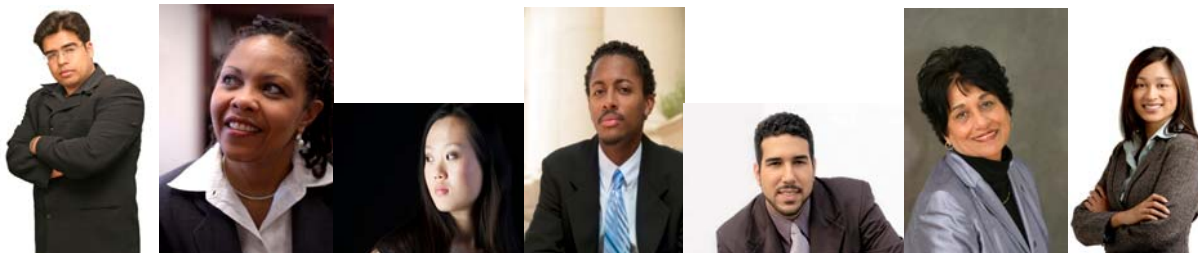


EMBRACING DIVERSITY



A publication of the TIPS Diversity in the Profession Committee



Dedicated to Sharing Ideas that Create a Diverse Profession

Fall 2010

Forward

By: [Sheila Durant, Esq.](#)

Like a slow cooked pot of soup, the positive results of concentrated “diversity initiatives”, through a combine of concentrated professional, municipal and civic support systems, don’t always seem apparent – that is until we begin to smell the rich aromas...

So often, we measure our success in numbers and not in the long reaching effects of enabling individuals to blossom like flowers. But, when they do, they bring with them and share with us, all of their inherent traits and backgrounds. By doing so, they begin to help “flavor” the American pot and enrich us all. And so it is with the three strong “give-back” TIPs lawyers who are being presented to our readers in this article: Arlene Zalayet of Liberty Mutual in Boston, Deborah Yue of Gallagher Sharp in Cleveland and Stephanie Enyart of San Francisco.

Sheila Durant is Senior Counsel at the Housing Authority of Baltimore City. She is also a member of the TIPS Diversity in the Profession committee; Vice Chair of FSLC and Co-Chair of FSLC’s UPBEAT committee. She is also an American Arbitration Association Higginbotham Fellow in Mediation and Arbitration.

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TRAILBLAZER SPOTLIGHT: ARLENE ZALAYET, LIBERTY MUTUAL



By: [Deborah Yue](#)

Growing up on Long Island, Arlene Zalayet had respect for lawyers, many of whom were general practitioners, since they were the problem solvers and an integral part of the community. After graduating from the University of Miami School of Law in 1981, Ms. Zalayet went into general private practice in New York City. She enjoyed litigation and spent a great deal of time in the courtroom, where she made many friends and contacts. When Prudential Insurance formed their staff counsel office in New York, she joined their office as a trial attorney. She has been in-house since then and never looked back.

In 1990, she joined Royal Insurance Company, which later became Royal and Sunalliance Insurance Company, and managed their staff attorneys in New York. At that time, she was the only woman managing attorney in the company’s staff legal operations and not many women held her position at Royal and at other insurance companies. As a trailblazer, Ms. Zalayet never conformed to her male counterparts although she had men as mentors. She always managed and led with her own style. She developed a very collaborative management style with the goal of gaining consensus between her clients and attorneys. Ms. Zalayet was later given multistate duties at Royal Insurance and eventually went into claims litigation management.

Ms. Zalayet then joined Nationwide Insurance, where she was given the opportunity to have national

responsibility to oversee the quality of the work product at staff legal offices as well as to develop and train attorneys. In 2005, Ms. Zalayet joined Liberty Mutual Insurance Company in its corporate law department as the staff counsel national operations director. In this position, she was responsible for legal office operations for approximately 1200 people countrywide. She enjoyed the challenges as well as the scope and breadth of the position. In 2007, she was quickly promoted to her current position as Senior Vice President and General Attorney. In her current position, she heads the Liberty Mutual Field Legal Operations organization that consists of over 1400 employees within 62 legal offices located in 36 states. She reports directly to the General Counsel, Christopher Mansfield, who gave her the opportunity to lead the staff counsel program. Ms. Zalayet is an appreciative admirer of Mr. Mansfield and credits him with creating an open environment and providing opportunities for advancement and inclusion of women attorneys at the management level at Liberty Mutual. Ms. Zalayet states that “Throughout his decades as general counsel at Liberty Mutual, Chris has recruited and developed women to attain high levels of leadership roles within the Liberty Mutual legal department.”

