

# Charles Houston Bar Association

Laying the Foundation for the Future



## FROM THE PRESIDENT

As I write my first column for 2010 I do so with a sense of pride for all that we accomplished in 2009. But as I was reflecting on what I'd like to convey with this message I queried: Is this Association meeting the objectives of its members? Are there ways in which this association can improve itself: meet the needs of our members and the community that we serve?

At its Retreat in January, the CHBA Board spelled out the Association's mission: to improve access to justice; to promote equal protection under the law; to be proactive in increasing diversity within the legal community and to the bench; to bring services to the community; and to support the Association's judges, attorneys and law students.

In staying true to this mission the Board has planned its traditional activities and has branched out to embrace new ones for 2010 – all of which can be found on our website, [www.charleshoustonbar.org](http://www.charleshoustonbar.org). We started out the year with giving back to our community through our Haiti Earthquake Relief Fundraiser at Everett & Jones and our TPS Legal Clinic held in Novato on February 20th. We supported one of our own, Yolanda Jackson, at the League of Women Voters of San Francisco, Women Who Could Be President Reception on February 11th. And, in addition to our traditional Soulfood Potluck at Judge Baranco's home, our members hosted an African American Brown Bag Lunch at Covington San Francisco.

## Features

**Message From The President- Are You A Social Engineer?**

**Featured Attorney: Danielle Ochs-Tillotson**

**10 Ways To "Win" At Mediation in 2010**

**CHBA Hosts Fundraiser for Haiti Relief**

**Advertise Your Law Firm in The CHBA Newsletter!**

## Save the Date!

February 27, 2010	February 28, 2010	April 22-25, 2010
Annual CHBA Soul Food Potluck hosted by Judge Gordon Baranco	Barbara Lee for Congress Event - To contribute: <a href="http://www.barbaraleespeaksforme.org/parker.2.28">www.barbaraleespeaksforme.org/parker.2.28</a> or RSVP to: Brooke Joseph 650-787-2665	CABL Annual Conference at the Hilton Garden Inn in Emeryville, CA

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These activities, diverse in function, all align with our mission: to improve, to promote, to be proactive, to bring services and to support our members and community. Although we continue to offer plenty of opportunities to network and socialize, we aim to offer our members and community much more. One of the goals of the Board is to revamp our lawyer referral program. CHBA receives calls from the community seeking legal referrals with a wide range of legal issues: probate, criminal defense, civil rights litigation. However, what is the most equitable way to disseminate these calls is the primary issue facing the Board at this time. We want to ensure that our community receives the best service this Association can provide, while ensuring that membership does in fact have its privileges. In the next few weeks a new system of referrals will be implemented to ensure that both objectives are met. So, please be on the look out for these changes.

We all know the story of Charles Hamilton Houston: As special counsel for the NAACP, Houston developed a methodical approach at dismantling the Jim Crow laws and outlawing racial segregation in American public schools. Known as "The Man Who Killed Jim Crow," Houston played a role in nearly every civil rights case before the Supreme Court between 1930 and 1950. He developed a litigation campaign that reversed the "separate but equal" doctrine that had fostered schools for African-Americans. He laid the groundwork for the *Brown v. Board of Education of Topeka*, (1954) 347 U.S. 483. And, he trained the best and most brilliant legal minds that argued before and sat upon the Supreme Court.

Litigator, scholar and teacher, Charles Hamilton Houston dedicated his life to using the law as a tool to reverse the consequences of racial discrimination. A lawyer, in the view of Houston, should be an agent for social change - he is "either a social engineer or a parasite on society." CHBA should have as its forethought a means to ensure that its members are social engineers; a means to ensure that the law is being used to reverse the consequences of racial discrimination. Our traditional committees allow us to touch

upon these goals. However, I believe that we can and should do more. This year I have expanded the Board and added Board positions: Pipeline to the Profession Chair and Political Chair. My belief is that with the addition of these positions we will identify and combat the continuing unjust consequences of racial discrimination and unconscious bias, whether it's with our youth or in the housing market or on the BART platform. Racial discrimination continues to impact our communities and this Association has an obligation to take a stand and be social engineers.

Jason Clay will be spearheading our Pipeline to the Profession Committee. We will work with Anna Yates Elementary School in Emeryville and expose sixth grade students to the legal profession. In addition to providing these students with the positive aspects of a career in the legal profession, we will also monitor and track this class. We will see how many of our "students" are educationally successful and go on to high school, college and law school. Mr. Clay will be calling on members to act as mentors, educators, story tellers, and more.

