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JUNE 2007

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Edwin Prather, AABA President

Summertime for AABA; Ruthe Ashley's run for State Bar President

Summer's here and brings another busy time for AABA and our various committees. We celebrated Asian Pacific American Heritage Month in grand style. We shared AABA's history, influence and penchant for a good time through our mixer with our friends from SABA, our event at the Ninth Circuit Courthouse with the Federal Bar Association (which I write about in this newsletter) and our "How to Become a Judge" event that we shared with the Minority Bar Coalition. Since our last newsletter, we also participated in the annual celebrations our two of our partner organizations, the Asian Law Caucus and Chinese for Affirmative Action and joined NAPABA and are other sister organizations at a regional conference held in San Diego.

In July, we will host our mainstay summer events:

- On July 13th, we will host our 7th annual AABA Night at AT&T Park. Through the generosity of David Biderman and Perkins Coie LLP, and the hard work of AABA's Social Committee, this year's pre-game reception will be hosted at ACME Chophouse at the ballpark itself; a true treat for our members.
- Continuing our commitment to supporting young Asian American lawyers and providing them a network of support in the Bay Area, on July 19th, AABA will again host its annual Summer Law Clerks Reception. Sponsored

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and supported by our Asian American law firm partners, this event has been the model for other organizations to strive for. More information regarding all these events can be found on our website at www.aaba-bay.com.



Ruthe Ashley

In July, the California State Bar will elect a President for the 210,000-member organization for the 2007-08 term. A longtime "FOA" (Friend of AABA), Ruthe Ashley, is in a position to become the first ever Asian American from our community and first Filipina to

hold this position. While not a general election (only members of the State Bar Board of Governors vote), it does bear watching if this well-qualified candidate does indeed ascend to the presidency of our state bar association. I recently sat down with Ruthe at the NAPABA Regional Conference and discussed her background and candidacy. She's not only the right Asian American for the position; she's the right person.

When Ruthe was 37 years old, she had already achieved a successful career as a wife, mother, nurse, nursing professor and interior designer. Ruthe explained that even with the successes in her life, she wanted a greater motivation and purpose. Turning on the famous Cosby Show one evening, she saw the modern day American dream embodied in Clair Huxtable: loving mother, devoted wife, quick-wit, beautiful home and successful attorney. Inspired by this vision, Ruthe went to law school. Three short years later, she had earned her J.D. from the University of the Pacific, McGeorge Law School. Today, she is the first ever Diversity Officer of External Affairs at California Public Employees' Retirement System (CalPERS), spearheading an outreach program committed to diversity as a business imperative.

Since entering the legal field, Ruthe has become a leader, innovator and motivator for the Asian American legal community. She found her passion in promoting the importance of diversity and minority issues in law society in general. Among her career highlights, Ruthe was a founding partner at the first Asian-American women-owned law firm in the greater Sacramento area, Reeves & Ashley, LLP, which received the Small Business Award in 2001 from the Sacramento Asian Pacific Chamber of

Commerce. She also served as the Assistant Dean of Career and Professional Development at McGeorge before joining CalPERS. In 2004, Ruthe became the first Filipina to be elected to the State Bar of California Board of Governors and currently serves as the Board's Vice President. She is a consultant to the State Bar's Committee on Access and Fairness, which was created to promote the increase of diversity in the legal profession.

Much of Ruthe's work has been accomplished by her ability to form a network of dedicated individuals to undertake building new programs and create awareness about important initiatives. Ruthe is an integral part in the state bar's Diversity Pipeline Task Force, serving as the Chairwoman in 2005, expanding the scope of the program today. The pipeline program promotes the diversification of various professions by building networks to support under-represented populations to enter those professions. The program also involves early exposure and mentorship to youths that will assist them in their entry and success in these professions that may have previously seemed inaccessible. Ruthe has been involved with the pipeline for years, first with the ABA and later as NAPABA President in 2003.