Ms. Zalayet is a strong proponent of having mentors and mentorship programs. She found her first mentors in the courtroom early on in her career. In between her court appearances, she would sit in and watch other litigators in high-profile trials. She also made a habit of arriving early during her court days and talked to many of the top litigators while they were setting up for their trials. She remembers how generous they were with their time and how they gave her litigation advice. Through her extensive courtroom experience, she developed some of her early friendships and mentors within the legal community. While president of the Nassau County Bar Association, where she was only the second woman to attain the bar presidency in over 100 years, Ms. Zalayet formed the “Of Counsel” program, which is a formal mentor program matching attorneys with more seasoned mentor attorneys. In addition to being the second woman to become the Nassau County Bar Association president, Ms. Zalayet was also one of the youngest in the bar association’s history. Ms. Zalayet recalls that the “experience of being the second woman president at the Nassau County Bar Association as well as one of the youngest was a growth opportunity for me because it helped me learn to be responsive to the needs of the membership early on in my career. It was a high profile position in the community and provided me with constant interaction with the local judiciary, legislature and media

and taught me the importance of balancing competing interest groups to reach a consensus.”

Her advice to young attorneys is to go through a formal mentor program, which will not only match them with seasoned attorneys but will also give the mentor relationships some formal structure. In addition to having mentors within their professional field and sometimes within their company or firm, she advises them to look for mentors outside of their professional field so they can get a broader view of the world and not get too myopic. Her own circle of mentors includes people in other professional fields, including those in the retail and construction industries. Ms. Zalayet emphasizes: “I recommend having formal thought circles because they provide a forum to brainstorm with colleagues from different fields. It’s surprising how common the issues are across the industries and how helpful it is to have diverse input in addressing different issues.”

In addition to having mentors, Ms. Zalayet also encourages young attorneys to network and become involved in bar associations. Ms. Zalayet joined a bar association within days of being admitted to the bar. She has been active in state and national bar associations. One of her many significant accomplishments include founding the American Bar Association TIPS Staff Counsel Committee in 2002. To this day, she is referred to at committee meetings as the “Founding Mother.” Ms. Zalayet states that “Through that experience, I made both personal and professional friends. I highly recommend that young attorneys join TIPS as soon as they can to experience the great networking and mentoring opportunities. Since the world is becoming more electronic and virtual, bar associations are one of the few professional places where lawyers can gather, meet others in the same field as well as those practicing in other areas of the law.”

Ms. Zalayet has lectured extensively at the American Bar Association, American Corporate Counsel, DRI and other bar associations. She has also been an adjunct Professor of Law at Hofstra and Touro Law Schools. “Teaching is so rewarding because it provides constant interaction with professors and students.” according to Ms. Zalayet. As an author, columnist and editor, Ms. Zalayet has written several publications including “Modern New York Discovery”, “Civil Trials in New York” and “New York Examination Before Trial and Other Discovery Devices” by the West Group.

In addition to speaking and writing, Ms. Zalayet is an avid learner. She has completed two extensive training programs at the Wharton School of Business, where she learned new approaches, thought processes and analysis as well as leadership skills. She recognizes the importance of understanding the client's business and needs and constantly seeks opportunities to improve and reinforce her extensive knowledge of the industry. She highly recommends an ABA Law Practice and Management Section publication titled "Through the Client's Eyes," which emphasized the need to get to the heart of the client's business needs and issues. Understanding the client's business will allow a person to be part of the solution and not part of the problem.

She advises young lawyers to have confidence in the path they have chosen but to also take time to regularly reassess their decisions to make sure they are adding value to their organization and that the organization is the right one for them. She suggests that they think about the position that they want to obtain and research the skills needed for that position. In mapping out their career paths, young attorneys need to understand that they may need to make sacrifices to achieve certain goals and be open to change. "It is also important to remember that you must prove yourself every day as a professional and continually strive to obtain and retain the trust and respect of your clients."

Deborah Yue is a member of the TIPS Diversity in the Profession committee. She is a partner in the law firm of Gallagher Sharp and concentrates her practice on insurance and general liability litigation. She also counsels insurance clients and claims personnel on coverage issues, claims practices and the avoidance of bad faith. Gallagher Sharp is a trial and business practice firm focused on the defense of civil claims and lawsuits for corporations, insurance companies and their policyholders. Ms. Yue can be reached at dyue@gallaghersharp.com.

From Theory to Reality: Cleveland's Deborah Yue is a Case Study in Success



By: [Sheila Durant](#)

The annual Cleveland Metropolitan Bar Association's Diversity Networking Conference is a laborious undertaking, requiring months of planning and preparation by a dedicated team of volunteers and staff members. For

attorney Deborah Yue, participating in the program is a labor of love. Interestingly, the seminar, which offers advice to diverse attorneys who seek career advancement, is in many aspects a mirror image of Deborah's professional path.