We are also expanding our work by becoming more politically active. Assistant District Attorneys Paul Henderson (SFDA) and Scott Jackson (AlCoDA) will bring political issues and candidates to our community. We will partner with other organizations and host our own events to ensure that our members and community are well-informed of the issues that impact our lives, whether its issues which deal with crime in our backyards or environmental issues that impact our health and well-being. Political candidates will be asked to speak before the membership and answer to our community and members.

I am proud to say that this Board has many activities and events planned because we truly believe we are to be social engineers. But these goals can only be accomplished with the help of our members. I have a personal goal of having 500++ dues paying active members. If we reach this goal, we will reach all of the goals of the Board. **-Nedra Shawler, President.**



### Danielle Ochs-Tillotson Elected Shareholder at Ogletree Deakins

Ogletree, Deakins, Nash, Smoak & Stewart, P.C. (Ogletree Deakins), the nation's third-largest labor and employment law firm, announced that Danielle Ochs-Tillotson, in the firm's San Francisco office, was elected shareholder. Mrs. Ochs-Tillotson was named to the position at the firm's Annual Shareholders Meeting in Atlanta, Georgia on January 31.

In a recent interview with Mrs. Ochs-Tillotson, she stated her success as an attorney with a family was due to the support of her family, along with good time management and advance planning. When asked about overcoming challenges faced by African American women in the legal profession, Mrs. Ochs-Tillotson responded, "As African American women in the legal profession, we have to maintain confidence, despite presumptions of not being capable attorneys." She further stated, "Being a woman in the profession can be challenging, but we can overcome the false stereotypes and assumptions by gaining respect as a competent attorney."

Not only is Mrs. Ochs Tillotson a dynamic attorney, she finds time to give back to the legal community. Involved in several organizations that serve African American attorneys, Mrs. Ochs Tillotson has selflessly volunteered her time to support attorneys across the nation. Mrs. Ochs Tillotson points out

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that being active in community service also benefits an attorneys' career. "As a Member At Large for the National Black Attorneys (NBA), I have met judges, politicians and corporate leaders that I would not have met otherwise." She further stated, "I enjoy providing service to attorneys who need support. I don't get to do that at work, and it also provides me with the opportunity to build relationships with other attorneys."

Ms. Ochs-Tillotson has 14 years of experience as a civil litigator, with an emphasis on the defense of employment-related claims in federal and state trial and appellate courts and administrative agencies. Ms. Ochs-Tillotson's experience includes successfully defending employers in both jury and bench trials and in arbitration proceedings. In addition to her active labor and employment litigation practice, Ms. Ochs-Tillotson has litigated a range of business disputes including contract, defamation, business interference, trade secrets, and fraud disputes.

Ms. Ochs-Tillotson also has active advice, training, and investigations practices, assisting employers with a variety of employment and industrial relations issues. She has represented both private and public employers in a broad array of local, national, and international industries including the accounting, banking, defense, education, hotel, manufacturing, retail, transportation, technology, and utility industries.

Ms. Ochs-Tillotson received her bachelor's degree in Sociology from the University of California, Santa Cruz, where she was a Regents Scholar. She received her law degree from the University of California, Hastings College of the Law. She currently teaches at Hastings as an Adjunct Professor of Law in the area of pretrial practice. She also serves as the current Chairperson of the Labor and Employment Law Section of the National Bar Association ("NBA"), President of Black Women Lawyers of Northern California, and is a past Director of NBA Region IX.



### 10 Ways To "Win" At Mediation in 2010

Preparation for mediation requires more than reviewing the case file and establishing the settlement demand or offer. Proper preparation will ensure that you will "win" at mediation. Below are some tips that will help you achieve a good result in mediation. Review your preparation checklist against these tips and evaluate your level of preparedness.

#### 1. Demonstrate A Good Faith Commitment to the Process

As the saying goes, you reap what you sow. Your return on your investment is the equivalent of the effort that you put in. The same is true in mediation. If you are not committed to the process, you won't get much out of it. If you are not really committed, don't waste your time and money. If you have the option, wait until you can demonstrate a good faith commitment to the mediation process.

#### 2. Set Realistic Expectations With Your Client

This is one of the more difficult obstacles to settling a case. You spend so much time advocating the strengths of your case that you don't focus on the weaknesses and the real risks associated with litigation. Often the client does not fully understand the litigation risks until he or she is in mediation. This situation creates an environment where the parties become entrenched in their respective positions rather than moving closer towards settlement.

