

PRESIDENT'S LETTER

As we near the end of my term as the 38th President of the Black Women Lawyers Association of Los Angeles, Inc. (BWL), I want to thank you for bestowing upon me the honor of leading this illustrious organization over the course of the last year. I truly enjoyed my time as President and hope I was able to continue the legacy of exceptional leadership that has preceded me. With your support, BWL was able to accomplish every goal we set before us - uplifting our community, engaging in our civic responsibilities, conducting programming that was beneficial to lawyers and mentees, all while strengthening our sisterhood and building new friendships.

This year, was a historical year in many respects. President Barack Obama was reelected to office; the Supreme Court decided issues impacting voting rights, affirmative action and same sex marriage; we elected Jackie Lacey as the first African American woman to the position of Los Angeles County District Attorney; the nation celebrated the 50th anniversary of The March on Washington; and, we felt the blow of the Zimmerman verdict nationwide. Amidst these precedent-setting events, BWL also celebrated a memorable year.



Camille Y. Townsend
2012-2013 President

In addition to BWL's annual community service projects, BWL launched a three-part mentorship program at Susan Miller Dorsey High School, an inner city school, to bridge a gap between minority students and working professionals. The first mentorship program of its kind, more than a dozen lawyers with different specialties from criminal to corporate law gathered to share personal experiences and advice in hopes of positively impacting the youth.

Just fewer than 160 students received insight from the lawyers who discussed the drive, skills and passion necessary to succeed. BWL's mentoring program, which has been featured

in media outlets across the country, helped to connect and prepare students for the real world in group settings and one-on-one mentoring. Hand in hand with this outreach, BWL also provided youth and members with opportunities to attend cultural events, including the Alvin Ailey Dance Theater, a guided tour of the Los Angeles Zoo and the California Science Center, where BWL commissioned an African American astrophysicist to provide a guided tour of the Endeavour Space Shuttle exhibit. These projects supported BWL's mission to mentor and educate young people in the Los Angeles area.

BWL also celebrated Martin Luther King, Jr.'s historic, "I Have A Dream" speech by partnering with other community organizations to present a panel entitled, "MLK's Dream in the City of Dreams: Civil Rights Issues Today." BWL responded to the Zimmerman verdict by taking the lead in planning a community forum with the NAACP, ACLU, Black Prosecutor's Association of Los Angeles, Black Public Defenders Association of Los Angeles, Los Angeles Police Department amongst others, entitled, "What Do We Tell Our Sons?" The event provided a positive outlet and a constructive forum to address the issue of racial profiling.

While BWL increased its presence in the community, we also encouraged fun and fellowship at the annual Cocktail Sip, where over 700 guests joined the BWL members to dance the night away in support of BWL's community efforts. BWL celebrated its Founders at the exclusive City Club in April, while welcoming CABL to Los Angeles. BWL members also fellowshiped over brunch at its first-ever, "Polish Your Image" event where guests took new headshots after having professional makeovers. We also enjoyed wine tasting, fellowship and celebrated our Lifetime members at Sara The Wine Bar as well as tremendously successful Young Lawyers Committee events. The above are just some of the many events BWL held this year. To culminate the year, BWL will be honored as Community Organization of the Year by Community Lawyers, Inc. I could not be more proud and humbled to work in the service and leadership of such a dynamic, compassionate and impactful organization.

I am tremendously grateful for your support in making this year happen. I'd like to especially thank and acknowledge my dedicated and talented board for their hard work, sacrifice and commitment to BWL's success this year. I also truly appreciate the sponsors that made this year's programming possible.

***We could not have done this without you!
Thank you!***

P2

- ▶ Letter from the Editor
- ▶ iPad Apps for Lawyers

P3

- ▶ What Delights Me As In-House Counsel

P4

- ▶ Estate Planning – The Taboo Conversation Between Parents and their Children

P5

- ▶ Beyond the Courtroom: Should You Be Using Psychology of Persuasion in Your Practice?