Attendees at the conference are encouraged to develop an area of expertise, network, get involved in bar association activities as well as keep clients satisfied. Deborah, who was admitted to practice law in Ohio in 1994, concentrates her practice in insurance defense litigation and generally defends businesses, insurance companies and their insureds in federal and state court. Deborah became interested in insurance defense litigation when she was clerking at an insurance staff counsel office during law school. Since then, she has continued to develop her expertise.

Deborah is also involved in a number bar associations and community organizations. She is active in the American Bar Association and is a member of the TIPS Diversity in the Profession committee. She was also appointed to the Ohio State Bar Association's Council of Delegates and is finishing her term as Trustee of the Cleveland Metropolitan Bar Association, where she is also the chair of the Diversity Action Committee. Deborah is also a member of the National Asian Pacific American Bar Association and is part of a group helping to revive the local Asian American Bar Association chapter. By consistently working hard to plant the idea of the commercial and professional need for such an organization, she believes that it will continue to thrive.

In her community, Deborah is on the management team of MotivAsians for Cleveland, which is an organization for Asian American professionals in the Greater Cleveland area and was born from a vision to leverage the unique skills and perspectives of young Asian-American professionals to positively influence the communities in Greater Cleveland. She is also one of the volunteer organizers of the Cleveland Asian Festival, which just had its first ever festival on Sat. May 22. The excitement infected the community so much that their first event proved to be a big success with about 10,000 attendees. Had they sent notice to the ABA TIPs family of support, maybe that number would have grown exponentially! So, next year, she is inviting all of her peers within the ABA and their families to the festival.

Deborah has attained the distinction of being the only Asian American female partner at the prestigious law firm of Gallagher Sharp. When asked why promoting diversity among our legal community is an imperative, Deborah states that "[i]t's the right thing to do. The more

the legal community accurately reflects our society at large, the greater the chance that we will be able to better serve and identify with the concerns of the community.” Although there are concerns that the traditional approach to diversity in America may not be a viable concept in this volatile environment, Deborah disagrees. “The traditional approach of focusing on hiring and retaining diverse attorneys is a viable concept regardless of the economy. Most successful firms seem to understand that diversity is not a hindrance to their bottom line but is rather an opportunity. There are some businesses that consider diversity as a factor when selecting outside counsel. Therefore, if there are two equally qualified firms, diversity may be the deciding factor.” At the Diversity Networking Conference, in house counsel explained and emphasized the importance of diversifying their approved outside counsel panel.

As an affirmation of corporate principles, Gallagher Sharp has been a conference sponsor as well as supporter of diversifying the legal profession. Gallagher Sharp believes that there is strength in diversity and seeks those with diverse backgrounds and perspectives and the qualities and qualifications to serve their clients. As an extension of that philosophy and her own as an individual, Deborah has taken the initiative to participate in and become involved with the many diversity pipeline initiatives of the Cleveland Metropolitan Bar Association.

Deborah’s unyielding commitment to the legal profession and client satisfaction have enabled her to create a strong base of loyal clients and to embody all of the right steps to take to make the leap from career concept to real life success.

1. In what area of law do you practice? I am in the Insurance and General Liability practice groups at Gallagher Sharp. I generally defend businesses, insurance companies and their insureds in federal and state court.

2. Does your unique cultural background as an Asian American Attorney enable you to have a different perspective in law? We all bring our own personal experiences to the practice. For me, my parents immigrated from China and worked hard to give us a better life here. So I believe that my personal background as a child of immigrants has instilled a certain work ethic. In short, we are detailed oriented and patient with our aspirations which suits well in law and a volatile economy.

3. Do you make it your point to stay close to your cultural traditions? Yes, my Chinese culture is an

important part of my life. I stay close to my culture through my involvement in a number of organizations.

I am on the management team of “MotivAsians” for Cleveland, which is an organization for Asian American professionals in our area born from a vision to leverage the unique skills and perspectives of young Asian-American professionals to positively influence the communities in Greater Cleveland.

According to a recent article written by Stephen J. Ong and Leah Lubin Seper in Cleveland.com: “Both statistical data and anecdotal information indicate that many young Asian-American professionals have left the Greater Cleveland area for other regions of the country with greater perceived professional opportunities and cultural diversity. Further, many of these migrating Asians possess the skills and competencies required to help transform our community into a leading social and economic region of the nation.

To ensure that Cleveland maintains the rich cultural diversity that exists in our community, this non-profit organization develops and implements strategies to make Greater Cleveland an attractive home for Asian-American professionals and their families, and thereby attract and retain the valuable human capital which is a critical element to the long-term vitality of this region. Further, MotivAsians for Cleveland seeks to prepare our Asian-American professionals to assume corporate and civic leadership roles to make a positive difference in Greater Cleveland.

MotivAsians for Cleveland's management team and advisory board offer the Asian American community with programs for professional and leadership development, community involvement, and relationship building.