Thus, it is better to prepare for mediation by spending as much time informing your client of the risks as you do on emphasizing the strengths of your case. Most attorneys intuitively know to do this, but fail to do so.

#### 3. Choose the Right Mediator for Each Case

There is no "one size fits all" when it comes to selecting the Mediator. While most attorneys maintain a short list of his or her favorite Mediators, not all Mediators are the right choice for each case. As part of your preparation for mediation, you should give some serious thought to who you select as the Mediator in a specific case. Consider what issues are present in each case. Be thoughtful about the style of the Mediator and whether that style is best suited for achieving a settlement. Does the Mediator simply see himself as a Facilitator? Does the Mediator have knowledge about your industry, company, jury verdicts or judge? What is his settlement track record? Does the Mediator push the parties appropriately? Does he listen well? Is the Mediator creative and does he offer suggestions? Can he effectively deal with a range of emotions and cultural differences? Avoid the "bully" mediator who may achieve a settlement which, upon reflection, the parties may feel uncomfortable with later.

Review your list of Mediators from time-to-time and reflect on their effectiveness. You should also evaluate whether third party Mediation Services that may charge high administrative costs actually provide you the "bang for your buck."

#### 4. Relinquish Doubts About Potential Settlement

Most attorneys evaluate their case before Mediation. As part of the evaluation process, you will naturally assess the potential for early resolution and the amount for which the case should settle.

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As tempting as it is, try to avoid locking into a certain mindset and having your client do the same. Pre-established mindsets will hinder the negotiation process and create impasses unnecessarily. Rather, you should remain open about the potential for settlement as well as the specific outcome. While it is a good thing to have a general view about what you would like to see as an outcome, it is better to think of a range of potential settlement, rather than specific numbers. It is also important to think about non-monetary options that can be made to facilitate settlement.

### 5. Be Flexible & Creative

Being open to change is one of the best ways to resolve a dispute. If you show the opposing party that you are willing to make a move, then they will be more willing to change their position as well. In order to change positions, you must think creatively about the potential solutions. Don't solely rely on the Mediator to offer creative proposals. Generally, the parties will know much more about the specific situation than the Mediator since they have "lived" the dispute. They may be in a better position to know what the range of potential options is for settlement.

### 6. Actively Listen

When the opposing parties feel listened to, they feel respected. When people feel respected, they are more likely to listen and to respect others in return. Although active listening has almost become a cliché, it remains an important part of the negotiation process. Most attorneys are so focused on advocating their position that they may neither fully hear nor understand the opposing side's view. However, when you truly listen, you will likely see options for settlement that you have not seen before.

### 7. Banish Outmoded Concepts About Settlement vs. Litigation

One of the biggest obstacles that exist to a successful settlement negotiation is the perception that a desire to mediate signals a sign of weakness to opposing counsel.

Moreover, as the line of thinking goes, other attorneys will sense vulnerability and the litigation floodgates will open. You should not let this fear drive your decision whether to put an end to litigation. When pressed, most clients who espouse this view haven't truly reflected on their litigation track record. When they do, encourage your clients to consider whether the matter that was settled invited the same or similar litigation. Most will agree that their worst fear simply did not happen. If it did, you should encourage your clients to spend more time improving business practices so that if the same or similar litigation subsequently occurs, they will be in a better position to defend it. Post mediation, you should routinely review with your client what steps can be taken to prevent similar disputes from occurring in the future. Some of those corrective measures are training and publication of clear policies and procedures.

### 8. Exercise Patience

Mediation is not a quick process. It sometimes takes a substantial investment of time. In order to achieve the best results, you must exercise patience. During the process of settlement negotiations, no doubt the opposing party will do something that will really upset you or your client. Hurt feelings and anger are often brought to mediation. These emotions are counterproductive because they can overwhelm and hinder the mediation process. When there is no substantive movement in the parties' positions, review your options. Unleash your creative thinking. Take breaks if you need to. Enlist the Mediator to help you. Trust the mediation process.

### 9. Be Prepared

Everyone knows that being prepared is the best thing you can do for a positive outcome in mediation. Know the facts of your case and the applicable laws well. Practice articulating the key aspects of your case. Evaluate your case appropriately. Prepare your client. Obtain the necessary settlement

Despite the fact that these are well-known tips, many attorneys still don't practice them. If they do, they don't practice them to the extent that they should. Evaluate your level of preparedness for your most recent mediations and commit to demonstrating the highest possible level of preparation in the future.