P7

- ▶ California Supreme Court Upholds "Mixed Motive" Defense

LETTER FROM THE EDITOR

Black Women Lawyers Association of Los Angeles was founded in 1975 by a small group of Los Angeles based African-American judges and lawyers. These women met over lunch to discuss the complete absence of any organization that addressed the specific needs of African-American women in the legal profession. This small group of women soon realized – they comprised the very group they were looking for, and their camaraderie was the very support network they were lacking.

Today, Black Women Lawyers of Los Angeles has over 200 members and a leadership that is dedicated to providing professional support to its members as well as providing charitable, educational and community-based services. This ongoing commitment is evident in the Year-in-Review photographs that make up much of this newsletter.

This photo essay depicts, in living color, the founding principles of professional support, community outreach and sisterhood which con-

tinue to make BWL a relevant and necessary organization. In addition, the articles in this year's newsletter provide a glimpse into our membership's broad spectrum of expertise.

The collective vision of the small group of women who founded BWL almost forty years ago is alive and thriving. Through this newsletter we invite you to learn more about BWL, to support our efforts, and to share our vision.



Dawn T. Collins
Newsletter Editor

iPAD Apps for Lawyers [continued]

Jury Selection

Need assistance picking a jury? Believe it or not - apps have been created to assist you even in the midst of trial! Some of the more popular jury selection apps are:

- ▶ **iJuror (\$19.99)**
- ▶ **Jury Tracker (\$4.99)**

Legal Research/ Codes & Rules

Have you ever been in court and wished that you had a copy of the Code of Civil Procedure or a citation to helpful case authority? Problem solved. You can purchase legal research apps as well as apps that place entire codes at your fingertips. A few useful ones are:

- ▶ **The California Code of Civil Procedure (\$5.99)**
- ▶ **The California Penal Code (\$5.99)**
- ▶ **The entire library of California Codes (15.99).**
- ▶ **FastCase – legal research (free)**
- ▶ **Law Stack – legal research (free)**

(There are apps for federal codes and rules as well, many of which are free.)

One last word - using your iPad in your legal practice can be very helpful, however, we are typically dealing with sensitive and confidential material. Stay diligent and make sure that your device is password protected and capable of a remote-wipe in the event it is lost or stolen.

iPAD Apps for Lawyers by Tangela D. Terry

So you have purchased an iPad, now what? This is a question that many people ask, whether they are attorneys or not.

First, you need to figure out what you will be using your iPad for and once you do that, finding apps to fit your needs becomes an easy process. Many legal apps have been created for the iPad including apps

with the ability to conduct legal research, review and edit documents (including deposition transcripts). You can even use your iPad when you are in trial.

Whether you are a civil or criminal lawyer, your iPad can be a very effective tool for your practice. So with that said, let's talk about how iPad apps can help you work smarter and more efficiently!!

Document Storage

By now, you have probably heard the term "cloud computing." Simply put, cloud computing allows you to store documents in the cloud and then access them from anywhere from different devices. Gone are the days of going back to the office because you forgot a file that you will need for court the next day or because you need to work on it over the weekend. There are many cloud computing apps that you can use with your iPad, some of the more popular apps are:

- ▶ **Dropbox (free)**
- ▶ **Google Drive (free)**
- ▶ **SkyDrive (free)**
- ▶ **Evernote (free)**

Dictation

If you are used to dictating, put down that dictaphone and check out these dictation apps for your iPad:

- ▶ **Dragon Dictation (free)**
- ▶ **SpeakWrite (free)**

Document Creation/Editing

Need to create or edit documents on-the-go? Try one of these:

- ▶ **Quickoffice Pro (\$19.99)**
- ▶ **Documents To Go (\$9.99 or \$16.99(premium))**

PDF Viewing/Editing

Need to open, view and/or edit PDF files? Try one of these:

- ▶ **ReaddleDocs (free)**
- ▶ **GoodReader (\$4.99)**
- ▶ **Adobe Reader (free)**

Depositions

Review and annotate deposition transcripts in your backyard with:

- ▶ **TranscriptPad (\$49.99)**

[article continues on next page]

What Delights Me As In-House Counsel by Nicole Hancock Husband

Not long ago a former colleague asked me what outside counsel does that delights me. Sadly I struggled to think of something, anything! After nine years working as in-house counsel at Warner Bros., surely I could think of a good example, right? When I sent my list of three things I like to see from outside counsel, my friend told me she thought those were "a given." The recommendations below might seem like "a given," but if you do these things, you will be on your way to delighting your in-house counsel.