Ruthe's commitment to community, diversity and the legal profession has been well recognized. She has earned numerous awards including: the Distinguished Community Service Award from the Philippine American Bar Association; the inaugural Heritage Award for Excellence in Public Service from the California Asian Pacific Islander Joint Legislative Caucus of the California State Assembly; a Lifetime Achievement Award from the Asian Pacific American Student Bar Association at Pace University Law School; and NAPABA's Trailblazer Award. Ruthe has also held leadership positions in several other organizations, including: the Council on Legal Education Opportunity (CLEO) Board, the ABA President's Advisory Council on Diversity; Legal Services of Northern California; and the Sacramento Asian Chamber of Commerce.

With a dedication to the legal profession, a passion in diversity initiatives and a commitment to representing her status as a woman of color, Ruthe has far surpassed any goals she may have set for herself in her "second" career. If and when the State Bar Board of Governors elects her, she will continue to lead our state's lawyers in on-going work on many fronts, but especially the diversity pipeline, a mission we can all get behind. Ruthe will make a fantastic President and represent our community proudly.

How to Become a Judge event

By Jason P. Lee, AABA Judiciary Committee Member

ON MAY 31, 2007,

AABA's Judiciary Committee and Reed Smith LLP hosted a "How To Become A Judge" program featuring Judges Elizabeth Lee and Garrett Wong, California Superior Court judges sitting in San Mateo and San Francisco Counties, respectively, and William Kopeny, Chair of the Commission on Judicial Nominees Evaluation ("JNE") for the State Bar of California. The program was designed to stimulate interest in young lawyers contemplating a future on the bench, as well as to assist those seeking or in the process of seeking a judicial nomination to the state court. The panel's timing couldn't be more apropos as Governor Schwarzenegger is on the verge of filling approximately 50 judgeships state-wide, and with minority representation on the bench at a statistical low, particularly in comparison to the Asian/Asian-American population in the Bay Area, qualified and soon-to-be qualified candidates are sorely needed.

The panelists provided insight on the process of becoming a judge, shared personal stories about his/her own quest to judgeship, and answered questions. Emi Gusukuma, both a member of AABA's Judiciary Committee and AABA's Board, was the moderator. The panelists shared their thoughts on the judicial nomination process, stressing the importance of understanding what qualifications would be viewed favorably by the JNE Commission and the Governor's Judicial Appointments Secretary. For example, the Application for Superior Court Appointment is currently being

revamped and will not contain the heavy emphasis on trial experience in its new iteration. The panelists also offered commentary about the criteria that the recently appointed Appointment Secretary, Sharon Majors-Lewis may utilize in her decision-making. Judges Lee and Wong shared their own personal stories of being appointed to the bench and offered anecdotal advice to those thinking about applying for a position. Judge Lee, a former federal prosecutor, described how fortunate she was in reaching the bench in a relatively short time, having applied in 2004 and then being appointed in July 2005. Judge Lee stressed that this was atypical and that a candidate must be patient. Judge Lee emphasized that not all situations would be like hers and that she was at the right place at the right time.

Judge Wong, a former public defender and in-house counsel with AT&T, agreed with Judge Lee that patience is required during the application process. He continued that important along the way was that your interaction with colleagues, opposing counsel, and others would be vital in getting prepared for a career as a judge, summarizing that how you practice and live your life as a lawyer will have a substantial impact on how you are viewed by those empowered to appoint you. This was echoed by Mr. Kopeny, who stressed that the quality, not just the quantity, of your references will hold significant sway to how

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AABA Celebrates Asian Pacific Heritage Month with a Panel Discussion of Significant Legal Cases

By Edwin Prather, AABA President

ON MAY 30, 2007,

AABA celebrated Asian Pacific Heritage month by presenting a panel discussion of the significant cases affecting Asian Americans to pass through the courts here in San Francisco. Presented at the Ninth Circuit Court of Appeals and co-sponsored by the Federal Bar Association, the event was well attended in an elegant and awe-inspiring setting and overall a smashing success.