Develop a list of internal consensus builders. Carefully consider who should be present at the mediation and who needs to be available as a resource or decision-maker. Choose the right Mediator for your case. Provide a well-written brief that effectively advocates for your client.

Despite the fact that these are well-known tips, many attorneys still don't practice them. If they do, they don't practice them to the extent that they should. Evaluate your level of preparedness for your most recent mediations and commit to demonstrating the highest possible level of preparation in the future.

### 10. Avoid Zero Sum Game

Most people think of settlement in terms of "I win, you lose." That is the exact opposite of what settlement generally requires. In most situations, the parties can only reach a settlement if each party is willing to give up something to get something from the other party. Before mediation, think about what you want as an outcome and what you think the opposing party will demand or accept. Consider what you are willing to give up in order to get what you want.

Please contact me to discuss these tips and how they might apply to your situation or to schedule your next mediation. I am looking forward to assisting you.

Paul Garrison  
(510) 384-6469  
www.paulgarrisonsq.com

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### Bay Area Minority Law Student Scholarship Program

The Bar Association of San Francisco is pleased to announce that the application for our Bay Area Minority Law Student Scholarship Program is now available online at the following link: <http://www.sfbar.org/diversity/scholarships.aspx#anchor04>

This program was established to help increase diversity in the legal profession in a concrete way, and alleviate at least one of the many barriers minority students may face when considering law school. In the past 10 years, we have awarded over 50 scholarships to deserving law students in the Bay Area. Awards are given based on financial need, commitment to and involvement in public service, barriers faced in life, and scholastics. Student recipients receive a \$10,000 scholarship towards their first year of law school. Thereafter, the scholarship may be renewed for an additional two years.

Please forward this information on to students, student organizations/groups, and others you think may be interested in applying. The deadline for completed applications is May 14, 2010, by 4:00 p.m. If you have any questions or concerns, please do not hesitate to contact me.

Daisy J. Hung, Esq. | Bar Association of San Francisco

Diversity Pipeline Programs Manager

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### CHBA Thanks Gala Sponsors

On behalf of the 2009 Gala Co-Chairs, CHBA would like to thank the sponsors of the 2009 Gala. Without your continued support we would not be able to provide the many philanthropic services that we provide our community, law students and attorneys. Again – thank you:

Hanson Bridgett, LLP; Seyfarth Shaw, LLP; Kazan, McClain, Abrams, Lyons, Greenwood & Harley, PLC; Orrick, Herrington & Sutcliffe, LLP; Bingham McCutchen, LLP; Pacific Gas & Electric; Reed Smith, LLP; DLA Piper; Fitzgerald Abbott & Beardsley; DelMonte Corporation; Lief Law Firm; Heimann & Bernstein, LLP; Law Offices of John Burris; Law Offices of Pamela Price; Merrill Lynch, LLP; Perkins Coie, LLP; Townsend & Townsend & Crew, LLP; Burnham Brown, PLC; Daryl, Parks, Parks & Crump, LLP; Meyers Nave, PLC.

### California Association of Black Lawyers Host Thirty-Third Annual Conference

The California Association of Black Lawyers Conference and National Bar Association Region IX Annual Meeting will be held April 22.-25, 2010 in Emeryville, CA at the Hilton Garden Inn. On-line registration at [www.calblacklawyers.org](http://www.calblacklawyers.org) will be available soon. Please contact Yolanda Jackson at 415-982-9000 ext. 8736 or [yjackson@sfbar.org](mailto:yjackson@sfbar.org) for any further information or questions.

### CHBA 2010 Board

**Nedra A. Shawler** – *President*  
**Kwixuan H. Maloof** - *Vice President*  
**Sharron Williams Gelobter** - *Secretary*  
**Eugene Clark Herrera** – *Treasurer*

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**Adante Pointer** - *Social Chair*  
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**Gabrielle Wilson**- *Special Asst to Board*

**Jason Clay**- *Special Asst to President – Pipeline Chair*

**Paul Henderson**- *Special Asst to President – Political Committee*

**Scott Jackson**- *Special Asst to President Political Committee*

**Lenora Taylor**- *Parliamentarian*

**Kimberlei Evans Dixon** - *Immediate Past President*

BE SURE TO JOIN US FOR THE  
THIRTY-THIRD ANNUAL  
CALIFORNIA ASSOCIATION OF BLACK LAWYERS' CONFERENCE  
APRIL 22-25, 2010

