

CHIEF'S COMMISSION ON THE LEGAL PROFESSION

MINUTES OF MEETING

May 23, 2013

2 E. 14th Ave., 4th Floor

3:00–5:00 PM

<p>MEMBERS IN ATTENDANCE</p>	<p>Chief Justice Michael Bender, Ellen Alires-Trujillo, John Baker, Judge Russell Carparelli, Paul Chan, Sarah Clark, Cynthia Coffman, Jim Coyle, Judge Wiley Daniel, Al Dominguez, Katy Donnelly, Kelly Dunnaway, John Eckstein, Judge Richard Gabriel, Ed Gassman, Christina Habas, Tess Hand-Bender, Dale Harris, SuSaNi Harris, Melissa Hart, Justice Gregory Hobbs, Chief Judge Bob Hyatt, Dean Marty Katz, Kenzo Kawanabe, John Kuenhold, Killian McKean Bidgood, Margrit Lent Parker, Dave Little, Bill Leone, Presiding Judge John Marcucci, James O'Connor, Justice Nancy Rice, Dave Stark, Judge Liz Starrs, Judge Dan Taubman, Lorenzo Trujillo, Judge Mimi Tsankov, Chuck Turner, Dan Vigil, Representative Mark Waller, U.S. Attorney John Walsh, and Dean Phil Weiser.</p>
<p>ATTACHMENTS</p>	<p>The meeting agenda, materials, and handouts are available at: http://www.courts.state.co.us/Courts/Supreme_Court/Committees/Committee.cfm?Committee_ID=35.</p>
<p>NEXT MEETING</p>	<p>October 3, 2013 at 3:00 PM</p>

<p>AGENDA ITEMS</p>	
<p>WELCOME</p>	<p>CHIEF JUSTICE BENDER</p>
<p>Chief Justice Bender welcomed the Commission members and showed the five-minute Rule of Law video that plays in the Ralph L. Carr Colorado Judicial Center's new 4,000 square-foot civics education learning center. The Learning Center is free and open to the public during business hours.</p>	
<p>SUMMARY OF FEBRUARY DISCUSSION</p>	<p>SARAH CLARK</p>
<p>Sarah Clark provided a summary (Handout B) of the small group discussions held in February on the following three general questions:</p> <ol style="list-style-type: none"> 1. What do you see as the most pressing need with regard to improving professionalism, identity, and/or civility? 2. How do you think the Commission can have the most significant and most immediate effect in promoting professionalism? 	

3. Is there a role or function that you would like to see the Commission undertake in fulfilling its efforts to achieve its mission?

She suggested that use of the term “professionalism” rather than “profession” may have inadvertently limited discussion and that the Commission is concerned not only with professionalism but also the entirety of issues related to the profession. She then described and explained the three themes that seemed to have emerged from February’s discussion:

- a. Lawyers are failing to develop and maintain a sense of professional identity.
- b. The business of law is coopting—if not corrupting—the profession and distorting lawyers’ understanding that a career in law is about service not just about money.
- c. The profession needs to do more to promote and sustain gender and minority diversity.

Sarah noted that the theme of diversity and inclusiveness appeared to underlie the other two themes and that the Working Group Chairs expressed the strong emergence of that theme as the most pressing issue facing the profession and the need for the Commission to discuss it further and determine how it can have an impact in that regard.

DISCUSSION REGARDING DIVERSITY AND INCLUSIVENESS

CHIEF JUSTICE BENDER

Chief Justice Bender began the discussion by noting that the traditional models of the legal profession are changing at the same time that our population’s demographics are changing. He suggested that if the legal profession is to continue to be responsive to the community’s needs, then the judges and lawyers who make up the profession must reflect and understand the needs of the changing population.

Judge Daniel explained that opportunities for advancement are just as important as opportunities for entry. He then described the presentation given by Sixth Circuit Judge Bernice Donald at the 2013 Legal Inclusiveness & Diversity Summit concerning unconscious bias. He explained that we all have unconscious biases that affect how we treat those who are different from us and, in the work place, who we give work to, who we go to bat for, etc. He further explained that if we understand how unconscious bias works, we can overcome it and improve our objectivity and fairness.

Chief Justice Bender echoed Judge Daniel’s comment that we can learn about and improve our implicit biases and recommended the work of Jerry Kang out of UCLA, as well as taking the available implicit association tests to learn more about our own individual unconscious or implicit biases.