The panel discussion included AABA past president Karen Kai who shared her word on Fred Korematsu's *corum nobis* legal team and her admiration for a man who was called an Asian American hero and Rosa Parks. Judge Chen also shared recent developments in a Northern District of California case *Chin v. Runnels* involving the court's discussion of the prevalence of unconscious bias in our society and the troubling subjectivity involved in the selection of the grand jury forepersons. AABA was also honored to have Santa Clara Law School Professor Edward Steinman who provided the audience with insight into his filing and arguing of the landmark cases *Lau v. Nichols* (finding that San Francisco schools lacked proper accommodations for language and effectively denied the students equal educational opportunities on the basis of their ethnicity) and *Wong v. Hopkins* (holding unconstitutional the Civil Service Commissions regulation barring non-citizens from federal employment because it deprived resident aliens of liberty without due process). Professor

Steinman shared his thought process and revealed that the present panel discussion was being held in the very courtroom in which the *Lau* case was argued to the Ninth Circuit.

The highlight of the panel was AABA Director Malcolm Yeung's analysis of the cases from the late 1800's and early 1900's while this analysis and discussion certainly included a discussion of *Yick Wo v. Hopkins*, Malcolm used the opportunity to discuss the untold history of the early relationship between Chinese Americans and the courts—particularly their aggressive use of the courts in their struggle for equality. Chinese Americans during this period were not only familiar with the courts as a tool for social equality—they were down right litigious. Yeung stated that Chinese Americans filed over 7,000 cases in the California during the first decade of the Chinese Exclusion Act (and won the vast majority of these cases). Not only did Chinese Americans use the courts—they organized "legal defense funds" and brought "test cases." *Yick Wo* was one of those test cases.

Malcolm described that the circumstances leading to the *Yick Wo* decision are as fascinating as the storied holding itself. *Yick Wo* arose in the context of a rabid anti-Chinese movement that gripped the nation during the latter part of the nineteenth century. San Francisco, unfortunately, was on the leading edge passing creative legislation to drive Chinese out. The Chinese American

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President's Note: AABA Board Member Isabel Choi has temporarily relocated to Paris to explore AABA's expansion into France (*well, actually she's spending time with her husband there on assignment*). We've asked Isabel to share her humorous and informative stories from the front lines. Here's the first in what we hope are multiple installments:

An Immigrant in Paris,

Isabel Choi AABA Director

“Alors, je vous ai demandé que plusieurs fois déjà, pourquoi êtes-vous ici?”

It was our fifth day since arriving in Paris, our second attempt to present correct documents to the 17th District police station, and my third try at understanding the astonishingly blond and hostile civil servant across the cubicle from us.

At least, I believe that was the question she fired off glaring at my passport. As circumstances would have it, my husband Igor and I have been blessed with an opportunity to live and work from Paris for the year and return to San Francisco next January. Since we would be here beyond three months, equally blessed were we by French law requiring us to apply for les cartes de séjour, or residency cards.

Our love affair with French bureaucracy began with the Consulate back in San Francisco, where we presented a veritable motion for summary judgment to demonstrate our worthiness to consume les cafés au crème and pains de chocolat with other Francophiles. After complimenting our exhibit binder, the Consulate awarded us three-month visas. What?? Casting a dubious look at the Consulate officer, I tactfully inserted that I could have gotten this without jumping on the application treadmill, *n'est-ce pas?* Oh no no, she explained, this three-month visa simply allows you to apply for the carte de séjour, which you must ask for within three hours of arrival, or something to that effect. Is this difficult to obtain? Yes, I understand

that it can be, she replied. Do you have a list of the required documents and know where we need to go? Of course not. Once you arrive in Paris, you will consult everyone you meet to ascertain which police station you are supposed to report to, and no, it is not in the district of your apartment. Then, because each station requests different documents, you sans doute will wait in a 5-hour line at least twice before proceeding to the next step.

The next step was parking oneself in the waiting room of the Foreigner Office at the 17th District police station. Looking around, I saw Asians, Indians, Arabs, and an Eastern European (Igor). A woman of Indian descent and a man of Arab descent operated the front desk, speaking slow and clear French to explain document deficiencies before sending applicants off on the hunt.