HILTON GARDEN INN  
1800 POWELL ST - EMERYVILLE, CA 94608  
For more information, please visit  
our website at  
[www.calblacklawyers.org](http://www.calblacklawyers.org)  
or contact us at  
(415) 782-9000, ext 8736  
[yjackson@sfbar.org](mailto:yjackson@sfbar.org)

WELCOME RECEPTION  
THURSDAY - APRIL 22  
JUDICIAL LUNCHEON  
FRIDAY - APRIL 23  
PRESIDENT'S RECEPTION  
FRIDAY - APRIL 23  
INSTALLATION & AWARDS GALA  
SATURDAY - APRIL 24  
PRAYER BREAKFAST  
SUNDAY - APRIL 25

CABI  
California Association  
of Black Lawyers  
20 Sunnyside Avenue  
Suite A #383  
Mill Valley, CA 94941-1928

"Reclaiming Our Power"

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### CHBA Board Members Make Partner



Kimberlei Evans Dixon

We are pleased to announce that Kimberlei Evans Dixon, Immediate Past President of CHBA, has been elevated to Partner at Lewis Brisbois Bisgaard & Smith LLP in San Francisco. Kimberlei was admitted to the California State Bar in December 1999 and joined the Lewis Brisbois firm in 2003. She previously worked at the law firm of Boornazian Jensen & Garthe in Oakland. Kimberlei is a member of the General Liability and Elder Law and Malpractice Group.



Eugene Clark-Herrera

We are pleased to announce that Eugene Clark-Herrera, Treasurer of CHBA since 2007, has been elevated to Partner at Orrick, Herrington & Sutcliffe LLP in San Francisco. Eugene completed his JD at Stanford Law School in 2001. Eugene specializes in serving as bond and disclosure counsel in connection with debt financing for public and private schools, college districts and universities, as well as city and county facilities and infrastructure projects, including redevelopment, enterprise revenue and other civic projects. Prior to joining Orrick, Eugene was a public school teacher and science curriculum developer in the South Bronx and Washington Heights neighborhoods of New York City from 1993 to 1998. He is an alumni of the Teach for America Corps.

### Advertise Your Law Firm in the CHBA Newsletter!

Interested in gaining exposure for your law firm? The CHBA Newsletter is the perfect way to get your law firm recognized! The CHBA Newsletter is distributed to its members, in addition to being posted on the CHBA website. Newsletters will be published June 1, September 1 and December 1 of 2010. Ad space must be purchased two weeks prior to publication. To place a business card size, 1/4 page or 1/2 page ad, please contact Verleana D. Green, CHBA Newsletter Editor at [vgreenusf@yahoo.com](mailto:vgreenusf@yahoo.com).

### CHBA Hosts Fundraiser for Haiti Relief

Charles Houston Bar Association responds to the needs of Haitians affected by the devastating 7.0 magnitude earthquake that shook Haiti's capital, Port-au-Prince, on January 12<sup>th</sup>, by co-hosting a happy hour fundraiser. On February 5, 2010, CHBA collected donations and bartended at the popular Jack London Square Restaurant – Everett & Jones. Everett & Jones donated sampler selections from its menu, and the Haitian band Kalabass Kreyol entertained guests. Support is still needed for the organizations on the ground, both to provide immediate relief and also for long term recovery. CHBA was able to raise over \$2,000 from the support of members and the community. Proceeds the event went to Partners in Health and UNICEF.

### CHBA Membership Dues Are DUE

A friendly reminder, 2010 membership dues were due January 1. If you have already paid your dues, I would like to offer a sincere thanks for your commitment to the association. As you know, we are a membership sponsored Association and your dues allow us to continue to provide services to our community, our law students, the bench and the bar. If you have not paid your 2010 dues, please access our website and pay online at [www.charleshoustonbar.org](http://www.charleshoustonbar.org) or send your membership dues to me c/o The Charles Houston Bar Association, P.O. Box 1474, Oakland, CA 94604.

We would also like to offer our sincere thanks to those members who donated to our student achievement scholarship fund. Your generosity allows us to continue to sponsor our students.

Lastly, all non-dues generating members, such as students and lifetime members, are reminded to submit a new membership application with any updated address and contact information. The 2010 Membership application can be found by following this link: <http://www.charleshoustonbar.org/forms.html>

Please contact Tiega Varlack, Membership Chair, at [tvarlack@gmail.com](mailto:tvarlack@gmail.com) with any questions or concerns you have about your CHBA membership.

[www.charleshoustonbar.org](http://www.charleshoustonbar.org)