1. Be communicative. We generally hire outside counsel for important litigation matters. I expect outside counsel to let me know the status of the case and the proposed next steps, as well as to ask for my input. The challenge for outside counsel is to strike the balance between providing too much information and providing very little information or information that is not helpful and does not move the case forward. Generally, if you are working on a case for a client and the client has not heard from you in weeks, you need to reach out to show you have not forgotten your client or the case!

2. Make your communications concise. In my opinion, long emails and voicemails are not the best way to communicate. If you find yourself doing that, it is probably best to set a time to talk to ensure you have sufficient time to address all of your issues and that your in-house counsel has sufficient time to follow-up with questions. When you do send an email update or request for approval, be clear and concise. Think of in-house counsel as a Bar examiner – you want us to be able to read it and get it quickly.

3. Take a stand, make a recommendation. When providing advice to your client - state the issue, make your recommendation about how to proceed and request your client's input and/or approval. This is advice that one of my former supervisors gave me long ago and I still think of it today, almost every time I send an email to my manager. Be sure to ask in-house counsel for his or her input because even though you think you know the law better than your in-house client (and that may be true), you don't know the client as well as the in-house counsel in most cases. That person is your link to getting access to information, witnesses, and documents, in addition to approval to move forward.

4. Give your client time to review drafts, provide comments and make revisions. Contrary to popular belief, some of us in-house counsel are quite busy, so 1-2 days to review a lengthy motion or document production is just not enough. I am often in meetings and conducting training during the day, so I need several days to find a good block of time to review such things. You may find some in-house counsel who skim your drafts, but until you know that for sure, give the client sufficient time to do a thorough review and to provide feedback.



*Nicole H. Husband is a Vice President & Senior Employment Counsel at Warner Bros. Entertainment Inc. where she has served since April 2004, and a Certified Professional Co-Active Coach (since 2012).
www.nicolehusband.com*

[article continues on next page]

What Delights Me As In-House Counsel [continued]

5. Build a relationship with me. If we get to know each other and learn about each other’s lives, chances are we will have a better rapport. Don’t be afraid to show some of who you are personally because it helps to build that relationship. Also, don’t hesitate to ask me what I am looking for from you as my outside counsel. If we have that connection and you provide high-level service, chances are we will hire your firm again.

6. Do your best to win and show me that you want to win! There is nothing better than an enthusiastic and zealous advocate. You do not have to be rabid in your efforts, but do show a passion for what you do and a desire to please and win on the merits. Showing this excitement tells me you are grateful to have our work and enjoy what you do. Find something in your work that brings you joy and focus on that. Try to let that joy shine through – it is infectious. If you cannot find any joy in what you do, I might have other advice for you from a coaching perspective!

If you are wondering why my list of recommendations did not include proofreading your documents to ensure there are no errors, that omission is no oversight. To me proofreading is more than a “given.” Why do I bring it up here then, you ask? It could be the recovering managing editor side of me, or it could be that I just didn’t feel right not mentioning it in an article with this focus (it is probably the former). Either way, just know that your client may be thinking what I think when I receive documents from outside counsel with grammatical and spelling errors: Is the substance off too? Why are we paying so much money for this level of product? Typos make me very much not delighted!