“Numéro 691?” We leaped up and excitedly showed that we had all the requisite documents. Nodding approvingly, the Indian woman rewarded us with another number. Eventually we were ushered to the cubicle where we would fight to obtain the next appointment at another police station, but not before we witnessed this same friendly woman relentlessly frost a Chinese family behind us. The husband, who spoke French, looked at us for help. So sorry, we said with our eyes, and *bonne chance, monsieur.*

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The Asian American Bar Association of the Greater Bay Area (AABA) cordially invites you to our 7th Annual AABA Baseball Night. We have secured a block of bleacher seats for our AABA members and friends to root for the Giants as they take on the Dodgers at AT&T Park on **Friday, July 13, 2007, at 7:15 p.m.**

CORRECTION: The May issue of the AABA Newsletter included photographs from the press conference on judicial diversity that were not properly attributed. The photographer was J.K. Yamamoto from the Hokubei Times, who was kind enough to share these photos with us. We apologize for the omission.

Upcoming Calendar of Events

JULY

7th Annual AABA Night at AT&T Park. **Friday, July 13.** Pre-game reception at ACME Chophouse hosted by Perkins Coie LLP, 5:30-7:30 pm. Game begins at 7:15 pm.

Summer Law Clerk Reception (sponsored by the Employment Committee). **Thursday, July 19.** Yank Sing in the Rincon Center. 6pm to 8:30 pm

Please check for details on our website: www.aaba-bay.com



Perkins Coie LLP will host a pre-game reception with beer, wine and appetizers on Friday, July 13, 2007, from 5:30 to 7:30 p.m. in the Say Hey Room at Acme Chophouse located at 24 Willie Mays Plaza.

Game Tickets are \$30 each.

The pre-game reception is included. Tickets will be reserved when payment is received and will be available for pick-up at the pre-game reception.

All proceeds will benefit the AABA Law Foundation and its various scholarships and grants. Each AABA member may purchase up to 8 tickets (while they last) by mailing checks made out to "Asian American Bar Association" to Azalea Park at DLA Piper US LLP, 153 Townsend Street, Suite 800, San Francisco, CA 94107.

Thank you for your continued support of AABA and our events.

Questions may be directed to Azalea Park (azalea.park@dlapiper.com).

AABA's 7th Annual Baseball Night is sponsored by Perkins Coie LLP.



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For more information, please contact Lawrence Tang, Head, Investment Promotion for Hong Kong Economic and Trade Office, 130 Montgomery Street, San Francisco, CA 94107. Telephone number 415-835-9318.

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FOR IMMEDIATE RELEASE

June 7, 2007

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**NAPABA Announces
Successful Completion
of Computer
Donation Program**

The National Asian Pacific American Bar Association (NAPABA) is pleased to announce the successful completion of a computer and monitor donation program for Hurricane Katrina Relief efforts and APA community organizations and schools in the Houston area. NAPABA coordinated with the Houston office of the OCA to see that the computers and monitors would be distributed among Asian Pacific American community organizations and schools where they would be of the most benefit. Wal-Mart donated 170 computers and 340 monitors for this effort. The recipient organizations included Asian American Family Services, Boat People SOS, Filipino Disaster Relief, the Korean American Association of Houston, the Houston Volunteer Lawyers Program, and the Asian Pacific Heritage Association's hurricane relief efforts. NAPABA President, Phillip Shinn, commented: "This is a good example of how corporations, the private bar and community organizations can work collaboratively in the service of the APA community. We are grateful to Wal-Mart for its generous contribution to the community, and to the OCA for its efforts in coordinating the distribution of these computers and monitors where they would do the most good." NAPABA is the national voice of the 40,000 Asian Pacific American lawyers, judges and law students around the country. The OCA is a nonprofit organization dedicated to advancing the social and economic well being of Asian Americans.

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HOW TO BECOME A JUDGE *continued from page 3*

the JNE Commission and the Governor view one's viability as a judge.