Stephen J. Ong, MotivAsians for Cleveland, president, notes, "The only way that Cleveland or any other community can take advantage of the diversity of its cultures is if those cultures are willing to proactively contribute to the community. MotivAsians is the catalyst to make that happen in Cleveland." “I am the Finance co-chair for the Cleveland Asian Festival, which just had its first ever festival on Sat. May 22.

The festival was a collaborative effort by a diverse group of Asian organizations who wanted to bring the Asian community together and share some of our culture with the greater Cleveland community. When we started planning the event, we focused mostly on our effort to celebrate Chinese culture and by doing so, probably

enlighten our community. We “guestioned” that no more than 5,000 people at best would come. And, when the weekend was threatened by rain, we downgraded our expectation to 2-3,000 people at best. All along, as is our characteristic, we tended to diligently concentrate on just about every detail. In our marketing effort, we chose a grassroots approach starting with word of mouth and flyers everywhere.

Much to our surprise and with the support of our local government and civic organizations, the excitement we sought infected the community so much that our first event proved to be a big success with about 10,000 attendees. Had we sent notice to the ABA TIPs family of support, maybe that number would have grown exponentially! So, next year, I am here inviting all of my peers within the ABA and their families to plan on attending.

I am also part of a group helping to revive the local Asian American Bar Association chapter and am a member of the National Asian Pacific American Bar Association. By consistently working hard to plant the idea of the commercial and professional need for such an organization, I believe that it will continue to thrive.

4. Does that perspective as a Chinese American inure to your advantage commercially? If so, how? Yes, business can come from community involvement. I don't become involved in organizations for the purpose of getting business but rather do it out of enjoyment. In that process, however, I've come into contact with many people who share the same passions and may think of me when they are in need of a litigator. I have been fortunate enough to gain some business through my community involvement.

5. As a female partner, what if any special challenges do you face in garnering commercial business? To an extent, there is still a “good old boys” network although that's starting to change. Female professionals have a responsibility to try to insert ourselves into the process and diversify the business pipeline.

6. Why is promoting diversity among your legal community an imperative? It's the right thing to do. The more the legal community accurately reflects our society at large the better chance we will have to provide better service and identify with the concerns of the community.

7. Is the traditional approach to diversity in America a viable concept in this volatile environment? Yes, the

traditional approach of focusing on hiring and retaining diverse attorneys is a viable concept regardless of the economy. Most successful firms seem to understand that diversity is not a hindrance to their bottom line but is rather an opportunity. There are some businesses that consider diversity as a factor when selecting outside counsel. Therefore, if there are two equally qualified firms, diversity may be the deciding factor.

8. What special efforts have you and/or your firm expended to promote the interests of diversity in your community? And have those efforts produced positive results? As an affirmation of corporate principles, my firm Gallagher Sharp has been a conference sponsor as well as supporter of diversifying our profession. Gallagher Sharp believes that there is strength in diversity. Our commitment to diversity is reflected in how we recruit, hire, promote, and evaluate personnel. We seek those with diverse backgrounds and perspectives and the qualities and qualifications to serve our clients.

As an extension of that philosophy and my own as an individual, I have taken the initiative to participate in and become involved with the many “diversity pipeline initiatives” of the Cleveland Metropolitan Bar Association. The “diversity pipeline” initiatives begin in high school and continue into the profession. We recently had our annual Diversity Networking Conference, which provides an opportunity for minority and women attorneys to meet in-house counsel from the corporate and government sector. The conference was very well attended.

9. Are you, in your capacity as an Asian American female partner, able to ascertain a difference in the kinds of cases that come to you and/or your firm or Clients who seek you out? I have not quantified that even though I trust that the genuine interest of my firm and my own interest in our Clients and my community inures to our mutual benefit.

10. Do you find yourself juggling the demands on you between management, traditional office and home? And if so, have you pondered whether the pressures on young female lawyers change as they move through their childbearing years and decisions attendant therewith? Yes, it's not easy. Work life balance is a challenge and always will be. We all have many demands on our time and have to learn to prioritize and balance to fit our lives.

11. Of what level of importance do you place on technology in your practice overall? Does its use give

you a strategic advantage? Technology is important since it allows me to provide better service to my clients. With technology, I can be more accessible and, therefore, more responsive to my clients' needs.

12. What if any pet peeves have you experienced about the glass ceiling as a woman...as an Asian Attorney?...as a partner? Although the glass ceiling may not be as prevalent as it used to be, it, unfortunately, still exists for some in the legal practice. We don't have to constantly dwell on it but my pet peeve would be when people pretend it's not there.

13. To what extent does continuing to hone your skills work to your advantage? The legal profession and the practice are constantly changing. It is important to keep up with the changes and hone our skills so we can better serve our clients and stay competitive.