At the end of the day, I am more interested in outside counsel making my life easier rather than “delighting” me. I think that is why I found it difficult to find examples of when I was delighted by outside counsel. Holiday gifts are nice, but I would prefer to have consistent, high-level service from a friendly, dedicated, enthusiastic lawyer at a reasonable price. I cannot speak for all in-house counsel, of course, but I have heard similar desires expressed in my discussions with other in-house lawyers. Who can argue with someone making our lives easier??!!

Estate Planning – The Taboo Conversation Between Parents and their Children

by Charlene L. Usher



Charlene L. Usher, Esq. is a trust & estates attorney who handles traditional estate planning, special needs planning, business succession planning, & charitable planning. For more information, please visit www.usherlawgroup.com or contact 877.748.7437.

Many of our parents are part of the “Baby Boomer” generation – born from 1946-1964. They are either approaching retirement or are already enjoying their golden years. They have worked hard, made sacrifices, raised kids, contributed to their community, and perhaps even buried their own parents. However, the topic of their own estate planning can still be a sensitive subject. We all know they need to address those end-of-life decisions and plan for the inevitable. In many cases, however, procrastination is the order of the day.

Even apart from those difficult end-of-life decisions are discussions and planning surrounding potentially debilitating illnesses or conditions, such as a stroke or severe dementia, which may leave our parents in a situation that requires them to rely heavily on us for support. They will expect us to deal with their doctor on their behalf and to make sure their bills are paid if they have to spend time rehabilitating. Ultimately, it will likely be our responsibility to bury them in the dignified manner they so deserve. These are very difficult issues to address, but ask yourself - wouldn’t it be easier to handle things with a plan in place, a plan that reflects your parents’ true wishes and not the decision of the Probate Court? Putting together an effective plan can start with you, and you can start by considering the following:

Planning for Incapacity

As an Estate Planning attorney, I have met many people who come to me after their parent has been rendered incapacitated and their immediate help and financial resources are now required. However, just by executing a simple Financial Power of Attorney and Advanced Health Care Directive (“AHCD”), your family can avoid spending thousands of dollars and can avoid the delay of waiting for a court to approve a Conservatorship. Without an AHCD, and in the event your parent is rendered incapacitated, he or she may be subject to an examination by an unfamiliar doctor and the court will appoint an investigator to prepare a report about whether or not you are an appropriate Guardian or Conservator. This process is stressful, invasive and takes time and money. In the meantime, all of your parent’s business and personal matters are on hold.

[article continues on next page]

Estate Planning – The Taboo Conversation Between Parents and their Children [continued]

These are compelling reasons to raise this important issue with your parents. Ask them if they have something in place, such as an AHCD or a Power of Attorney, which will allow their wishes to be carried out in the unfortunate event they are unable to help themselves.

Avoiding Probate

If your parents’ own real property, there are certain risks to that ownership which can be mitigated with careful planning that avoids Probate. A will is one way to avoid probate; however, in California, estates of more than \$150,000 in total value have to go through Probate even if there is a will. This requirement is the reason many people view a Living Trust as better option than a will.

Establishing a living trust can help your parents control their assets while they are alive. Most importantly, they decide who gets what from their estate and when, and the trust helps keep their bequests private while helping them avoid unnecessary estate taxes. The alternative, is a drawn out Probate court process (think 2 years for a basic estate) that is expensive (minimum 4% fees, not including taxes, on the entire estate).

Burial Expenses

While it may be uncomfortable to raise the is-

sue of burial plans with your parents, the alternative is that you may never know whether or not they have a plot purchased; whether they have already purchased a burial insurance policy to help with expenses; or, what their true desires are with regard to these important “end-of-life decisions”. Ask them. And, if they have not done anything, express to them the importance of understanding what the basic cost would be and encourage them to start making decisions about what they want. You and/or your parents can even contact a local mortuary for further guidance.