Mr. Kopeny described the internal process of the JNE Commission's evaluation. Two commissioners are assigned to investigate each candidate for a trial court appointment, and little is overlooked. Candidates are interviewed by the investigating commissioners and hundreds of lawyers and judges are queried by JNE. JNE concludes its work by rating the candidate, which is forwarded to the Governor. Although information gained during the investigation is confidential, the actual process, as Mr. Kopeny described, was not. Here, he stated that one of the most fundamental elements that will get a candidate on the right footing with the JNE Commission is candor in your application. Judge Wong reinforced Mr. Kopeny's message as he added that the application and the responses therein form the first impressions of your candidacy.

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HOW TO BECOME A JUDGE *continued from page 9*

Several attendees were in the process of finalizing or had already submitted their applications. One question - do political connections help your application? - resulted in frank responses by the panelist. Judge Lee suggested that political connections don't hurt and gave an example of how a long-time friend of the family with ties to the current administration placed well-timed calls to the governor that she believes helped her during the vetting process. Judge Wong added, however, that he believed that meritorious candidates, despite the lack of political connections, had a very good chance of appointment. Mr. Kopeny agreed with both judges, referring again to the quality of a candidate's references. He asserted that he and the JNE Commission have seen applications with references at the highest level of politics but once contact was made, it became apparent that those references knew little about the applicant, a fact that certainly did not help in the vetting process.

ABA's Judiciary Committee would like to thank Judges Lee and Wong and Chair Kopeny for taking the time to educate and inform all the attendees on the preparations and application process for judicial nomination. If you have any questions about the judicial nomination process, please don't hesitate to contact any AABA Judiciary Committee member.

AABA CELEBRATES APH MONTH *continued from page 4*

community's legal challenges to these ordinances ultimately led to Yick Wo. In 1870, the San Francisco Board of Supervisors passed an ordinance requiring boarding houses to be of a certain cubic footage. Individuals who stayed in boarding houses that violated this ordinance would either be fined or could stay in jail to work off their fine. San Francisco selectively enforced this law only against Chinese American boarding houses. In protest of this discrimination, the Chinese American community — primarily through the leadership of family associations — organized itself in protest by refusing to pay fines, packing the jails instead. In 1876, the Board of Supervisors attempted to thwart the Chinese American protest by passing an ordinance that required jailors to cut off the queue's of any individuals being jailed — ostensibly for health and safety reasons. Amassing a war chest of \$5,000, the Chinese Six Companies actively sought test cases

to challenge the queue cropping law. In 1878, they found two cases. The first — *In re Ah Wing* — lost. The second — *Kow v. Nunan* — succeeded on the district court level and led to the holding that would later be adopted in *Yick Wo* — that equal protection of the law extended to non-citizens and that discriminatory application of a facially neutral law violated this equal protection.

Yick Wo arose out of an equally pernicious set of ordinances intended to shut down Chinese American owned laundry businesses. From 1873 to 1884, fourteen of these laundry ordinances were enacted. *Yick Wo* challenged two such ordinances passed in 1880. These ordinances required all laundries in wooden buildings to obtain a permit from the board of supervisors. The supervisors granted no permits to laundries run by Chinese Americans but never refused a permit to laundries operated by Caucasians. The Chinese laundrymen turned to their guild association — the "Tung Hing Tong" — who in turn would look to the courts. The guild encouraged its members to donate money to a legal defense fund and then instructed its 150 members to continue to operate without permits in order to invite an arrest and set up test cases. Later that year, two ideal test cases arose when *Yick Wo* and *Wo Lee* were arrested. *Yick Wo* had run his laundry operation for 22 years, had observed all health and safety codes — and had even received certification from city health officer and certification from the local fire department. *Yick Wo* filed suit in state court. *Wo Lee*, on virtually identical facts, filed in California District Court. Both plaintiffs lost in the lower courts and filed for review before the supreme court. The Supreme Court consolidated the cases and citing the *Kow* case affirmed the application of equal protection doctrine to non-citizens and further affirmed that discriminatory application of a facially neutral law deprived a person of equal protection.