(NOTE: More information about the 2013 Legal Inclusiveness & Diversity Summit can be found at: <http://www.centerforlegalinclusiveness.org/summit/2013-legal-inclusiveness-diversity-summit/>. Jerry Kang’s work on implicit bias and the law can be found at: <http://jerrykang.net/2011/03/13/getting-up-to-speed-on-implicit-bias/>. You can test your implicit/unconscious associations about race, gender, age, weight, disability, and other topics at: <https://implicit.harvard.edu/implicit/takeatest.html>. Tests take less than 10 minutes.)

John Eckstein expressed concern that trying to tackle an issue as big as diversity and inclusiveness is an impossible task for a single group, particularly because it’s an issue that all of society is wrestling with not just the legal profession.

John Baker, who is the Executive Director for the Colorado Attorney Mentoring Program, proposed that

increased mentoring can be one of the answers because of mentoring's two-way relationship. He explained that in teaching, championing, and sponsoring less experienced lawyers, more experienced lawyers also learn and grow. Picking up on Chief Justice Bender's remarks about the changing profession, John also recommended Arin Reeves's book "The Next IQ: The Next Level of Intelligence for 21st Century Leaders" (<http://thenextiq.com/>) because of its theme that those who are leaders have the responsibility to bring others along. He seconded Judge Daniel's comment that integration is just as important as opportunity, in the sense that there's no use in having a seat at the table unless there's also an invitation to participate. John informed the Commission that he's working to build an online Mentoring Resource Center, which he hopes will include resources to educate mentors about these topics.

Judge Carparelli also praised the Center for Legal Inclusiveness and encouraged Commission Members to review CLI's recent reports, including its Retention Working Group 2011 Associate Survey Results Report (<http://www.centerforlegalinclusiveness.org/clientuploads/pdfs/2011%20Associate%20Survey%20Report%20-%20Final.pdf>). Judge Carparelli explained that the report discusses many hidden barriers to keeping women and minorities in the profession. He noted that it's less about consciously excluding those who are different and more about habitually accepting those who are similar, which develops into an informal network resulting in more opportunities to meet clients, receive interesting work, and the like. He suggested that educating both senior and junior lawyers about these hidden barriers and habits could go a long way.

Kenzo Kawanabe noted that several organizations — including the Center for Legal Inclusiveness, the Colorado Bar Association, the Colorado Pledge to Diversity Group, and others — are doing great work in this area and encouraged us to build a coalition of support around the work being done by these groups.

Dave Stark suggested that public corporations have a good model in their Diversity Call to Action (<http://www.acc.com/vi/public/Article/loader.cfm?csModule=security/getfile&pageid=16074&title=A%20Call%20To%20Action%20Diversity%20in%20the%20Legal%20Profession>) to improve diversity and inclusiveness within corporations to better serve their clients and customers, and that we can take a page out of their playbook and talk with clients, government entities, in-house attorneys, and private practitioners about the value of and need for diversity. He indicated that the profession must reflect society's diversity if it hopes to establish and maintain its credibility and that of the Rule of Law.

Judge Gabriel suggested that the Commission further investigate the specific diversity and inclusiveness issues facing the Colorado legal community by asking organizations that have effectively overcome some of these obstacles how they've done it as well as ask determining why other organizations are not succeeding.

Judge Kuenhold commented that in considering the issue of retaining women and minorities in the legal profession, we should not overlook the issue of recruiting women and minorities into the profession in the first place. In response to Chief Justice Bender's question of how we can do that, Judge Kuenhold suggested that it must start early with lawyers and judges being involved in young people's lives and showing them the possibilities.

Christina Habas emphasized the importance of civics education because students are more likely to consider careers in law and to go to law school if they know it's an option. She suggested that we think about educational programs/retreats for high school students.

Melissa Hart indicated that there is a great deal of interest on the part of schools and teachers to have judges and lawyers come into their classrooms and to build ongoing relationships between students and those judges and lawyers. She noted that both law schools have programs in this regard, and that the programs at CU — which are run out of the Byron White Center for the Study of American Constitutional Law — include the Colorado Law Constitution Day Project and the Marshall-Brennan Constitutional Literacy Project. She explained that the Colorado Law Constitution Day Project involves students visiting high school classrooms throughout the state on Constitution Day each year to teach a lesson about the Constitution. The Marshall-Brennan Constitutional Literacy Project partners law students with public school teachers in underserved high schools to teach a course about the Constitution and the Bill of Rights and encourages students to participate in a moot court competition at the law school each year. (More information about both projects can be found at <http://www.colorado.edu/law/research/byron-white-center>.)