The last thing you need to deal with while facing the emotional rollercoaster of losing the person who raised you, is the headache of figuring out how to plan and pay for their services. In the absence of planning, many families are forced to seek help from their church, friends and distant family in order to pay for burial services (and in some cases, resorting to “chicken dinner fundraisers”). To avoid this stress, and to reduce the risk of not carrying out your parent’s own desires regarding how they want to be laid to rest, you may want to consider purchasing an insurance policy on your parent’s life for an amount you find sufficient to cover the burial expenses you anticipate, based on the express wishes of your parents. By paying premiums, you are likely to pay much less than

the actual policy will pay you when your parents pass. This is a good solution if your parents are unable to afford to pay for an alternative plan on their own.

Raising The Issue

Odds are your parents will need your help making, implementing and paying for a plan to lay them to rest with dignity. These are not easy issues to discuss and many people are uncomfortable with the subject matter. However, there are ways to facilitate the discussion that will hopefully lead to a far less stressful situation when the time comes. By way of example, if you know of someone who has recently lost a parent or your parents have a friend who has recently passed, you can discuss with your parents how that family handled the task of laying their relative to rest and then shift the discussion to your own parents and what their specific desires are. Another logical way to broach the subject would be to carefully raise it at the time your parent is facing a critical health challenge or pending surgery.

End-of-life decisions are difficult for everyone involved, but these are important discussion to have and there are many products and services that are accessible and effective in ensuring your parents experience a dignified burial.

Beyond the Courtroom: Should You Be Using Psychology of Persuasion in Your Practice?

by Michelle Ramos-Burkhart

Years ago, when the business of trial consulting first became prevalent, several people held the opinion that the practice was just a phase and over time would likely become unnecessary or so under utilized that most consultants would simply go out of business. There was a competing, yet similarly pessimistic school of thought that trial consultants were only for high cost, high profile cases. In many respects, this is still the lens through which some people view the field; but there are significant changes in how attorneys have come to utilize trial consultants and, as discussed below, there may be innovative ways in which your practice could benefit from the services of a trial consultant.

Talk to many attorneys nowadays and you will hear a very different story with regard to trial consultants. Many of the best law firms have consultants in-house or on retainer. Some attorneys consider trial consultants one of their best kept secret weapons. Indeed, the work of trial consulting has extended beyond the “walls of the well” and many attorneys rely on their consultant’s expertise yet never step foot in a courtroom. While the number of jury trials is decreasing, the pre-trial dispute resolution and alternative venues have become the new landscape for much of the practice of law. As a consequence, lawyers are seeking to use consultants in different ways and looking for a wider range of services. Several key factors and legal practices are driving this trend. [article continues on next page]



Michelle Ramos-Burkhart is the President and Senior Trial Consultant at Verdict Works, LLC

Focus Groups/ Mini Mock Trials

A focus group or a mini-mock trial coordinated by a jury consultant, are two powerful tools that can be used for a number of different strategic purposes. First, these processes inform the lawyers and their clients about the settlement value of their case based on objective input. Second, recording clips from the focus group or mock trial can be used effectively in settlement conferences to show the opposition how well your position plays to neutral parties. Third, they can be used to gauge the lawyers’ own likability – a key factor in any trial as likeability can make all the difference if the evidence presents the jurors with a close call. There are a plethora of psychology studies that reveal likeability is a key factor in people’s decision-making process (Hahn & Clayton, 1996). A trial consultant can help you to learn how to skillfully finesse your style, build on your competitor’s weaknesses and capitalize on your strengths.

A word of caution - I often hear from attorneys that they are conducting their own research or focus groups in-house with their own paralegals, staff or attorneys. This is generally a bad practice because most attorneys are not equipped with sufficient knowledge of scientific methodologies or experimental design and most do not understand the psychological interpretation and analysis of scientific data and participant responses necessary to effectively evaluate feedback and eliminate bias. Add to that the inherent bias in asking someone on your own payroll for an “honest” response to your presentation, and you are looking at a very ineffective process with less than meaningful output.