14. Do you have a sense of the career choices that young lawyers need to consider if they want to avail themselves of successful practices? My advice to young lawyers is to find an area of the law that they enjoy. If they follow their passion, they will likely find success. It is impossible to predict the future. Although bankruptcy or health care law may be the hot areas of the law today, things can change tomorrow and perhaps environmental law will be the new hot area of the law.

15. Does outsourcing law present any special challenges to you in general? Not at this time. Outsourcing certainly is on the rise in the business community in general and may impact litigation more in the future.

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Judge Allows UCLA Graduate to Take Bar
Using Software for the Visually Impaired**

S. TODD ROGERS / Daily Journal

Blind Woman Wins Fight To Pursue Her Dream

By Rebecca Beyer
Daily Journal Staff Writer

SAN FRANCISCO — Saying a disability should not prevent someone from pursuing her dream, a federal judge on Friday indicated he would grant a blind UCLA School of Law graduate's request to take the California bar exam using software for the visually impaired.

Stephanie Enyart, 32, graduated from law school last spring but has been unable to take the bar exam because the National Conference of Bar Examiners, which controls the test's administration, would not allow her to use two types of computer software, one that magnifies text and

one that reads text aloud. Enyart sued NCBE in November under the Americans With Disabilities Act and sought a preliminary injunction ordering the organization to accommodate her needs. *Enyart v. National Conference of Bar Examiners, Inc.*, 09-5191.

U.S. District Judge Charles R. Breyer indicated at the start of a hearing Friday that he would grant Enyart's motion.

NCBE argued in a brief prior to the hearing that the ADA does not require "accommodations that 'best ensure' that [Enyart] will pass the examinations — it only requires that she be provided with reasonable accommodations that enable her to access the exam content."

Breyer rejected that argument when NCBE attorney Gregory C. Tenhoff, of Cooley Godward Kronish in Palo Alto, raised it Friday.

"A disability should not prevent an individual from pursuing their dream, if that's what it is, of practicing law," the judge said.



Stephanie Enyart, right, and Karla Gilbride from the Disability Rights Advocates fight for Enyart's rights to take the bar using special software for the blind.

The accommodations offered by NCBE included: a closed circuit television with magnified text, a human reader, a large print version of the examination with an auditory version, a Braille exam and a scribe to take down her answers. NCBE argued there were cost and security concerns with providing Enyart access on a computer. The organization argued she could download the test questions and transmit them offsite using wireless technology.

Breyer rejected those arguments as well, saying they were easily negated by having NCBE provide Enyart with a computer at a maximum cost of \$5,000.

The judge also said he found "unsettling" NCBE's insistence that Enyart use its accommodations, which Enyart said would make her "nauseous."

"Without making light of it, the bar exam itself has been known to make people nauseous," Breyer said, explaining that he suffered an acute migraine when he

took it. He said NCBE's offered accommodations, even if they included "an air sickness bag," were not enough.

He also denied NCBE's request to stay his order, which he said he would issue next week. The judge ordered the parties to meet today to try to work out Enyart's accommodations.

Tenhoff and a representative of NCBE declined to comment.

After the hearing, Enyart, who was born with sight but lost her vision in her teens, exited the courtroom with her attorneys, some of whom are from Berkeley-based Disability Rights Advocates, where she is a law clerk.

"In terms of being able to get treated as an individual, it's a really meaningful thing," Enyart said of Breyer's decision, adding that she was glad she only had to worry about the bar exam now, which she plans to take in February.

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The Eleazer Courtroom: Elder-Friendly and Barrier Free©*

By: [Roberta K. Flowers](#)¹ and [Rebecca C. Morgan](#)²

"Justice and Access for All" is the overarching theme of the Eleazer courtroom, located on the Gulfport, Florida campus of Stetson University College of Law. The courtroom, dedicated in the fall of 2005, was designed specifically to be elder-friendly and barrier free. This model courtroom was built to exemplify that without access there cannot be justice. However it was also important that in designing this courtroom, the features were part of a seamless arrangement that did not draw attention to any of the physical limitation a participant may have. This article will highlight some of the features used to make the courtroom accessible; many of these features could be utilized by an attorney in designing an elder-friendly, barrier-free office.

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¹ William Reece Smith, Jr. Professor of Professionalism.

² Boston Asset Management Chair in Elder Law, Stetson University College of Law. Portions of this article are excerpted from and appeared in Rebecca C. Morgan, *From the Elder-Friendly Law Office to the Elder-friendly Courtroom: Providing the Same Access and Justice for All*, 2 NAELA J. 325 (2006) and are reprinted with permission.

³ See, *From the Elder-Friendly Law Office to the Elder-friendly Courtroom: Providing the Same Access and Justice for All*, 2 NAELA J. 325 (2006).

