vacated his conviction in 1984, but dismissed the writ. Yasui appealed the judge's decision to dismiss the writ, but died during these subsequent proceedings. In 2015, Ms. Nagae attended the White House ceremony with Yasui's family where he posthumously received the Presidential Medal of Freedom. "We know that there is a path forward" to make our profession more diverse," she says. "If you have a vision, you need to act, and speak up, so that you can help justice rein."

Stephen N. Zack

Stephen Zack has broken many barriers as a Hispanic-American attorney and has lived a life of public service. He and his family fled Cuba in 1961 during the Cuban Revolution. After graduating from college and law school from the University of Florida, he became a legislative aide to Congressman Claude Pepper in Washington, D.C. Wanting to practice litigation, Mr. Zack left Washington and joined a law firm. He went on to serve as General Counsel for Florida Governor Bob Graham. After returning to private practice, he served as trial counsel to Vice President Al Gore in the famous 200 case, *Bush v. Gore*.

In addition to having a thriving private practice, Mr. Zack was the first Hispanic-American to serve as the President of the American Bar Association and Florida Bar. He was also the youngest attorney ever to be elected President of the Florida Bar. In 2013, President Barack Obama nominated Mr. Zack to be an alternate U.S. representative for the United Nations' 68th General Assembly. Mr. Zack's passion for diversifying the legal profession comes from his experience as being a young Cuban-American. "I had an American father, so I didn't have that thick of an accent; but, my friends did. One time I went to court with one of my friends who had a thick accent and the judge told him to 'come back when you can speak English.'" This experience motivated Mr. Zack to support the creation of the Cuban-American Bar Association to ensure Cuban attorneys were given equal opportunities to practice law. "It's hard to imagine how we can exist without understanding the multiple communities we have in our society," he says. 🌟

Abhay Nadipuram is an in-house attorney at Principal Financial Group in Des Moines, Iowa. Abhay serves as the Young Lawyers Division Liaison to the ABA Commission on Racial & Ethnic Diversity in the Profession and Chair of the Iowa Young Lawyers Diversity Committee.

Commissioner Spotlight

Meet the Commissioners! Be sure to check out the “Commissioner Spotlight” section in each issue of *The Innovator* and read about the ABA members who service as Commissioners on the ABA Commission on Racial and Ethnic Diversity in the Profession.

Akira Heshiki



am currently the chair of the TIPS Committee on Diversity and Inclusion. I am a member of the ABA House of Delegates in a representative capacity for the Multnomah Bar Association.

WHAT IS ONE OF YOUR FAVORITE THINGS ABOUT SERVING ON THE COMMISSION?

The Commission is an opportunity for me to work on issues related to Diversity on a national level. It is also privilege to be able to work with so many accomplished lawyers across the country who share my passion for increasing diversity in the legal profession.

WHAT ADVICE WOULD YOU GIVE TO A FIRM/ ORGANIZATION LOOKING TO INCREASE DIVERSITY AND INCLUSION AMONG ITS ATTORNEYS?

I live in a part of the country where the population of diverse individuals is low. I think firms and organizations here work very hard at attracting diverse talent and are good at it.

So I think the key to success is to focus on building a welcoming environment, and a legal community and profession where all people feel welcome. So while building critical mass is important, I think it is just as valuable to think about what we do with everyone once they arrive. To me that means that that people who

identify as part of the majority culture become allies and are able to articulate the “why” of diversity, and show leadership on issues of diversity.

Lack of diversity in the legal profession isn’t a “problem” that needs to be solved by communities of color, but a process that benefits everyone, and we can only achieve that by everyone working toward that goal.

WHAT IS YOUR DREAM VACATION?

There are too many places to list but on my short list to visit/revisit is Hawaii, Costa Rica, and Greece and SE Asia.

WHAT IS YOUR FAVORITE MIDNIGHT SNACK?

I can barely stay up past 11, but unfortunately and embarrassingly—I enjoy sour patch kids any time of day.

WHAT IS ONE OF YOUR HIDDEN TALENTS?

After the talent for coming up with bad puns. I think I have a talent for seeing humor in dark situations. Sometimes it gets me in trouble if I speak them out loud but it keeps me smiling in stressful situations.

HOW LONG HAVE YOU BEEN ON THE COMMISSION?

This will be my third year on the commission, I started my involvement in August of 2014.

IN WHAT OTHER ABA ENTITIES ARE YOU INVOLVED?

I am active in TIPS (Tort Trial & Insurance Practice Section) in a variety of committees, but

Thomasina Real Bird



HOW LONG HAVE YOU BEEN ON THE COMMISSION?
This is my second year on the Commission.

IN WHAT OTHER ABA ENTITIES ARE YOU INVOLVED?

I am on the Center for Professional Responsibility Diversity Committee. I also serve as the National Native American Bar Association (NNABA) Treasurer and Young Lawyers Committee Chair. I have been a delegate to the ABA Young Lawyer Division Assembly on behalf of NNABA for multiple Assemblies.

WHAT IS ONE OF YOUR FAVORITE THINGS ABOUT SERVING ON THE COMMISSION?

One of my favorite things about serving on the Commission is collaborating with colleagues who are also passionate about diversity in our profession.

WHAT ADVICE WOULD YOU GIVE TO A FIRM/ ORGANIZATION LOOKING TO INCREASE DIVERSITY AND INCLUSION AMONG ITS ATTORNEYS?

I would say to reach out to the ABA and the Commission in particular. We have resources available to firms and organizations that wish to increase diversity.

WHAT IS YOUR DREAM VACATION?

My dream vacation is to travel across Mongolia on horseback.

WHAT IS YOUR FAVORITE MIDNIGHT SNACK?

Hummus, pretzels, and a diet coke.

WHAT IS ONE OF YOUR HIDDEN TALENTS?

I bake pies that my husband tells me are delicious.