Depositions

Depositions have become a strategic targeted discovery tool for many skilled attorneys. Before a case ever gets to trial, a videotaped deposition, when used to demonstrate the witness’ credibility, or lack thereof, can go a long way in negotiating settlements. Video, and the use of a trial consultant’s insight, can also help by turning the camera on your own witnesses as you prepare them to testify. How confident are your witnesses once they are placed under oath? Do they appear nervous and thus less credible? Will your witness slip-up and make a crucial error that will work against you or your case? How does your witness handle difficult questions about key issues in the case? How do you sound when conducting the examination? These issues and more can be expertly addressed and finessed with the assistance of a trial consultant who can record and effectively analyze video clips of both you and your witness.

Presentations

Despite the title, trial consultants are not just for trial attorneys. Transactional lawyers, who likely spend less time in court, can also benefit from the expert feedback of trial consultants for important presentations, board meetings and marketing pitches, just to name a few. For those important presentations, a run through in front of a focus group - or even better, a recorded presentation for review with a consultant, may provide valuable insight into your strengths and weaknesses before the big day. A test drive of your presentation skills can bolster your confidence and

build clarity in your position. Don’t underestimate the power of persuasion or overestimate your ability to present information in a clear, comprehensive and coherent manner. A trial consultant, trained in effective communication and psychology, can always sharpen those skills.

Visual Tools

Did you know that two out of every three people in the country are visual learners? (Vinson, 1993) This means that most people best understand ideas, concepts and explanations through visual information. We are grooming this type of learner in our culture with our new technological advances and it is very likely this number will only increase over time as the average person becomes more tech savvy. For your opening statement, closing argument, board presentation or CLE training, you may not need a high-end 3D animated graphic demonstrative; however, you may want to consider input from a consultant in order to create a graphic presentation that allows for the maximum rate of psychological impact and retention. Your audience will, more often than not, remember what they see over what you say. If you are on the fence about the cost and benefits of a consultant for such demonstratives, consider what your opposing counsel may be doing. He or she may have retained a consultant who is using effective tactics in the design of the opposition’s demonstratives, putting you and your client at a distinct disadvantage. Having a consultant who can deliver impactful visual aids is a great tool for any attorney in a variety of settings.

Many trial consultants are committed to providing services for all attorneys and firms at all budget sizes. Some consultants, including me, even provide our services on a pro bono basis to clients in certain criminal and civil right cases. You might be pleasantly surprised at the value provided by skilled, scientific, psychological expertise that can help you succeed in all areas of your practice.

If you are considering using a trial consultant in your practice, make no mistake - they are changing the game and they are here to stay. The question you should be asking is, how prepared am I to play?

References

Hahn, P.W., & Clayton, S.D. (1996). *The effects of attorney presentation style, attorney gender, and juror gender on juror decisions*. *Law and Human Behavior*, 20, 533-554.

Vinson, D.E. (1993), *Jury persuasion: psychological strategies & trial techniques*. See also Frederic I. Lederer, *The Road to the Virtual Courtroom? A Consideration of Today's-and Tomorrow's-High Technology Courtroom*, 50 S.C. L. REV. 799, 814 (1999).

California Supreme Court Upholds “Mixed Motive” Defense Under California’s Fair Employment and Housing Act and Limits Available Damages

by Karen Simpson

What happens if an employer fires an employee for poor performance yet the employee claims the termination was due to an illegal discriminatory motive? Can both be true? How does a jury decide? These very issues were recently decided by the California Supreme Court in Wynona Harris v. City of Santa Monica, No. S181004 (Cal. Feb. 7, 2013). This ground breaking case applied the “mixed motive” defense under California’s Fair Employment and Housing Act (“FEHA”).

Federal Law Regarding the “Mixed Motive” Defense

Prior to the decision in Harris, the “mixed motive” defense was permitted in cases arising under federal law, but was not permitted in California. Now, in light of the Harris decision, the California approach to “mixed motive” cases more closely tracks the federal approach as outlined in Title VII of the Civil Rights Act of 1964 (“Title VII”) and the Civil Rights Restoration Act of 1991. These statutes codified the rule that when an employee establishes a violation of Title VII and the employer shows “it would have taken the same action in the absence of the impermissible motivating factor,” the available remedies are limited to declaratory relief, injunctive relief and attorney’s fees and costs directly attributable to the Title VII claim. See 42 U.S.C. Section 2000e-5(g)(2)(B). Importantly, however, an employer’s same-decision showing does not provide a complete defense to liability.