Judge Taubman suggested that the Commission support the efforts of the Center for Legal Inclusiveness and encourage specialty bar associations to have their members apply for judicial vacancies. He also mentioned that another program that involves high school students is the We the People program.

Dan Vigil discussed a program that he used to coordinate when he was at CU, for which underserved high school students were brought to the law school to hear stories from lawyers and judges about how they made it to where they are.

Dean Katz underscored the importance of a cradle-to-grave approach. He explained that research shows that a single contact isn't enough, but that repeated contacts do make a difference. He noted that it's not enough to get college students to apply to law schools; they need to get into low-cost LSAT classes as well because the difference between tutored and untutored test takers is 9–10 points. He also suggested that another issue facing the legal profession is that the media is telling the public that it's not worth it to pursue a law degree, and lawyers and judges aren't speaking up about how a career in law has been fulfilling for them. He said that applications are down across the board, but are way down for women who may be seeing the glass ceiling and deciding to pursue a different career path altogether, and emphasized the need to change the feedback mechanism by demonstrating that women and minorities are being supported in getting to law school, throughout law school, and throughout their careers.

John Eckstein expressed concern that the high cost of law schools might be deterring women and minorities from pursuing a career in law, particularly if they believe that there is a glass ceiling in the legal profession that will prevent them from advancing very far in a career in law.

Sarah Clark observed that some of the Commission's best work comes when it galvanizes support for action on or brings momentum to a particular issue or project. She mentioned that in the absence of a pre-law program at UNC, Chief Judge James Hartmann and other judges in Greeley have taken to mentoring college students through the LSAT and law school application process.

Katy Donnelley pointed out that each of the Commission Members has the capacity to serve as a mentor/sponsor/champion and to lead by example in their organizations. She wondered whether it would be worth tracking not only how many diverse attorneys come into the profession but also what happens to them as they make their way into their careers.

Dean Weiser informed the Commission that Microsoft commissioned a study on how the medical and

legal fields compare regarding these issues and found that the medical profession is making more strides than the legal profession, and that the study suggested that one reason why is because pre-law is not as well-defined or obvious of an educational track as pre-med is. Dean Weiser also agreed with earlier comments that individuals who don't have a lawyer in their family or who have never met a lawyer are much less likely to pursue a legal career and that it's a barrier.

Lorenzo Trujillo expressed support for Dean Katz's and Dean Weiser's comments and submitted that addressing diversity and inclusiveness is critical to ensuring that the changing population continues to trust and believe in our system of justice. He explained that life is full of mountains and that our job is to encourage folks that becoming part of the legal profession is a mountain worth climbing. He also noted that a key component of any of the Commission's efforts could be embracing the notion that success is defined as feeling good about what you do.

Dave Stark concurred that every lawyer needs a champion and that the Commission could be quite successful in investigating why inclusiveness is essential and how we can achieve it.

(NOTE: The following comments were received by email after the meeting.)

Christina Habas described high schools as a farm system for the legal profession and as a place to ignite interest and confidence among high school students. She noted that mock trial programs combined with summer/winter break internships at law firms go a long way in helping students to begin to believe that they have talent, that they can learn the skill of law, and that they want to go to law school. She noted that although these types of mentorships can be done by any lawyer or judge, it is important for diverse students to see and interact with diverse lawyers and judges to solidify their vision of themselves in that role. She explained that the American Board of Trial Advocates Teachers' Law School (<http://www.abota.org/index.cfm?pg=TeachersLawSchool>) is a program that not only educates teachers about the rule of law and the legal system, but also continues the relationship between the legal community and schools by having judges and lawyers going into classrooms and bringing students to the courts. She suggests that this program is one worth the Commission's attention. She also suggested that facilitating a one- or two-week trial skills retreat for high school students where the students are housed together on the campus of CU or DU during summer break. She suggests inviting high school teachers who work in speech, debate, theater, civics, government, etc. and lawyers and judges who can teach a NITA-type curriculum with a focus on education and collegiality and not on competition or awards.

Ed Gassman agreed on the importance of educating leaders in the legal profession about unconscious bias and exposing youth to opportunities in law. He also noted the importance of asking women and minorities who have made it to the top what helped and what hindered them.