⁴ The courtroom is also being used as a classroom, so it has some features that might not otherwise be found in a courtroom.

The Location of the Courtroom:

The first consideration was the proper location of the courtroom. Although it was built within an existing structure on campus, many of the same considerations went into the building⁴ of the courtroom as would be in a courtroom being built from the ground up. Since it was to be elder-friendly, it needed to be close to parking, with a drop-off point right outside the door. The courtroom needed to be on the first floor so stairs, ramps or access to an elevator would not be a concern. An important goal in the design of this model courtroom was to make it accessible without highlighting the access.

The Décor of the Courtroom:

The courtroom's main entrance is at the back center of the gallery, looking forward to the witness box at the opposite end of the courtroom. The door is large and accommodates any size wheelchair or mobility device. Additionally, the window in this door and all the other exterior doors is longer than standard window openings. The longer window enables one to see someone on the other side of the door. The main entrance has an automatic door opener.

The courtroom was designed to eliminate physical barriers to full access to the entire courtroom. The carpet is made up of squares glued to the floor, which eliminates wrinkles or bumps that might create an obstacle for someone with an unsteady gait or using a walker or a wheelchair. In addition, the corners of the tables are rounded, instead of the typical sharp corners. A key accessibility feature of the courtroom is the retractable electronic gates that open horizontally into pocket doors from the gallery to the well of the courtroom. The doors may be opened by motion sensor or pressing a button on the technology control panel.

Access also includes the ability to see and hear what is going on around the participants, so the room was designed to minimize room noise as much as possible. Thus anyone with a hearing loss may be able to hear conversations. The choice of lighting was planned to avoid glare and provide multiple uses depending on the activities in the room. The wood finishes are flat to minimize any glare.

The technology was included in part to provide access. There are four flat panels in the gallery (two per side) so that someone in the gallery does not have to look further than two rows to see the projected images.

Recognizing that some members of a jury may have mobility impairments, two large drop-down screens are used for the jury—one to the left of the witness and one immediately across from the jury box for those jurors who are not able to turn their heads or swivel their chairs to view the screen next to the witness. Special software to read documents aloud is available in the courtroom. Additionally, assistive listening devices are available in the courtroom which can be used with or without a hearing aid. The devices are radio-controlled so that the user can move freely about the courtroom and still hear.

Finally, much of the courtroom's décor is designed to provide visual cues to individuals who may have low vision. For example, the carpet pattern is a small speckle pattern, with a solid contrasting border marking the outer edge of the aisle. This gives a visual cue regarding location of the edges of the rows of tables. Within the solid border are diamonds of a contrasting color, which indicate the location of the chairs within the rows. The solid carpet border is repeated in other areas of the courtroom where there is a need to provide a visual cue about an obstacle, including along the walls of the hearing room, and along the wall and bench in the courtroom.

In addition, the lower part of the walls are covered in cherry wainscoting; below the wainscoting is about three inches of wall, painted black, which provides a contrast between the wall and the carpeting, giving visual cues about the location of the walls. Moreover all of the tables, whether in the gallery or the well of the courtroom, including the witness box and the judge's bench, have dark wood edges and light wood tops. This contrast gives a visual cue regarding the location of the edge of the table.

The Layout of Courtroom:



The layout of the courtroom is designed to give access without highlighting the participant's physical limitations. The witness box has no step, which means that it has easy access in and out for everyone from a nervous witness to one in a wheelchair. It is longer than usual, which provides turning radius for those using a mobility device, a place for a walker, or a space for a service animal. Since the witness chair is not fixed to the floor, the chair is easily removable. In addition, an annotation device is located at the witness box, allowing a witness to use it to demonstrate on an exhibit without having to leave the witness box.



The well of the courtroom is generously sized and open to give the most space for navigation by users of the courtroom. Additionally, sight lines were considered to allow for jurors to view all of the participants and exhibits with minimal head movement. In the gallery, the rows are spaced farther apart than those in the other classrooms, to ensure sufficient space for those using an assistive mobility device or with a service animal.

The podium was designed to accommodate an attorney who has mobility limitations. It is a custom-made technology podium, which is height-adjustable and accommodates an attorney who may use a wheelchair or have limited upper body mobility. Electronic shelves extend from each side of the podium by using a remote control, to give an advocate a place to put books and papers instead of having to reach on top of the podium. When the shelves are fully extended, the podium surrounds the attorney. Like everywhere else in the courtroom, the technology at the podium is not bolted down, so the technology can be moved to the person who has limited upper body mobility. The podium has an adjustable stand microphone and a touch panel, which allows control of the technology, lighting, and electronic gallery gates.

Similar features providing accessibility were incorporated in the hearing room, jury room and judge's chambers. For example, the table in the hearing room is a sectioned, long oval table. The table may be configured as a smaller table to allow the judge to be closer to an elder party who may be intimidated or confused, or a longer table when there is a need to provide physical space between the parties.