The northern district docket was littered with cases brought by Chinese Americans during this era. *Yick Wo* was no exception — it seemed to be the rule. Yeung stated that he could not go into each situation, but did name a few notable cases. He explained that Chinese Americans successfully challenged ordinances that prohibited them from fishing in state waters, mandated residential segregation in San Francisco, and required them, but not others, to be inoculated from bubonic plague. The Chinese Americans were absolutely prodigious in challenging immigration exclusion laws — eager to find virtually any loophole

in the law, even retaining what was back then a “dream team” of lawyers to prosecute these cases. The Chinese Six Companies worked wonders in organizing the community to challenge immigration laws. In 1892, Congress passed a law that required all Chinese Americans to register and obtain a certificate of residence. In protest of this registration law, the six companies circulated flyers throughout San Francisco’s Chinese American community advising individuals not to register and to donate to a legal defense fund. With just one month before the registration deadline — only 436 out of 26,000 eligible Chinese Americans in San Francisco had actually registered! Out of this organizing arose the test cases that are etched into immigration law history — Fong Yue Ting, Chae Chan Ping and others.

ISABEL CHOI *continued from page 5*

With the exception of the cubicle officer who could have a stellar career with the DMV, we have had very pleasant experiences with the French, and in one case, extraordinary. Following our medical appointments at yet a third police station, we were instructed amidst a bewildering flutter of French, that we needed to fork over 550 euros in cash, immediately, if we wanted our cartes de séjour. A woman, who had patiently attended to us, learned that we were given this inaccurate information by the office next door, and sprinted down the block to stop us from completing the ATM transaction. Breathless and sweating, she explained that we could wait until the cards were actually ready for pick-up before paying. She chased us because she did not want us to part with this large amount in case we needed it for something else sooner.

While I have no doubt that the end is in sight for us (somewhere), how do other étrangers cope? Newly elected French President Nicolas Sarkozy recently submitted to the Conseil d’État, a government branch that acts like a supreme court and also evaluates executive decisions, immigration law proposals to heighten the bar considerably for immigrant families to stay in France. First, someone wishing to join family here must secure from his country of origin an evaluation demonstrating his knowledge of the French language and customs. As necessary, the applicant will undergo a maximum of a two-month long “education” and obtain a completion certificate, which will permit him to apply for a long-stay visa to join his

family. In addition, parents should sign a “welcome contract” promising that they will successfully integrate their newly arrived children into the French way of life. If parents refuse, authorities will judge the assimilation of these children and should this fall short, will suspend the parents’ governmental financial assistance. On top of that, the level of financial stability one must establish to bring his family over will be increased based on some indexed rate depending on the size of the family, but the amount of financial assistance a family of any size can hope to receive will be capped at 1.2 times the SMIC, France’s federal minimum wage, which would be 1,279 euros per month, or \$USD1,704, starting on July 1st.

How will these laws affect Chinese families here? According to a 2005 study by the International Labour Organization, about 6,000 Chinese arrive each year to add to the illegal 50,000 already in France, victims of trafficking and forced labor. The internationally ridiculed French 35-hour-a-week law mocks these immigrants, as they work 15-18 hours a day to earn 300-400 euros, 40 percent of which is confiscated by their blackmailing employers. Although the racial tension that I see overtly around me is directed against Arabs, whom it seems Mr. Sarkozy is targeting as well, the largest minority group hiding in France will suffer too. The proposed laws will only deepen their silence.

In 2005, according to the newspaper Le Monde, of the 94,500 first-time residency cards issued, 17,000 were based on requests to join family. Another interesting statistic: according to Mr. Sarkozy, 1 out of every 4 French citizens is a civil servant. That is a lot of government employees. Perhaps those charged with evaluating an immigrant’s “integration” would execute their duties like the woman from our medical appointment, and not like the cubicle officer. But I am not optimistic. Igor’s cousin, who is married and has two kids, finally obtained residency papers after a 17-year dance with the French INS. When we asked what they were seeking, she replied, “Impossible to know. Sometimes I felt it was completely arbitrary, like they were judging us simply by our looks.” In any case, with a bit of luck, I won’t see you before next January, as Igor and I hope to have in our hands this Friday the coveted cartes de séjour.

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