WORKING GROUP D

DAVE STARK

Dave Stark, Chair of Working Group D—development of the relationship between the legal profession and the community to enhance access to justice, delivery of justice, and education of the public—summarized Working Group D's recent efforts concerning pro bono and pro se resources. He updated the Commission on Working Group D's pro bono outreach with in-house counsel, government lawyers, and law firms, as well as the Working Group's efforts to promote lawyer involvement with the state's pro se self-help centers. He reported that the amount of pro bono hours committed by Colorado attorneys has increased by approximately 40% in just one year, and that Colorado now has its first Pro

Bono Coordinator Council, which meets quarterly. Working Group D's report can be found in the meeting Materials Pages 1–3. Regarding what Working Group D can do to integrate diversity and inclusiveness into its efforts, Dave suggested that Working Group D could take the model that has been used to promote pro bono to educate and promote diversity and inclusiveness with law firms, government entities, and in-house attorneys.

WORKING GROUP A

LORENZO TRUJILLO

Lorenzo Trujillo, Chair of Working Group A—development of professional identity, social responsibility, and practice skills in law school, and involvement of judges and leaders of the bar in law school—presented Working Group A's report (Materials Pages 4–7). He updated the Commission on Working Group A's planning of the second annual First-Year Law Student "For This We Stand" Joint Professionalism Orientation program, set for Saturday, September 21 in the Ralph L. Carr Colorado Judicial Center and the Denver City and County Building. Lorenzo noted that questions concerning diversity and inclusiveness will be incorporated into this year's small group sessions and announced that Wyoming Law School will also be part of the event this year.

WORKING GROUP C

JUDGE CARPARELLI

Judge Russell Carparelli, Chair of Working Group C—development of communication and professionalism between and among judges and attorneys—explained that the Working Group has been and will continue to work on October Legal Professionalism Month and the Assembly of Lawyers/Fall Swearing-In Ceremony, which will take place on November 4 at Boettcher Concert Hall. He indicated that diversity and inclusiveness have been integrated into the Proclamation for October Legal Professionalism Month and that it can be made the topic of presentations that are held during the month. Judge Carparelli also reported that the October issue of The Colorado Lawyer will be devoted to professionalism and is being coordinated by the Professionalism Coordinating Council, which has been working closely with Working Group C in this regard. Working Group C's report can be found in the materials Handout A.

WORKING GROUP B

JUDGE GABRIEL FOR MARK FOGG

Filling in for Chair Mark Fogg, Judge Richard Gabriel delivered the report for Working Group B—development of professional identity and social responsibility for new attorneys and thereafter (Materials Pages 8–9). He announced that the Colorado Bar Association's Board of Governors had approved the creation of a new Military and Veterans Affairs Committee and that the Colorado Lawyers for Colorado Veterans program will have a home there. He also announced that the CBA's Modest Means Task Force will be producing a tool kit and lawyer information database to help connect lawyers to clients with more moderate incomes. Regarding mentoring, Judge Gabriel noted that mentoring will continue to be a focus of Working Group B's efforts and that the group will serve as a sounding board and resource for Commission Member John Baker is now the Executive Director of the Colorado Attorney Mentoring Program (CAMP) (Materials Pages 10–13). He noted that Working Group B and John Baker have begun discussing, among other things, the development of a program on mid-career/lawyer-in-transition mentoring. Such a program, he suggested, could address issues such as the barriers that keep women and minority lawyers from ascending to the profession's highest ranks. Regarding diversity

and inclusiveness, Judge Gabriel noted that Mark Fogg had met with representatives of the various specialty bars, who suggested developing programs for law firms that would educate the firms regarding diversity issues. He also noted that Working Group B will work on providing training to mentors and mentees regarding matters relating to diversity, training which will include topics such as barriers to success (including unspoken barriers) and the importance of sponsorship.

ANNOUNCEMENTS AND FURTHER DISCUSSION

None.

REMAINING 2013 COMMISSION MEETING DATES

CHIEF JUSTICE BENDER

Chief Justice Bender announced the Commission’s remaining 2013 meeting dates, and that the September date has been changed to October because of a conflict with the Colorado Courts Chief Judges Leadership Training Program:

- ~~September 12, 2013~~ October 3, 2013
- December 5, 2013

All meetings will be held on Thursday afternoons from 3:00–5:00 PM in the Supreme Court Conference Room on the 4th Floor of the new Ralph L. Carr Colorado Judicial Center at 2 E. 14th Ave., Denver, Colorado 80203.

ADJOURN

Minutes of Meeting submitted by Sarah Clark, June 6, 2013