The Eleazer courtroom serves as a model for those wishing to truly provide total access to the justice system. Many of the features can be incorporated into existing courtrooms or made part of the design of new courtrooms. Further information is available by contacting Professor Flowers or Professor Morgan at Stetson University College of Law.

Justice Rosalyn Richter's remarks at the May 18 conference on *Providing Persons with Disabilities and the Elderly with Equal Access to Justice*. The conference was presented by the ABA TIPS Standing Committee on Diversity in the Profession, Animal Law Committee and Stetson University College of Law.

Lawyers, judges and legal professionals with disabilities, in my experience, do not talk about it much. We do not ask for much and we struggle alone, often in silence, asking for an accommodation only when it is absolutely necessary. We ask when there is no choice and the problem is too great for us to solve alone. Of course, every one is different and every person with a disability is different. I speak only from my own experience and from the knowledge I have gained from talking to other lawyers

with disabilities over the years. To state the obvious—what I need, how I want to be treated may be different from what another person with a different disability may want. And what I need when I am walking on crutches and when I use a wheelchair is different. And what I need now as an appellate judge is different from what I needed as a young lawyer several decades ago. This is what makes the issue of providing accommodations so complicated.

When I was in law school in the 1970s, there was no Americans with Disabilities Act (ADA) and no one even thought about the concept of reasonable accommodation. I would describe it as a largely sink or swim approach. You fended for yourself and figured out what you needed to get through law school and to manage in inaccessible courtrooms. Lawyers with disabilities were few and far between then and I was not encouraged to go into trial work. In fact, I was discouraged from doing so, both explicitly and implicitly. Questions arose as to what a jury would think of a lawyer on crutches and how I would manage to “approach the bench,” which usually meant getting up a small step, without handrails, and standing there while the judge spoke to the attorneys. I quickly got the message that trial work was not meant for me. In a way, it turned out for the best. I found my way to appellate work, a true love of mine and the job I now hold. But, in hindsight, I would have liked the choice and wonder what my career path might have been had someone told me it was possible to be a trial lawyer with a disability.

It was not until the mid 1980s, several years after graduating law school, that I decided to try to deal with the logistics of being a trial lawyer. Depending on the judge, the experience was either exhilarating or exhausting. Some judges were understanding and allowed me to remain seated while making an objection. Others expected me to rise when speaking, like everyone else, and became frustrated when I was slow to my feet. Some allowed court officers to take a document from me and hand it to the witness or my adversary, but others expected me to do this myself. I know it seems like a simple task—get a document from a large box, hand a copy to opposing counsel, approach the witness, hand them the document and then return to counsel table where your notes are located. But, for a lawyer with a disability, this is no easy feat. Back then, there was no ADA committee or training for judges and like most trial lawyers, I was trying to do what the judge wanted even if it was physically difficult. I did not ask for an accommodation and some judges did not offer any. Even when judges were understanding, I struggled with the lack of access in our beautiful historic courthouses. You all are familiar with the majestic

staircases that grace the entrances of so many old buildings. Those staircases, however, posed a challenge for me. I was delayed going in side or back entrances, which were often locked or hard to find.

Life changed, in most ways, for the better when I became a judge, though there were new challenges. First and foremost, there were the steps to the bench, the ones I expect most of you do not even notice. Sidebars posed numerous questions: should I climb down the steps and then back up them again when the discussion was over; should I stand and lean over the bench even though that posed some difficulty given my height and my disability; and what should I do when I noticed a lawyer with a disability who had his or her own challenges with a bench conference. I experienced some interesting comments from lawyers who upon seeing the crutches, would inquire whether I had injured myself on vacation or just had surgery. I had a lot of life experience in answering these type of questions, but I was struck by the fact that so many people assumed I had a temporary disability. I guess they had not encountered a judge who had a permanent disability and whose crutches were not going to disappear in a few weeks.

Things have changed over the years and I am pleased with the progress that is being made. New courthouses now are built with accessible entrances and accessible benches. I have conducted a motion argument with a lawyer who used real time court reporting and jurors regularly serve in New York County with sign language interpreters or assistive listening devices. We have judges who are blind on both the federal and state bench. But, I still do not see many lawyers with disabilities as lead trial counsel and I wonder where they are. I expect, despite the passage of three decades since I graduated law school, that they are still facing some of the same questions and difficulties that I faced. All aspects of law are important and, of course, as an appellate judge, I applaud any attorney who decides to follow this career path. I worry, however, that lawyers with disabilities are not being given the work that gets you noticed whether it is the high profile trial or the meeting with the important client. I know this is not just a disability issue. The same concerns have been raised by lawyers of color and women attorneys and we need to examine the types of work that are being given to lawyers with disabilities.