Harris Factual Background

In October 2004, Santa Monica’s city-owned bus service hired Wynona Harris as a bus driver trainee. Between October 2004 and February 2005, Harris had two preventable accidents and one “miss out” for reporting late to work. On March 1, 2005, Harris received a written performance evaluation in which Harris’ supervisor indicated “further development needed.” Harris had a second “miss out” on April 27, 2005. On May 12, 2005, when Harris’ supervisor noticed that Harris’ shirt was not tucked in, Harris confided that she was pregnant. Harris claims her supervisor responded with disapproval saying, “Wow. Well what are you going to do? How far along are you?” A few days later, Harris’ supervisor received a list of probationary drivers, including Harris, who were not meeting expectations for continued employment. Harris was terminated for performance reasons. Her last day of employment was May 18, 2005.

Lower Court Decisions

In October 2005, Harris sued the City alleging she was fired because of her pregnancy in violation of the FEHA. The City denied discriminating against Harris and asserted an affirmative defense that it had legitimate non-discriminatory reasons to fire her; namely, she was fired because of her poor job performance which included two “miss-outs” and two preventable accidents.

The parties argued a mix of discriminatory and legitimate reasons to terminate Harris’ employment. At trial, the City requested a “mixed motive” jury instruction. Based on the state of California law, the court refused to give the instruction and instead instructed the jury that it must find for Harris if her pregnancy was a “motivating factor/reason for the discharge.” The jury found that Harris’ pregnancy was a motivating factor for her termination and awarded Harris \$177,905 in damages and \$401,187 in attorneys’ fees.

The Court of Appeal concluded that the trial court erred by refusing to give the “mixed motive” jury instruction. The Court of Appeal also determined there was substantial evidence supporting the jury verdict that the City fired Harris because of pregnancy discrimination and remanded the case for a new trial. The California Supreme Court granted Harris’ petition for review to determine whether the “mixed motive” jury instruction was correct.

California Supreme Court’s Decision

In its unanimous decision, the California Supreme Court held that in order to establish a claim of employment discrimination under the FEHA, a plaintiff must show by a preponderance of the evidence that discrimination was a substantial factor motivating the employee’s termination. When a jury finds that unlawful discrimination was a substantial factor moti-

vating termination of employment, and when the employer proves by a preponderance of the evidence that it would have made the same decision in the absence of any discrimination, a court may not award damages, back-pay, or an order of reinstatement. However, the California Supreme Court noted the plaintiff could be entitled to declaratory relief or injunctive relief, where appropriate, to stop discriminatory practices in addition to attorney’s fees and costs.

Implications for Employees and Employers

The California Supreme Court’s decision places a higher burden on employees claiming discrimination. Employees now must prove that discrimination was a substantial factor motivating the employee’s termination. Although the Harris decision does not provide employers a complete defense to employment discrimination, the “mixed motive” defense substantially limits damages available to employees, even if it is found that an employer’s decision was substantially motivated by discrimination. In addition to limiting the available damages at trial, the Harris decision is important for employers because it underscores the significance of adopting clear policies and applying them in a consistent manner including, documenting an employee’s failure to comply with those policies, and documenting the employer’s business reasons for its decisions.