I worry too that despite our best efforts, the courthouse is still too cumbersome and courtrooms are still essentially created in layers with steps. Procedures often involve going from office to office just to file one piece of paper. I recently had a lawyer speak to me about

another judge, who shall remain unnamed, who had an absolute policy of not allowing appearances by telephone. That judge believed that in-person appearances helped settle cases and, in any event, the judge did not like conference calls.

The attorney, however, had a mobility disability and the court appearance was going to be relatively brief. The judge would not agree to the attorney's request for a telephone appearance and the attorney did not want to alienate the judge. As you can guess, despite the difficulty, the attorney appeared. I cannot help but ask how often this happens and how many attorneys with disabilities decide to give up the struggle – they either leave the profession or at least leave litigation. I think we can do better. I do not have the answer as to how these problems can be solved, but I hope that today's conference is a first step towards the solution that will allow lawyers with disabilities to fully and equally participate in the practice of law.

Justice Rosalyn Richter is a US District Court Judge in the Seventh Circuit

Helpful Websites

American Bar Association Commission on Racial & Ethnic Diversity in the Profession	www.abanet.org/minorities
American Bar Association Commission on Women in the Profession	www.abanet.org/women
American Bar Association Commission on Mental and Physical Disability Law	www.abanet.org/disability
Black Women Lawyers Association of Greater Chicago	www.bwla.org
Charting Your Own Course	www.cyoc.org
Cook County Bar Association	www.cookcountybar.org
Hispanic National Bar Association	www.hnba.com
Minority Corporate Counsel Association	www.mcca.com
National Asian Pacific American Bar Association	www.napaba.org
National Association for Law Placement	www.nalp.org
National Association of Women Lawyers	www.nawl.org
National Bar Association	www.nationalbar.org
National Native American Bar Association	www.nativeamericanbar.org
The Association of the Bar of the City of New York (Diversity Statement and Signatories)	www.abcny.org/pdf/diversity_principles.pdf
The Bar Association of San Francisco Breaking the Glass Ceiling Commitments	www.sfbar.org/about/diversity.html
The Bar Association of San Francisco Goals and Timetables for Minority Hiring and Advancement	www.sfbar.org/about/goals.html
"Walking the Talk—Creating a Law Firm Culture Where Women Succeed", 2004, by Sharon E. Jones and Jane Pigott, ABA Commission on Women	www.abanet.org/women
American Society for Women Accountants	www.aswa.org
Association for Women in Science	www.awis.org
Catalyst	www.catalystwomen.com
National Black MBA Association	www.nbmbaa.org
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CIVIL MENTAL DISABILITY LAW, EVIDENCE AND TESTIMONY

Civil mental disability law is an expanding practice area for lawyers, psychiatrists, psychologists, and other mental health and disability professionals, encompassing everything from institutional and community rights to professional liability, insurance, confidentiality, family law, and the rights of veterans and immigrants.

In a new book that no law library or mental disability professional should be without—*CIVIL MENTAL DISABILITY LAW, EVIDENCE AND TESTIMONY: A Comprehensive Reference Manual for Lawyers, Judges, Law Students and Mental Disability Professionals*—John Parry, J.D., explains and analyzes current civil mental disability law and its impact on the rights of persons with mental disabilities. Chapters include:

- History and key clinical and legal definitions
- Individual rights within the community
- Mental disability discrimination law
- Federal and state entitlement programs
- Confidentiality, privacy, and professional liability
- Commitment and rights within facilities
- Expert evidence and testimony

The 750-page book also includes a glossary of key terms, definitions, and U.S. Supreme Court cases; an index; and a table of cases.

Civil Mental Disability Law already has received praise from experts in the field. According to Eric Y. Drogin, J.D., Ph.D., ABPP, Department of Psychiatry Beth Israel Deaconess Medical Center, Harvard Medical School, “this well-researched and artfully conveyed resource will be an important addition to the toolkit of any lawyer or expert witness practicing in the arena of Civil Mental Disability Law.”

This *Reference Manual* is third in a series concerning disability law. The first, *Disability Discrimination Law, Evidence and Testimony*, was published in 2008; the second, *Criminal Mental Health and Disability Law, Evidence and Testimony*, in 2009. These manuals may be purchased not only as a three-volume treatise, but also individually due to a certain amount of intended overlap.

To view the table of contents online, visit:

http://www.abanet.org/abastore/products/books/toc/4410210_toc.pdf



Our Future: “Why not let people differ about their answers to the great mysteries of the Universe? Let each seek one's own way to the highest, to one's own sense of supreme loyalty in life, one's ideal of life. Let each philosophy, each world-view bring forth its truth and beauty to a larger perspective, that people may grow in vision, stature and dedication”.

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