Karen Simpson represents management exclusively in employment matters and may be contacted at karen.simpson@jacksonlewis.com

BLACK WOMEN LAWYERS ASSOCIATION OF LOS ANGELES, INC.
2012-2013 OFFICERS



President
Camille Y. Townsend



President-Elect
Tami L. Warren



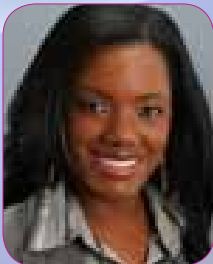
Vice President
Nicole Hancock Husband



Treasurer
Amber S. Finch



Financial Secretary
Shannon Y. Humphrey



Recording Secretary
Shakira L. Ferguson



Corresponding Secretary
Karen D. Simpson



Parliamentarian
Rachel A. Rossi



Historian
Rosezetta E. Upshaw



Newsletter Editor
Dawn T. Collins



Member-at-Large
Chris Chambers Goodman



Member-at-Large
Charlene L. Usher

CALENDAR OF EVENTS

BWL Installation & Awards Dinner
September 28, 2012

AIDS Walk Los Angeles
October 14, 2012

Fall Meet & Greet and First General Body Meeting at Post & Beam
October 25, 2012

"From Civil Practice to the Bench" CLE at Ogletree Deakins
November 15, 2012

Thanksgiving Eve Cocktail Sip Fundraiser at Los Angeles Athletic Club
November 21, 2012

Reception Honoring Jackie Lacey at the City Club
December 11, 2012

Annual Holiday Party and Toy Drive at the Custom Hotel
December 14, 2012

Membership Meeting at the Los Angeles County Bar Association
January 17, 2013

California Bar Tutorial at Loyola Law School
February 9, 2013

City National Bank sponsors Polish Your Image at PIPS on LaBrea
February 17, 2013

Black History Month Celebration at the Savoy
February 22, 2013

BWL Parent's Group Event at Endeavor Space Shuttle Exhibit and private tour at the California Science Center
February 23, 2013

Marketing Me Webinar
March 12, 2013

Young Lawyers Committee Relax and Refresh at the Ritz Carlton LA Live
March 14, 2013

Morgan Stanley sponsors Plan For Your Future: Make it Happen at Enoteca Drago
March 28, 2013

BWL at Alvin Ailey American Dance Theater
April 19, 2013

BWL's Pro Bono Legal Services Day
April 20, 2013

BWL Mentoring at Dorsey High School
April 22, 2013

BWL Celebrates its Founders and Welcomes CABL to Los Angeles at the City Club
April 25, 2013

Revlon Run/Walk for Women's Cancer
May 11, 2013

BWL Mentoring at Dorsey High School
May 17, 2013

BWL Parent's Group Day at the Los Angeles Zoo
May 18, 2013

BWL Fireside Chat at USC Law School
May 21, 2013

Bergman Dacey Goldsmith sponsors "Got Resolution? Practical Tips to Early Case Resolution" at the City Club
May 23, 2013

Annual Scholarship and Awards Luncheon at the Bel Air Bay Club
June 1, 2013

California Bar Tutorial at Loyola Law School
June 8, 2013

BWL Volunteers at Reading to Kids
June 8, 2013

BWL Annual Retreat at LaCosta Resort & Spa
June 28 – June 30, 2013

"MLK's Dream in the City of Dreams: Civil Rights Issues Today" Panel and Discussion at UCLA Law School
July 11, 2013

Dorsey High School Mentor/Mentee Meet & Greet at Lucky Strike
July 12, 2013

BWL National Fitness Day at Equinox Beverly Hills
July 20, 2013

"What Do We Tell Our Sons?" Community Forum at First AME Church
August 15, 2013

Young Lawyers Committee Summer Soiree at Glow Lounge
August 17, 2013

BWL : Community Organization of the Year

On **October 4, 2013**, BWL will be honored as Community Organization of the Year by Community Lawyers, Inc. for its work during the 2012-2013 bar year. Please look for more details in the BWL announcements.

BWL Membership Dues

Members can make fee payments online at www.blackwomenlawyersla.org.

BWL on Facebook

Like BWL's on Facebook and stay connected: www.facebook.com/BlackWomenLawyersLA







P.O. Box 8179 • Los Angeles, CA 90008
(213) 488-4411 • join@blackwomenlawyersla.org
www.blackwomenlawyersla.org